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Policy Alert

Annual Plan

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With the passage of the Quality Housing and Work Responsibility Act of 1998, PHAs are required to develop an Annual Plan. PHAs are to include in their Annual Plans references to all major upcoming activities, including a number of specific actions commonly associated with mixed-finance projects (e.g., site-based waiting lists, demolition and disposition, and admissions policies). Many of these items must now be included in the Annual Plan to receive HUD approval. As timely implementation of these actions is critical to the success of many mixed-finance transactions and the development and approval of the Annual Plan is subject to public comment and driven by the public notice and hearing time requirements, HUD has developed this policy alert to address the ways in which the Annual Plan must be coordinated with a PHA's mixed-finance projects.

This policy alert does not replace or supercede any HUD notices or guidance on completing the Annual Plan; PHAs should refer to the HUD web page for the latest HUD notice on the Annual Plan requirements and template. This policy alert is based on the template in effect as of December 2000. The template may be found at <http://www.hud.gov/pih/pha/plans/phaps-home.html>. Applicable notices at this time are PIH notices 99-51 and 2000-22 (both of which have been extended by Notice PIH 2001-26).

About the Annual Plan

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) created a requirement that all PHAs develop public housing agency plans, consisting of a 5-Year Plan and an Annual Plan. HUD has developed a template for these Plans, which PHAs are to complete and/or update on an annual basis and submit no later than 75 days prior to the end of the PHA's fiscal year. The 5-Year Plan describes the mission of the agency and the agency's long-range goals and objectives for achieving its mission over the subsequent 5 years. The Annual Plan provides details about the agency's immediate operations, program participants, programs and services, and the agency's strategy for handling operational concerns, residents' concerns and needs, programs and services for the upcoming fiscal year. The Annual Plan provides an implementation blueprint for all of the PHA's upcoming activities, and as such, needs to be coordinated with implementation of a mixed-finance development.

To assist PHAs in completing their Agency Plans, HUD has developed a template for PHAs to complete and submit to HUD.¹ The Annual Plan

¹ The template is subject to change; this policy alert is based on the template issued in July 1999 (OMB approval number 2577-0226).

template contains a number of sections and attachments that must reflect the PHA's policies and implementation steps concerning the HOPE VI or mixed-finance development planned for the upcoming year. Specifically, the Annual Plan should address:

- Demolition or disposition planned for the development;
- If appropriate, status of certain homeownership activities planned as a part of the mixed-finance development;
- Status of any ongoing or proposed mixed-finance development, as well as information on associated funding sources;
- Occupancy policies and procedures for the planned development, such as site-based waiting lists, preferences and income tiering, and designation of a building or buildings for elderly or disabled occupancy; and
- Asset management activities.

Additional information on each of these topics is included below.

Demolition and Disposition

Nearly all mixed-finance projects contain partial or total demolition and disposition. Disposition includes but is not limited to outright sale of the entire development to a developer, entering into a long-term ground lease with the owner entity, or replatting and sale of some or all of the property as homeownership lots (see 24 CFR part 970 for a complete definition of disposition). Before demolishing or disposing of any portion of a property, a PHA must obtain HUD approval. As described in notice 99-19, a PHA must include demolition (except for the HOPE VI exception noted below) and disposition of a project in its Annual Plan before HUD will approve a submitted demolition or disposition application.

Demolition and disposition are contained in Section 8 of the Annual Plan. The template asks the PHA to complete a chart, indicating the extent, status, and timeline of the demolition or disposition, make the Plan available for public comment for 45 days, and hold a public hearing on the Plan. Once the hearing is complete and the final Plan submitted to HUD, HUD's Special Applications Center (SAC) can approve a submitted disposition or demolition application.

For HOPE VI projects, HUD no longer requires separate demolition approval by the SAC. While the Annual Plan should reflect any HOPE VI demolition planned in the upcoming year, Office of Public Housing Investment (OPHI) can approve HOPE VI related demolition even if it is not included in a PHA's Annual Plan. This procedure, however, does not apply to disposition approvals. Dispositions associated with a HOPE VI project must be included in the Annual Plan (or Interim Demolition and Disposition Plan) before the SAC can approve the disposition application.

Homeownership

Many HOPE VI projects include a homeownership component. The Annual Plan asks PHAs to report on the status of any approved 5(h) program or other planned homeownership programs. In the template, PHAs are to report on the type and status of the homeownership program and its size. Please note, this information is only requested for homeownership under ongoing, approved homeownership programs, or homeownership programs for which the PHA plans to submit a 5(h) plan in the next year. If the homeownership program is a Nehemiah-like program funded by a 1993-1999 HOPE VI grant, or if the homeownership program is a Section 24(d)(1)(J) program funded by a HOPE VI grant, the activities need not be reported in the current Annual Plan template in order for PIH to approve this homeownership component.

Mixed-Finance Development Funds and Activities

Section 7 of the Annual Plan asks the PHA to provide information on the status of any open HOPE VI grants, as well as indicate whether the PHA plans to apply for HOPE VI funds in the coming year, undertake non-HOPE VI mixed-finance development, or undertake any other public housing development or replacement activities not discussed in the Capital Fund Program Annual Statement.

In Section 2 of the Agency Plan, the PHA should also report on any funds to be used for or generated by the mixed-finance development, including:

- *Capital funds.* If a PHA intends to use Capital Funds (formerly CGP) for the implementation of the mixed-finance project, the use should be indicated in the PHA's Capital Fund Program Annual Statement and/or the Capital Fund Program Five Year Action Plan, as appropriate;
- *HOPE VI funds.* In the Annual Plan, the PHA must report on the amount of funds unobligated for any HOPE VI grants received;
- *Other Mixed-Finance Development Sources.* The current Annual Plan template asks for all other non-federal sources committed to the PHA for any use. Such sources include the sources for the mixed-finance project, and should be included in the template although they need not be broken out in detail;
- *Other Agency-wide Grant Funding.* PHAs are required to report the amount of other grant funding received by the agency, which may or may not benefit the mixed-finance development. Grant funding to be reported would include, but is not limited to, EDSS grants and FSS grants; and/or
- *Program Income.* If, during the year covered by the Plan, the PHA will receive program income from the mixed-finance development (or any other source), that income is to be reported in the Annual Plan. Program income is defined at 24 CFR 85.25, and includes but is not

limited to payments on a ground lease, net proceeds from home sales, and repayment of loans.

Site-Based Waiting Lists

Many PHAs elect to employ a site-based waiting list at mixed-finance developments. Prior to the passage of the QHWRA, PHAs were required to submit a waiver to HUD to use a site-based waiting list. However, QHWRA enables certain eligible PHAs to adopt a site-based waiting list by stating that intent in an Annual Plan approved by the PHA Board and HUD after the appropriate public approval process. Approval of the PHA Plan will constitute approval of a site-based waiting list. Additional policy guidance on site-based waiting lists, the advantages and disadvantages of this system, and methods of structuring site-based waiting lists is contained in a separate policy alert.

Once the site-based waiting list is established, the PHA must continue to report in its Annual Plan on an annual basis the housing needs of families on the waiting list, by completing the chart included in the Annual Plan template. The information requested includes a breakdown by income, race/ethnicity, bedroom needs, and other family characteristics (families with children, elderly families, and families with disabilities).

Admission and Occupancy Policies

The Annual Plan must include several pieces of information on PHA Admissions and Occupancy Policies. Because the template, at this time, does not ask for information on a project basis, the PHA's answers need not reflect any differential policies used at its mixed-finance development(s). The Annual Plan template requests information on eligibility determinations, organization of waiting lists (including site-based waiting lists), policies regarding assignment of units, admissions preferences, deconcentration and income mixing. The Plan also asks the PHA to describe its rent setting policies, which for public housing units include income-based and flat rents. For families receiving Section 8 voucher assistance, the Plan addresses topics such as minimum rents, payment standard policies, and use of project-based vouchers, if applicable. Some of the types of admissions and occupancy policy information requested includes:

- *Public Housing Income Tiering and Preferences.* The Annual Plan template requests information on the income tiers of families in the jurisdiction and families on the PHA's waiting list and any admissions preferences adopted by the PHA on an authority-wide basis. It is not necessary, at this time, to include site-specific income tiering. HUD will otherwise review and approve site-specific income tiering through, for example, the Mixed-Finance Proposal process.
- *Section 8 Preferences.* Some PHAs also have Section 8 preferences for former residents of mixed-finance developments. The PHA's Annual Plan should list all preferences. In addition, the PHA's Section 8 Administrative Plan is one of the Annual Plan supporting documents a PHA must make available for public review and comment.

- *Ceiling and Flat Rents.* The Annual Plan also asks about any ceiling rents employed by the PHA at any or all developments. In addition, QHWRA requires PHAs to set flat rents at all developments, including its mixed-finance development(s), and the Annual Plan asks about the methodology for setting flat rents. A list of flat rents for developments being leased in the upcoming year is one of the Annual Plan supporting documents a PHA must make available for public review and comment.
- *Statement of Policies.* The Annual Plan also requires that the PHA's Admissions and Continued Occupancy Policy (ACOP) is one of the Annual Plan supporting documents a PHA must make available for public review and comment. This policy should also reflect any preferences or income tiers to be utilized at the revitalized development, and provide some information on how the preferences and tiers are administered. PIH may approve through the approval of the mixed-finance proposal, income tiers and preferences for a mixed-finance project that deviate from the PHA's ACOP. However, the PHA must update its ACOP to reflect these policies upon receiving such approval.

Elderly Designation

If the PHA's proposed HOPE VI or mixed-finance project includes any building or buildings the PHA intends to designate for elderly-only or disabled-only occupancy, the PHA must indicate this in its Annual Plan. The PHA must subsequently submit to HUD an application, according to Section 7 of the U. S. Housing Act of 1937, as amended [42 U.S.C. 1437e] to designate the development.

Community and Supportive Services

The PHA's Annual Plan must report on all community and supportive services programs funded or operated by the PHA. The Annual Plan template requests information on:

- Program name and description of services;
- Number of participants;
- How the participants in the program are selected (i.e., allocation method for program slots);
- Where participants access the programs; and
- Who is eligible for the program (if participation is limited to current or former residents of a particular site, that should be indicated here).

The PHA is also to report on coordination with the state TANF agency and welfare reform. Many mixed-finance and particularly HOPE VI development efforts forge close relationships to TANF agencies, and this should be reflected in the Annual Plan.

Asset Management

The Asset Management Section of the PHA Annual Plan should indicate whether the PHA intends to undertake certain types of asset management responsibilities at any of its developments, including at mixed-finance developments. Asset management responsibilities include site-based budgeting and management and the use of a private property manager.

Amendments or Modifications to an Annual Plan

Each PHA's Annual Plan is to include a definition of what constitutes a "significant amendment or modification" to the original Plan. The definition must be included in the Annual Plan made available for public review and comment. If a PHA wishes to implement a policy or action not included in the Agency Plan, either because it was omitted from the original Plan or because circumstances changed, the PHA should check to see whether the new action constitutes a significant amendment or modification to the Plan. In the event that a PHA determines the proposed new action constitutes a significant modification to the Plan, the PHA should submit an interim Agency Plan to HUD.

In lieu of a PHA-provided definition, HUD considers changes in the following types of actions to be significant modifications:

- Changes to rent or admissions policies or organization of the waiting list;
- Additions of non-emergency work items (items not included in the current Annual Statement or 5-Year Action Plan) or change in use of replacement reserve funds under the Capital Fund;
- Additions of new activities not included in the current PHDEP Plan; and,
- Any change with regard to demolition or disposition, designation, homeownership programs or conversion activities.

While PHAs are able to define significant modifications as they so choose, certain actions must be listed in a publicly noticed and approved Annual Plan before they can be implemented. Specifically,

- HUD will not approve demolition or disposition applications unless they have been included in the PHA's Annual Plan or Interim Demolition/Disposition Plan; and,
- HUD will not approve an application for designation unless the PHA has stated this intention in its Annual Plan.

Therefore, failure to include any these actions in the Annual Plan would require that the PHA complete an interim Plan, subject to the full public notice and hearing requirements, before HUD will approve the actions.

Completing an Interim Plan

Whenever developing and submitting an interim Agency Plan (including modifying an existing Plan), the PHA should make alterations to the appropriate section(s) of the Plan template provided by HUD and subsequently follow the procedures outlined in 24 CFR 903.21, including:

- Seeking the recommendations of the Resident Advisory Board on the modification;
- Ensuring the modification is consistent with the Consolidated Plan by obtaining a certification of consistency from the appropriate local or state official;
- Conducting a public hearing regarding the modification after 45 days notice;
- Adopting the modification by the PHA's Board of Directors at a public meeting; and
- Gaining HUD's approval of the modification.

Summary

The following checklist summarizes the areas of the Annual Plan that commonly require coordination with mixed-finance development, indicating what item(s) within the section should be coordinated and whether a change in that policy constitutes a significant modification requiring submission of an interim Plan. In unique circumstances, other policies or actions not specifically listed in this policy alert may impact the mixed-finance development and should be included in the Plan. To ensure Annual Plans are complete and accurate, each PHA should carefully review its Annual Plan with its mixed-finance development staff, developer, and/or program manager.

HUD PIH Policy Alert

Annual Plan Section Number and Title	Areas to Coordinate	Interim Plan Required Under All Circumstances	Interim Plan Required When Using HUD's Definition of "Significant Modification"
1. Housing Needs	<ul style="list-style-type: none"> • None 	N/A	N/A
2. Financial Resources	<ul style="list-style-type: none"> • All HOPE VI/Mixed-Finance Grants and Sources, including funds for development, CSS, and/or program income. 	No	No
3. Policies on Eligibility, Selection and Admissions	<ul style="list-style-type: none"> • Site-based Waiting Lists • Public Housing Preferences • Public Housing Income Tiers • Section 8 Preferences • Related Attachment: Admissions and Continued Occupancy Policy • Related Attachment: Section 8 Administrative Plan 	No	Yes
4. Rent Determination Policies	<ul style="list-style-type: none"> • Ceiling Rent Policies • Flat Rent Policies 	No	Yes
5. Operations and Management Policies	<ul style="list-style-type: none"> • None 	N/A	N/A
6. Grievance Procedures	<ul style="list-style-type: none"> • The use of different policies should be noted where requested. 	N/A	N/A
7. Capital Improvement Needs	<ul style="list-style-type: none"> • Related Attachment: Capital Fund Program Annual Statement • Related Attachment: Capital Fund Program Five Year Statement • HOPE VI, Mixed-Finance, and Other Development Activities 	No	Yes
8. Demolition and Disposition	<ul style="list-style-type: none"> • Planned, Submitted, or Approved Demolition • Planned, Submitted, or Approved Disposition 	Yes	Yes
9. Designation of Housing	<ul style="list-style-type: none"> • Planned, Submitted, or Approved Designation 	Yes	Yes
10. Conversions of Public Housing	<ul style="list-style-type: none"> • None 	N/A	N/A
11. Homeownership	<ul style="list-style-type: none"> • Planned, Submitted, or Approved 5(h), HOPE I, Turnkey III, and Section 32 Homeownership Programs 	No	Yes
12. Community Service Programs	<ul style="list-style-type: none"> • Relationships with TANF Agencies • Listing of HOPE VI CSS programming 	No	No
13. Crime and Safety	<ul style="list-style-type: none"> • None 	N/A	N/A
14. Pets	<ul style="list-style-type: none"> • None 	N/A	N/A
15. Civil Rights Certifications	<ul style="list-style-type: none"> • None 	N/A	N/A
16. Audit	<ul style="list-style-type: none"> • None 	N/A	N/A
17. Asset Management	<ul style="list-style-type: none"> • Private Management 	No	No
18. Other Information	<ul style="list-style-type: none"> • None 	N/A	N/A