

Executive Director Contracts

**Understanding Guidelines,
Template and Local Options**

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OBJECTIVES

General Understanding of DHCD Guidelines for Executive Director Contracts

Requirements of Mandatory Contract Cover Sheet

Overview of DHCD Executive Director Contract of Employment Template

Review and Approval Process

Description of DHCD Guidelines for Local Housing Authority Hiring of Executive Director

OBJECTIVE

GENERAL UNDERSTANDING

OF

DHCD GUIDELINES FOR EXECUTIVE

DIRECTOR CONTRACTS

DHCD Guidelines for Executive Director Contracts

Statutory Authority

M.G.L. Chapter 121B, Section 7A

- DHCD shall promulgate guidelines for ED Contracts (PHN 2016-40)
- DHCD may review all contracts, but must review all contracts more than \$100,000 per year. (**DHCD will review all ED Contracts**)
- DHCD may strike contract provisions that do not conform to the Guidelines

DHCD Guidelines for Executive Director Contracts Regulatory Authority

760 CMR 4.04

Funding and Hiring for LHA Employee Positions **(NEW)**

DHCD has the right to withhold funding for ED salary, if the following conditions not met:

- LHA has followed the ED Hiring Guidelines, salaries and any other related guidance
- Candidate meets the minimum qualifications
- CORI
- Refers to M.G.L. c. 121B, § 7A, DHCD ED Contract Guidelines

* Please note that if a LHA hires a consultant to conduct the ED hiring, that consultant must meet these conditions on behalf of the LHA.

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40

EFFECTIVE DATE: December 27, 2016

- Contracts in existence on the effective date are valid until they expire, CANNOT BE RENEWED OR EXTENDED
- Other Pertinent Guidelines:
 - DHCD Executive Director Hiring Guidelines
 - DHCD Executive Director Salary and Qualifications Schedule (in effect)
 - DHCD Local Housing Authority Budget Guidelines (in effect)

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40

PARTIES TO THE CONTRACT

- Housing Authority Board of Directors and the Executive Director
- DHCD is NOT a party to the contract
- DHCD HAS RESPONSIBILITY to:
 - Review all terms to assure they confirm to the Guidelines and to strike non-conforming terms
 - Approve the Executive Director's Salary

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40

TO BE VALID AND ENFORCEABLE

- Contract MUST be executed by BOTH LHA and ED
- MUST include the following language:

“This Agreement is subject to the prior review and approval of the Massachusetts Department of Housing and Community Development (“DHCD”). Unless and until this Agreement is approved by DHCD in writing, this Agreement is without force and effect and may be deemed to be null and void by DHCD, in its sole discretion. The Executive Director understands that, if he/she commences work before this Agreement is approved by DHCD he/she shall be deemed an employee at will of the Authority unless and until such approval.”

OBJECTIVE

REQUIREMENTS

OF

MANDATORY CONTRACT COVER SHEET

DHCD Guidelines for Executive Director Contracts
Public Housing Notice (PHN) #2016-40
Mandatory Contract Cover Sheet

MANDATORY CONTRACT COVER SHEET (Four Sections)

- I. Parties and Executive Director Qualifications
- II. Basic Terms
- III. Other Material Terms
- IV. Certification

DHCD Guidelines for Executive Director Contracts
Public Housing Notice (PHN) #2016-40
Mandatory Contract Cover Sheet

MANDATORY CONTRACT COVER SHEET

- **MUST** be completed by the LHA
- **MUST** be reviewed by DHCD
- If LHA uses DHCD Contract Template, **WITH NO CHANGES** the LHA **MUST COMPLETE** Sections I and IV, **ONLY**

DHCD Executive Director Mandatory Contract Cover Sheet: Section I & Section IV

MANDATORY CONTRACT COVER SHEET

Mandatory Cover Sheet to be Completed and Submitted by LHA With the Contract of Employment for the Executive Director For Review by DHCD.

(Note: For contracts prepared using the DHCD template with no changes other than insertion of factual information, complete only Sections I and IV below. If not using the DHCD template, or if using it with amended terms, complete all sections below.)

To facilitate DHCD review of Executive Director Employment Contracts, the LHA must provide a summary of qualifications and material contract terms below and identify by article, paragraph and/or sub-paragraph where the material terms appear in the contract being submitted for review.

I. Parties and Executive Director Qualifications

Housing Authority	Name:	Address for purposes of Notices:
Executive Director	Name:	Address for purposes of Notices:
# Years as Executive Director or Assistant Executive Director or other senior staff at any LHA	Years:	Position held:
Original date of hire of ED at this LHA		
Certifications		
Educational Level		
Experience in Field	Years:	Type:

IV. Certification.

The undersigned certifies that the above information is true and correct.

_____ HOUSING AUTHORITY

By: _____

Name:

Title:

Date: _____

If LHA uses the DHCD Contract Template (with no amendments or alterations) **MUST COMPLETE Sections I and IV** of the cover sheet **ONLY**

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40 Mandatory Mandatory Contract Cover Sheet

If LHA DOES NOT use the DHCD Contract Template, or uses the DHCD Contract Template with amended terms, the LHA MUST COMPLETE ALL SECTIONS of the Mandatory Contract Cover Sheet, including Section II and Section III, and identify:

Where the material terms appear in the contract.

- By article
- Paragraph and/or sub-paragraph

The Cover Sheet is “like a road map”

DHCD Executive Director Mandatory Contract Cover Sheet: Section II

II. **Basic Terms** (LHAs using the DHCD-approved contract template do not need to complete this section. The subject matter covered by these Basic Terms must be included in all contracts.)

Basic Term			Brief Summary	Section/Paragraph #s of Contract
Length of Contract Term				
Public Housing/Rental Assistance Programs Operated	Number of units for each program at the LHA	Number of BRUs for each program at the LHA	Program	
			State-aided public housing	
			State-aided rental vouchers (MRVP and/or AHVP), leased units only.	
			Federally subsidized public housing	
			Federal Section 8 vouchers, leased units only	
Other program activities, if any				
Full/Part Time				
Required hours/week				
Salary (not including bonus)				
Percentage of Authority's state-aided public housing units and units that are leased with state-aided rental vouchers (MRVP and/or AHVP)				
Approved State Share of Salary			\$_____ (Percentage of the Authority's state-aided public housing units and units that are leased with state-aided rental vouchers (MRVP and/or AHVP) multiplied by the Salary)	
Bonus (if any)			\$_____ payable from State operating subsidy	
			\$_____ payable from the following other sources:	

Other Taxable Compensation			List non-monetary compensation such as laptops, cell phones, etc.:
Benefits:	Check all that apply		
			In accordance with Authority personnel policy previously approved by DHCD
			In accordance with attached Authority personnel policy
			As follows (if not in accordance with Authority personnel policy):
			_____ hours of vacation leave for each year of continuous employment
			_____ hours of sick leave for each year of continuous employment

LHAs not using the DHCD Contract Template or using Template with amendments or alterations, must complete Section II

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40 Mandatory Contract Cover Sheet

SECTION III. Other Material Terms

Other MATERIAL TERMS are mandatory

- LHAs **not using** the DHCD Contract Template **must complete Section III**
- LHAs using DHCD Contract Template DO NOT need to identify template provisions, but MUST IDENTIFY any provisions in the Special Contract Provisions (Rider 1) that affect or differ from the material terms.

DHCD Executive Director Mandatory Contract Cover Sheet: Section III

III. Other Material Terms.

(Note: All material terms are mandatory and must be included in each contract. LHAs utilizing the DHCD-approved contract template do not need to identify template provisions, but do need to identify any provisions set forth in the Special Contract Provisions (Rider 1) that affect or differ from these material terms.)

Material Term	Page and Section # in Contract or Special Contract Provisions	Is Language Identical to DHCD-Approved Template?	Brief Explanation of Changes from DHCD-Approved Provisions
Job Description (must be attached to contract)			
Detailed summary of any additional benefits not in II above			
Expense Reimbursement			
Termination by Executive Director			
Termination by LHA			
Termination by DHCD			
Other discipline or termination provisions, if any			
Executive Director's Inability to Perform Essential Functions			
Notice Provision			

No modifications without written agreement and DHCD approval			
Dispute Resolution			
Post-term activities			
No assignment			
Massachusetts law governs			
Acknowledgment that contract is subject to DHCD's written approval			

LHAs not using the DHCD Contract Template or using Template with amendments or alterations **must complete Section III**

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40 Mandatory Contract Cover Sheet

SECTION IV. Certification

- LHA must certify that the information in the contract cover sheet is true and correct. (Member delegated by LHA)
- Signature, printed name, title and date are all required

OBJECTIVE

OVERVIEW

OF

DHCD EXECUTIVE DIRECTOR

CONTRACT FOR EMPLOYMENT TEMPLATE

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

ED Contract Template

BASIC TERMS (Mandatory)

- DHCD Contract Template contains basic provisions that should contain factual information about the parties and terms. **(Page 1 of DHCD Contract Template)**

MANDATORY CONTRACT PROVISIONS (Mandatory)

- At minimum contracts between an LHA and the ED must set forth several terms and conditions of employment. **(Page 2, Section B, of DHCD Contract Template, referred to as “Standard Provisions”)**

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

ED Contract Template

MANDATORY CONTRACT PROVISIONS

1. Identification of the Contract and Parties.
2. Term and Effective Date of Contract. (Must coincide w/LHA's FYE)
3. Duties of the Executive Director (Job Description).
4. Type of Public Housing/Rental Assistance (P/RA) Programs operated.
5. Other program activities, if any.
6. Full-Time/Part-Time: Nature of Commitment.
7. Required Hours.

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

ED Contract Template

MANDATORY CONTRACT PROVISIONS

8. Salary/Compensation.
9. State percentage of the Authority's public housing units and leased vouchers.
10. Approved State Share of Salary.
11. Other Compensation, if any (include non-monetary compensation such as laptops, cell phones, etc. as well as non-salary monetary compensation such as bonus).
12. Benefits.

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

ED Contract Template

MANDATORY CONTRACT PROVISIONS

- ☐ 13. Reimbursement of Expenses.
- 14. Termination of Agreement.
- 15. Notices.
- 16. Modification.
- 17. Dispute Resolution.
- 18. Post-Term Activities.

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40 ED Contract Template

- **MANDATORY CONTRACT PROVISIONS**

19. Assignment.
20. Governing Law (Massachusetts).
21. Signature Page and Acknowledgement that Contract is subject to DHCD review and written approval.
22. Certification Page

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

ED Contract Template

RECOMMENDED PROVISIONS

- DHCD recommends that each contract include provisions addressing the following issues:
 - Severability
 - Waiver
 - Counterparts
 - Federal Requirements

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40 ED Contract Template

CONTRACT PROVISIONS THAT WILL NOT BE APPROVED BY DHCD

- Longevity Payments: Compensation increases made on the basis of increased years of service (so-called “longevity payments”)
- Indemnity Clauses: Clauses in which the housing authority agrees to indemnify the Executive Director

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40 ED Contract Template

- Signature Page
- Acknowledgement that Contract is subject to DHCD review and written approval

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

Signature & Acknowledgement

- All contracts must have a signature page
- Executed as an instrument under seal
- Execution on behalf of the Authority must be by its Executive Director, its chair and its treasurer

[Signature page to Contract of Employment for Executive Director]

IN WITNESS WHEREOF, Authority, acting by and through its duly authorized chairman and treasurer and hereto affixing its seal, and Executive Director, have duly executed this Agreement as a binding contract between the parties, subject to DHCD approval as set out below.

This Agreement is subject to the prior review and approval of the Massachusetts Department of Housing and Community Development ("DHCD"). Unless and until this Agreement is approved by DHCD in writing as evidenced by the Certification of Review and Approval, this Agreement is without force and effect and may be deemed to be null and void by DHCD, in its sole discretion. The Executive Director understands that, if he/she commences work before this Agreement is approved by DHCD he/she shall be deemed an employee at will of the Authority unless and until such approval.

Seal

Witness: _____

Witness: _____

Witness: _____

_____ Housing Authority

By: _____

Its Chairman

By: _____

Its Treasurer

Executive Director

OBJECTIVE

OVERVIEW

OF

DHCD REVIEW & APPROVAL

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

Review and Approval Process

Contract should be submitted to the DHCD Housing Management Specialist (HMS) who is assigned to the LHA

- LHAs must provide:
 - Mandatory Contract Cover Sheet
 - ED Contract of Employment, and
 - Contract must meet all the requirements set out in DHCD Guidelines for Executive Director Contract

DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

Review and Approval Process

Submit Contract to DHCD a minimum of sixty (60) days prior to the proposed effective date of the contract. Must include:

- Evidence of having followed hiring guidelines, as prescribed by DHCD's Executive Director Hiring Guidelines currently in effect. (See pages 4 -5 of the Hiring Guidelines)
- Contract must include a copy of job description
- If LHA uses DHCD contract template form, without any material changes to the template form or with rider(s), DHCD will review and respond within thirty (30) days
- If LHA does not use DHCD contract template form. DHCD will review and respond within sixty (60) days

DHCD Guidelines for Executive Director Contracts Public Housing Notice (PHN) #2016-40 Review and Approval Process

DHCD's response will inform the LHA whether the contract is:

- Approved
- Rejected
- Or approved with revisions and/or conditions

Using the Certification Page.

*See page 15 and 16 of DHCD Guidelines for Executive Director Contracts for full details of the DHCD approval of contracts.

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DHCD Guidelines for Executive Director Contracts

Public Housing Notice (PHN) #2016-40

Review and Approval Process

All contracts must contain a certification page, as detailed in the ED Contract Guidelines.

CERTIFICATION OF REVIEW AND APPROVAL

The Massachusetts Department of Housing and Community Development ("DHCD"), hereby certifies that upon review of the terms and conditions of the foregoing Contract of Employment, between _____ and the _____ Housing Authority, the Contract:

_____ meets all the requirements set out in DHCD's Guidelines for Executive Director Contracts and is hereby approved.

_____ substantially meets the requirements set out in DHCD's Guidelines for Executive Director Contracts and is hereby approved except for the following provisions:

_____ fails to meet the requirements set out in DHCD's Guidelines for Executive Director Contracts and is not approved.

Department of Housing and Community Development

By: _____

Its: _____

Date: _____



Thank You!