



Department of Housing and Urban Development
Public and Indian Housing

Special Attention:

NOTICE PIH 2001-26(HA)

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Public Housing Field Office Directors; Troubled Agency Recovery
Center Directors, Public Housing Agency Directors

Cross References:

Notices: PIH 99-33 (HA), PIH 99-51 (HA), PIH 2000-22, 2000-36
(HA), PIH 2000-43 (HA), PIH 2001-4 (HA)

Subject: PHA Plan Guidance; Further Streamlining of Small PHA Plans; Early Availability of Capital Formula Funding for Obligation; Extension of Notices PIH 99-33 (HA), PIH 99-51 (HA), PIH 2000-22 (HA), PIH 2000-36 (HA), PIH 2000-43 (HA) and PIH 2001-4 (HA).

I. Summary

This notice transmits PHA Plan guidance to Public Housing Agencies (PHAs) with fiscal years beginning with January 1, 2002, on submission of third year PHA Plans as provided in the PHA Plans Final rule (issued December 22, 2000 Federal Register ((65 FR812214)), found at 24 CFR Part 903, Subpart B. Until notification of new instructions, PHAs must use the currently available templates and instructions in completing their Plans with updates provided below. The currently available instructions, previously issued in Notices PIH 99-33 (HA), 99-51 (HA), 2000-22 (HA), 2000-36 (HA), 2000-43 (HA) and 2001-4 (HA) are hereby extended.

The supplemental instructions update PHAs' submission requirements to reflect further streamlining of Plans for small PHAs and outline a process to make capital funds available for obligation at an earlier date. Other plan guidance relates to deconcentration of poverty and income mixing, voluntary conversion required initial assessments, streamlined/consolidated plan requirements for multiple jurisdictions and notification to resident advisory boards (RABs) of the Plan process.

Further Reference: The template, instructions and guidance for PHA Plans referenced in this notice are available on HUD's PHA Plans webpage: <http://www.hud.gov/pih/pha/plans/phaps-home.html>. Questions about PHA Plans may also be directed to the hotline at (866) 359-3608.

Consolidated Guidance: HUD intends to consolidate all PHA Plan instructions and guidance, issued since implementation of the Plan, into a desk/reference guidebook. PHAs will be notified of completion of the guidebook and its posting to the HUD web site.

Public Housing Assessment System and PHA Plan Submissions: On May 30, 2001, HUD published a Federal Register Notice (FR-4687-01), "Public Housing Assessment System (PHAS); Revised Timetable for Issuance of Management Operations Official Scores and PHAS Advisory Scores and Notice of Intent to Commence Informal Meetings with PHAs". All designations other than MASS troubled (substandard management) will be held in abeyance as well as any incentives that are awarded for such designations for all PHA FYs through June 30, 2001. PHAs with FYs ending after June 30, 2001 through June 30, 2002 may be issued modified PHAS scores as established by appropriate procedures and notification. For the purpose of the PHA Plan, PHAs that were eligible to submit

streamlined Plans based on “high performance” prior to the May 30th Federal Register Notice, will be allowed to submit streamlined agency Plans until they receive modified PHAS scores under a PHAS system that again designates high performers.

II. PHA Plan Guidance Effective January 1, 2002

A. Further Streamlining For Small PHAs: the “Small PHA Plan Update”

On August 14, 2000, HUD issued a final rule on “Public Housing Agency Plans: Streamlined Plans”, allowing eligible PHAs to submit a Streamlined Plan under 24 CFR, part 903.11. Notice PIH 2000-43 served as notification for further streamlining agency plan requirements by providing small, non-troubled PHAs with an option of submitting the Small PHA Plan Update. This notice amends the **Submission Schedule** contained in Notice PIH 2000-43 by allowing Small PHAs to submit the “Update Plan” in years 2-5 of the 5-year planning cycle rather than year 2 and 4 of the planning cycle. Therefore, small PHAs eligible to submit the “Update Plan” beginning on January 1, 2001, may submit the “Update Plan” on an annual basis.

On June 22, 2001, HUD released a final rule on “Voluntary Conversion of Developments from Public Housing Stock; Required Initial Assessments”. The final rule provides regulatory guidance (24 CFR 972.200) for complying with Section 22(b)(2) of the United States Housing Act of 1937, requiring all PHAs to conduct an initial assessment for their covered developments and to include the results with the next agency Plan. Beginning with Fiscal Year 2002, small PHAs (including those completing “Update Plans”) must include the results of the assessments as a required attachment to the template and modify the **Submission Checklist** to include this attachment. Section D of this notice includes additional instructions for providing information regarding Voluntary Conversion Required Initial Assessments.

B. Capital Fund Program (CFP) Changes and Clarifications

1. Early Availability of Funds for Obligation: Commencing with Fiscal Year 2002, HUD anticipates putting systems in place that will allow a portion of CFP funds to be available to PHAs for obligation as close as possible to the federal fiscal year rather than quarterly after the approval of individual PHA Plans. With this procedure, PHAs would be provided with 50% of the CFP total formula share for obligation on work items in the PHA’s 5-year Plan, already approved by HUD, prior to the submission and approval of the current PHA Plan. Assuming a timely appropriation of capital funds and adaptation of HUD systems, this could occur in approximately January, 2002. Participation in this initiative would be limited to non-troubled agencies that have submitted PHA Plans for Fiscal Years 2000-01 (unless notified by HUD) and are not otherwise disqualified by HUD for reasons such as failure to obligate prior funds in a timely manner. (PHAs with fiscal years commencing in January may be unaffected, depending on the final timing of this initiative.)

HUD is informing PHAs of the likelihood that this change will occur, even though the change is not yet definite, so that PHAs may plan and examine how to take advantage of obligating funds early based on approved work items in their 5-year Plans. PHAs would have greater flexibility to the extent their 5-year Plans specify work items.

Formula Calculation: To accommodate the schedule, commencing with federal fiscal year 2002, PHA data used to determine formula amounts would be based on available data as of a date earlier than September 30th of the preceding fiscal year to ensure data verification. HUD expects the date for use in the coming year to be July 31, 2001.

Annual Contributions Contracts (ACCs): HUD anticipates that ACC(s), included with HUD award letters of annual CFP funding, would be amended to reflect annual formula share funding, the amount of funds each PHA is eligible to obligate immediately (50% of total award), and limitations on the use of available funding to work items in the PHAs' approved 5-year Plan. The amended ACC would condition the release of remaining CFP funds (50% of the total award) on approval of the annual PHA Plan.

Disbursement of CFP Funds in LOCCS-VRS: PHAs will receive notification of their annual CFP formula share allocation and ACC amendments, which must be executed prior to the disbursement of funds through the LOCCS-VRS. HUD anticipates that notification letters would identify formula share funding and the automatic distribution of funds within five (5) budget line items (BLIs) established in LOCCS-VRS. Until the PHA's Annual Plan is approved, the following limitations on "Administrative" and "Management Improvement" costs would remain in effect:

- 1408 Management Improvements (not to exceed 10% of the total annual grant)
- 1410 Administration (not to exceed 5% of the total annual grant)
- 1501 Collateralization/Debt Service (if applicable)
- XXX Other (Balance of available CFP funding)
- XXX CFP – (Balance of CFP funds, 50% of total award, to be disbursed after PHA Plan Approval)

After approval of its PHA Plan, a PHA's CFP funds would be redistributed in the LOCCS-VRS to reflect actual and planned use of its capital funds in the PHA's Annual Statement.

2. CFP Obligation and Expenditure Deadlines: In accordance with Section 9(j) of the United States Housing Act of 1937, PHAs must obligate funds not later than 24 months and expend funds not later than 4 years after the date on which funds become available to the PHA for obligation. Until the CFP final rule is published, PHAs must meet benchmarks established under existing program guidelines which require earlier obligation and expenditure deadlines to ensure compliance with the Act. The benchmarks require PHAs to obligate funds within 18 months and to expend funds within 3 years after

funds are made available for obligation. PHAs that fail to meet the benchmarks are subject to additional administrative requirements such as the submission of quarterly progress reports and the submission and review of contracting documents.

For the purpose of statutory obligation and expenditure deadlines for CFP funds received in Fiscal Year 2000, the commencement date is September 30, 2000 (for determining when funds must be obligated and expended). For Fiscal Year 2001, the commencement date is June 30, 2001, for PHAs with a fiscal year beginning on January 1st, April 1st and July 1st. For October 2001 PHAs, the commencement date is September 30, 2001.

Work Items in Annual Plans: HUD has not changed the level of detail expected in these work items from prior practice under the Comprehensive Grant Program.

C. Deconcentration of Poverty and Income Mixing

1. Supporting Document. With the issuance of Notice 2001-4 and clarifications to Notice PIH 2001-4, PHAs were provided guidance about the final rule to Deconcentrate Poverty and Promote Integration in Public Housing. Notice PIH 2001-4 contained revised PHA Plan template questions about an agency's deconcentration policies and the average incomes of its covered developments. Before a PHA can answer these template questions about its deconcentration policies, it must perform income analyses of its covered developments as described at §903.2(c). Beginning with the January 2002 Plan cycle, Income Analysis of Public Housing Covered Developments must be a supporting document to an Agency's plan and must be available for public inspection, but not submitted to HUD for review.
2. Developments Where Average Income will Remain Extremely Low. HUD expects to publish shortly, a proposed rule that would amend the deconcentration component of HUD's PHA Plans regulation to revise the definition of established income range (EIR). The amendment would include within the EIR, those developments in which the average income level is up to 30 percent of the area median income, and therefore ensure that such developments cannot be categorized as having average income "above" the EIR. HUD believes that developments with an average family income of 30 percent or less of the area median income should not be categorized as higher income developments for purposes of income mixing, because efforts to place lower income families into these developments would not result in income deconcentration as contemplated by the statute.

Under the final rule, (Rule Deconcentrate Poverty and Promote Integration in Public Housing ((FR 4420-10)), December 22, 2000), PHAs must include an explanation if they propose not to adopt admissions policies to promote income mixing for developments outside the Established Income Range as provided at §903.2(c)(1)(iv). During review of the PHA Plan, HUD field offices will accept as a reasonable explanation, cases where the average income for such developments is above the EIR but is and will remain (given current admissions policies, waiting lists and turnover rates) below 30 percent of the area median income.

D. Voluntary Conversion Required Initial Assessments

On June 22, 2001, the “Voluntary Conversion of Developments from Public Housing Stock; Required Initial Assessments; Final Rule” was published in the *Federal Register* (FR-4476-03). (Clarification of the final rule is currently available on the HUD website). The rule provides regulatory guidance on the preparation and submission of the required initial assessments in a streamlined, simplified form. The statute states that all PHAs to conduct an initial assessment once for each of its covered developments (in general, developments available for general occupancy rather than for elderly and/or disabled developments) by October 1, 2001, and submit the results to HUD.

While HUD is aware that required initial assessments may take longer to complete than by October 1, 2001, PHAs must proceed expeditiously and responsibly to complete the assessments. PHAs will be required to report on their efforts in PHA Plans (Component 10((b)), Voluntary Conversion Required Initial Assessment), commencing with Plan fiscal years covering January 1 – December 31, 2002.

In accordance with §972.200(b), the PHA must certify that it has reviewed each development’s operations as public housing; considered the implications of converting the public housing to tenant-based assistance; and concluded that conversion of the development may be: (i) appropriate because removal of the development would meet the necessary conditions for voluntary conversion described at §972.200(c); or (ii) inappropriate because removal of the development would not meet the necessary conditions for voluntary conversion described at §972.200(c). A PHA can consider each covered development and determine, based on factors such as cost, ability to occupy the development, cost and/or workability of vouchers in the community that voluntary conversion may be appropriate or inappropriate. The assessment is non-binding and does not require a market study or detailed cost calculations.

After completing the required initial assessment, a PHA must retain documentation of the reasoning (which may be as short as a few sentences for a covered development) with respect to each required initial assessment and include the results as a supporting document to an agency’s PHA Plan. The supporting document must be available for public inspection, but not submitted to HUD for review.

Prior to issuance of this rule, PHAs were not required to provide this information and as a result, the Voluntary Conversion Component (10 B) was “reserved” in the Plan template. Beginning with Fiscal Year 2002, all PHAs must address the following questions about their Required Initial Assessments to be included as a required attachment to the template (template questions will also be available on the PHA Plan website). In addition, PHAs must modify the “Annual Plan Table of Contents” and “Submission Checklist for the Small PHA Plan Update” to include this required attachment.

Component 10 (B) Voluntary Conversion Initial Assessments

- a. How many of the PHA’s developments are subject to the Required Initial Assessments?
- b. How many of the PHA’s developments are not subject to the Required Initial Assessments based on exemptions (e.g., elderly and/or disabled developments not general occupancy projects)?
- c. How many Assessments were conducted for the PHA’s covered developments?
- d. Identify PHA developments that may be appropriate for conversion based on the Required Initial Assessments:

Development Name	Number of Units

- d. If the PHA has not completed the Required Initial Assessments, describe the status of these assessments:

E. Streamlined Consolidated Plan Requirements for Multiple Jurisdictions

The PHA Plan rule at §903.15(a)(1) requires a PHA to submit a certification by the appropriate State or local officials that the Annual Plan is consistent with the Consolidated Plan. A form “Certification by State and Local Official of PHA Plans Consistency with the Consolidated Plan” is required to be submitted by mail to the local HUD office at the time of electronic PHA Plan submission. Previous PHA Plan guidance (PIH Notice 99-51, section 5) instructed that if a PHA is located in more than one jurisdiction, it must include a certification from each appropriate official.

Beginning with January 2002 PHAs, where PHAs are located in multiple jurisdictions, only the largest jurisdiction with more than half of the total population (or a combination of the largest jurisdictions with more than half the population, if no single jurisdiction meets this requirement) represented in the PHA Plan, will be required to submit the certification of PHA Plan consistency with the consolidated plan. Other jurisdictions covered by the PHA Plan must be notified in writing by the PHA(s) covering the larger jurisdiction(s) of this process, the timeframe, where the Plan is available for review and where

they can submit comments to the PHA or HUD. (To determine total population by jurisdiction, PHAs should use 2000 census data which is accessible online at <http://www.census.gov>.)

F. Resident Advisory Board (RAB) Notification of Plan Process

As specified in Notice PIH 2000-43 (HA - Section), each PHA must provide as an attachment to the PHA Plan, a list of members of its resident advisory board or boards (RAB/s). Additional guidance on formation of the RAB(s) is contained in PIH Notice 2000-36 (HA).

To ensure that the RAB(s) is fully informed and engaged in the plan process, PHAs are required to promptly provide a copy of the HUD award letter (identifying formula share allocations for Capital Formula and Drug Elimination Programs), plan approval letter and at least one copy of the approved plan to each RAB.

____/s/ Karen A. Newton for
Paula O. Blunt
Acting General Deputy
Assistant Secretary for
Public and Indian Housing