

760 CMR 63.00: PUBLIC HOUSING INNOVATION PROGRAMS

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63.01: Scope, Purpose, and Applicability

The Public Housing Innovation Demonstration Program (PHID Program) was created by St. 2008, c. 119, § 2, line item 7004-0034, and amended by St. 2013, c. 129, § 2, line item 7004-0045. St. 2008, c. 119, § 2, line item 7004-0034, St. 2013, c. 129, § 2, line item 7004-0045, and St. 2018, c. 99, § 2, line item 7004-0055 each authorized the Department of Housing and Community Development to use up to \$50,000,000 in general obligation bond funds over a five-year term to support programs that demonstrate cost effective revitalization methods for State-aided Family and Elderly/ Handicapped Public Housing and to seek to reduce the need for future state modernization funding. The PHID Program will provide grants for PHID Eligible Projects sponsored and developed by Local Housing Authorities.

The Regional Public Housing Innovation Program (RPHI) was created by St. 2014, c. 235, § 12 codified at M.G.L. c. 121B, § 38D, which directed the Department to create a program designed to achieve:

- (a) innovative models for the development, redevelopment and repair of public housing;
- (b) innovative models for improved management of public housing;
- (c) increased coordination among several housing authorities;
- (d) increased economic efficiencies; and
- (e) the expansion of economic opportunities for tenants and the Commonwealth. The RPHI Program will provide grants to Regional Housing Authorities selected by the Department in accordance with 760 CMR 63.00, subject to appropriation.

In the event of any actual or potential inconsistency between or among the provisions of 760 CMR 63.00, the applicable PHID Program Legislation, the PHID Program Guidelines, or the documents evidencing a PHID Grant, those provisions shall be interpreted, to the extent reasonably possible, so as to reconcile any such inconsistencies. If the provisions cannot reasonably be reconciled, the provisions of the applicable PHID Legislation, 760 CMR 63.00, the PHID Program Guidelines and the grant documents, in the foregoing order of priority, shall control.

In the event of any actual or potential inconsistency between or among the provisions of 760 CMR 63.00, the applicable RPHI Program Legislation, the RPHI Program Guidelines, or the documents evidencing a RPHI Grant, those provisions shall be interpreted, to the extent reasonably possible, so as to reconcile any such inconsistencies. If the provisions cannot reasonably be reconciled, the provisions of the applicable RPHI Legislation, 760 CMR 63.00, the RPHI Program Guidelines and the grant documents, in the foregoing order of priority, shall control.

63.02: Definitions

Definitions set out in 760 CMR 4.00: *General Administration of Local Housing Authorities*, 760 CMR 5.00: *Eligibility and Selection Criteria*, 760 CMR 6.00: *Occupancy Standards and Tenant Participation for State-aided Housing* and 760 CMR 11.00: *Modernization and Development of State-aided Public Housing* shall apply in 760 CMR 63.00. The definitions in 760 CMR 63.02 are for terms not previously defined or for terms that are used differently in 760 CMR 63.00.

Affordable Housing. For the purposes of the RPHI, the term Affordable Housing (defined for purposes of state-aided public housing generally at 760 CMR 4.01: *Definitions*) shall also include any homeownership or rental housing which is restricted to occupancy by low or moderate income households of one or more persons and for which the sale price or rent is affordable as defined by the criteria for inclusion in the Department's subsidized housing inventory and any other requirements imposed by applicable funding sources.

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Advisory Committee. A committee to consist of the director of the Department or his or her designee; three members to be appointed by the governor, one of whom shall be recommended by the Citizens' Housing and Planning Association, Inc., one of whom shall be recommended by the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, and one of whom shall be recommended by the Massachusetts Union of Public Housing Tenants; and three additional members chosen by the Department, to provide advice and recommendations to the Department regarding the PHID Program.

Application. An application for a PHID Grant, in the format specified by the PHID Program Guidelines, including a description of a proposed project, all financing sources, and all other matters required by 760 CMR 63.00 and the applicable PHID Program Guidelines.

Area Median Income. Income, adjusted for family size, and for the pertinent region, as determined by the United States Department of Housing and Urban Development.

Asset-based Management. As part of a comprehensive strategic plan for a portfolio, an approach to property management that focuses on maximizing the long term value of property, operational efficiency and cost-effectiveness, and consumer satisfaction, and, generally, employs a site-based budgeting, needs analysis, funding, decision making, oversight and performance assessment, as well as site-based information and financial systems.

CEDAC. The Community Economic Development Assistance Corporation established in M.G.L. c. 40H, which is authorized by the PHID Legislation to provide Technical Assistance for PHID Eligible Projects and to provide evaluations of the PHID Eligible Projects awarded PHID Grants.

Cost-effective Revitalization Methods. Elements of a PHID Eligible Project designed to offer savings in the management, marketing, construction or rehabilitation of State-aided Family and/or Elderly/Handicapped Housing including, without limitation, incorporating Energy Conservation or Efficiency, Asset-based Management, and Design Innovations.

Design Innovations. Proposals related to site planning, building and/or unit design, building and/or unit systems, construction techniques, or construction materials of a PHID Eligible Project that offer new means of:

- (a) extending the useful life of State-aided Family and/or Elderly/Handicapped Public Housing;
- (b) improving operational efficiency and cost effectiveness of State-aided Family and/or Elderly/Handicapped Public Housing;
- (c) incorporating Energy Conservation or Efficiency; and/or
- (d) affording opportunities for replicability.

Energy Conservation or Efficiency. Energy audits, site planning, building and/or unit design, building and/or unit systems, construction techniques, or construction materials of a PHID Eligible Project that offer new means of construction or housing modifications to achieve energy efficiency and conservation including, without limitation, achieving reductions in use of or decreasing reliance on nonrenewable and/or natural resources.

Extremely Low Income Household. A household with a gross income at or less than 30% of area median household income as most recently determined by the HUD, adjusted for household size.

Financially Feasible Project. A PHID Eligible Project that is likely to secure binding financial commitments from any other funding sources which, together with the PHID Grant funds, total the budgeted amount necessary to develop and operate the Project.

Local Housing Authority. A local housing authority created pursuant to M.G.L. c. 121B, § 3, prior statute or special act that has State-aided Housing Developments. As applied to the PHID and RPHI, the term "local housing authority" does not include a regional nonprofit corporation or other entity under contract to the Department to administer the MRVP or AHVP as it does in 760 CMR 5.03: *Definitions*.

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Low or Moderate Income Person or Family. An individual or family whose income is less than 80% of the Area Median Income.

MHP. The Massachusetts Housing Partnership Fund Board established in St. 1985, c. 405, § 35, as amended by St. 1990, c. 102, §§ 34 through 37, which is authorized by the PHID Legislation to provide Technical Assistance for PHID Eligible Projects and to provide evaluations of the PHID Eligible Projects awarded PHID Grants.

Public Housing Innovation Demonstration Program (PHID Program). The Program created by St. 2008, c. 119, § 2, line item 7004-0034, and amended by St. 2013, c. 129, § 2, line item 7004-0045.

PHID Eligible Project. A proposal submitted by a Local Housing Authority for the acquisition, construction, renovation, rehabilitation, marketing or management of State-aided Family and/or Elderly/Handicapped Public Housing. A PHID Eligible Project supported by a PHID Grant is sometimes referred to as a "Project".

PHID Grant. A grant made by the Department to a Local Housing Authority for a PHID Eligible Project under the PHID Program, including Technical Assistance.

PHID Legislation. The legislation enacted as St. 2008, c. 119, § 2 (line item 7004-0034), as amended by St. 2013, c. 129, § 2, line item 7004-0045.

PHID Program Guidelines. Guidelines issued by DHCD, after consultation from the Advisory Committee, setting out, clarifying and further explaining 760 CMR 63.00 program policy and procedure, including provisions relating to Tenant Participation, as such guidelines may be amended, supplemented or replaced. The PHID Program Guidelines shall apply to all PHID Grant programs subject to 760 CMR 63.01(2).

Regional Collaboration. A common or shared PHID Eligible Project developed or managed by Local Housing Authorities in two or more municipalities for State-aided Family and/or Elderly/Handicapped Public Housing in those municipalities and for which an Application is submitted to the Department.

Regional Housing Authority (RHA). An RHA created pursuant to M.G.L. c. 121B, § 3A or similar provisions of earlier general laws or of special laws. An RHA shall include a Local Housing Authority that has entered into a management services contract or contracts one or more other Local Housing Authorities authorizing it to act in the place of such housing authorities with respect to the management of their state-aided public housing with the approval of the local municipal officers of each LHA entering into such a management services contract and subject to such further conditions as may be set out in DHCD guidance.

Regional Public Housing Innovation Program (RPHI). The program created by St. 2014, c. 235, § 12 codified at M.G.L. c. 121B, § 38D.

State-aided Family and/or Elderly/Handicapped Public Housing. A State-aided Housing Development pursuant to St. 1948, c. 200, St. 1966, c. 705 for families, as defined in St. 1948, c. 200, St. 1966, c. 705, and M.G.L. c. 121B; and/or for elderly or handicapped persons as defined in St. 1954, c. 667 and M.G.L. c. 121B.

State-aided Housing Development. Housing developed through funds provided under St. 1948, c. 200, St. 1956, c. 667, St. 1966, c. 705, St. 1974, c. 689 and St. 1987, c. 167.

Technical Assistance. Assistance in the form of consultation, review and advice concerning the design or implementation of a PHID Eligible Project.

Tenant Participation. Notification to and consultation with tenants of State-aided Family and/or Elderly/Handicapped Public Housing affected by proposed PHID Eligible Projects, including review and advice from tenants in accordance with 760 CMR 6.00: *Occupancy Standards and Tenant Participation for State-aided Housing* and the PHID Program Guidelines.

63.03: PHID Program

(1) PHID Eligible Projects.

(a) Required Elements. The Department shall approve a PHID Grant only for a PHID Eligible Project proposed by one or more Local Housing Authorities that:

1. is for a marketing, management, construction or rehabilitation project or use for State-aided Family and/or Elderly/Handicapped Public Housing which is a Financially Feasible Project;
2. demonstrates innovative and replicable solutions to the management, marketing or capital needs of State-aided Family and/or Elderly/Handicapped Public Housing; and
3. contributes to the continued viability of the housing as a resource for public housing eligible residents.

(b) Preferential Features. Preference shall be given to PHID Eligible Projects that demonstrate one or more of the following features:

1. Regional Collaboration among Local Housing Authorities;
2. Proposal of new housing units for Low or Moderate Income Persons or Families on municipally-owned land, underutilized public housing sites or other land owned by the local Housing Authority;
3. Effort to reduce the need for future state modernization funding;
4. Incorporation of Cost-effective Revitalization Methods; or
5. Preservation of housing for existing residents to the maximum extent feasible.

(2) PHID Grant Applications and Awards.

(a) PHID Proposals. The Department may solicit proposals in the competitive funding rounds for PHID Grants for PHID Eligible Projects in accordance with the PHID Program Guidelines, or may use such other means to select PHID Eligible Projects that ensure said PHID Eligible Projects as may be permitted pursuant to 760 CMR 63.00, and the PHID Program Guidelines.

(b) Applications. The Application procedures for PHID Grants are specified in the PHID Program Guidelines. Local Housing Authorities shall comply with the Application procedure for PHID Grants in accordance with the requirements of a request for proposal issued by the Department pursuant to the PHID Program Guidelines. The Application may include a proposal for Technical Assistance by CEDAC or MHP with regard to the design or implementation of the PHID Eligible Project, including pre-development costs. The Application shall demonstrate compliance with Tenant Participation requirements pursuant to the PHID Program Guidelines and shall comply with 760 CMR 63.03(4) and 63.05. The Application shall also contain information sufficient to enable the Department to make the findings required by 760 CMR 63.03(2)(e).

(c) Department Review. The Department shall approve PHID Grants in accordance with the PHID Program Guidelines regarding application content, criteria for review and consideration of preferential features. The Department shall not consider an Application that does not substantially comply with the requirements of 760 CMR 63.03 or the PHID Program Guidelines.

(d) PHID Grant Approval and Terms. The Department may grant in whole or in part or deny an Application, or may grant the Application on such terms and conditions as it determines would further the objectives of the PHID Legislation, 760 CMR 63.00 and the PHID Program Guidelines.

(e) Department Findings. In approving PHID Eligible Projects for PHID Grants, the Department shall make the findings regarding the individual criteria set out in 760 CMR 63.03(1)(a) and (b) and shall also find that:

1. the primary purpose of the Project will be for the public benefit and for a public purpose and any benefit to private parties or individuals shall be indirect and incidental and not the purpose of the Project;
2. the Project, when complete, will conform to all applicable laws and regulations, unless expressly waived or granted an exemption by the Department pursuant to 760 CMR 63.03(4) or 63.06 or by another applicable authority;
3. that there is a reasonable expectation that the Project will be successful;
4. that provision is made for reporting and evaluation of the success of the Project; and
5. that the Application and the Project comply with Tenant Participation requirements pursuant to the PHID Program Guidelines.

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6. In awarding a PHID Grant, the Department shall consider whether to include funds for Technical Assistance and funding for evaluation of the grant by CEDAC or MHP.

(3) PHID Grant Administration.

(a) Reporting by Grant Recipients. Recipients of PHID Grants shall report on the status of the design, implementation and results of the PHID Eligible Project in accordance with the requirements established in the PHID Program Guidelines, which shall include, at a minimum, the following information about the Project:

1. the address, the nature of the work and scope of work; and
2. its costs including, but not limited to, the total dollar amount allocated for the Project, the total estimated cost of the Project, the amount expended for the planning and design of the Project up to the time the report is filed, the amount expended on construction of the Project up to the time the report is filed, the total amount currently expended on the Project, the status of the work on the Project (including, but not limited to, the original estimated completion date of the Project, the current anticipated completion date of the Project, and if completed, a schedule of life cycle standards for the Project), and if the project has been de-authorized, the reason for and date of de-authorization.

(b) The Department may enter into an agreement with CEDAC or MHP for the conduct of an evaluation of the Projects awarded PHID Grants.

(4) PHID Statutory Exemptions.

(a) In accordance with the authority granted under the PHID legislation, a Local Housing Authority may apply to the Department for an exemption of a PHID Grant from one or more requirements of either or both M.G.L. c. 7C and M.G.L. c. 121B. A Local Housing Authority requesting an exemption ordinarily shall include in its Application a list of all requested exemptions, and with respect to each requested exemption, an explanation of the reason for the exemption, including a demonstration that:

1. the requested exemption is necessary to accomplish the effective revitalization of public housing; and
2. the requested exemption will not adversely affect public housing residents or applicants of any income who are otherwise eligible for public housing as specified by the PHID Program Guidelines.

For good cause, a Local Housing Authority may request one or more exemptions subsequent to submission of its Application, provided that if an exemption is requested after approval of the application through a competitive process, the LHA shall be required to demonstrate that the exemption would not have impacted the selection.

(b) The Department in its discretion at any time may approve an exemption for a PHID Eligible Project from the requirements of either or both M.G.L. c. 7 and M.G.L. c. 121B if it determines that the Local Housing Authority has demonstrated that the requested exemption is necessary to accomplish the effective revitalization of public housing and will not adversely affect public housing residents or applicants of any income who are otherwise eligible and will be consistent with the purpose of the PHID Legislation, 760 CMR 63.00 and the PHID Program Guidelines and all applicable provisions of law.

63.04: RPHI Program

(1) RPHI Application and Selection Process.

(a) An Applicant for the RPHI must be a Regional Housing Authority as defined by 760 CMR 63.02.

(b) The total number of RPHI program participants shall not exceed four. Otherwise eligible housing authorities on Nantucket Island or Martha's Vineyard shall not be prohibited from participation.

1. Up to three of the participating Regional Housing Authorities shall have at least seven Participating Communities and portfolios of at least 750 State-aided Public Housing units.
2. At least one of the four participating Regional Housing Authorities shall have a portfolio of between 250 and 700 State-aided Public Housing units and at least ten Participating Communities.

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3. It is a goal of the program to serve urban, suburban and rural areas located in varied geographical regions throughout the Commonwealth. In the event that the Department receives more than four applications, it will include these considerations in its selection process.

(c) Applicants must demonstrate that they have the ability to plan and carry out activities under the program, as evidenced by their prior performance in the operation and maintenance of State-aided Public Housing, demonstrate that they have a need to redevelop and repair occupied and vacant State-aided Public Housing units, and must satisfy other appropriate selection criteria as set out in guidelines issued by the Department.

(d) Applications shall state how the Regional Housing Authority will demonstrate, create or seek to achieve, with respect to State-aided Public Housing:

1. Innovative models for the redevelopment and repair of State-aided Public Housing, including housing for the frail elderly;
2. Innovative models for improved management;
3. Coordination among several housing authorities;
4. Economic efficiencies; and
5. Expansion of economic opportunities for tenants and for the Commonwealth.

(e) Applications that propose a feasible plan for the development of new affordable housing units are encouraged.

(f) Applicants shall describe how residents in State-aided Public Housing will be provided with independent technical assistance sufficient to allow them meaningful and informed input in the application and, if selected, in the program implementation process.

(g) Applications may be submitted on a rolling basis. The Department shall approve or deny an application within 90 days of its submission. If the application is denied, the Department will provide a written explanation of the reasons for the denial. Rejected applicants may reapply no more than once per year, provided program openings are available.

(2) RPHI Program Awards.

(a) Successful RPHI awardees shall enter into a program participation agreement summarizing the terms of participation, voluntary withdrawal, and termination for material default, and a timetable for achieving objectives of the program. The initial term of participation shall be ten years, which shall be extended in whole or in part by the Department, if it finds that:

1. the Regional Housing Authority has made satisfactory progress toward its goals;
2. the extension will meet the original objectives of the program; and
3. the Regional Housing Authority has not received a negative evaluation as defined in 760 CMR 63.04(9).

(b) Funding. The Department shall disburse all funding for a participating Regional Housing Authority on a predictable schedule to permit and encourage planning and efficiency by the Regional Housing Authority. Further, the Department shall increase participating each Regional Housing Authority's annual operating subsidy by providing an additional subsidy which is equal to 20% of the Regional Housing Authority's annual budget for elderly/handicapped and family State-aided Public Housing, minus the cost of utilities. Provided, however, that the funding provisions stated herein are subject to the annual appropriation of all additional monies necessary to fund the specified budget increases, and are subject to the provision by the Commonwealth of said funds to the Department in a timely manner.

(3) Powers of RPHI Program Participants.

(a) Regional Housing Authorities participating in the program shall, in addition to those powers conferred in M.G.L. c. 121B, have the following powers:

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1. to combine all forms of assistance received from the Commonwealth and other sources, including, but not limited to, public housing operating subsidies appropriated by the Commonwealth through a general appropriations act and public housing modernization funds authorized by the Commonwealth to be funded through the sale of general obligation bonds, other funds or grants unless otherwise prohibited by law or contract; provided, however, that a housing authority shall not receive diminished assistance by virtue of participation in the program under 760 CMR 63.04; provided further, that operating subsidies appropriated by the general court and bond funds authorized by the general court for the benefit of State-aided Public Housing shall not be used to fund capital or operating costs other than those for the redevelopment, repair and operation (including services benefitting the tenants) of such housing.
 2. to establish a reasonable rent policy, which shall be included in the Annual Plan required by 760 CMR 63.04(6), that shall:
 - a. provide for rents that are affordable to tenants throughout the term of the program;
 - b. be designed to provide incentives to improve employment and training and self-sufficiency by participating families;
 - c. include transition and hardship provisions;
 - d. include in the transition period a limit on rent increases in any one year related solely to the change in the rent policy to not more than 10% for the duration of the transition period;
 - e. provide a rent cap for tenant households at or below 50% of area median income, adjusted for family size, of not more than the maximum tenant rental payments permitted by M.G.L. c. 121B, § 32 for households of equal income, including any minimum rents provided for therein; and
 - f. provide a rent cap for elderly and handicapped persons of low income of not more than the maximum tenant rental payments permitted by M.G.L. c. 121B, §§ 32 and 40, including any minimum rents provided for therein;
 3. to establish, and include as part of the Annual Plan required by 760 CMR 63.04(6), local methods of tenant or homeowner selection; provided, however, that the method shall be fair, objective, and public, shall not discriminate against an applicant based on a protected category in M.G.L. c. 151B or violate other fair housing laws or Department policies, and shall provide admissions preferences for homeless households, veterans and victims of domestic violence;
 4. to create efficient, fair and open procurement policies for supplies, services and real property, designed to reduce costs and to meet local need, which shall comply with all applicable state and federal laws and which shall be included in the Annual Plan required by 760 CMR 63.04(6);
 5. to participate in a mixed public-private affordable housing development or create legal entities or instrumentalities necessary to participate in mixed public-private affordable housing development designed to rehabilitate, repair, replace or develop affordable housing, including public housing developments and projects developed pursuant to M.G.L. c. 121B, §§ 26, 34 and 40;
 6. to create partnerships or consortia with other public or private entities for the operation, financing or development of any program otherwise authorized by law;
 7. to acquire property to carry out its purposes and to dispose of property of the local housing authority without repayment of bonds to the Commonwealth, notwithstanding any provision of M.G.L. c. 121B to the contrary, unless otherwise required by law or contract; provided, however, that the proceeds of such disposition shall be applied to acquisition, operation, development, rehabilitation or repair of public or affordable housing consistent with the limitations on use of proceeds in 760 CMR 63.04(5)(a)5.; and
 8. to enter into energy services contracts in accordance with M.G.L. c. 25A, §11C for a period of up to 20 years.
- (b) Projects developed or operated by a Regional Housing Authority pursuant to 760 CMR 63.04 may include a mix of extremely low income households, low or moderate income households and market-rate housing and may utilize any available source of rental subsidy or financial assistance permissible by law.

63.04: continued

(4) RPHI Statutory Exemptions.

(a) Except as provided in 760 CMR 63.04(5), if any provision of M.G.L. c. 121B conflicts with the powers granted under 760 CMR 63.00 or substantially restricts a Regional Housing Authority's ability to achieve the goals specified in its application or plan, such provision shall not apply to a Regional Housing Authority approved by the Department to participate in the RPHI program, provided that the Regional Housing Authority applies to the Department for an exemption from the conflicting requirements of M.G.L. c. 121B. A Regional Housing Authority requesting an exemption shall include in its application, with respect to each requested exemption, an explanation of the reason for the exemption, including a demonstration that the requested exemption is necessary to achieve the goals specified in its application or plan.

(b) The Department shall approve a requested exemption from the requirements of M.G.L. c. 121B to the extent it determines that the exemption is necessary to achieve the goals specified in the Regional Housing Authority's application and its approved plan, provided that the exemption will be consistent with the purpose of the RPHI Legislation, 760 CMR 63.04, Department guidelines and all other applicable provisions of law.

(5) Requirements of M.G.L. c. 121B Not Subject to RPHI Exemption. Notwithstanding 760 CMR 63.04(4), the Regional Housing Authority shall:

(a) comply with M.G.L. c. 121B, § 12, related to wages, labor requirements and the Social Security Act;

(b) comply with M.G.L. c. 121B, § 29, related to wage rates and collective bargaining;

(c) retain the same number of State-aided Public Housing units as existed before participation in this program;

(d) to the greatest extent possible:

1. provide for full tenant participation, including public hearings, on adoption or material amendment of its Annual Plan as required under 760 CMR 63.04(6);

2. provide for a tenant lease and grievance procedure substantially similar to that in effect prior to entry into this program;

3. provide that evictions shall be only for good cause;

4. assure that housing assisted under this program is decent, safe and sanitary and that, excepting any market-rate housing, the housing is deed restricted to occupancy by extremely low income households, very low income households or low and moderate income households at affordable rents or sales prices, in perpetuity or for such other term as may be approved by the Department, consistent with funding sources, and;

5. assure that proceeds from the disposition of State-aided Public Housing or real or personal property subject to any contract for financial assistance between the Regional Housing Authority and the Department for or in connection with State-aided Public Housing, and funds generated from new affordable and market-rate housing created to replace public housing, unless restricted to a particular use, shall be allocated to the reconstruction, rehabilitation or repair of State-aided Public Housing developments;

(e) assure that if a participating housing authority redevelops its public housing units, all households residing in the units at the time of planned redevelopment shall receive relocation assistance, if eligible, under M.G.L. c. 121B or other applicable statutes; provided however, that such households shall have the right to return to the redeveloped public housing, subject to units of the appropriate size and requirements being available, unless such household is determined to be in unlawful occupancy prior to the approval of the housing authority's application, has materially breached the lease agreement or has been evicted for cause, under applicable law; provided further, that such households shall have priority for placement over new applicants;

(f) comply with the Department's Relocation Assistance regulation at 760 CMR 27.00: *Relocation Assistance*;

(g) comply with M.G.L. c. 66A, the Fair Information Practices Act, and the Department's Privacy and Confidentiality regulation at 760 CMR 8.00: *Privacy and Confidentiality*;

(h) comply with St. 2006, c. 334; and

(i) comply with the audit requirements of M.G.L. c. 121B, § 29.

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(6) RPHI Annual Plan.

(a) Each Regional Housing Authority participating in this program shall prepare an Annual Plan. Tenants assisted by the Regional Housing Authority and the wider community shall be provided with adequate notice and opportunities to participate in the development and preparation of the plan in accordance with the requirements of 760 CMR 4.16: *LHA Annual Plans* and 6.09: *LTO and Resident Participation*. The tenants shall be provided an opportunity to comment and make recommendations on the plan which shall include not less than one public hearing held at a time and location that the participating Regional Housing Authority reasonably believes will facilitate attendance by and input from tenants.

(b) The Annual Plan shall:

1. state the Regional Housing Authority's goals and objectives under the program for its fiscal year;
2. describe the Regional Housing Authority's proposed use of assistance for activities under the program for the fiscal year;
3. describe how the Regional Housing Authority will achieve the repair and redevelopment of public housing;
4. state the Regional Housing Authority's proposed income mix for its housing portfolio of:
 - a. extremely low income households;
 - b. very low income households;
 - c. low or moderate income households; and
 - d. market-rate housing.
5. explain how the Regional Housing Authority's proposed activities will meet its goals and objectives;
6. include appropriate budgets and financial statements;
7. describe the tenant participation procedure and what independent technical assistance will be made available to tenants; and
8. contain all of the information required for LHA Annual Plans in the Department's regulation at 760 CMR 4.16: *LHA Annual Plans*.

(c) A Plan submitted as provided herein shall be deemed approved unless the Department, within 60 days of submission, issues a written disapproval. The Department shall disapprove the Plan if the Department reasonably determines, based on information contained in the Plan or other reliable information available to the Department, that the Plan does not comply with the requirements of the RPHI program or other applicable law or cannot reasonably be expected to achieve the purposes of the RPHI program. The Regional Housing Authority shall notify tenants of such approval or disapproval.

(7) RPHI Annual Report.

(a) In place of all other planning and reporting requirements of the Department contained in 760 CMR 4.00: *General Administration of Local Housing Authorities* and 11.00: *Modernization and Development of State-aided Public Housing*, and in addition to the Annual Plan required by 760 CMR 63.04(6), each Regional Housing Authority participating in RPHI shall submit to the Department an annual report, in a form and at a time specified by the Department. The annual report shall be the primary means by which the Regional Housing Authority shall be required to provide information to the Department, to tenants and the public on the activities assisted under 760 CMR 63.00 during a fiscal year, unless the Department has reason to believe that the Regional Housing Authority has violated the terms of the program. Each Regional Housing Authority participating in the RPHI shall publish its Annual Report on its website, post it publicly at an office in each community that it serves, and make copies available by mail upon request.

(b) Each annual report shall:

1. document the Regional Housing Authority's use of assistance under the program, including appropriate financial statements;
2. describe and analyze the effect of assisted activities in addressing the objectives of the RPHI, including the effect of rent and tenant selection policies;
3. state the previous year's income mix of residents in the Regional Housing Authority's public housing and affordable housing developments under this program;
4. include a certification by the Regional Housing Authority that it has prepared an Annual Plan in accordance with 760 CMR 63.04(6);

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5. describe and document how the Regional Housing Authority has provided tenants assisted under the program and the wider community with opportunities to participate in the development or material modification of the Annual plan and an opportunity to comment on the Annual Plan which shall include not less than one public hearing;

6. include a report on the annual incomes of persons served in the previous year; and

7. include other information as may be required by the Department pursuant to 760 CMR 63.04(8)(a) to determine the effectiveness of the program.

(c) A report submitted as provided herein shall be deemed approved unless the Department, within 60 days of submission, issues a written disapproval. The Department shall disapprove the report if the Department reasonably determines, based on information contained in the report or other reliable information available to the Department, that the Regional Housing Authority is not in compliance with the requirements of the RPHI program or other applicable law or cannot reasonably be expected to achieve the purposes of the RPHI program.

(8) Access to RPHI Records.

(a) Each participating Regional Housing Authority shall keep such records as the Department may prescribe as reasonably necessary to document the amount of funds and the disposition of funds under this program, to ensure compliance with the requirements of this program and to measure performance.

(b) The Department shall have access, for the purpose of audit and examination, to any books, documents, papers and records that are pertinent to the requirements of this program and assistance given in connection with this program; provided, however, that reporting shall be conducted solely through the annual report unless the Department has reason to believe that the Regional Housing Authority is not in compliance with this program.

(c) The State Auditor shall have access, for the purpose of audit and examination, to any books, documents, papers and records that are pertinent to the requirements of this program and assistance given in connection with this program.

(9) RPHI Independent Evaluation. As set out more fully in guidance issued by the Department, each Regional Housing Authority shall be evaluated by an independent evaluator twice during the initial term of participation and periodically thereafter, in accordance with such standards as may be adopted by the Department, to determine the success of initiatives undertaken to achieve the purposes of this program and the Regional Housing Authority's plan. Each Regional Housing Authority participating in the RPHI shall publish the independent evaluation on its website, post it publicly at an office in each community that it serves, and make copies available by mail upon request.

(10) RPHI Public Records. Each participating Regional Housing Authority shall make available to the general public its application, Annual Plan, annual report, independent evaluation and other public records as required by the Department pertaining to its participation in the RPHI program.

(11) RPHI Advisory Committee. The Department shall establish and maintain in effect a nine member advisory committee whose members shall include the director of the Department or a designee, one representative selected by Citizens Housing and Planning Association, Inc., one representative selected by the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, one representative selected by the Massachusetts Union of Public Housing Tenants, Inc., one representative selected by the Massachusetts Coalition for the Homeless, Inc., and four additional members chosen by the Undersecretary of the Department, one of whom shall have at least five years of experience as the manager of not less than 200 units of privately owned housing, to provide advice and recommendations to the Department regarding regulations to implement the RPHI program and to provide ongoing assistance in determining the effectiveness of the RPHI.

63.04: continued

(12) Expiration, Withdrawal or Termination of RPHI Program Participation. Upon expiration, withdrawal or termination of a program participation agreement, the Department shall work cooperatively with the Regional Housing Authority in a transition process. The transition process may provide for retention of elements of the program implemented during participation including, but not limited to, contractual agreements with third parties that contain terms that extend beyond the term of participation that were referenced in the program participation agreement, approved Annual Plans or approved annual reports.

63.05: Report to Legislature

The Department shall report to the House and Senate Committees on Ways and Means and the Joint Committee on Housing on the participation of housing authorities in the PHID and RPHI programs annually on the first Monday in July.

63.06: Waiver Provisions

(1) A Regional or Local Housing Authority may submit to the Department a request for approval of a waiver of any provision of 760 CMR 63.00 or another regulation promulgated by the Department pursuant to the PHID or RPHI Program Guidelines. A Regional or Local Housing Authority requesting such a waiver shall include in its Application, with respect to each requested waiver, an explanation of the reason for the waiver, including a demonstration that the additional regulatory relief is required to further the objectives of the PHID or RPHI Program and is otherwise necessary and appropriate.

(2) The Department, in its discretion, may approve a waiver of any provision of 760 CMR 63.00 or another regulation promulgated by the Department if it determines that the waiver will further the objectives of the PHID or RPHI Program and will be consistent with the purpose of the PHID or RPHI legislation, 760 CMR 63.00, the PHID or RPHI Program Guidelines, and all applicable provisions of law.

REGULATORY AUTHORITY

760 CMR 63.00: St. 2008, c. 119, § 2, line item 7004-0034 as revised by St. 2013, c. 129, § 2, line item 7004-0045; St. 2014, c. 235, § 38D, and St. 2018, c. 99, § 2, line item 7004-0055.

NON-TEXT PAGE