

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Notice: PIH 2000-43 (HA)

Special Attention of:
Secretary's Representatives;
State/Area Coordinators;
Senior Community Builders;
Public Housing Directors;
Public Housing Agencies

Issued: September 18, 2000
Expires: September 30, 2001

Cross references:

Notices: PIH 99-33 (HA),
PIH 99-51 (HA), PIH 2000-36 (HA)

Subject: PHA Plan Guidance; Streamlining of Small PHA Plans; Extension of Notices PIH 99-33 (HA) and PIH 99-51 (HA)

This notice transmits PHA Plan guidance to Public Housing Agencies (PHAs). With regard to instructions for submitting second PHA Plans, this notice extends the current PHA Plan instructions and templates previously issued as part of Notices PIH 99-33 (HA) and PIH 99-51 (HA). This notice also provides supplemental instructions that will update PHAs' Plan submissions to reflect the new fiscal year, state the results of first year activities, incorporate information related to recently-implemented regulations, and permit joint PHA Plan submissions from consortia.

In addition to these basic updates, the guidance in this notice reflects HUD's efforts to improve the PHA Plan process based upon information gathered in the first year of implementation. First, this notice implements an important streamlining initiative for small PHAs: the new "Small PHA Plan Update." Second, the notice enhances resident participation by identifying the Resident Advisory Board (RAB) membership and Resident Member of the Governing Board in the Plan. Finally, the notice provides clarifications on issues raised during the first year of PHA Plan implementation (including the consequences of failure to submit a Plan).

This guidance is provided in Attachment A to this Notice. For further information, refer to the email addresses located on the PHA Plans website (at www.hud.gov/pih/pha/phaps-home.html) or contact the PIH Office of Policy, Program and Legislative Initiatives at (202) 708-0713.

_____/s/_____

Harold Lucas
Assistant Secretary

for Public and Indian Housing

Notice PIH 2000-43 (HA)
Attachment A

**PHA Plan Guidance for PHAs with Fiscal Years
Beginning On or After January 1, 2001**

I. Summary

This notice provides instructions to Public Housing Agencies (PHAs) with fiscal years beginning on January 1, 2001 on submission of their second PHA Plans as provided in the PHA Plan regulations at 24 CFR part 903. PHAs must use currently available templates and instructions in completing their plans, as updated by supplemental instructions provided below. The currently available instructions were previously provided in Notices PIH 99-33 (HA) and 99-51 (HA). Those Notices are hereby extended. HUD also announces that PHA Plans from these PHAs received by November 15, 2000 will be accepted without penalty.

In the future, HUD may issue and implement revised instructions and templates and submission systems for PHA Plans. PHAs will be notified of the implementation of such new instructions through subsequent notices. Until such notification is issued, PHAs with fiscal years beginning after January 1, 2001 are instructed to use the instructions provided for January 1, 2001 fiscal year PHAs for planning purposes.

The supplemental instructions update PHAs' submissions to reflect HUD's new streamlining initiative for small PHAs, basic second year updates, new regulatory requirements, resident participation information, and submission of joint plans by consortia. Other PHA Plan Guidance included in this notice clarifies several issues raised during the first year of PHA Plan implementation.

Background on this notice and PHA Plan guidance to date is also provided below.

II. Instructions for Submission of Second PHA Plans

A. PHAs with Fiscal Years beginning on January 1, 2001 (January PHAs)

1. Instructions

January PHAs are instructed to use the currently available template (issued July, 1999) and “Instructions and Supplemental Guidance for Preparation and Submission of PHA Plans” (“Instructions”)(issued in Notice PIH 99-51 (HA)) to prepare and submit their PHA plans, *as updated by the supplemental instructions specified in Section III of this Notice*. If a PHA Plan that has already been made available for public display must be revised to meet the requirements of this notice, the PHA must make the revised plan available to the Resident Advisory Board and public as soon as practicable. PHAs will not be required to re-start the required public availability period for modifications made to comply with this Notice, however.

As a convenience to the reader, the Instructions issued in Notice PIH 99-51 (HA) are available on HUD’s PHA Plans web page (address below). They are available in two versions. The first version is Notice PIH 99-51 (HA) as it was issued. Notice PIH 99-51 (HA) transmitted only amendments to the Instructions issued in the previous Notice on this subject, Notice PIH 99-33 (HA). The other version is the full text of the Notice PIH 99-33 (HA) Instructions, as they appear when amended by Notice 99-51 (HA). *Please note that no changes were made to the Instructions available on the web since the issuance of Notice PIH 99-51 (HA)*. Notices PIH 99-33 (HA) and PIH 99-51 (HA) are hereby extended for the term of this notice.

Reminder: Applicability of all PHA Plan requirements to January and April PHAs. The instructions transmitted in Notice PIH 99-51 (HA) included some special instructions for PHAs with fiscal years beginning on January 1, 2000 or April 1, 2000. These instructions exempted those PHAs from provisions of the final rule that they had not had time to incorporate in their first plans, such as requirements for Capital Fund Program 5-Year Action Plans. Those exceptions in Notice PIH 99-51 (HA) were limited to the first years’ submission for those PHAs. PHAs with fiscal years beginning on January 1, 2001 and April 1, 2001 are required now to complete all sections of the PHA Plan template (including the PHDEP Plan).

2. Timing

For the PHA Fiscal Year beginning January 1, 2001 only, HUD will not apply any penalty for late submission to PHAs whose plans are received by November 15, 2000.

B. Instructions for Submission of PHA Plans for PHAs with fiscal years beginning after January 1, 2001

The Department intends to revise the PHA Plan template and instructions for use by PHAs with fiscal years beginning after January 1, 2001. Until HUD issues notification of these revisions, PHAs must follow the instructions for submission of PHA Plans for PHAs with fiscal years beginning on January 1, 2001 (as discussed in Section II.A.1 of this Notice) for purposes of planning and preparing their PHA Plans.

III. Supplemental Instructions for Fiscal Years beginning on or after January 1, 2001

Instructions in this section supplement Instructions issued in Notice PIH 99-51 (HA).

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

On August 14, 2000, HUD released a Final Rule on “Public Housing Agency Plans: Streamlined Plans.” That rule codified the PHA Plan streamlining aspects of HUD’s Public Housing Agency Plans proposed rule that was issued on April 17, 2000. (HUD is still considering comments on the larger portion of that proposed rule, which dealt with deconcentration and income mixing in public housing. No final rule on those aspects of the April 17, 2000 proposed rule has been issued at this time.) The August 14 Final Rule permits HUD, with adequate notice, to further streamline the agency plan requirements for PHAs eligible to submit a Streamlined Plan under 24 CFR Part 903.11.

This PIH Notice serves as HUD’s notification that it has further streamlined the Agency Plan requirements of small, non-troubled PHAs. HUD will implement this streamlining through a Small PHA Plan Update. The Update is a brief statement of upcoming grant activities and any changes in policies from the previous year. The purpose of the Small PHA Plan Update is to inform the public and HUD of PHA activities, while reducing reporting burden on these agencies.

1. Applicability of the Small PHA Plan Update

For the purposes of this notice, the term small refers to agencies that operate 250 or fewer units of public housing and 250 units or less of section 8 vouchers. This definition means that no PHA that operates over 250 units of either public housing or vouchers is eligible to complete the small agency streamlined PHA Plan. In addition, any small PHA that has been designated as troubled under section 6(j)(2) of the 1937 Housing Act may not use the streamlined plan format.

2. Submission Schedule For the Small PHA Plan Update

Small PHAs as defined above may submit a Small PHA Plan Update in lieu of the regular Streamlined PHA Plan for Small PHAs the second and fourth years of the 5-year planning cycle. The first year of the current 5-year cycle was any PHA fiscal year that began in calendar year 2000. Therefore, small PHAs may submit Small PHA Plan Updates for their upcoming Plans.

3. Contents of the Small PHA Plan Update

Small PHA Plan Updates are required to include only those items in the following Small PHA Plan Submission Checklist. Addition of other information is at the discretion of the PHA. Small PHAs that administer only section 8 are not required to complete sections that pertain only to public housing.

4. Procedural Requirements for the Small PHA Plan Update

Small PHA Plan Updates remain subject to all procedural requirements of the PHA Plan regulation (24 CFR Part 903), with one exception. The exception is that PHAs are not required to include a certification from the appropriate State or local officials that the Plan is consistent with the Consolidated Plan of the jurisdiction in which they are located (as specified in 24 CFR Part 903.15(a)(1)) in the Small PHA Plan Update submission.

The RAB and public may comment on any aspect of the PHA Plan—including aspects that have not been addressed in the Update because they have not changed from previous years. The RAB's recommendations on these items, and the manner in which the PHA addressed them, must be included the Update.

5. Format of the Small PHA Plan Update

The Update may be developed using one of the following methods: 1) completing a "Small PHA Plan Update" template which will be posted shortly on the HUD website and

provided to local field offices, 2) submitting a primarily narrative document covering all requested information but using the PHDEP Plan and Capital Fund tables provided in the PHA Plan template, 3) editing and deleting portions of their current template, or 4) completing the full PHA Plan template, leaving unnecessary items blank and adding items as necessary. Regardless of the format chosen, the Small PHA Plan Update will continue to be submitted in the same manner that standard PHA Plans are submitted. Small PHAs will follow the same instructions as other PHAs for electronic submission.

Submission Checklist for the Small PHA Plan Update

√ Section	Explanation
Elements Submitted Electronically:	
___ PHA Identification	Information included on the PHA Agency Identification Page of the PHA Plan template
___ Table of Contents	self-explanatory
___ Executive Summary	Optional
___ Summary of Policy and Program Changes	A brief, narrative summary of any major changes in programs and policies discussed in last year's PHA Plan but not covered in the Small PHA Plan Update (e.g., changes in admissions preferences, rent policies, etc.)
___ Capital Fund Program (CFP) submissions	The Capital Fund Program Annual Statement and 5-Year Action Plan, if the PHA Plan is eligible to and will participate in the Public Housing Capital Fund Program. If the agency is eligible but does not plan to participate in the CFP, the PHA may omit the Capital Fund documents, but must state in the Plan that it will not participate and specify the amount of the CFP grant refused.
___ Demolition and Disposition	Information contained in Section 8 of the Annual Plan, Demolition and Disposition
___ Section 8 Homeownership Capacity Statement	As described in this Notice, ONLY if the PHA plans to implement such a program
___ PHDEP Plan	If the agency is eligible and plans to participate in the PHDEP program for the upcoming year. If the agency is eligible but does not plan to participate in the program, it may omit the PHDEP Plan, but must state that it will not participate and specify the amount of the grant refused.
___ RAB Recommendations and PHA Response	Resident Advisory Board Recommendations on the PHA Plan and an explanation of the manner in which the PHA addressed those comments in its Plan
___ PHA's Statement of Consistency with the Consolidated Plan	Statement indicating how the PHA Plan is consistent with the Consolidated Plan
___ PHA criteria for substantial amendments or modifications, significant deviations from the 5-Year Plan	Required ONLY if not previously contained in a PHA Plan
___ List of Supporting Documents to the PHA Plan	All required supporting documents, as provided in the current PHA Plan template, must be made available by the PHA. PHAs should provide a completed table provided in the current template as an attachment to the PHA Plan.
___ Required Attachment : "Resident Membership of the PHA Governing Board"	As described in this notice
___ Required Attachment: "Membership of the Resident Advisory Board/s"	As described in this notice
Elements Sent In Hard Copy to the Local HUD Field Office:	
___ Certifications	Must be original, executed documents
a) Form HUD-50070, <i>Certification for a Drug-Free Workplace</i>	a), b), & c) Include all grants that will be requested through the PHA Plan (Capital Fund and PHDEP)
b) Form HUD-50071, <i>Certification of</i>	

Payments to Influence Federal Transactions

- c) Standard Form SF-LLL and SF-LLLa, *Disclosure of Lobbying Activities*
- d) *PHA Certification of Consistency with the PHA Plan and Related Regulations.*

d) Small PHA Plan Update should cross out and initial certification number 2 and the last bullet under certification number 7, which are not applicable to the Small PHA Plan Update. The signing official must initial the strikeout.

B. Updates to PHA Plan Instructions issued in PIH Notice 99-51 (HA)

1. Submission/Deletion of the 5-Year Plan included in the Template

The current PHA Plan template includes the 5-Year Plan that was submitted in the previous PHA Plan submission. PHAs are not required to submit a 5-Year Plan with the upcoming fiscal year's Annual Plan. Therefore, a PHA may delete this portion of the current PHA Plan template, submit it unchanged from the previous year, or update it, at the PHA's option.

2. Updating the Plan to Reflect the Upcoming PHA Fiscal Year and Federal Fiscal Year 2001 Grants

Throughout the PHA Plan template and accompanying instructions, references are made to both PHA Fiscal Years and Federal Fiscal Years (FFY). PHAs should update these references—whether in the template or their PHA Plan statements—to reflect the upcoming fiscal year.

In their second PHA Plans, PHAs will discuss the use of Federal Fiscal Year (FFY) 2001 grants for which they will be eligible in the upcoming fiscal year. Component 2 of the Annual Plan ("Statement of Financial Resources") contains a list of all Federal grants anticipated to be available in the upcoming year. The Capital Fund Program (CFP) Annual Statement and Public Housing Drug Elimination Program (PHDEP) Plan must address planned usage of FFY 2001 grants. The CFP 5-Year Plan must discuss the usage of FFY 2002 - 2005 grants.

Prior to issuance of actual FFY 2001 formula amounts or calculation of the actual subsidy for which the PHA is eligible, PHAs may use the amount of FFY 2000 grants or other reasonable method for estimating future funding.

3. Assessment of any Demographic Changes in Public Housing Developments with Site-Based Waiting Lists

Any PHA that has implemented a site-based waiting lists or lists is required to assess changes in racial, ethnic or disability-related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list at that site as part of the submission of the annual plan. This assessment must be based on Multifamily Tenant Characteristic System (MTCS) occupancy data. This assessment should be a brief

narrative discussion or a table displaying any changes in the racial/ethnic or disability-related tenant composition of these sites as shown in occupancy data gathered before implementation and currently available data. The assessment must be submitted as an attachment to the Annual Plan. The “Assessment of Site-Based Waiting List Development Demographic Changes” must be listed as a required attachment in the Annual Plan Table of Contents.

4. Section 8 Homeownership Program Capacity Statement:

The “Section 8 Homeownership Program; Final Rule” was issued in the September 12, 2000 *Federal Register*. PHAs are now permitted to administer a voucher homeownership program, as provided in section 8(y) of the U.S. housing Act of 1937. However, any PHA that plans to administer such a program, however, must demonstrate its capacity to administer such a program. As provided in the final rule at 982.625, a PHA can demonstrate its capacity to administer the program by satisfying one of the following criteria:

- a) Establishing a minimum homeowner downpayment requirement of at least 3 percent and requiring that at least 1 percent of the downpayment come from the family’s resources;
- b) Requiring that financing for purchase of a home under its section 8 homeownership program will: be provided, insured or guaranteed by the state or Federal government; comply with secondary mortgage market underwriting requirements; or comply with generally accepted private sector underwriting standards; or
- c) Demonstrating in its annual plan that it has the capacity, or will acquire the capacity, to successfully operate a Section 8 homeownership program.

PHAs that wish to administer a Section 8 Homeownership program must provide a capacity statement as an attachment to the PHA Plan. The “Section 8 Homeownership Capacity Statement” must be listed as a required attachment in the Annual Plan Table of Contents.

PHAs satisfying criteria a) or b) above will be considered to have capacity to administer the program. The PHA’s statement that it is employing any of these provisions is all that is required in the capacity statement. *A PHA that has adopted and specified either of the first two criteria in its Administrative Plan may also implement this program prior to review and approval of the PHA Plan.*

If a PHAs's program does not satisfy criteria a) or b), its capacity statement must demonstrate its capacity or capacity it will acquire to administer a successful program. This statement should be a brief (one page or less), narrative statement. *A PHA in this situation may not implement a section 8 homeownership program prior to approval of the PHA Plan.*

5. Public Housing Drug Elimination Program (PHDEP) Plan Template Modifications

- a) Gun Buyback Initiative: HUD published a *Public Housing Drug Elimination Program Gun Buyback Violence Reduction Initiative; Notice of Amendment and Replication* on February 3, 2000. Any PHA requesting participation in the Gun Buyback Initiative must identify the amount of PHDEP Grant Funds proposed for this purpose. PHAs may do so by modifying the PHDEP Template to add a Budget Line Item (BLI) for the Gun Buyback Initiative.
- b) PHDEP Consortia: Any PHA that wishes to participate in a PHDEP Consortia as provided in 24 CFR Part 761.15 should contact its local HUD field office for instruction on how to submit a PHDEP Plan as a consortia member. The PHDEP consortium agreement is a supporting document to the PHA Plan and must be made available for public inspection accordingly.

6. Description of the PHA's Implementation of Community Service Requirements

HUD has now issued regulations implementing section 12(c) of the U.S. Housing Act of 1937 regarding community service requirements for public housing residents. Under this new section 12(c), each adult resident of public housing must participate in eight hours of community service and/or economic self-sufficiency activities per month, unless they meet criteria for an exemption. The new regulations, at 24 CFR Part 960, Subpart F, were issued as part of the "Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs; Final Rule" in the March 29, 2000, *Federal Register*. As specified in this rule, PHAs with fiscal years beginning on or after October 1, 2000 are required to implement the community service requirements and to include a description of how the PHA will comply with community service requirements in their next PHA Plan.

Prior to issuance of this rule, PHAs were not required to address how they would fulfill the community service requirements of section 12(c) in their PHA Plans. As a result, the section of the current PHA Plan template in which PHAs would normally describe their efforts to fulfill the community service requirements ("Component 12. PHA Community Service and Self-Sufficiency Programs") does not have a space for PHAs to provide this

description. Until the template is updated to provide such a space, PHAs must submit this brief description as an attachment to the PHA Plan. The attachment should be provided at the end of the template file that is transmitted to HUD. PHAs should list the “Implementation of Public Housing Resident Community Service Requirements” as a “Required Attachment” to the PHA Plan in the Annual Plan Table of Contents. Please note that PHAs still are required to complete the existing portions of Component 12 of the PHA Plan template in addition to this new attachment.

PHAs are not required to submit their full local policy on administration of community service requirements (pursuant to 24 CFR Part 960.605) as part of the plan. Rather, the description in the plan may be approximately one page in length, or shorter. It must address the administrative steps being taken to implement the requirement (scheduled changes in leases, development of written description of the service requirement, written notification to residents regarding requirement or exempt status of each adult family member, entering into cooperative agreements with TANF (welfare) agencies to assist the PHA in verifying residents’ status, whether the PHA or another entity will administer the program, etc.) and the programmatic aspects of the requirements (including the types of activities that residents who are subject to community service requirements may participate in to fulfill their obligations, which partner agencies may offer residents opportunities to fulfill requirements, process to cure noncompliance, etc.). PHAs are required, however, to make the full policy on administration of community service requirements a supporting document to the PHA Plan.

Exemption for High-Performing and Small PHAs Completing Streamlined Plans:

Public housing high performers and small PHAs are not required to complete Component 12 of the PHA Plan template as part of their streamlined plans. As described above, the description of PHA implementation of Community Service Requirements is included in Component 12. These PHAs, therefore, are not required to include the short description of their implementation of the community service requirements and self-sufficiency activities as an attachment to the PHA Plan. However, these PHAs still are required to implement the community service requirements, develop a policy on administration of community service requirements, and make that policy a locally-available supporting document to the PHA Plan.

7. Information on the PHA’s Policy on Pet Ownership in Public Housing General Occupancy (Family) Developments

HUD has now issued regulations implementing section 31 of the U.S. Housing Act of 1937 regarding the ownership of pets in public housing general occupancy (family) developments. Under this new section 31, PHAs must implement policies permitting public housing residents to own pets, subject to reasonable requirements established by the PHA in

consultation with residents. The new regulations, at 24 CFR Part 960, Subpart G, were issued as part of the “Pet Ownership in Public Housing; Final Rule” in the July 10, 2000, *Federal Register*. As specified in this rule, PHAs with fiscal years beginning on or after January 1, 2001 are required to include information regarding their pet policies in their PHA Plans.

Prior to issuance of this rule, PHAs were not required to provide information on their pet policies in the PHA Plan. As a result, the Pet Policy component of the PHA Plan is “reserved” in the current template. Until the template is updated to accommodate information on the pet policy, PHAs must submit information regarding the pet policies they are adopting or will adopt as an attachment to the PHA Plan. The attachment should be provided at the end of the template file that is transmitted to HUD. PHAs should list the “Pet Policy” as a “Required Attachment” to the PHA Plan in the Annual Plan Table of Contents.

PHAs are not required to submit their full pet policy as part of the PHA Plan. Rather, the statement in the plan may be approximately one page in length, or shorter. The information about the pet policy must include basic information about the pet policy, including a list of any reasonable requirements on pet ownership that the PHA will adopt as part of its pet policy. PHAs are required, however, to make the full policy on pet ownership in public housing a supporting document to the PHA Plan.

The implementation date for pet policies is the date of the approval of the PHA Plan including such policies. PHAs that wish to implement their pet policies prior to submission and approval of their PHA Plan may do so through a significant amendment to the PHA Plan currently in effect.

Exemption for PHAs Completing Streamlined Plans: According to the PHA Plan regulations at 24 CFR Part 903.11, high performing and small PHAs are not required to address the pet policies in their streamlined PHA plans. These PHAs, therefore, are not required to include information on their pet policies as an attachment to the PHA Plan. However, these PHAs still are required to implement a pet policy and make that policy a locally-available supporting document to the PHA Plan. The PHA’s pet policies will be implemented on the date of approval of their PHA Plan.

8. Brief Statement of Progress in Meeting the 5-Year Plan Mission and Goals

In each annual Plan following the first PHA Plan, each PHA must include a brief statement of its progress in meeting the mission and goals outlined in its current 5-Year Plan. The current version of the template does not include a space for this statement. PHAs must

provide this statement as an attachment to the PHA Plan. PHAs may either provide this brief statement as a brief narrative (approximately one page or shorter), or may add progress statements to the goals and objectives provided in the current 5-Year Plan, and indicate that the list constitutes a progress report. The attachment must be listed as a required attachment in the Annual Plan table of contents.

9. Resident Membership of the PHA Governing Board

As specified in the *Public Housing Agency Organization: Required Resident Membership on Board of Directors or Similar Governing Body* Final Regulation, issued on October 21, 1999, PHAs are required to have a resident member of the PHA Board unless they meet specified exemption criteria. As a required attachment to the PHA Plan, each PHA must provide the name, method of selection (election or appointment), and term of appointment for the Resident Member of the PHA Governing Board. If the PHA does not have a resident serving on its Board, it must provide a statement including: the reason why the resident member has not been appointed to the board (including its exemption category), the date of the next term expiration that would provide an opportunity to appoint a resident to the board, and the name and title of the appointing official for the Governing Board. The “Resident Membership of the PHA Governing Board” must be listed as a “required attachment” in the Annual Plan table of contents.

At the next review, HUD will consider the circumstances and may disapprove the Plan of any PHA that is subject to the resident member requirements, had an opportunity to have a resident appointed to the board at any time since the issuance of the final rule, and did not receive a resident appointment.

10. Membership of the Resident Advisory Board or Boards

Each PHA must provide a list of the members of its Resident Advisory Board or Boards (RAB/s) as a required attachment to the PHA Plan. If the number of participants is too large to reasonably list, then the document should include a list of the organizations represented on the RAB or other description sufficient to identify how members were chosen. “Membership of the Resident Advisory Board/s” must be listed as a “required attachment” in the Annual Plan table of contents.

For additional guidance on Resident Advisory Boards, see notice PIH 2000-36 (HA), *Transmittal of Guidance on the Requirement for Appointment and Role of Resident Advisory Boards in the Development of Public Housing Agency Plans*.

11. Submission of Joint PHA Plans by Consortia

On September 14, 1999, the “Consortia of Public Housing Agencies and Joint Ventures; Proposed Rule” was issued in the *Federal Register*. PHAs may now submit a joint PHA Plan for public housing and/or Section 8 Tenant-Based Assistance programs operated under a consortium agreement as specified in the proposed rule. The joint plan also must be developed under the guidelines of the proposed rule. PHAs that implement a consortium according to the guidelines in the proposed rule will not be required to change their joint PHA Plan to conform to regulatory changes implemented by the final rule until their next submission.

To submit a joint plan according to the proposed regulation, the lead agency of the consortium must submit the PHA Plan on behalf of all participating agencies. The lead agency should modify the “Agency Identification Page” of the PHA Plan template to add the following information: 1) a statement that this is a joint plan for a consortium; and 2) the name, PHA Code, and programs included in the consortium for each participating agency.

The joint plan is the collective plan for the agencies and programs included in the consortium. Therefore, policies discussed should be a joint representation of the policies in effect at consortium PHAs. Grant amounts mentioned in the joint plan should reflect the sum of the amounts that would be calculated for all participating agencies. Following issuance of a final rule on consortia, collective grant allocations will be issued directly to lead agencies. Prior to the final rule, however, PHAs will continue to receive individual grants in currently established accounts. A full set of certifications for the Plan and grant programs incorporated within must be executed by each participating PHA and submitted to HUD. The lead agency should submit all of these documents to the local HUD field office.

All PHAs in a consortium must have the same must have the same fiscal year start date. PHAs should request changes in their fiscal year start dates to facilitate the formation of consortia. This request must be made to the HUD field office responsible for reviewing the PHA Plan. The request should be made sufficiently in advance of each PHA’s fiscal year start date so that no PHA will “skip” a submission year.

The consortium agreement is a supporting document to the PHA Plan and must be made available for public inspection accordingly.

IV. Other Guidance on PHA Plans

A. Consequences of Failure to Submit an Approvable PHA Plan

It has come to HUD's attention that some PHAs have failed to submit a PHA Plan in this first year. The PHA Plan serves as the submission for request of formula Capital Funds and PHDEP grants. PHAs that fail to submit the PHA Plan will therefore not receive these funds until their Plan has been submitted and approved by HUD. If a PHA fails to submit a PHA Plan in a timely manner, or HUD may impose sanctions for failure to submit an approvable request for funding. These sanctions include those discussed in section 521 of the Public Housing Reform Act, such as termination, withholding or future reductions in Capital Fund Program, Operating Fund or section 8 payments.

This notice serves as notification that sanctions may commence on the following schedule, unless otherwise provided by HUD. For FFY 2000 grants, any PHA with a January, April, or July fiscal year start date that does not have an *approved* plan by November 30, 2000 may be subject to sanctions discussed above. Any PHA with an October fiscal year start dates that does not have an approved Plan by December 30, 2000 may be subject to sanctions. Commencing with the PHAs whose fiscal years begin 1/1/2001, HUD may apply sanctions to any PHA that has not submitted its plan within 75 days of the due date, unless otherwise provided by HUD.

B. Last Date for Submission of Significant Amendments or Modifications to the PHA Plan within the PHA Plan Year

The last day on which a PHA may submit a significant amendment or modification to its PHA Plan to HUD for review (as described in the PHA Plan regulations at 903.21), is the day before its PHA Plan submission due date for its next PHA Plan. Because the review period for significant amendments to the PHA Plan is equivalent to that for a normal annual submission (up to 75 days), submission of significant amendments after the Plan due date will not result in faster implementation of the proposed change in the Plan.

C. Performance Designations Used for Developing Plan Submissions

As specified in 24 CFR part 903.9 and Part 903.11, PHAs are eligible or required to complete different components of the PHA Plan based upon their designation as 'high performing' or "troubled" PHAs under the Public Housing Assessment System (PHAS) or predecessor system. This designation can also affect other information a PHA would include in its plan, such as eligibility for Capital Fund Program funding flexibility or bonus funds. When preparing the

Plan, PHAs must reference the most recently issued PHAS score and accompanying designation (as provided in PHAS regulations at 24 CFR Part 902.63 and Part 902.67). For PHAs with fiscal years ending December 31, 1999 and March 31, 2000, HUD did not issue PHAS scores. In lieu of PHAS scores, HUD issued PHAS advisory scores and a Management Operations assessment score. The Management Operations assessment score is the vehicle that determines a PHA's designation and status for these PHAs.

If the PHA's designation is changed by HUD during the preparation of the Plan, the PHA must update the Plan to reflect any reduction in designation (e.g., from high performing to standard), and may update the Plan to reflect improvements in designation (e.g., from standard to high performing). If the change occurs during the 45-day public inspection period required by 24 CFR 903.17, the PHA is not required to restart the public inspection period after updating the Plan. However, the PHA must update the Plan and notify the Resident Advisory Board of the change as soon as possible.

D. Clarifications Regarding Capital Fund Program Requirements

The Department has received several inquiries regarding the planning requirements for the Capital Fund Program (CFP) Annual Statement and 5-Year Action Plans. HUD is providing the following guidance to minimize any confusion among PHAs.

1. Fungibility and Large Capital Items

As stated in Notice PIH 99-51 (HA), PHAs are required to submit a CFP 5-Year Action Plan listing all "large capital items." Although PHAs are only *required* to list large capital items on their 5-Year Action Plan, PHAs will only be permitted to exercise fungibility (as defined in 24 CFR Part 968.305) between work items that *are* included in the Annual Plan and/or 5-Year Action Plan. PHAs that wish to exercise fungibility should include as many work items in the 5-Year Action Plan as necessary, even if some of the items are not large capital items. If a PHA wishes to conduct a non-emergency capital work item that has not been included in a previously approved plan, it must first amend its plan through the significant amendment process to add the work item. The amended plan must be approved by HUD before the PHA may begin work.

2. Use of Capital Funds for Operating Costs

As stated in Notice PIH 99-51(HA), PHAs are permitted to expend some or all CFP funds on operating costs. Notice PIH 99-51 also states that the extent to which PHAs may exercise this flexibility between capital and operating is dependent upon PHA size and performance. Eligible PHAs wishing to expend CFP funds on operating costs have been

permitted to do so by reporting the amount of funds “transferred” to operating costs on Budget Line Item (BLI) “1406” in the “CFP Annual Statement Part I: Summary” and drawing the funds down for operating expenditures.

It has come to HUD’s attention that some PHAs are expending funds reported on BLI 1406 on standard capital—not operating—costs after they have been transferred to operations. Amounts allocated by PHAs to line 1406 must only be those used for non-capital operating costs. (Capital costs are those that would be classified under line 7540—“Property Betterments and Improvements” in the PHA’s Operating Budget.) PHAs must distribute all CFP amounts intended for use on capital activities among the appropriate capital-related BLIs in the CFP Annual Statement.

This clarification does not limit a PHA’s ability to apply capital funds to operating costs up to the regulatory limit. However, each PHA’s Capital Fund Program Annual Statement must reflect accurately its intention to conduct capital activities with Capital Fund Program funds.

E. Reminder on PHA Plan Submission Instructions

PHAs are reminded to look over instructions for of the PHA Plan file submission (located on the PHA Plans website referenced below) to ensure that submitted PHA Plan files are named correctly and are submitted to the proper location. These instructions may be updated to improve plan processing, so PHAs should check them before submitting the plan.

Currently, the file naming conventions for the second PHA Plan file is identical to the first year’s conventions. When these files arrive at HUD, they will be kept in separate directories. To avoid overwriting last year’s plan file on their own computers, however, PHAs may wish to change the name or location of last year’s plan files.

V. Background

Section 511 of the Quality Housing and Work Responsibility Act of 1998, referred to as the Public Housing Reform Act of 1998 (PHRA), created the public housing agency plans -- a 5-Year Plan and an Annual Plan. 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.

On February 18, 1999, HUD issued an Interim Rule implementing the PHA Plan. On July 29, 1999, PIH issued Notice PIH 99-33. Attachment B to Notice PIH 99-33 (HA) transmitted “Instructions and Supplemental Guidance For Preparation and Submission of PHA Plans” (Instructions) under the Interim Rule. These Instructions included the announcement of the availability of the template PHAs must use to create and electronically submit PHA Plans to HUD (form HUD 50075) and the creation of the HUD website for PHA Plans (referenced below).

Following public comment and an “enhanced” rulemaking process that included four public forums on the rule, HUD issued the *Public Housing Agency Plans; Final Rule* on October 21, 1999. The PHA Plan regulations established in the final rule are found at 24 CFR Part 903. Significant changes in the regulation between the February 18, 1999 Interim Rule and the Final Rule were listed in the preambles to the rule. The Final Rule, at section 903.7, states that HUD will advise PHAs by notice of any additional instructions or directions necessary for the submission of their first plans.

Notice PIH 99-51 (HA), issued on December 14, 1999, provided those additional instructions and direction on PHA Plan submissions for PHAs with fiscal years beginning prior to July 1, 2000. The additional Instructions, which included the release of a Public Housing Drug Elimination Program (PHDEP) Plan template, were stated as amendments—substitutions or additions—to the Instructions that had been provided as Attachment B to Notice PIH 99-33(HA). Anticipating that the template and Instructions would be revised to accommodate changes in the PHA Plan and other PHRA implementing regulations, Notice PIH 99-51 (HA) also informed PHAs that HUD would issue further instruction to PHAs with fiscal years beginning on July 1, 2000 and October 1, 2000 regarding the template they should use. Notices PIH 2000-12 (HA) and PIH 2000-22 (HA) instructed July and October PHAs, respectively, that they should use the currently available template (issued July, 1999) and Instructions (issued in Notice PIH 99-51 (HA)) in preparing their plans. Notice PIH 2000-22 (HA) stated some exceptions to those Instructions for October PHAs.

On August 14, 2000, HUD published a Final Rule with regard to further streamlining of Streamlined PHA Plans. This Notice PIH 2000-43 (HA) implements the provisions of the August 14, 2000 Final Rule through the announcement of the Small PHA Plan Update. More generally, this notice provides further guidance on the implementation of PHA Plans by PHAs with fiscal years beginning on or after January 1, 2001. It instructs PHAs with fiscal years beginning on January 1, 2001 that they should use the current template and Instructions, as supplemented by this notice, to develop and submit their second PHA Plans. PHAs with fiscal years beginning after January 1, 2001 should use the instructions conveyed in this notice for planning purposes until otherwise notified.

VI. Further Reference

The template, instructions and all guidance for PHA plans that are referenced and transmitted in this Notice are available on HUD's PHA Plans web page at:

<http://www.hud.gov/pih/pha/plans/phaps-home.html>. This website will also be used to transmit additional information about the PHA Plans, as it becomes available. Questions may also be directed to the Public and Indian Housing Office of Policy, Program and Legislative Initiatives at (202) 708-0713.