

U. S. Department of Housing and Urban Development

Office of Public and Indian Housing

Special Attention:	NOTICE PIH 2001-4 (HA)
Secretary's Representatives;	
State/Area Coordinators;	
Senior Community Builders;	
Public Housing Agencies;	
Section 8 Housing Agencies;	Issued: January 19, 2001
Resident Management	
Corporations (RMCs);	Expires: January 31, 2002
Public Housing Directors	

Cross References: Notices: PIH 2000-43 (HA), PIH 99-33 (HA), PIH 99-51(HA), PIH 2000-36 (HA). OMB approval numbers: 2577-0226, 2577-0169, 2577-0235, 2577-0157.

Subject: Instructions for Submitting Second Public Housing Agency (PHA) Plans for PHAs with Fiscal Years beginning on July 1, 2001 and Capital Performance and Evaluation Reporting Requirements for January and April 2001 PHAs

I. Summary

This Notice provides instructions to Public Housing Agencies (PHAs) with fiscal years beginning on July 1, 2001 (July 2001 PHAs) on submission of their second PHA Plans as provided in the PHA Plans Final Rule (issued December 22, 2000 *Federal Register* (65 FR 81214), found at 24 CFR Part 903, Subpart B. Until notification of new instructions, PHAs must use currently available templates and instructions in completing their Plans, with updates provided below.

Guidance included in this Notice covers PHA Plan instructions for: the recent publications of final rules to Deconcentrate Poverty and Promote Integration in Public Housing and Public Housing Agency Consortia and Joint Ventures; the recent *Federal Register* Notice implementing changes to Section 8 Project-Based Assistance; a revised Annual Statement/Performance and Evaluation Report for the Capital Fund Program, including a revised annual Performance and Evaluation reporting requirement; further instructions about Resident Advisory Board(s); and consequences of Section 8 only agencies' failure to submit an approvable PHA Plan.

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II. Instructions

A. Deconcentration of Poverty and Income Mixing

1. Final Rule Effective. HUD has revised regulations implementing section 16(a)(3)(B) of the U.S. Housing Act of 1937. These regulations specify the process by which a PHA, as part of its annual planning process and development of an admissions policy, must follow to develop and apply a policy that provides for deconcentration of poverty and income mixing in certain public housing developments and to affirmatively further fair housing in admissions. The new regulations, at 24 CFR Part 903, Subpart A, were issued as the “Rule to Deconcentrate Poverty and Promote Integration in Public Housing; Final Rule” in the December 22, 2000 *Federal Register* (65 FR 81214), effective January 22, 2001.

Beginning with July 2001 PHAs, agencies must follow the final rule when submitting their PHA Plan.

2. Revised Template Questions. The current PHA Plan template (HUD 50075) questions about deconcentration of poverty and income mixing in public housing, found in section 3(A)(6) (PHA Policies Governing Eligibility, Selection, and Admissions, Public Housing, Deconcentration and Income Mixing) had been disregarded by Notice PIH 99-51. Now that a final rule has been issued, the following questions will replace the former ones in the PHA Plan template about an agency’s deconcentration policies and be available on the PHA Plan website to include as a required attachment to the template.

Component 3, (6) Deconcentration and Income Mixing

- a. Yes No: Does the PHA have any general occupancy (family) public housing developments covered by the deconcentration rule? If no, this section is complete. If yes, continue to the next question.

- b. Yes No: Do any of these covered developments have average incomes above or below 85% to 115% of the average incomes of all such developments? If no, this section is complete.

If yes, list these developments as follows:

Deconcentration Policy for Covered Developments			
Development Name:	Number of Units	Explanation (if any) [see step 4 at §903.2(c)(1)(iv)]	Deconcentration policy (if no explanation) [see step 5 at §903.2(c)(1)(v)]

3. Developments Outside the Established Income Range. As provided at §903.2(c)(1)(iv), any explanation must be consistent with both the deconcentration law and local goals. Also, as provided at §903.2(c)(1)(v), any policy must be expected to promote deconcentration of poverty and income mixing.

4. Unit Size Adjustments. In determining the average income of all families residing in each covered development, the final rule at §903.2(c)(1) provides a PHA the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

The bedroom adjustment factor, which is based on national rent averages for units grouped by the number of bedrooms and which has been used by HUD to adjust for costs of units when the number of bedrooms vary, assigns to each unit the following factors: 0.70 for zero-bedroom units; 0.85 for one-bedroom units; 1.0 for two-bedroom units; 1.25 for three-bedroom units; 1.40 for four-bedroom units; 1.61 for five-bedroom units, and 1.82 for six or more bedroom units. The bedroom adjustment factor is the unit-weighted average of the distribution.

In step 1, a PHA must determine the average income of all families residing in all of the PHA's covered developments. A PHA may divide the average income of all families of all covered developments by the appropriate bedroom adjustment factor described above to obtain the PHA-wide adjusted average income. For example, if a PHA has a 1,000 units with 400 two-bedroom units and 600 three-bedroom units, then the PHA would multiply 400 by 1.0 and 600 by 1.25, sum these products, and divide by the total number of PHA units (1,000) to derive a bedroom adjustment factor of 1.15 $[(400 \times 1.0) + (600 \times 1.25) / 1,000 = 1.15]$. If the PHA has an average income of \$10,000, then the PHA would divide \$10,000 by the bedroom

adjustment factor of 1.15, which equals \$8,696. This is the PHA-wide adjusted average income.

In step 2, a PHA must determine the average income of all families residing in each covered development. A PHA may divide the average income of the families residing in each covered development by the appropriate adjustment factor described below to obtain each covered development's average income. For example, if the PHA in the example above has a covered development that has 100 units, with 80 two-bedroom units and 20 three-bedroom units, then the PHA would multiply 80 by 1.0 and 20 by 1.25, sum these products, and divide by the total number of units in that development (100) to derive a bedroom adjustment factor of 1.05 $[(80 \times 1.0) + (20 \times 1.25) / 100 = 1.05]$. If that development has an average income of \$8,000, then the PHA would divide \$8,000 by the bedroom adjustment factor of 1.05, which equals \$7,619. This is the covered development average income.

In step 3, a PHA must determine whether each of its covered developments falls above, within or below the Established Income Range of 85% to 115% of the PHA-wide average income for covered developments. In this comparison, if a PHA chooses the use a bedroom adjustment approach, it must do so for both the PHA-wide and the covered development analyses. To determine where the covered development falls within the Established Income Range, divide the income of the development by the income of the PHA and multiply by 100. In the example above, the PHA would divide \$7,619 by \$8,696 and then multiply by 100, which equals 88%. This is within the Established Income Range. In the example above, if the PHA decided not to adjust income by bedroom size, then the ratio would have been \$8,000 divided by \$10,000, then multiplied by 100, which equals 80%. This falls outside of the Established Income Range.

5. Developments Not Subject to Deconcentration. The final rule at §903(2)(b)(2) describes public housing developments not subject to deconcentration. One of the provisions of the rule exempts "public housing developments operated by a PHA with fewer than 100 public housing units," which covers PHAs with fewer than a total of 100 public housing units.

6. Public Housing Development. The final rule refers to a "public housing development" which includes units or buildings with the same project number. Also, contiguous sites with more than one project number may be considered as one development.

7. Mixed-Finance Developments. With respect to applicability of covered mixed-finance developments, only the incomes of families residing in public housing units will be included in the income analyses.

B. Submission of Joint PHA Plans by Consortia

HUD has issued regulations implementing section 13 of the U.S. Housing Act of 1937 which authorizes PHAs to administer any or all of their housing programs through a consortium of PHAs. The new regulations, at 24 CFR Part 943 were issued as the “Public Housing Agency Consortia and Joint Ventures; Final Rule” in the November 29, 2000 *Federal Register* (65 FR 71204), effective December 29, 2000.

As specified in this rule, the consortium must submit joint five-year Plans and joint Annual Plans for all participating PHAs. Where the lead agency will manage substantially all programs and activities of a consortium, HUD interprets financial accountability to rest with the consortium and therefore apply independent audit and performance assessment requirements on a consortium-wide basis. Where the lead agency will not manage substantially all programs and activities of a consortium, the consortium must identify in its PHA Plan submission which PHAs have financial accountability for the programs. The consortium agreement must also be a supporting document to the joint PHA Plan.

Beginning with July 2001 PHAs, agencies must follow the final rule when submitting a joint PHA Plan for public housing and/or Section 8 Tenant-Based Assistance programs operated under a consortium agreement. January and April PHAs which implemented a consortium according to the guidelines in the proposed rule and Notice PIH 2000-43 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, 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.

C. Section 8 PHA Project-Based Vouchers

HUD published a Federal Register Notice on January 16, 2001 (66 FR 3605), *Revisions to PHA Project-Based Assistance Program, Initial Guidance*, providing guidance to implement the recent revision to the project-based Section 8 voucher program made by Section 232 of the fiscal year 2001 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act [Pub. Law 106-377, revision of 42 U.S.C. 1437f(o)(13)].

Beginning with July 2001 PHAs, agencies that wish to use the project-based voucher program must include as a required attachment to the PHA Plan template a statement indicating the projected number of units and general locations and how such action is consistent with their Plans, including the reason(s) why project-basing of the assistance, rather than tenant-basing of the same amount of assistance, is an appropriate option (e.g., because the supply of units for

tenant-based assistance is very limited and project-basing in certain strategic locations is needed to assure the availability of units for a period of years). General locations refer to eligible census tracts or smaller areas within eligible census tracts that will still result in a reasonable choice of buildings or projects to be provided project-based assistance when the PHA solicits applications. January or April PHAs that want to use the project-based voucher program may do so by adding the information as an amendment or modification to their Plan.

D. Capital Fund Program Requirements

1. Capital Fund Program (CFP) Submission Revision. Beginning with July 2001 PHAs, the Annual Statement/Performance and Evaluation Report for the Capital Fund Program (CFP) is revised from the FY 2000 template format to include an annual reporting requirement for PHAs with previously approved annual grants. (The format is similar to the report previously used under the Comprehensive Grant Program and will be available on the PHA Plan website) and is an attachment to this notice.

2. Capital Fund Performance and Evaluation Report Submission Date.

Beginning with July 2001 PHAs, each PHA must annually submit to the Field Office as part of its PHA Plan, the Performance and Evaluation Report for each approved Annual Statement including replacement housing factor or emergency grants, where the PHA is still expending funds. The reporting period ends six months before the start of an PHA's fiscal year. This report will be submitted as part of the Annual Plan submission and thus subject to the public hearing process. For example, July PHAs will submit as part of their Annual Plan submission the Performance and Evaluation Report as of December 31, 2000. Formerly, under the CGP, such reports were for the program year ending June 30th and were due on September 30th.

January and April 2001 PHAs must submit to their Field Offices their first Performance and Evaluation Report for each approved Annual where the PHA is still expending funds, including replacement housing factor or emergency grants, by March 31, 2001 for the program year ending June 30, 2000. Subsequent Performance and Evaluation Reports must be submitted on the schedule as described above, i.e., with PHA Plan submissions.

HA FY Begins	Plan Submission (75-day before HA FY Begins)	P&E Reports Due	P&E Report As Of:
January 1, 2001	October 15, 2000 (permitted submissions by November 15, 2000)	March 31, 2001	June 30, 2000
April 1, 2001	January 17, 2001	March 31, 2001	June 30, 2000
July 1, 2001	April 17, 2001	April 17, 2001	December 31, 2000
October 1, 2001	July 18, 2001	July 18, 2001	March 31, 2001
January 1, 2002	October 18, 2001	October 18, 2001	June 30, 2001
April 1, 2002	January 16, 2002	January 16, 2002	September 30, 2001

3. Reporting Revisions on Capital Fund Program Tables. After initial approval by HUD, the PHA must track cost decreases or increases in the Original Total Estimated Cost column and report these revisions in the Revised Total Estimated Cost column at the end of each program year on the Performance and Evaluation Report. If revisions are reported in the Revised Total Estimated Cost column when a Performance and Evaluation Report is submitted, the revisions must be reflected in the Original Total Estimated Cost column when the next Performance and Evaluation Report is submitted.

4. Reporting Total Actual Cost on Capital Fund Program Tables. At the end of the Capital program year for each grant with a separate Grant Number for which funds are still being expended, complete the section on Actual Cost for the Performance and Evaluation Report.

5. Development Account/Budget Line Item additions/deletions. The revised Annual Statement/Performance and Evaluation Report contains a budget line item for development activities, 1499, and deletes a budget line item for modernization used for development, 1498.

6. Replacement Housing Factor (RHF) Grant. Grants awarded for the replacement housing factor must remain in Account 1499, development activities, until the PHA has accumulated adequate funds and received approval of a development proposal. The two-year statutory obligation of RHF funds will begin upon approval of a development proposal.

7. Emergency Grants. Small PHAs awarded emergency grants beginning in fiscal year 2000 must repay such grants from future year formula amounts. Field Offices must reserve grants for emergencies and disasters.

8. Cost Limitations. PHAs are reminded that the regulations at 24 CFR Part 968, including cost limitations, remain in effect until final regulations implementing the new Capital Fund are published.

Administrative Costs. PHAs must not use more than a total of 10 percent of its annual grant for administrative costs in Account 1410.

Management Improvement Costs. PHAs, other than high performers, must not use more than a total of 20 percent of its annual grant for management improvements costs in account 1408. High performers under PHAS have no limits on the use of its annual grant for management improvements.

Contingencies. PHAs may budget initially up to 8 percent of their annual grants for contingencies in Account 1502. The PHA does not draw down, obligate or expend funds against Account 1502. Funds budgeted in Account 1502 are considered unobligated until they are re-budgeted within the Annual Statement or other eligible accounts and obligated for work items.

10. LOCCS/VRS form for the CFP. Until a final Capital Fund program rule is published, the forms that were used for the Comprehensive Grant Program can be used for the CFP. The new voucher number that should be used on the old form is “092” and program should be “CFP”.

E. Resident Advisory Board or Boards (RABs)

Announcement of Membership of the RAB. As specified in Notice PIH 2000-43, each PHA must provide a list of the members of its Resident Advisory Board or Board(s) (RABs) 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.

At least at the time of the announcement of the public hearing about the PHA Plan a PHA must have available for inspection by the public the list of the members of its Resident Advisory Board or Board(s). Early announcement of RAB members will ensure full participation in the PHA Plan process.

Recommendations from the RAB. As addressed in Notice PIH 2000-36, *Transmittal of Guidance on the Requirement for Appointment and Role of Resident Advisory Boards in the Development of Public Housing Agency Plans*, the law requires PHAs to consider the recommendations of the RABs when preparing the PHA Plan. The PHA is expected to give careful consideration to the recommendations, but is not required to agree to them. PHAs are

required to include copies of the recommendations of the RABs and a description of the manner in which the PHA addressed the recommendations in the PHA Plan that is submitted to the Secretary for approval.

Agencies are encouraged to meet with RABs at appropriate times where substantial issues have been raised about the PHA Plan at the public hearing or during the process of the PHA Plan development, to ensure that careful consideration with respect to those issues is given to recommendations from the RAB.

F. Consequences of Agencies Failure to Submit an Approvable PHA Plan

It has come to HUD's attention that some PHAs have failed to submit a PHA Plan for fiscal year 2000. HUD has the authority to sanction PHAs that fail to comply with HUD requirements. Commencing in April 2001, HUD may apply appropriate sanctions, such as reducing administrative fees or excluding PHAs from applying for incremental vouchers [see 24 CFR Section 982.152(d)], for Section 8 only PHAs that fail to submit a PHA plan. Notice PIH 2000-43 (paragraph IV. A.) informed PHAs that receive Capital Funds and PHDEP grants of the potential loss of such funds for failure to submit a PHA Plan by a certain date.

III. 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 webpage 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 PHA Plan hotline at (866) 359-3608.

___/s/ Harold Lucas
Assistant Secretary for Public and Indian Housing

Attachment