



# HUD's Office of Public and Indian Housing's Office of Field Operations Washington, DC

## Compliance With Implementing Guidance of HUD's Smoke-Free Policy in Public Housing Programs

**Office of Audit, Region 4  
Atlanta, GA**

**Audit Report Number: 2021-AT-0001  
March 19, 2021**



**OFFICE OF INSPECTOR GENERAL**  
U.S. Department of Housing and Urban Development

**To:** Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing, P

*//Signed//*

**From:** Nikita N. Irons,  
Regional Inspector General for Audit, 4AGA

**Subject:** HUD's PIH Office of Field Operations Generally Confirmed That PHAs Complied With the Implementing Guidance of HUD's Smoke-Free Policy Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's Office of Public and Indian Housing's (PIH) Office of Field Operations' oversight of public housing agencies' (PHA) compliance with the implementation of HUD's smoke-free policy in public housing programs.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 404-331-3369.

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## Highlights

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### What We Audited and Why

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We audited the U.S. Department of Housing and Urban Development's (HUD) Office of Public and Indian Housing's (PIH) Office of Field Operations' (OFO) oversight of public housing agencies' (PHA) compliance with implementing HUD's smoke-free policy. We initiated the audit in accordance with our strategic plan and our vision to support HUD's efforts to achieve quality and safer housing. Our objective was to determine whether OFO ensured that the PHAs complied with the implementing guidance of HUD's smoke-free policy requirements in public housing programs.

### What We Found

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HUD's OFO generally confirmed that the PHAs complied with the implementing guidance of HUD's smoke-free policy requirements in public housing programs by July 30, 2018, as required. OFO: (1) provided technical assistance to PHAs before the implementation deadline to help ensure their compliance and (2) obtained self-reporting from a majority of more than 3,000 PHAs that they had obtained their board's approval for implementing the policy and had amended their tenants' leases as required. Further, all 28 PHAs that we reviewed in our limited sampling had complied with the implementation guidance of HUD's smoke-free policy requirements.

### What We Recommend

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This report contains no recommendations.

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# Background and Objective

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On December 5, 2016, the U.S. Department of Housing and Urban Development (HUD) finalized a rule<sup>1</sup> requiring all public housing agencies (PHA) to implement a smoke-free policy by July 30, 2018.<sup>2</sup> This rule is a continuation of HUD's formal encouragement of the adoption of smoke-free policies in public housing, multifamily housing, and mixed-income housing. The intention of the HUD rule is to make public housing safer for residents, staff, and guests. The rule does not prevent people who smoke from living in public housing. It only limits where people can smoke. Its intent is not to increase homelessness or jeopardize housing. The policy is also predicted to save PHAs money through decreased costs at unit turnover.

The smoke-free housing rule applies to public housing units, with the exception of dwelling units in a mixed-finance project and housing assistance provided under Section 8 of the U.S. Housing Act of 1937, such as housing choice (Section 8) vouchers. Tribal housing and properties that have converted to project-based rental assistance contracts under the Rental Assistance Demonstration Program are also exempt.

The smoke-free rule requires PHAs to implement a policy that prohibits the use of all lit tobacco products inside all dwelling units, indoor common areas, and PHAs' administrative office buildings. The smoke-free policy must also extend to 25 feet from all housing and administrative buildings. PHAs have the discretion to establish designated smoking locations outside the required 25-foot perimeter, which can include partially enclosed structures. PHAs may also establish additional smoke-free areas (such as around a playground) or make their entire grounds smoke free.

There are two types of PHA plans: (1) the 5-year plan that a PHA must submit to HUD once every 5 fiscal years, which covers the 5 PHA fiscal years immediately following the date on which the plan is due to HUD, and (2) the annual plan that the PHA must submit to HUD for each fiscal year immediately following the date on which the annual plan is due to HUD and for which the PHA receives Section 8 tenant-based assistance or amounts from the Public Housing Operating Fund or Capital Fund. Further, PHAs that (1) own or manage 550 or fewer public housing dwelling units or housing choice vouchers combined and (2) are not designated as troubled in the most recent Public Housing Assessment System assessment or do not have a failing score under the Section Eight Management Assessment Program during the prior 12 months are not required to submit annual plans and, instead, submit 5-year plans.

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<sup>1</sup> 81 Federal Register 87430

<sup>2</sup> HUD's guidebook, Implementing HUD's Smoke-Free Policy in Public Housing, Introduction

If the PHA determines that the smoke-free policy is a significant amendment to its PHA plan,<sup>3</sup> the PHA must follow the amendment process below:

- The PHA must consult with the resident advisory board as defined in 24 CFR (Code of Federal Regulations) 903.13.
- The PHA must ensure consistency with the consolidated plan of the jurisdiction(s) as defined in 24 CFR 903.15.
- The PHA must make the amendments or modifications available for review by the public 45 days before the public hearing as defined in 24 CFR 903.17.
- The PHA may not adopt the amendment or modification until it has duly called a meeting of its board of directors or similar governing body. This meeting, at which the amendment or modification is adopted, must be open to the public.
- The PHA may not implement the amendment or modification until notification is provided to HUD and approved in accordance with HUD's plan review procedures as defined in 24 CFR 903.23.

Lease amendments must be provided to new tenants at the time of the initial lease signing and to existing tenants at their annual recertification or the first recertification after HUD approves the plan amendments. Further, PHAs must provide tenants notice of lease changes 60 days before implementation.

Our audit objective was to determine whether the Office of Public and Indian Housing's (PIH) Office of Field Operations (OFO) ensured that the PHAs complied with the implementing guidance of HUD's smoke-free policy requirements in public housing programs.

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<sup>3</sup> The appending of the actual smoke-free policy to the administrative plan was not required. Only a statement within the administrative plan, such as "the smoke-free policy is implemented," was sufficient to meet this requirement.

# Results of Audit

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## **Finding: HUD’s PIH Office of Field Operations Generally Confirmed that PHAs Complied With the Implementing Guidance of the Smoke-Free Policy Requirements**

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HUD’s PIH OFO generally confirmed that PHAs complied with the implementing guidance of HUD’s smoke-free policy requirements in public housing programs. OFO provided technical assistance and obtained self-reporting from a majority of more than 3,000 PHAs that they had obtained their board’s approval for implementing the policy, amended their PHA plans as necessary, and amended their tenants’ leases. Further, all 28 of the PHAs that we reviewed in our limited sampling had complied with the implementation guidance of HUD’s smoke-free policy requirements and met the implementation deadline of July 30, 2018.

### **OFO Assisted in PHAs’ Compliance**

OFO provided technical assistance to PHAs before the implementation deadline to help ensure that the PHAs complied with the implementation guidance of HUD’s smoke-free policy requirements. The technical assistance included guidance, training, and communication to the PHAs. Specifically,

- In March 2017, OFO launched the smoke-free webpage, which included links to (1) HUD’s guidebook, *Implementing HUD’s Smoke-Free Policy in Public Housing*; (2) tips for PHA staff to engage tenants; (3) a smoke-free policy checklist detailing required and recommended steps for PHAs to take; (4) suggested steps and timelines for implementation; and (5) video webinars providing additional information.
- On October 24, 2017, OFO’s Deputy Assistant Secretary issued an email to all PHA executive directors reminding them of the implementation deadline. The Deputy Assistant Secretary’s email also provided a list of HUD staff members serving as specific points of contact and a link to HUD’s smoke-free website.

In addition, the field offices<sup>4</sup> provided technical assistance to the PHAs. We reviewed technical assistance provided by 14 field offices for a limited sample of 14 randomly selected PHAs and noted that 8 (53 percent) of the PHAs received technical assistance from their respective field offices in the form of onsite training; webinars sponsored by HUD or other agencies; or other resources, such as emails, field office newsletters, and telephone calls to PHAs. The table below summarizes the technical assistance provided by the field offices.

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<sup>4</sup> PIH OFO had 45 field offices organized in 10 regions that covered all geographic States in and territories of United States. The Appendix B of this report includes a map of the regions and a list of the field offices.

HUD PIH OFO field office location	PHA name	Technical assistance provided			Units at PHA
		Onsite training	Webinar (HUD or other)	Other resources	
Boston, MA	Brockton Housing Authority (HA)		X	X	1,626
Richmond, VA	Newport News Redevelopment & HA	X	X		1,148
Birmingham, AL	Mobile Housing Board			X	655
Indianapolis, IN	HA of City of Elkhart			X	525
Los Angeles, CA	HA of the County of Ventura		X		354
Knoxville, TN	HA of Crossville			X	317
St. Louis, MO	HA of the City of Caruthersville				304
Buffalo, NY	Massena HA				241
Phoenix, AZ	Yuma County Housing Dept.			X	159
Atlanta, GA	HA of the City of Jackson				89
Milwaukee, WI	HA of Winnebago County				84
Kansas City, MO	Republic HA				56
Greensboro, NC	Andrews HA			X	50
Fort Worth, TX	HA City of Alpine				50
<b>Total number of units</b>					<b>5,658</b>

We also assessed the process and procedures used by OFO field offices for monitoring the PHAs for continued compliance after the implementation deadline. We noted minor inconsistencies among field offices related to field offices' having written procedures for addressing noncompliance and field offices' monitoring of PHAs through reviews of tenant-level data such as tenant leases. We issued a separate memorandum to inform OFO of the minor inconsistencies.

### **OFO Obtained PHA Self-Reporting of Compliance**

OFO obtained self-reporting from PHAs of their compliance with the smoke-free requirements. Specifically, the field offices completed an outreach survey by May 15, 2018, and had updated the results as of August 23, 2018, to include the responses received after May 15, 2018. The survey results as of August 23, 2018,<sup>5</sup> showed that:

- 3,012 of the 3,112 PHAs were required to comply with the requirements.<sup>6</sup>

<sup>5</sup> We do not have the statistics from the May 15, 2018, response compilation. It was not necessary as the implementation deadline of July 30, 2018, had not passed.

<sup>6</sup> Regulations at 24 CFR 965.653 required PHAs to implement a smoke-free policy in public housing units and interior spaces. Based on the program type, some PHAs were not required to comply with the smoke-free requirements. For example, the smoke-free policy requirements did not apply to the Housing Choice Voucher Program. Therefore, a PHA administering only the Section 8 Housing Choice Voucher Program was not required to comply with the smoke-free requirements.



- 89 (2,675 of 3,012) percent of the required PHAs responded to the survey.
- 66 (1,997 of 3,012) percent reported as fully compliant with the requirements.

The survey had not been updated since August 2018, and OFO had no plans to update the survey. The OFO stated that through the already completed surveys, it had sufficient assurance that PHAs had complied with the implementation requirements.<sup>7</sup>

### **PHA Documentation and Tenants' Leases Generally Complied**

PHAs generally complied with the implementing guidance of smoke-free requirements. We reviewed PHAs' documentation obtained directly from a limited sample of 14 randomly selected PHAs.<sup>8</sup> Specifically, we reviewed the PHAs' documentation to determine whether they (1) obtained board approval of their smoke-free policy, (2) documented the smoke-free policy in their administrative plan,<sup>9</sup> (3) conducted public meetings if required,<sup>10</sup> (4) included in their smoke-free policy the minimum requirements established by PIH,<sup>11</sup> and (5) had their smoke-free policy in effect no later than July 30, 2018. All 14 PHAs generally complied with the implementing guidance of smoke-free requirements. However, we noted deficiencies with two of the PHAs' implementation, which were minor with no significant impact. We issued a separate memorandum to inform OFO of the minor deficiencies.

We also obtained and reviewed tenant-level documentation from PHAs for a limited sample of 14 randomly selected tenants.<sup>12</sup> Specifically, we reviewed the tenant documentation to determine whether (1) tenants were provided the smoke-free policy lease amendment before the implementation deadline; (2) tenants were notified of the written revision to their existing lease (unless it was a tenant with a new lease) at least 60 days before the lease revision was to take place; and (3) tenants' lease amendment incorporated the requirement that tenants in public housing, members of a tenant's household, a tenant's guest, or another person under the tenant's control not engage in any smoking of specified tobacco products in restricted areas, within 25 feet of PHA buildings, or in other outdoor areas that the PHA has designated as smoke free. The tenant documentation for all 14 tenants was in compliance. However, we noted deficiencies with three tenants' lease documentation, which were minor with no significant impact. We issued a separate memorandum to inform OFO of the minor deficiencies.

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<sup>7</sup> Regulations at 24 CFR 965.655(b) required that all PHAs comply with the implementation requirements. However, 87430 Federal Register Volume 81, No. 233, dated December 5, 2016, did not require that the self-reporting be obtained from each PHA. Instead, the Federal Register stated that HUD could use PHA self-reporting as a method of reliance for ensuring PHA compliance.

<sup>8</sup> See the Scope and Methodology section of this report for our methodology for the sample selection.

<sup>9</sup> See footnote 3.

<sup>10</sup> Public meetings were required only if the adoption of the smoke-free policy was determined to be a significant amendment to the PHA's administrative plan.

<sup>11</sup> The minimum requirements were to prohibit smoking within 25 feet of dwelling units, all interior areas, and all public housing units.

<sup>12</sup> See the Scope and Methodology section of this report for our methodology for the sample selection.

## **Conclusion**

HUD's PIH OFO generally confirmed that the PHAs complied with the smoke-free policy implementation requirements in public housing programs by the deadline by providing technical assistance and obtaining self-reporting from a majority of more than 3,000 PHAs. Through limited sample testing of PHAs and tenant-level documentation as well as surveys of all 45 field offices, we also generally confirmed that PHAs had complied with the implementation requirements.

## **Recommendations**

This report contains no recommendations.

# Scope and Methodology

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We performed our audit work between March 2019 and July 2020 at our offices in Washington, DC, and Atlanta, GA. The audit covered the period December 5, 2016, through January 28, 2020.

To accomplish our objective, we interviewed OFO and field office staff and HUD's field office staff. In addition, we obtained and reviewed the following:

- Applicable laws; 81 Federal Register 87430; HUD regulations at 24 CFR parts 903 and 965; Notices PIH 2012-25, 2015-18, and 2017-03; and HUD's guidebook, Implementing HUD's Smoke-Free Policy in Public Housing.
- OFO's communication to PHAs, OFO's monitoring checklist for smoke-free policy implementation, OFO's guidance to field offices, PHAs' self-reporting data maintained by OFO, and field offices' technical assistance and monitoring process and procedures.

From a universe of 2,167 applicable PHAs<sup>13</sup> as of May 28, 2019, we randomly selected a limited sample of 14 PHAs to

- (1) Obtain and review the technical assistance provided by 14 respective field offices to determine whether the field offices assisted the PHAs in complying with the implementation of the smoke-free policy. We selected a random sample because we wanted to get an understanding of the type of deficiencies, if any, before we selected a bigger sample that was statistically selected, allowing for projection of the review results. Our review of the random sample did not identify any significant deficiencies. Specifically, we determined that eight (57 percent) of the field offices provided technical assistance to eight respective PHAs before the implementation deadline. Further, our review of the 14 PHAs' compliance did not identify any significant deficiencies. Therefore, we did not proceed with the statistical sample.
- (2) Review documentation obtained directly from the PHAs to determine whether the PHAs complied with the requirements by the implementation deadline, as required. We selected a random sample because we wanted to get an understanding of the type of deficiencies, if any, before we selected a bigger sample that was statistically selected, allowing for projection of the review results. Our review of the random sample did not

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<sup>13</sup> While HUD identified 3,112 as the universe of total PHAs, we identified a universe of applicable PHAs by applying certain qualifiers based on the smoke-free policy's requirements. These qualifiers included any PHA that operated at least one significant, publicly owned housing development supported by HUD operating subsidies and for which significant developments were defined as those with (1) annual contributions contract (ACC) counts of more than 15, (2) funding streams that included January or February as well as December 2017, (3) a discernable tenant count as of June 30, 2018, that was at least 80 percent of the ACC, and (4) calendar year 2017 disbursements according to the ACC that fell within the typical range of \$100 to \$650 per month.

identify any significant deficiencies. Specifically, we determined that all 14 PHAs had implemented the smoke-free policy by the implementation deadline, as required. Therefore, we did not proceed with the statistical sample.

From a universe of 767,293 tenants as of May 28, 2019, we randomly selected a limited sample of 14 tenants, from 14 different PHAs, to determine whether the respective PHAs had implemented the smoke-free policy at the tenant level by amending the tenant lease documentation as required. We used a random number generator to select tenants from our universe, ensuring that we did not select multiple tenants from the same PHA, nor select a tenant from a PHA that was selected for review of implementation of the smoke-free policy to expand our coverage to as many PHAs as possible. We selected a random sample because we wanted to get an understanding of the type of deficiencies, if any, before we selected a bigger sample that was statistically selected, allowing for projection of the review results. Our review of the random sample did not identify any significant deficiencies. Specifically, we determined that all 14 tenants' lease documentation had been amended by the implementation deadline, as required. Therefore, we did not proceed with the statistical sample.

Further, we surveyed all 45 field offices by using a questionnaire to assess the process and procedures used by all of the field offices for monitoring PHAs' implementation and continued compliance after July 30, 2018, with the smoke-free policy requirements. The responses to our questionnaire were compiled by all of the regional directors for the field offices within their jurisdiction.

We relied in part on computer-processed data contained in HUD's system to achieve our audit objective. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequately reliable for our purposes. The tests included comparing computer-processed data for PHA public housing operating funding for calendar year 2017 funds with HUD' final reconciled amounts for calendar year 2017 to determine whether the figures were approximately consistent with each other.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# Internal Controls

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Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

## Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Effectiveness and efficiency of operations – Policies and procedures that the management has implemented to reasonably ensure that a program meets its objectives, while considering cost effectiveness and efficiency.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that program implementation is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of HUD's internal controls.

# Appendixes

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## Appendix A

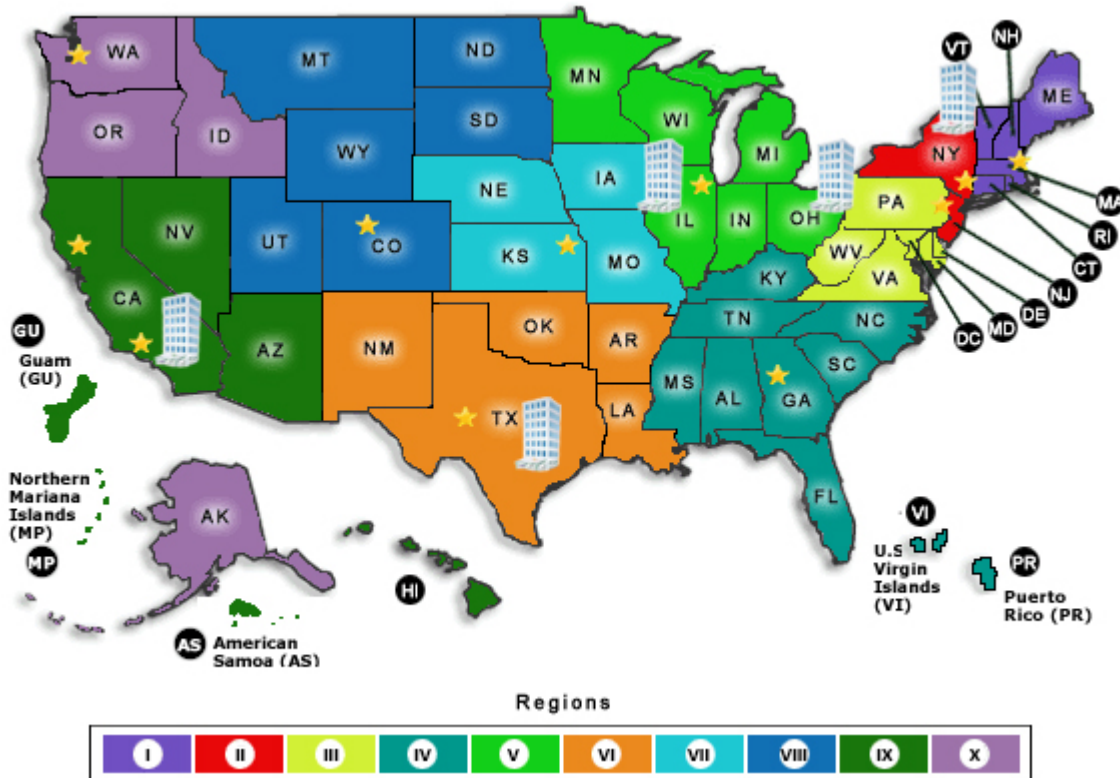
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### **Auditee Comments and OIG's Evaluation**

The Office of Public and Indian Housing did not provide comments to include in the final report.

## Appendix B

### HUD's Regions and PIH Field Offices



Source: <https://www.hud.gov/localoffices/regions>

Region	PIH field office(s) in region (city and state)
I	Hartford, CT; and Boston, MA
II	Buffalo and New York City, NY; and Newark, NJ
III	Philadelphia and Pittsburgh, PA; Richmond, VA; Baltimore, MD; and Washington, D.C.
IV	Birmingham, AL; Jacksonville and Miami, FL; Atlanta, GA; Louisville, KY; Jackson, MS, Greensboro, NC; Columbia, SC; Memphis, Nashville and Knoxville, TN; and San Juan, PR
V	Chicago, IL; Indianapolis, IN; Detroit, MI; Minneapolis, MN; Cleveland, OH; and Milwaukee, WI
VI	Little Rock, AR; New Orleans, LA; Albuquerque, NM; Oklahoma City, OK; and Fort Worth, Houston, and San Antonio, TX
VII	Kansas City, KS; Saint Louis, MO; and Omaha, NE
VIII	Denver, CO
IX	Los Angeles and San Francisco, CA; Phoenix, AZ; and Honolulu, HI
X	Seattle, WA; and Portland, OR

Source: [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/about/field\\_office](https://www.hud.gov/program_offices/public_indian_housing/about/field_office)