

NEIL ABERCROMBIE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
Honolulu, Hawaii 96817

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

Statement of
David J. Gierlach
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON HOUSING

February 1, 2012 8:45 A.M.
Room 325, Hawaii State Capitol

In consideration of
House Bill 1884
Relating to Public Housing

Honorable Chair and Members of the House Committee on Housing, thank you for the opportunity to provide you with comments regarding House Bill 1884, relating to public housing.

The Hawaii Public Housing Authority (HPHA) supports the enactment of this measure, which would amend Section 356D-2, Hawaii Revised Statutes (HRS), to allow the Board of Directors of the HPHA to set the salary of the Executive Director on the basis of several factors, including a comparability analysis considering the compensation provided to comparable Public Housing Agency (PHA) executive directors, to comparable state and local public officials, and to comparable private sector executives.

The U.S. Department of Housing and Urban Development Office of Public and Indian Housing (HUD) issued Notice PIH-2011-48 (HA) on August 26, 2011, to provide guidance to PHAs on reporting executive compensation information and conducting comparability analyses when determining executive director compensation levels (HUD Notice). This HUD Notice directed a new requirement for PHA Boards of Directors to follow when determining executive director compensation based on the HUD appropriations act for Federal Fiscal Year 2012. Section 356D-2, HRS, establishes the HPHA and provides for the HPHA to employ an executive director. Under the current statute, the salary of the executive director is determined by the Board of Directors "not to exceed eighty-five per cent of the salary of the director of human resources development."

The HUD Notice requires PHA Boards of Directors to conduct a comparability analysis when determining executive director compensation levels, and to certify that such an

analysis has been performed. The comparability analysis may include analyzing the compensation provided to comparable PHA executive directors, to comparable state and local public officials, and to comparable private sector executives. The HUD Notice further requires the Board of Directors to retain comparability information and provide it to HUD if requested, and to certify annually that the executive director's compensation has been determined by a process that includes a comparability analysis.

HUD may impose severe monetary penalties for PHA non-compliance with the HUD Notice. According to a letter dated December 13, 2011 from the HUD Deputy Assistant Secretary for Field Operations, the enabling legislation will go into force on March 17, 2012, and HUD Field Offices will be monitoring PHAs within their jurisdictions to ensure compliance with this new statutory requirement, imposing monetary sanctions for non-compliance. For most PHAs, compliance will not be difficult, since PHA Boards of Directors will be able to make a policy change by administrative action. HPHA is unique insofar as State law must be amended prior to compliance. With the current language of Section 356D-2, the HPHA Board of Directors does not have the authority to set the executive director's compensation based on a comparability analysis if the analysis indicates that compensation should be in excess of eighty-five percent of the salary paid to the Director of Human Resources Development.

The HPHA appreciates the opportunity to provide the House Committee on Housing with the agency's position regarding H.B. 1884. We respectfully request the Committee to pass this measure favorably, and we thank you very much for your dedicated support.

Attachments (2)

Notice: PIH-2011-48 (HA), Issued August 26, 2011

Letter from Donald J. La Voy, Deputy Assistant Secretary, Office of Field Operations, U.S. Department of Housing and Urban Development, received December 13, 2011



**U. S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:

Public Housing Agencies;
Public Housing Hub Office Directors;
Public Housing Program Center Directors;
Public Housing Division Directors;
Regional Directors;
Field Office Directors

NOTICE: PIH-2011-48 (HA)

Issued: August 26, 2011

Expires: Effective until amended,
superseded, or rescinded

Cross References:

76 FR 23330

76 FR 40741

Subject: Guidance on Reporting Public Housing Agency Executive Compensation Information and Conducting Comparability Analysis

1. Background. As stated in recent public notices published in the Federal Register (i.e., 76 FR 23330 and 76 FR 40741), Public Housing Agencies (PHAs) that administer HUD-assisted public housing and housing choice voucher programs will be required to report to HUD annually the compensation provided to each of their five highest compensated employees, which will then be posted on HUD's website with job titles but without employee names. This will serve as a valuable transparency and oversight tool and a point of comparison for local PHA boards in determining appropriate compensation levels. To that end, all PHA boards will also be required to conduct comparability analyses when determining executive director compensation levels and certify that such an analysis has been performed.

2. Purpose. This notice: (1) provides information and guidance on Form HUD-52725 to be used by PHAs to report executive compensation and explains its required use; and (2) explains how PHAs are to conduct comparability analyses with respect to compensation provided to executive directors and certify that they have done so.

3. Applicability. The requirements in this notice apply to all PHAs that administer a public housing or housing choice voucher program, except for PHAs that operate a housing choice voucher program only and receive less than 50 percent of their funding for employees from HUD (this includes all HUD programs). Exempt PHAs are requested but not required to submit the compensation information.

4. Reporting PHA executive compensation using Form HUD-52725. In order to determine operating subsidy eligibility under the public housing operating fund formula, PHAs that operate HUD-assisted public housing are required to complete and submit annually a HUD-52723 form. Beginning with the next distribution of the HUD-52723, which is projected to

occur in September 2011, an additional form, the Schedule of Positions and Compensation form, HUD-52725, will be distributed along with the HUD-52723. PHAs that do not operate public housing units and operate a housing choice voucher program only will also receive HUD-52725 forms at the same time. Attached to this notice are a HUD-52725 form and the accompanying instructions, which are similar to the procedures utilized by the Internal Revenue Service to collect information on the five most highly compensated employees of non-profit organizations receiving federal tax exemptions.

5. Submissions. PHAs that operate public housing will be required to complete the HUD-52725 form and submit it with their HUD-52723 form to their appropriate Field Offices. PHAs that do not operate public housing units and operate a housing choice voucher program only should complete and return the HUD-52725 form to their Field Office, even though they do not complete the HUD-52723. These PHAs must follow the same submission schedule as PHAs that operate public housing.

6. Conducting comparability analysis in determining PHA executive director compensation and certifying compliance with this requirement. Previous HUD guidance and sound administrative practice call for PHAs to set executive compensation, particularly for executive directors, at a level within the range of that provided to comparable executive employees (see, for example, section 2-1 of PIH Handbook 7401.7 (1987)). Consistent with this principle, while providing maximum flexibility to PHAs, PHA Boards of Commissioners or equivalent authorities should explicitly consider comparability in setting or making significant changes to the compensation of PHA executive directors or other chief executive officers. As determined by each Board, appropriate data as to comparability may include, for example, independent compensation surveys and information concerning compensation provided to comparable PHA executive directors, to comparable state and local public officials, and to comparable private sector executives. The specifics are up to each Board, and while PHAs normally need not provide the specific information utilized for this purpose to HUD, they are required to retain this information and provide it to HUD if requested in a particular case. It is important that all PHA Boards of Commissioners and equivalent authorities understand and implement these requirements. By executing the PHA Certification of Compliance with PHA Plans and Related Regulations to accompany the PHA 5-year and annual PHA Plan, the Chairperson of the Board of Commissioners or other authorized PHA official will certify that the PHA has complied with the comparability analysis requirements, as they certify their compliance with all Federal requirements.

7. Penalty for PHA non-compliance. In the event that a PHA fails to: (1) comply with the PHA executive compensation reporting requirements; or (2) provide HUD, upon its request, with the specific information used by the PHA to conduct a comparability analysis in determining executive director compensation, HUD may impose temporary monetary sanctions on the PHA, pursuant to Section 6(j)(4) of the U.S. Housing Act of 1937. Additionally, PHAs that receive assistance under section 9 that fail to substantially comply with any provision of the U.S. Housing Act of 1937 relating to the public housing program, may have withheld "amounts allocated for the agency under section 8" (see 6(j)(4)(A)(v)), and may face other remedies pursuant to HUD regulation. These provisions apply to MTW as well as non-MTW agencies.

8. **Paperwork Reduction Act.** The information collection requirements contained in this document are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501-3520. The OMB control number is 2577-0272. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid OMB control number.

9. **Further information.** Inquiries about this notice should be directed to Donald J. Lavoy at (202) 402-6296 or Donald.J.Lavoy@hud.gov.

/s/

Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

DEC 13 2011

Dear Board Chair:

As you know, Congress passed and the President signed into law on November 18 the Consolidated and Further Continuing Appropriations Act 2012, Public Law 112-55, which provides appropriations for the Department of Housing and Urban Development (HUD) for all of fiscal year 2012. I am writing to bring to your attention a provision in the Act that relates to the use of HUD funds to pay salaries of public housing agency employees.

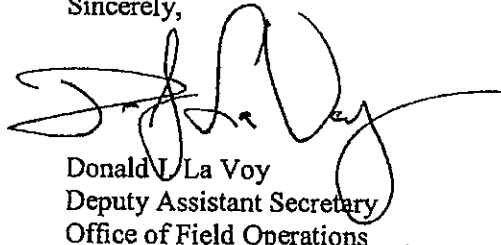
In particular, section 234 of title II of Division C of the Act provides as follows:

None of the funds made available by this Act for purposes authorized under section 8 (only with respect to the tenant-based rental assistance program) and section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) may be used by any public housing agency for any amount of salary, for the chief executive officer of which, or any other official or employee of which, that exceeds the annual rate of basic pay payable for a position at level IV of the Executive Schedule at any time during any public housing agency fiscal year 2012. (b) Subsection (a) shall take effect 120 days after the date of enactment of this Act.

As section 234(b) states, the restriction will take effect 120 days after the enactment of the Act, which will be on March 17, 2012, and HUD will be providing more specific guidance on the provision in the coming weeks. We also understand that many public housing agencies will not be affected by this provision. Nevertheless, we wanted to be sure that you are aware of the restriction and, to the extent appropriate, are making plans to ensure that the use of federal funds by your agency will be in full compliance with the Act.

We at HUD appreciate the important work done by public housing agencies across our nation, and wish you and your employees and residents the best for the holiday season and the New Year.

Sincerely,



Donald L. La Voy
Deputy Assistant Secretary
Office of Field Operations

Cc: Appointing Official
PHA Executive Director