



December 1, 2023

GENERAL NEWS

HUD Proposes 30-Day Notification Prior to Eviction for Nonpayment of Rent

Today in the *Federal Register*, the Department of Housing and Urban Development ([HUD](#)) published a [proposed rule](#) titled “30-Day Notification Requirement Prior to Termination of Lease for Nonpayment of Rent.” Under the proposed rule, when tenants who reside in public housing or in properties receiving project-based rental assistance (PBRA) face eviction for nonpayment of rent, PHAs and owners would need to provide those tenants with written notification at least 30 days prior to the commencement of a formal judicial eviction procedure for lease termination. According to the document, the proposed rule would reduce preventable and unnecessary evictions by providing tenants with time and information to help cure nonpayment violations. Specifically, the proposed rule would:

- Provide for a 30-day notification requirement prior to evicting a tenant for nonpayment of rent, regardless of the availability of federal funding to prevent eviction due to a presidentially declared national emergency. That is, the 30-day notification requirement from the [interim final rule](#), issued on October 7, 2021, would be generally applicable and would no longer be contingent on the existence of a national emergency and the availability of emergency rental assistance funds.
- Allow owners and PHAs to provide a longer notice period if they wish to.
- Require that the 30-day notice include instructions on how tenants can cure lease violations for nonpayment of rent and information on how tenants can recertify their income and request a minimum rent hardship exemption if applicable.
- Require the 30-day notice be provided in accessible formats to ensure effective communication for individuals with disabilities, and in a form to allow meaningful access for persons who are limited English proficient (LEP).
- Require that PHAs and owners amend all current and future leases to properly incorporate the 30-day notice requirement for nonpayment of rent. PHAs and owners would also need to provide tenants with notification of changes to the lease.

The document notes that some states, localities, and territories may have additional timing requirements for serving notices on tenants for nonpayment of rent.

The timing for the service of nonpayment of rent notices required under state or local law may run concurrently with the timing requirements of this 30-day notice, unless state or local law requires that such notice be consecutive. Regardless of state or local laws on the timing of nonpayment notices, owners and PHAs regulated by this rule must ensure that they do not file a formal judicial eviction until at least 30 days have passed following the service of the notice mandated by this rule. HUD notes the requirements under this rule, including its proposed requirement that the 30-day notice may run consecutive to any additional state or local notice requirements if required by state or local law, do not preempt any state or local law that provides greater or equal protection for tenants.

Additionally, HUD suggests the 30-day notice advise individuals of their right to request reasonable accommodations and how to request it. HUD also recommends the best practice of entering into a rental repayment agreement as an alternative to a lump-sum payment for past due amounts. PHAs are also encouraged to include information about how to switch from flat rent to income-based rent. Once the rule is finalized, HUD plans to issue sample language that PHAs and owners may use. Comments on the proposed rule are due on **January 30, 2024**. For further information, please refer to the [proposed rule](#).

OIG Releases Semiannual Report to Congress

HUD’s Office of Inspector General ([OIG](#)) released its [semiannual report to Congress](#) for the second half of federal fiscal year (FFY) 2023 (April 1 – September 30, 2023). You can find the links to the OIG audit reports for the Public and Indian Housing ([PIH](#)) programs on page 37. You can access the semiannual report on [this page](#) at [OIG’s website](#).

PH PROGRAM NEWS

PIH Posts Explanation of January and February Obligations

HUD’s Office of Public and Indian Housing ([PIH](#)) has [posted a document](#) explaining public housing operating fund obligations for January and two-three weeks of February 2024. According to the document, at the beginning of the year, before operating subsidy forms are processed and current year eligibility determined, HUD normally estimates eligibility based upon the data used to prepopulate the operating subsidy forms. January and two-three weeks for February obligations are based on the selected elements of final 2023 operating fund eligibility and 2024 HUD-52723 prepopulated data. PHAs are advised that once HUD can utilize HUD-52723 data for eligibility, funding for individual projects may fluctuate significantly.

All operating subsidy obligations are cumulative. As such, to the extent that excess amounts were cumulatively obligated to a project previously, its next obligation (and possibly future obligations depending upon the amount of the overfunding) will reflect a relative decrease. To the extent that insufficient amounts were cumulatively obligated to a project previously, its next obligation will reflect a relative increase.

For the January and February funding, the Department considered the lowest of the current congressional legislative bodies (House of Representatives and Senate) 2024 budget proposals and 2024 estimated eligibility to provide for an interim proration level of approximately 87%. The final proration will reflect the difference in the amount of the final approved PHA eligibility and the 2024 Appropriation Act. HUD plans to make this round of funding available through eLOCCS no later than November 17, 2023. The next round of funding is expected to be available in eLOCCS no later than February 1, 2024.



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