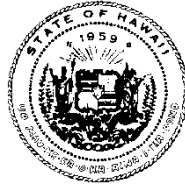


SB 1118

Measure Title: RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.
Report Title: Hawaii Public Housing Authority; Personnel
Description: Authorizes the Hawaii Public Housing Authority Board of Directors to set the salaries of the executive director, the executive assistant, and other key management personnel subject to federal limitations.
Companion: HB887
Package: Gov
Current Referral: HMS, WAM
Introducer(s): KIM (Introduced by request of another party)

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
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON HUMAN SERVICES

February 14, 2013 1:45 P.M.
Room 016, Hawaii State Capitol

In consideration of
Senate Bill No. 1118
Relating to the Hawaii Public Housing Authority

Honorable Chair Chun Oakland, and Members of the Senate Committee on Human Services, thank you for the opportunity to provide you with comments regarding Senate Bill (S.B.) No. 1118, relating to the Hawaii Public Housing Authority.

The Hawaii Public Housing Authority (HPHA) strongly supports the enactment of this measure, which would authorize the HPHA Board of Directors (BOARD) to set the salaries of the Executive Director, the Executive Assistant, and other key management personnel subject to federal limitations.

As you may know, the HPHA is 86% Federally funded, and over 95% of the salaries at the HPHA are Federally funded, or funded through rental receipts. Because of this, The United States Department of Housing and Urban Development (HUD) has mandated that Public Housing Agency Boards across the nation be responsible in governing their respective PHAs. However, Section 356D-2(b), Hawaii Revised Statutes (HRS), provides for the HPHA to employ personnel, including an Executive director and an Executive assistant, but controls the amount of compensation provided thereto. This provision needs to be amended to provide the BOARD with the autonomy necessary to manage its affairs more expeditiously and efficiently, consistent with HUD funding and guidelines.

The HPHA is one of the largest PHAs out of 3300 PHAs across the nation, and this necessitates that the agency be comprised of experienced and talented individuals to manage the over 6000 units in our low-income public housing communities. Having a salary limited to eighty-five percent of that of the Director of Human Resources Development severely inhibits the ability of the BOARD to recruit and retain qualified

personnel with the necessary skills and experience to run a PHA of this size. Furthermore, the passing of this measure will allow the BOARD to perform a HUD mandated comparable salary study that has not been done for the past two years, due to existing legislation. The BOARD is required to certify to HUD that it has complied with all program regulations, including the requirement that they have established the salary of the Executive Director as a result of the comparable salary study. HUD can request the BOARD for this information at any time, and failure to provide this information can result in monetary sanctions.

This in turn could further downgrade the HPHA's status as it impacts the ratings received by the agency in financial and management audits, as well as other HUD scores, such as the Real Estate Assessment Center's (REAC's) Public Housing Assessment System (PHAS), which currently rates the HPHA currently as "Substandard Management", and the Section 8 Management Assessment Program (SEMAP). With the passage of this measure, the HPHA will be able to hire key personnel needed to carry the HPHA into the future. These key personnel will possess the requisite knowledge and technical expertise to comply with HUD programs, apply and be awarded HUD grants, and create public private partnerships in low-income public housing management. This will undoubtedly move the HPHA from "Substandard Management" into a highly rated PHA, and will open up the doors to more sources of income and grants that will create more low-income housing for the over 10,000 families that are on the HPHA waiting list.

Limiting salaries does not necessarily save the State money. The HPHA will in fact save millions of dollars in the long term due to the fact that the agency will no longer have to hire specialized consultants, and can use the money saved to move more needy families into low-income public housing. For example, our Chief Financial Management Advisor position has been vacant since 2009 because the pay does not adequately compensate any qualified applicants. Even when new employees are willing to work at our sub-par pay scales, as soon as they are trained in the intricacies of public housing and government accounting, they are lured away by other agencies at twice the salary.

Many people work extremely hard at the HPHA, and have done their best to fulfill the agency's mission in developing affordable rental and supportive housing, public housing and the efficient and fair delivery of housing services to the people of Hawaii. Furthermore, many of the HPHA's properties are in need of serious rehabilitation or total redevelopment. This is the time to provide the HPHA with the abilities the agency will need to assist our low-income families in the future, and improve Federal scores. As we look forward, we need to equip the HPHA with the necessary staff and tools to take the agency to the next level.

The HPHA appreciates the opportunity to provide the Senate Committee on Human Services with the agency's position regarding S.B. No. 1118. We respectfully request the Committee to pass this measure favorably, and we thank you very much for your dedicated support.

Attachments (3)

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

PHA Compensation



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.

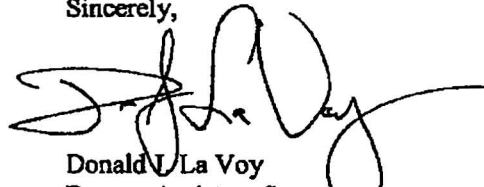
In particular, section 234 of title II of Division C of the Act provides as follows:

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 J. La Voy
Deputy Assistant Secretary
Office of Field Operations

Cc: Appointing Official
PHA Executive Director



PUBLIC HOUSING AUTHORITY COMPENSATION

Background

After concerns were raised about the level of compensation being paid to some public housing authority (PHA) leaders, in August 2011 HUD reached out to PHAs to require them to provide data on the 2010 compensation for their top five highest compensated employees. This data collection was modeled on the information the IRS requires nonprofit agencies to report on compensation.

After this request was made, the appropriations bill setting HUD's 2012 budget established a one-year cap of \$155,500 on the federal contribution that a PHA could use towards a housing authority executive salary. Any amount of salary above that level must be paid for with other funds. The cap applies only to salary and not to any other form of cash compensation. And it only applies for FY 2012.

The 2010 data collected shows that the vast majority of PHA executives – 97% -- earn less than \$155,500 in total cash compensation. The average cash compensation of a housing authority executive director was \$82,299, and 93% earned less than \$125,000 annually. By way of comparison, only 21% of the highest paid PHA executives earned more than the median for non-profit executives of similar sized organizations. The data also shows, however, that there are outlier PHAs that pay certain employees a level of compensation that is clearly excessive.

While PHAs are administered by the states and their employees are state rather than federal employees, PHAs administer significant federal resources and as such must adhere to federal standards of fiscal responsibility. HUD therefore is determined to take aggressive additional measures to promote the responsible and efficient use of federal funds by PHAs, and to that end is announcing a set of caps on PHA employee compensation provided with federal funding.

Protecting Taxpayers

HUD is proposing to align PHA compensation with the tiers of the federal government pay system and close an important loophole in the 2012 congressionally established salary cap. The use of tiers will ensure that pay ranges are commensurate with the size and number of units in housing authorities.

Total Unit Size	Cap Range (max includes location adjustment)
<250	\$74,628-\$88,349 (GS 11/10)
250-1249	\$106,369-\$125-926 (GS 13/10)
1250+	\$147,857-\$155,500 (GS 15/10)

These caps would be indexed to federal government salary scales, taking effect in fiscal year 2013 and remaining in place indefinitely. Unlike the current cap in place for FY 2012, these caps are limits on total cash compensation, not just salary. We have found that at the highest paying PHAs many executives receive a significant share of their compensation through bonuses. So the current cap essentially leaves a

loophole that could be used to continue to provide excessive pay through bonuses. The changes announced here will close that loophole.

We want to work with Congress to put in place this permanent solution, but we will not wait if Congress fails to act. So today we are announcing that we will take executive action to put this cap in place in Fiscal Year 2013 under our own regulations if necessary.

Notes on the 2010 Data

In an effort to increase transparency in this area, we are releasing a summary of the 2010 data that has led to these changes. It is important to note several key limitations on the information as collected. First, as the data predates the imposition of the FY 2012 cap, it does not reflect the changes that PHAs have made to comply with the cap. Second, the data reflects total cash compensation, whereas the 2012 cap relates only to salary compensation (excluding bonuses). Finally, the data does not distinguish between compensation paid for with federal resources and that paid with non federal resources. Given these limitations, we are requiring more comprehensive and detailed annual disclosure going forward, which will help us better track the pay levels at the PHAs.

Tables 1 to 3 show the range of compensation for the highest paid PHA employee, organized by HUD region and then by size of agency within each region. We believe that this format will make it easier for PHA boards to compare their pay with those of comparable PHAs, and to more easily comply with the new caps that HUD will implement.

How to read these tables:

- The range created by the 25th percentile to the 75th percentile reflects the compensation range for 50% of the highest paid employees within the subgroup. This is a useful benchmark for considering the generally competitive range for total compensation.
- The median is the compensation at the center point of the range, at which there are an equal number of employees earning above and below that amount.

For example, among the 27 agencies of more than 1,250 units in Region 2 (New York and New Jersey), the median compensation of the highest paid PHA employee in 2010 was \$131,835; half of the agencies highest paid employees were compensated between \$102,225 and \$154,013.

Region key:

Region 1: Connecticut, Vermont, Massachusetts, Maine, New Hampshire, Rhode Island;

Region 2: New York, New Jersey;

Region 3: Pennsylvania, Virginia, West Virginia, Maryland, Delaware, Washington, D.C.;

Region 4: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, U.S. Virgin Islands;

Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin;

Region 6: Arkansas, Louisiana, New Mexico, Oklahoma, Texas;

Region 7: Kansas, Iowa, Missouri, Nebraska;

Region 8: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming;

Region 9: California, Arizona, Hawaii, Nevada;

Region 10: Washington, Alaska, Idaho, Oregon;

Table 1. Agencies 1,250 HUD units and above

<u>Geography</u>	<u>Number</u>	<u>Range of CY2010 compensation of highest paid employee*</u>		
		<u>25th percentile</u>	<u>Median</u>	<u>75th percentile</u>
ALL AGENCIES	449	\$94,522	\$115,615	\$147,100
Region 1	35	\$99,644	\$117,035	\$139,999
Region 2	27	\$102,225	\$131,835	\$154,013
Region 3	56	\$92,043	\$116,666	\$145,303
Region 4	105	\$98,599	\$126,028	\$161,318
Region 5	67	\$87,584	\$100,235	\$130,975
Region 6	50	\$90,696	\$107,555	\$153,332
Region 7	16	\$78,387	\$101,112	\$119,694
Region 8	15	\$71,328	\$101,109	\$115,908
Region 9	59	\$115,251	\$140,323	\$167,545
Region 10	19	\$100,152	\$107,152	\$145,362

*Includes salary and bonuses, but excludes benefits and other allowances

Table 2. Agencies 250 to 1,249 HUD units

<u>Geography</u>	<u>Number</u>	<u>Range of CY2010 compensation of highest paid employee*</u>		
		<u>25th percentile</u>	<u>Median</u>	<u>75th percentile</u>
Agencies 250 to 1,249 units	1,112	\$63,208	\$75,609	\$93,391
Region 1	89	\$70,453	\$80,164	\$96,657
Region 2	106	\$72,613	\$91,326	\$116,926
Region 3	97	\$67,669	\$79,093	\$91,619
Region 4	277	\$64,793	\$77,158	\$97,214
Region 5	193	\$59,907	\$70,362	\$83,413
Region 6	158	\$55,261	\$72,532	\$82,000
Region 7	79	\$55,337	\$65,136	\$74,469
Region 8	35	\$57,154	\$75,714	\$95,112
Region 9	48	\$75,549	\$101,081	\$122,938
Region 10	30	\$62,162	\$74,897	\$90,000

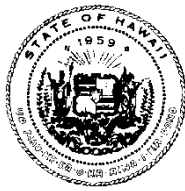
*Includes salary and bonuses, but excludes benefits and other allowances

Table 3. Agencies less than 250 HUD units

<u>Geography</u>	<u>Number</u>	<u>Range of CY2010 compensation of highest paid employee*</u>		
		<u>25th percentile</u>	<u>Median</u>	<u>75th percentile</u>
Agencies Less than 250 units	2,052	\$27,890	\$42,092	\$57,637
Region 1	76	\$51,665	\$61,905	\$69,645
Region 2	86	\$43,265	\$61,709	\$77,643
Region 3	35	\$46,500	\$52,416	\$70,000
Region 4	500	\$32,793	\$47,898	\$61,394
Region 5	342	\$34,390	\$44,901	\$59,046
Region 6	586	\$24,000	\$36,322	\$50,462
Region 7	303	\$19,113	\$31,668	\$44,100
Region 8	98	\$19,578	\$35,859	\$50,992
Region 9	14	\$42,781	\$57,846	\$91,044
Region 10	12	\$38,475	\$55,624	\$79,134

*Includes salary and bonuses, but excludes benefits and other allowances

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

SENATE COMMITTEE ON HUMAN SERVICES

February 14, 2013 1:45 P.M.
Room 016, Hawaii State Capitol

In consideration of
Senate Bill 1118
Relating to the Hawaii Public Housing Authority

Honorable Chair Chun Oakland, and Members of the Senate Committee on Human Services, thank you for the opportunity to provide you with comments regarding Senate Bill (S.B.) 1118, relating to the Hawaii Public Housing Authority (HPHA).

My name is David Gierlach, and I am the Chair of the Hawaii Pacific Housing Authority Board of Directors (BOARD). The BOARD strongly supports the enactment of this measure, which would authorize the BOARD to set the salaries of the Executive Director, the Executive Assistant, and other key management personnel subject to Federal limitations.

I agreed to sit on the Board because it seems the Governor and the Legislature are truly committed to at long last fixing our public housing problem.

As you know too well, the HPHA has for many years been mired in problems, with nine executive directors since the year 2000. Historically, we have not had people with the appropriate skills and training to run this agency and its significant budget. Therefore, the BOARD believes that this measure is a crucial step to make HPHA not only accountable, but successful in its important task of caring for the least among us.

The U.S. Department of Housing and Urban Development (HUD) provides the HPHA with 86% of its funding, and yet Section 356D-2(b) Hawaii Revised Statutes (HRS), controls the amount of compensation we can pay to key employees with FEDERAL FUNDS. Currently, the Executive Director's salary is limited to eighty-five percent of that of the Director of Human Resources Development. This limitation severely inhibits

the ability of the BOARD to recruit and retain qualified personnel with the necessary skills and experience to run a PHA of this size.

Mainland counterparts of PHAs of the HPHA's size and capacity are not limited in the way that the HPHA is. In fact, according to recent HUD estimates, the typical PHA nationwide with more than 2,500 housing units pays a median yearly salary of approximately \$155,000 for an Executive Director. Similarly, the audit/financial requirements of our agency are among the most complex in government, yet the pay we can offer to qualified individuals (who should be CPAs) makes even a bookkeeper feel insulted. This in turn impacts the ratings received by the agency in financial and management audits, as well as other HUD scores, such as the Real Estate Assessment Center's (REAC's) Public Housing Assessment System (PHAS), which currently rates the HPHA currently as "Substandard Management", and the Section 8 Management Assessment Program (SEMAP). For example, our Chief Financial Management Advisor position has been vacant since 2009 because the pay does not adequately compensate any qualified applicants. Even when new entrants into the field are willing to work at our sub-par pay scales, as soon as they are trained in the intricacies of public housing and government accounting, they are lured away by other agencies at twice the salary.

Furthermore, with the agency moving toward more public/private partnerships, it is vital that the HPHA be able to hire qualified personnel at something approaching comparable private sector salaries (using our *federal monies* to do so). We have until now been penny wise and pound foolish because, instead of paying for qualified folks at the start, we end up paying hundreds of thousands of dollars per year for outside consultants to fix problems that should not have occurred in the first place.

Over the past year, with the leadership and guidance of Executive Director Hakim Ouansafi, the HPHA is making great strides, including:

1. Providing a large number of new vouchers to applicants on the Section 8 waitlist.
2. Receiving \$1.4 million more in Federal money, and awarded a Neighborhood Choice planning grant.
3. Reduced vacant units by 17%.
4. Reduced general expenses by \$3.5 million.
5. Cut administrative costs by over 1 million.
6. Improved average occupancy to 93%.
7. Improved our account receivable by \$2.8 million.
8. Improved our uncollectable accounts by over \$2.25 million.

However, there is so much more that can be accomplished if the agency were able to hire more highly skilled employees that could further improve the HPHA, and better serve the thousands of our low income tenants.

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.

I appreciate the opportunity to provide the Senate Committee on Human Services with the agency's position regarding S.B. 1118. I respectfully request the Committee to pass this measure favorably, and 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

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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.

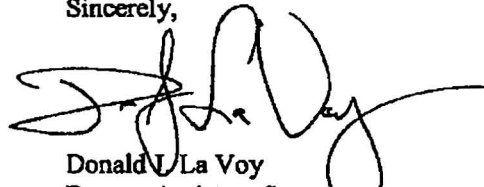
In particular, section 234 of title II of Division C of the Act provides as follows:

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 J. La Voy
Deputy Assistant Secretary
Office of Field Operations

Cc: Appointing Official
PHA Executive Director