



**TO: Property Owners and Management Agents**  
**FROM: Compliance and Asset Management**  
**DATE: August 3, 2020**  
**SUBJECT: UPDATE: IRS COVID-19 Compliance Monitoring Guidance for Owners and Management Agents**

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This guidance supersedes previous guidance related to compliance monitoring activities for properties in the Virginia Housing portfolio for calendar year 2020.

Virginia Housing remains open for business, but working remotely. Our mission is to help all Virginians attain a quality affordable home.

All Tax Credit and Tax Exempt Bond properties in the Virginia Housing portfolio can rely upon the guidance in [IRS Notice 2020-53](#), which provides project owners and Virginia Housing, the monitoring agency, temporary relief of certain program requirements in response to the Coronavirus Disease 2019 (COVID-19).

## **COVID-19 Temporary Emergency Housing (IRS Notice 2020-53)**

**Question:** Can my property provide emergency housing as permitted in the notice?

**Answer:** Yes. All properties in the Virginia Housing portfolio may provide temporary, emergency housing to individuals affected by the COVID-19 pandemic.

March 13, 2020 a [Presidential Disaster Declaration](#) was provided for all states and U.S. territories for the COVID-19 pandemic. [IRS Notice 2020-53](#) confirms that properties are provided relief from certain requirements under [Revenue Procedure Ruling 2014-49](#) for Tax Credit and [2014-50](#) for Tax Exempt Bond properties to provide temporary, emergency housing to individuals displaced due to the COVID-19 pandemic. <https://www.fema.gov/coronavirus/disaster-declarations>.

Approval is required from Virginia Housing **before** providing temporary emergency housing. Please review the [Virginia Disaster Relief Guidance](#) and document the tenant file with the [Virginia Displaced Household Certification Form](#).

Major Disaster: **COVID-19 Pandemic**; End Date: **3/12/2021**, This date is 12 months from the date of the Presidential Declaration of Federal Disaster. <https://www.fema.gov/coronavirus/disaster-declarations>

The tenant file should also contain documentation proving that the individual is directly affected and displaced as a result of the COVID-19 pandemic. Individuals employed in the following positions may be provided relief under 2014-49 and 2014-50. The list below is not all inclusive, and may not be limited to:

- Medical personnel, including research and testing positions, pharmacy employees, or mortuary or funeral service workers
- Law enforcement or military personnel, and public safety employees, including security at hospitals or other critical industries
- Grocery stores, food production, agricultural workers, food banks, food delivery
- Building maintenance, janitors, trash collection and disposal
- Mass Transit, employees, public services, mail and shipping centers
- Teachers, childcare personnel,
- Other essential positions may include Human resource professionals

## On-Site Property Management Operations for Calendar Year 2020

IRS Notice 2020-53 **does not** provide relief from other program requirements. The project owner must ensure that all tenant files are fully documented for:

1. Annual certifications due between 1/1/2020-3/31/2020
2. Full-time student status
3. Household composition changes
  - a. **Adding** a new household member may require a review of income
  - b. **Removing** an initial, adult household member requires an update to the Tenant Income Certification and online Tenant Certification system

**Online Tenant Certification Updates Required** - Virginia Housing relies upon the information entered in this system to monitor the property requirements. All tenant activities, including move-in, move-out, annual certifications, applicable, and change in unit designation, must be updated in the online Tenant Certification system as the activity occurs.

**Online Self-Certification is Required for annual certifications due between 4/1/2020-12/31/2020.** Doing this will reduce reports of noncompliance where it does not apply when we review tenant activity reports.

**Annual Certifications due beginning January 1, 2021** must be completed by the due date. The waiver only covers annual certifications due between 4/1/2020 and 12/31/2020.

**Electronic Storage of Records and E-Signatures:** The use of electronic storage of records, including tenant applications, lease documents, and electronic signatures **is permitted** for our affordable housing portfolio. Written approval from Virginia Housing is **not required** before implementing storage systems or records.

Electronic record keeping and e-signature systems must meet the guidelines included in the E-Sign Act, as well as the new HUD Electronic Signature guidance published May 26, 2020. At a minimum, the system must validate signatures, and the property must provide consents and disclosures, and allow the tenant to opt-out of using E-signatures. Most importantly, records must be made available to Virginia Housing upon request.

**Note:** The owner is ultimately responsible for ensuring that the tenant files are maintained in accordance with IRS and/or HUD rules and regulations, and confirming signatures and required documents for the tenant file.

**Utility Allowances** – Virginia Housing will continue to review all alternative utility allowance requests and provide written approval. Copies of the proposed utility allowances must be submitted to Virginia Housing (the agency) **and** to all tenants **at the** beginning of the 90-day period **before** the utility allowances are used in determining the gross rent. Visit our website for instructions on submitting utility allowance requests.

<https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/LIHTCCompliance/Pages/LIHTCCompliance.aspx>

**Note:** Our office reviews the Occupancy and Demographics report to confirm that tenant activities are properly updated in our online Tenant Certification system. For the remainder of this calendar year, our response will continue to include notes on late annual certifications identified in our review of your property records. **See the guidance for online Self-Certification updates above.**

**Management Operations Policy & Procedure Changes:** Project owners and managers must document all efforts and policy changes implemented as a result of the COVID-19 pandemic, and provide information upon request. Maintain all documentation of action taken to notify tenants of changes in policies, procedures, or property operations, which affects the tenant and owner commitments included in the written lease agreement, the EUA, or Regulatory Agreement.

**Onsite Property Inspections/Preventative Maintenance/Completing Work Orders** are necessary in maintaining daily property operations, improving property conditions.

**Contact Compliance & Asset Management** - Regional Compliance Officers and Asset Managers are available by email during normal business hours if you have questions. Contact information for the Compliance & Asset Management regional teams is on our website.

See the Contact Us page on our website,

<https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/Pages/Compliance-AM-Staff.aspx>



**TO: Property Owners and Management Agents**  
**FROM: Compliance and Asset Management**  
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**SUBJECT: UPDATE: COVID-19 Compliance Monitoring Activities**

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## **Virginia Housing Compliance Monitoring Operations for CY2020**

On-site physical inspections of buildings and units will not be scheduled for the remainder of calendar year 2020. However, to ensure the fiscal and physical health of the properties in our portfolio, Virginia Housing will continue certain compliance monitoring activities.

### **Electronic Tenant File Reviews**

Virginia Housing will initiate electronic tenant file reviews of initial tenant files for certain properties included in the 2020 audit schedule. The owner and management agent will be given notice of the audit, along with the process and timeline to submit documents to a secure online portal. Additional instructions will be provided in the audit notice.

### **8823 Noncompliance Reporting**

Any noncompliance discovered in a desk review of the online Tenant Certification System Occupancy and Demographics report of tenant activities, or the electronic review of tenant file records may result in a report of noncompliance to the IRS using form 8823.

**Monitoring Before 4/1/2020** – Scheduled Audits or reports of casualty loss processed before 4/1/2020 will be reviewed and submitted to the IRS as usual under the same review and response timelines.

**Monitoring 4/1/1/2020-12/31/2020** – Although annual certifications are waived for the remainder of this calendar year, all other tenant compliance requirements must be maintained in onsite operations.

### **Compliance Monitoring Audit Extensions**

Without additional guidance from the IRS, Virginia Housing is only permitted to grant extensions on tenant file and physical inspection findings up to a total of 6 months before the noncompliance must be reported to the IRS. Email extension requests to your assigned regional Compliance Officer.

Include **COVID-19 Audit Extension Request** in the email subject line.

## Virginia Housing Compliance Monitoring Operations for CY2021

Effective January 1, 2021 the compliance monitoring activities may resume. Virginia Housing will continue to monitor and follow federal, state, and local requirements for interstate travel and recommended guidelines for social interactions. On-site monitoring visits will be scheduled and conducted as needed with appropriate safety precautions within our portfolio.

### Expected Compliance Activities for the Virginia Housing Portfolio

1. **HFA Monitoring** - Properties included in the 2021 audit schedule will be conducted as usual.

Audits waived in the 2020 calendar year, due from 4/1/2020-12/31/2020 are waived according to IRS guidance.

**Annual Tenant Annual Certifications** - The project owner is required to complete and document annual tenant certifications for existing households as applicable. Tax Credit and Tax Exempt Bond properties must ensure all annual certifications due in 2021 are completed on-time. This means the document collection for all certifications due in January should begin before the end of the 2020 calendar year.

2. **Unit Sample Requirements** - The number of units to include in the scheduled audit sample is expected to remain the same, which is the lesser of 20% of the total units in the project or the REAC inspection chart.

**See the Proposed IRS Rule** in the [Federal Register, Vol. 85, No. 130 Tuesday July 7, 2020](#). There is a 60-day comment period, which ends 60 days after the July 7<sup>th</sup> publication date, September 5, 2020.

Email your questions to [compliance-assetmanagement@virginiahousing.com](mailto:compliance-assetmanagement@virginiahousing.com) or contact the Compliance Officer assigned to your property. The department contact information can be found on our website.

<https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/Pages/Compliance-AM-Staff.aspx>

# Compliance & Asset Management Answers to COVID-19 Compliance Monitoring Email Questions

[compliance-assetmanagement@vhda.com](mailto:compliance-assetmanagement@vhda.com)

## UPDATED COVID-19 Compliance Monitoring Guidance August 3, 2020

- 1. Q. Is Virginia Housing waiving the recertification requirements in accordance with IRS Notice 2020-53? Does this guidance apply to Tax Exempt Bond properties as well?**

**A.** Yes. A project owner may rely on the guidance included in IRS Notice 2020-53 for maintaining tenant files during calendar year 2020
- 2. Q. Can I provide temporary emergency housing for individuals affected by COVID-19?**

**A.** Yes, with approval from Virginia Housing. All properties in the Virginia Housing portfolio may provide temporary, emergency housing to individuals affected by the COVID-19 pandemic. Review the guidance posted to our website
- 3. Q. Should the additional “special” or “hazard” pay provided due to COVID-19 be included in the income determination? The employer is unable to clarify when this additional pay may end.**

**A.** Exclude any “special” or “hazard” payments provided due to COVID-19. Any “special pay” received due to COVID-19 is considered temporary and should not be counted in the determination of income for initial tenant certifications or required annual certification. All other employment income must be included.

## REVISED COVID-19 Compliance Monitoring Guidance May 15, 2020

- 4. Q. Does Virginia Housing have any resources for housing assistance or individuals and families impacted by COVID-19?**

**A.** <https://www.stayhomevirginia.com/> is a website created with resources for Virginians impacted by COVID-19, looking for assistance with all housing-related matters.
- 5. Q. How should unemployment income be calculated?**

**A.** The additional unemployment insurance payment and one-time stimulus payment from the federal government are excluded from income on the Tenant Income Certification.
- 6. Q. Are household payments under the CARES ACT reportable as tenant income?**

**A.** On April 16<sup>th</sup>, HUD issued guidance in a Q&A document on the treatment of stimulus payments. Virginia Housing will apply the HUD issued guidance on the treatment of income received due to COVID-19 and the CARES Act to all properties in our Rental portfolio. This income is considered temporary and should not be counted in the determination of income for initial tenant certifications or required annual certifications. **References:** [HUD Multifamily COVID-19 Resources & Fact Sheets](#) and [HUD MF COVID-19 QAFinal-04162020](#)

**7. Q. Are rent re-payment plans allowed under the Section 42 (Tax Credit) program? Will rent re-payment plans affect the maximum allowable rent and lead to noncompliance?**

**A.** Repayment of rent due under the lease agreement is not a violation of the Tax Credit maximum allowable rent. As long as the **rent charged** on a monthly basis does not exceed the maximum allowable gross rent, **and** the **rent collected** on an annual basis does not exceed the limit on a tax year basis, then there should not be a violation.

**8. Q. If an applicant recently had a significant decrease in their hours worked or income due to COVID-19, are we to use the current income status or should we use their previous income?**

**A.** Management must follow consistent guidelines in determining initial tenant eligibility, and conduct due diligence in collecting and reviewing all information in the tenant application. Previous income earnings must be considered. However, the previous earnings alone, should not be used to disqualify an applicant who is income eligible as of the effective date of the income certification. Review all income and assets to calculate anticipated income expected within the upcoming year and document the file accordingly.

**9. Q. *\*\*Will Electronic Signatures and records be accepted post COVID-19?\****

**A.** Yes. Electronic signatures and electronic records are permitted for certain properties in the Virginia Housing rental portfolio. Send an email to your assigned CO to notify them of your intent to use electronic signatures and records. **\*\*May 26, 2020, HUD issued Notice H20-4, Electronic Signature, Transmission and Storage Guidance for Multifamily Assisted Housing Industry Partners, which permits electronic storage and signatures for their multifamily programs.\*\***

Review the HUD Notice, H20-4,

<https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-04hsgn.pdf>

### **\*\*March 23, 2020 Guidance Revised\*\***

1. **Web Tenant Compliance Management System (WTCMS) Online Tenant Activity**

**March 23, 2020 Guidance:** Until further notice, we will permit up to 30 days for the tenant information to be updated in the WTCMS online system.

**Current Guidance:** All tenant activities, including, move-in, move-out, annual re-certifications, change in unit designation must be updated in the online WTCMS as the activity occurs.

2. **Audited Financial Statements and Monthly Operating Statements (MOS) Extension**

A 30-day extension may be granted for audited financial statements upon request. The submission of monthly operating statements may be extended to 45 days from the end of the reporting month.

Virginia Housing remains open for business, and continues working remotely. Our mission is to help all Virginians attain a quality affordable home. Updates will be posted on our Updates and Announcements page. This page also includes a link to sign up for our email updates.

<https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/UpdatesAnnouncements>

Regional Compliance Officers and Asset Managers are available by email during normal business hours if you have questions. We intend to allow for flexibility in the timeline of the Compliance and Asset Management monitoring activities.

See the Contact Us page on our website,

<https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/Pages/Compliance-AM-Staff.aspx>

Send your property specific questions to [compliance-assetmanagement@vhda.com](mailto:compliance-assetmanagement@vhda.com), and Cc your assigned Compliance Officer. Include **COVID-19 Guidance** in the email subject line. Your questions and feedback will assist us in the review of compliance monitoring procedures and property operations affected by the COVID-19 pandemic.