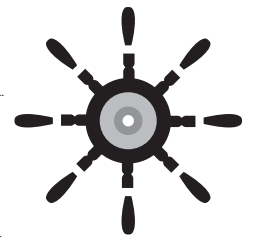


Public Housing Agency Plan



By Ed Gramlich, Senior Advisor, National Low Income Housing Coalition

Administering agency: HUD's Office of Public and Indian Housing

Year Program Started: 1998

See also: *Resident Participation in Federally Subsidized Housing*

The Public Housing Agency Plan (PHA Plan) is the collection of a public housing agency's key policies (such as admissions policies) and program intentions (such as demolition). There is a 5-Year Plan with Annual Plan updates. The PHA Plan was meant to ensure local accountability through resident and community participation. However, various administrative and legislative efforts have weakened PHA Plans.

ADMINISTRATION

PHA Plans are administered by local public housing agencies (PHAs), with oversight by HUD's Office of Public and Indian Housing (PIH). PHA Plan regulations are at 24 CFR Part 903, Subpart B.

HISTORY

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) established the PHA Plan because of the significant shift of authority to PHAs provided by that law. The PHA Plan was meant to ensure local accountability through resident and community participation opportunities. Resident Advisory Boards (RABs) were also created by QHWRA to ensure participation in the PHA Plan process by public housing residents and voucher-assisted households.

In June 2004, HUD issued regulations streamlining the Annual Plan requirements for PHAs with fewer than 250 public housing units and any number of voucher units, known as "small PHAs." These PHAs are only required to submit certifications regarding capital improvement needs and civil rights compliance. Congress broadened this regulatory streamlining in 2008, enacting several reforms that greatly diminish the Annual Plan requirements for PHAs administering fewer than 550 units of public housing and vouchers, combined, known as

"qualified PHAs." Also in 2008, HUD took administrative action to dilute the information provided to residents and the general public through the PHA Plan template.

PLAN SUMMARY

All PHAs must develop 5-Year PHA Plans that describe the overall mission and goals of the PHA regarding the housing needs of low income families in its jurisdiction. Larger PHAs, called "non-qualified PHAs," must also develop an Annual Plan, which is a gathering together of a PHA's program intentions, such as demolition, as well as key policies, such as those relating to admissions, income targeting, rents, and pets. However, these larger PHAs only have to submit a short PHA Plan template to HUD each year.

See the following "*What is the PHA Plan*" for all of the required components of the Annual PHA Plan.

Resident Advisory Boards. As part of this planning process, PHAs are required to have at least one Resident Advisory Board to assist in the development of the PHA Plan and any significant amendments to the plan. RAB membership must adequately reflect and represent residents served by the PHA, including voucher holders if they make up at least 20% of all those assisted.

In order to ensure that RABs can be as effective as possible, the PHA must provide reasonable means for the RAB to become informed about programs covered by the PHA Plan, communicate with residents in writing and by telephone, hold meetings with residents, and get information through the Internet.

The PHA must consider RAB recommendations when preparing a final PHA Plan or any significant amendment to it. A copy of the RAB's recommendations and a description of whether those recommendations were addressed must be included with the final PHA Plan.

Resident and Community Participation. The law and regulations provide for a modest public participation process. The PHA must conduct reasonable outreach to encourage broad public participation. The PHA's board of commissioners must invite public comment regarding a proposed PHA Plan and conduct a public hearing to

discuss it. The hearing must be held at a location convenient to PHA residents. At least 45 days before the public hearing, the PHA must make the proposed PHA Plan, required attachments, and other relevant information available for public inspection at the PHA's main office during normal business hours, and publish a notice indicating the date, time, and location of the public hearing, as well as the availability of the proposed PHA Plan.

The final, HUD-approved PHA Plan, along with required attachments and other related documents, must be available for review at the PHA's main office during normal business hours. Small PHAs submitting so-called streamlined Annual PHA Plans must certify that any revised policies and programs are available for review at the PHA's main office during normal business hours.

There are four places in the regulations indicating that writing and calling HUD to complain about the PHA Plan might secure attention and relief from HUD.

If a RAB claims in writing that the PHA failed to provide adequate notice and opportunity for comment, HUD may make a finding and hold up approval of a PHA Plan until this failure is remedied.

Before approving a PHA Plan, HUD will review "any... element of the PHA's Annual Plan that is challenged" by residents or the public.

HUD can decide not to approve a PHA Plan if the plan or one of its components:

- Does not provide all of the required information.
- Is not consistent with information and data available to HUD.
- Is not consistent with the jurisdiction's Consolidated Plan.

To ensure that a PHA complies with all of the policies adopted in its HUD-approved PHA Plan, "HUD shall, as it deems appropriate, respond to any complaint concerning PHA noncompliance with the plan.... HUD will take whatever action it deems necessary and appropriate."

Significant Amendments. The PHA Plan must identify the PHA's basic criteria for determining what makes an amendment significant. Significant amendments can only take place after formal adoption by the PHA board of commissioners at a meeting open to the public, and after subsequent approval by HUD. Significant amendments are

subject to all of the RAB and public participation requirements discussed above.

Advocates and residents should be alert to changes to the PHA Plan at any time of the year because any policy or program in it can be modified. Advocates and residents should review the PHA Plan's criteria defining significant amendments, and work to change them if they are written so that few modifications would be judged significant and therefore escape the RAB and public participation requirements.

Major Changes Since 2008. Congress weakened the usefulness of the PHA Plan with changes made in the Housing and Economic Recovery Act of 2008. This law included a provision greatly diminishing PHA Annual Plan requirements for PHAs that administer fewer than 550 units of public housing and vouchers, combined. As of June 30, 2015, HUD reported that there were 2,817 so-called "qualified PHAs." This means that 85% of the nation's PHAs were exempt from developing an Annual Plan. Qualified PHAs only need to certify that they are complying with civil rights law, and that their 5-Year PHA Plan is consistent with the local or state government's Consolidated Plan. Qualified PHAs must still hold a public hearing annually regarding any proposed changes to the PHA's goals, objectives, or policies. They must also have RABs and respond to RAB recommendations at the public hearing.

HUD also took action in 2008 that weakened the usefulness of the PHA Plan for larger PHAs. Previously, HUD required public housing agencies to use a computer-based PHA Plan template. This was a helpful outline of all of the PHA Plan components required by the law. But HUD drastically diminished the template in 2008, reducing it from a helpful 41-page, easy-to-access electronic guide, to a mere page-and-a-half-long form, making it much more difficult for residents and the public to know what the law requires and what changed at the PHA during the previous year.

The 2008 PHA Plan template made it more difficult for residents and others to understand the PHA Plan process, engage in it, and have access to information associated with the 19 statutorily required PHA Plan components. (See the following "What's in the PHA Plan.") The template merely asked PHAs to indicate which of the components were revised, not how the components were revised. Also, there was no longer a list of required plan components prompting residents and others to proactively recommend their own revisions to the Annual Plan.

After proposing changes to the 2008 template in 2011 and 2012, HUD issued Notice PIH-2015-18 on October 23, 2015, announcing final revised PHA Plan templates.

Instead of one single Annual PHA Plan template used by all PHAs, HUD now has four types of Annual PHA Plan templates to be used for different categories of PHAs. These templates include several modest improvements over the streamlined PHA Plan in use since November 2008; however, they are still far less helpful for residents and advocates than the pre-2008 template.

The new Annual PHA Plan templates are:

HUD-50075-ST for Standard PHAs and Troubled PHAs. A Standard PHA owns or manages 250 or more public housing units and any number of vouchers, for a combined total of more than 550; and the PHA was designated “standard” in its most recent assessments for the Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP). A Troubled PHA has an overall PHAS or SEMAP Score of less than 60%.

HUD-50075-HP for High Performer PHAs. A High-Performer PHA owns or manages any number of public housing units and any number of vouchers, for a combined total of more than 550; and the PHA was designated “high performer” in its most recent assessments for PHAS and SEMAP.

HUD-50075-SM for Small PHAs. A Small PHA owns or manages fewer than 250 public housing units and any number of vouchers, for a combined total of more than 550; and the PHA was not designated as troubled in the most recent PHAS or SEMAP assessment, or at risk of being designated as troubled.

HUD-50075-HCV for HCV Only PHAs. A Housing Choice Voucher (HCV) Only PHA does not own or operate any public housing units, but does administer more than 550 vouchers; and the PHA was not designated as troubled in its most recent SEMAP assessment.

Qualified PHAs that were not designated as troubled in the most recent PHAS assessment or as having a failing SEMAP score during the prior 12 months are not required to complete and submit an Annual PHA Plan. However, Qualified PHAs must submit a 5-Year PHA Plan.

Previously, the PHA Plan template for the 5-Year PHA Plan and the Annual Plan were the same.

Notice PIH-2015-15 introduced a separate template for the 5-Year PHA Plan to be used by all PHAs.

Several modifications are improvements over the 2008 template. Each of the new templates clearly state that a proposed PHA Plan, each of the statutorily required PHA Plan elements, and all information relevant to the public hearing about a proposed PHA Plan and the proposed PHA Plan itself must be available to the public. The new templates must also indicate where the public can access the information. At a minimum, PHAs are required to post PHA Plan templates at each Asset Management Project, (public housing development or group of developments) and at the PHA’s main office. PHAs are encouraged to post PHA Plans on their official websites and provide copies to resident councils. Notice PIH-2015-15 adds that the approved PHA Plan and required attachments and documents related to the PHA Plan must be made available for review and inspection at the principal office of the PHA during normal business hours.

The balance of this article focuses on the template for Standard/Troubled PHAs. The new template offers several modest improvement over the 2008 version. In a section titled “Revision of PHA Plan Elements,” the template lists key statutorily required PHA Plan elements (for example, rent determination policies or grievance procedures), with boxes to indicate whether a change has been made. This modification offers residents a clue about what some of the required elements are; without listing them, the 2008 template merely directed PHAs to identify any elements that were revised during the year. The new template also directs PHAs to describe any revisions.

The Standard/Troubled PHA Plan template is also improved by creating a “New Activities” section for a PHA to indicate whether or not it intends to undertake a new activity, such as project base vouchers, convert public housing units under the Rental Assistance Demonstration, or undertake a mixed finance project. Any new activities must be described.

The revised template requires PHAs to include any comments received from the RAB, along with the PHA’s analysis of the RAB’s comments as well as a description of the PHA’s decision regarding RAB comments.

One of the changes trumpeted in Notice PIH-2015-15 is that the template will finally integrate into the templates, descriptions of the PHA’s policies or programs to enable a PHA to serve the needs of

victims of domestic violence, dating violence, sexual assault, or stalking in accord with requirements of the Violence Against Women Act (VAWA). However, the body of the templates do not mention VAWA-related information. Only by reading the instructions regarding any revision to a PHA Plan statutorily required elements and then carefully examining the last half of the entry pertaining to “Safety and Crime Prevention” does one detect VAWA-related language.

The 2008 template required PHAs to submit as an attachment to the PHA Plan, any challenge to one of the statutorily required PHA Plan elements. The regulations call for HUD to review any such challenge. Although Notice PIH-2015-15 acknowledges this aspect of the regulations, it removes the requirement to submit any challenge from the new template. HUD writes that it will consider incorporating the requirement in the future.

FORECAST

NLIHC remains concerned that resident involvement in the PHA Plan will continue to diminish due to the loss of guidance in the PHA Plan template. The template still has fewer reminders about the role of the RAB in developing the PHA Plan. The template no longer includes the description of the process for electing residents to the PHA board or the list of RAB members or residents on the PHA Board.

NLIHC is also concerned that HUD no longer posts a directory of approved PHA Plans by state. HUD should resume posting PHA Plans on its website.

PHA Annual Plans should be enhanced to provide additional data on:

The number of Annual Contributions Contract (ACC) units the PHA has, by development, the occupancy level at each development, and a plan to reduce any development's vacancy rate that is above 3%.

The number of ACC units planned for redevelopment that will no longer be available or affordable to extremely low income households.

The number of authorized housing vouchers the agency has under lease.

The PHA's SEMAP ratings, any audits of the agency performed by the HUD Secretary, and any corrective action the agency took regarding SEMAP or audit findings.

In addition, NLIHC believes that more PHAs must

be required to comply with the PHA Plan so that residents and community members can have an opportunity to learn about and participate in the decisions affecting the nation's investments in public housing and vouchers.

TIPS FOR LOCAL SUCCESS

Advocates should participate in the development of their local agency's PHA Plan. Find out the dates PHA Plans are due to HUD, which are based on PHAs' fiscal year start dates. Ask the PHA to provide notice well in advance of the required public hearing, and ask specifically about proposed changes. Review all PHA Plan components thought important, and prepare written comments as well as comment at the public hearing. Work with others, especially residents of public housing, voucher holders, and other low income people, to increase participation in the PHA Plan process. All year long advocates should be on the lookout for significant amendments, and submit written comments as well as verbal comments at the public hearing required for significant amendments.

WHAT TO SAY TO LEGISLATORS

Advocates should let their Members of Congress know that:

- The PHA Annual and 5-Year Plans are important, local tools that should be expanded to more PHAs and enhanced to require more components of concern to residents and other community members.
- HUD's diminished template for Annual PHA Plan submission should be returned to its original state.

FOR MORE INFORMATION

NHLIC, 202-662-1530, www.nlihc.org

National Housing Law Project, 510-251-9400, www.nhlp.org

HUD PHA Plan webpage, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha

Notice PIH-2015-18 is at <http://portal.hud.gov/hudportal/documents/huddoc?id=15-18pihn.pdf>

HUD list of Qualified PHAs, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/lists ■