
CHAPTER 2. ELIGIBILITY OF PUBLIC HOUSING AGENCY

- 2-1. INTRODUCTION. The public housing program is based on the concept of local consent and control. Federal technical and financial assistance under this program may only be provided to an eligible existing or newly established State, regional, county or local public housing agency (PHA).
- 2-2. DEFINITION OF AN ELIGIBLE PHA. The term PHA, as defined by the Act, is "any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing." In order to participate in the public housing program, a PHA must be approved by HUD as an eligible PHA. An eligible PHA is one that has both the legal authority and the local cooperation required for developing, owning and operating a public housing project under the Act, the regulation (24 CFR 841), and this Handbook.
- 2-3. LEGAL AUTHORITY. A PHA must demonstrate to the Area Office that it has the required legal authority. The PHA demonstration shall include the organization documents which evidence that it was created pursuant to a state housing authority law which authorizes the establishment of a PHA and gives it the legal authority to develop, own, and operate public housing projects under an Annual Contributions Contract (ACC) with HUD.
- 2-4. LOCAL COOPERATION. The Act requires the local governing body for the area in which the public housing project will be located to enter into an agreement (i.e., a Cooperation Agreement) with the PHA to provide the local cooperation required by HUD pursuant to the Act. This local cooperation includes exemption from real and personal property taxes, acceptance of PHA payments in lieu of taxes (PILOT), and the provision at no cost or at no greater cost by the governing body of the same public services and facilities normally furnished to others in the community.
- 2-5. PHA ORGANIZATION DOCUMENTS. Prior to submitting an application for a public housing project, the PHA must submit the organization documents identified below for approval by the Area Office. The required organization documents may be modified or supplemented, as determined by the Area Counsel, where necessary to comply with State or local law. If

assistance is required, the PHA should contact the MHP Chief of the Area Office that has jurisdiction for administering the public housing program in the community. The MHP Chief will designate a MHR who will provide guidance to the PHA, identify the documentation to be submitted, provide any required forms, and arrange for any necessary legal assistance from the Area Counsel.

- a. New PHA. Any PHA that has not been approved by HUD as an eligible agency must submit one copy of the following:
- (1) the State enabling legislation and any other relevant State or local laws;
 - (2) the governing body ordinance or resolution that established the PHA and an extract of the governing body proceedings;
 - (3) the governing body rules and procedures for adopting and amending local ordinances, including the procedure for setting the day, hour, and place of public meetings;
 - (4) the opinion from the governing body attorney that the PHA organization complies with State and local laws;
 - (5) the certificate of incumbency from the governing body secretary, identifying the Chief Executive Officer and principal members of the governing body (e.g., city council, board of selectmen, board of commissioners), the date each was elected or appointed to office, and the beginning and ending dates of their terms of office;
 - (6) the PHA By-Laws, the PHA resolution adopting the By-Laws, and the PHA Seal;
 - (7) the PHA Commissioner's Oath of Office and the certificate of the PHA Commissioner's appointment;
 - (8) the public notice of the PHA organization meeting, consent to meeting, and minutes of the organization meeting;

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- (9) the resolution designating the PHA officers and the regular PHA meeting place; and
 - (10) a certified statement from the PHA secretary that all the documents are authentic.

- b. HUD Approved PHA. Any PHA that has been approved by HUD as an eligible agency is not required to resubmit the documentation identified above. However, an approved PHA is responsible for notifying the Area Office when there are any changes in its enabling legislation, local ordinances or resolutions which affect the PHA legal authority, or any changes in the PHA organization documents. In such instances, the PHA will be required to submit a General Certificate (Form HUD 9009) updating the information which previously was approved by the Area Office. These changes may be submitted at any time, but must be approved by the Area Office prior to approval of the PHA application for a public housing project.

2-6. COOPERATION AGREEMENT. Prior to submitting an application for a public housing project, the PHA must submit for Area Office approval a Cooperation Agreement (Form HUD 52481). A Cooperation Agreement may be for as many housing units as can be agreed to by the PHA and the governing body. The standard form of Cooperation Agreement must be used unless modifications are approved by the Area Counsel because of special State or local requirements or because of changes in Federal requirements. The PHA submission must be accompanied by copies of the PHA and governing body resolutions approving the Cooperation Agreement and, if applicable, a certificate of incumbency as evidence that the persons who executed the Cooperation Agreement had the necessary authority.

- a. Approved Agreements. The separate submission of a Cooperation Agreement is not required if:
 - (1) the Cooperation Agreement was previously submitted with the PHA's initial or updated organization documents; or
 - (2) a Cooperation Agreement related to the community's Housing Assistance Plan (HAP) has been executed that indicates the maximum number of housing units, by acknowledging the assisted housing needs and goals identified in the community's HAP, and states that the required local cooperation will be provided for any public housing not to exceed the number of assisted housing units specified as goals in the HAP.

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- b. Separate Agreements. A separate Cooperation Agreement with agencies other than the governing body of the community in which the project will be located is necessary when:

- (1) services or facilities must be obtained from a governing body other than the one that established the PHA;
- (2) a project is located in an area within the jurisdiction of two or more governing bodies that have split responsibility for providing services and facilities;
- (3) required by State law; or
- (4) other public agencies are responsible for providing services or facilities essential to the project.

c. supplemental Agreements. When Annual Contributions Contracts have been executed for the number of public housing units covered by existing Cooperation Agreements, a supplemental Cooperation Agreement must be submitted prior to submission of an application.

2-7. AREA OFFICE REVIEW AND DETERMINATION OF ELIGIBILITY. The Area Counsel shall review the PHA organization documents and Cooperation Agreement to determine whether or not the PHA is eligible to participate in the public housing program and has both the legal authority and the local cooperation required under the Act. The Area Counsel, upon completing this review, shall prepare a letter for the Area Manager's signature advising the PHA that it is an eligible agency and of the number of housing units remaining under the existing Cooperation Agreement. The letter also must indicate that the PHA will be required to notify the Area Office of any changes affecting its eligibility or local cooperation. If the PHA is not an eligible agency, the reason for this determination must be stated in the letter as well as suggested actions to be taken by the PHA to correct any deficiencies. The Area Counsel shall send a copy of the Area Manager's letter, organization documents, and the Cooperation Agreement to the PCR Supervisor for the Housing docket file.