TO: Sarah and Roberta

FR: MUPHT and MLRI

DT: September 16, 2015

RE: Comments on the following DHCD Draft Regulations:
Waiver Provisions, 760 CMR 6.10
Modernization and the Development of State-Aided Public Housing, 760 CMR 11.00
LHA Annual Plans, 760 CMR 4.19
Resident LHA Board Members in Towns, 760 CMR 6.09(6)
Rent, 760 CMR 6.04 and 6.05(2)(f)
LTO and Resident Participation, 760 CMR 6.09

Thank you for soliciting our comments on DHCD's Draft regulations concerning public housing and can you please distribute these comments to the team at DHCD.

We had three long meetings and appreciated the three weeks you gave us to get you our comments. There were significant issues to discuss and think through. MLRI also consulted with several legal services advocates who have over the years provided technical assistance to Local Tenant Organization and Resident Advisory Boards and who have also represented individual tenants.

In many cases, DHCD took a lot of confusing sentences and made them clearer. We continued to do the same and to also address issues that we see in public housing communities. What follows are our comments and questions. It may be helpful to discuss particular issues at a follow-up meeting at MUPHT.

**Waiver Provisions, 760 CMR 6.10**

a) This section should cross reference 760 CMR 6.09(4)(a)(ii), which states that the LHA shall provide all affected residents, whether or not represented by an LTO, with notice and the opportunity to comment on requests for waivers of regulations.

**Modernization and Development of State-Aided Public Housing, 760 CMR 11**

<u>11.01: Purpose and Applicability; Definitions</u>

a) In (1) would add "preservation" after "modernization" to be consistent with the whole regulation and to highlight this goal.

b) This purpose section about Modernization in public housing should cross reference the tenant participation regulations, specifically 760 CMR 6.09(3)(i), the new section on Consultation between LHA and LTO regarding the LHA's Modernization Program.

11.02: Capital Improvement Plans and Capital Funds Availability

a) (1)(c) should cross reference the Annual Plan regulation at 760 CMR 4.19, which includes the 5-year Capital Improvement Plan.

b) In (2) would add the word "public" after "state-aided" and before "housing" to be consistent.

11.03: Design

a) Do the Department's "design and construction guidelines" referenced in (3) include a reference to Architectural Access Board requirements? Or are these referenced someplace else? Renovations may call into play those regulations and require certain accessibility adaptations.

b) The requirement that an LHA shall invite an LTO representative to participate in the interview of the finalist(s) for designer was moved to 6.09(3)(i); and it would now apply only to large projects, $25,000 and above. LTOs should continue to be invited to participate in interviews for all finalist(s) for designers as current 11.03(2) provides. The same issues about designers that may present themselves in large projects are present in small projects, too.

c) In 11.03(1): Designer Selection, there should be a cross reference to 6.09(3)(i) so that people will know that there is a tenant participation requirement.

11.04: Bidding

a) We would like to review with DHCD the opportunity in the "Department's directives" referenced in 11.04(1) to establish a preference or incentives within very large projects (beyond the $25,000) for contractors to provide jobs and/or training to public housing residents. We are not seeking a full-blown Section 3 type of program. But as regulations are being revamped, this is a critical moment to think about how public dollars and bidding for very large projects (again beyond the $25,000) can leverage living wage jobs for residents.

11.06: Construction

a) 11.06(3) should clarify that LHAs have a responsibility to and provide notice for and make change orders transparent to the resident community for all projects. The notice should say what the change is and how the change will impact the design, especially where there are cost overruns. This notice should be posted in a community space and given to the LTO as a means to get the information out to the community so that everyone is on the same page.

b) Mis-numbering, missing (3)(b) and there is (5) that appears in the middle of (3)(d).

11.07: Special Requirements Applicable to Large Projects

a) Throughout, there is reference to involvement of CA Team "if applicable." It is unclear what this means or who determines when it is applicable. Is it whenever the CA Team is working on a project with an LHA? Or only when the LHA determines it is applicable?

b) On (6) require that LHAs have a responsibility to make change orders transparent to the resident community by notifying all residents about any change orders, as suggested above in 11.06: Construction (Comment (a)).

c) Residents should be involved in the 9-month inspection where the final punch list is distributed that will trigger final payment. Residents catch important things because they live there.

11.08: Capital Assistance Program

a) In (2) it should be clarified how long a waiver granted by DHCD out of the RCAT program lasts. We recommend the waiver be reviewed during the annual plan process, once a year.

b) In (7) there are limited cases where there is no LHA Board. You may need to add language such as LHA Board "or LHA governing body." For example, Boston Housing Authority does not have a Board but has a Monitoring Commission.

c) At the 11/13/14 RCAT Working Group meeting we agreed that at least one resident should be on each RCAT Advisory Board (see 12/5/14 Notes). But the regulations do not make this clear. What if, under 11.08(7)(b) as it is drafted, all of the LHAs in the region nominate only 1 person to the RCAT Advisory Board and no tenants are nominated? While this may be unlikely, it could happen.

d) Regulations should make it clear that RCAT Advisory Board meetings are public and that notice of Advisory Board meetings should be posted at all developments in the region in community spaces and listed on websites so that residents know that they are free to attend meetings.

e) Should clarify in regulations, as discussed in the RCAT working group, that each LHA is responsible for consulting with tenants about RCAT projects and that this is not the responsibility of RCAT staff (unless RCATs and LHAs have reached some other understanding).

f) There should be a clear cross-reference to the Tenant Participation regulation.

11.09: Tenant Coordinators

a) 11.09(c) states that the chairperson of the LTO cannot be a tenant coordinator. MUPHT recommends that the regulation be amended and that "chairperson" be replaced with "any officer." In other words, chairperson, vice-chair, treasurer, and secretary, who all have a role in making recommendations for tenant coordinator hiring, should be placed under

the same restriction and prohibited from serving as a tenant coordinator.

**760 CMR 4.19 LHA Annual Plans**

a) LHA Plan regulations are numbered 760 CMR 4.19. There is no Section 4.18. Is there something being proposed for 4.18 or was this supposed to be 4.18?

b) On (a) we are pleased that DHCD stated at its stakeholder meeting that it would consult with stakeholders when developing written guidance since there are important details about the process where LHAs and residents need guidance.

c) For (b) at the stakeholders meeting there was a suggestions that DHCD should provide a template or cover sheet for the whole plan with a "profile" of the LHA that includes information about number and type of units in the portfolio. The profile should also include the number of households on the waiting list.

d) In (b) it is states that LHAs submit an Annual Plan to DHCD for "approval," but there is nothing about the scope of DHCD's review and what criteria it will use to approve or disapprove a plan. If this is not in regulations, it should be clarified that DHCD will review the plan in accordance with guidelines.

e) On (b)(iii) we urge DHCD to require that the operating budget state the "per unit" cost. This is likely to vary by development, but this establishes a benchmark and may send up red flags if per unit costs skyrocket. Most LHAs already calculate this.

f) On (v) we recommend that the plan include a list of LHA policies and when they were last revised so that there is always one document that is updated yearly that has such a list. We often hear that it is difficult for tenants to know what policies their LHA may have. This could solve that problem. We are not suggesting that the Annual Plan include a copy of all policies, just a list.

g) For both (e) and (f) there should be a description about how the LHA complied with resident and public participation. We also urge DHCD to require a summary of comments made by residents, require LHA to response to these comments and send both the comments and the responses to DHCD. This could be articulated in guidelines, but this process is important so that resident comments reach DHCD, and DHCD sees how an LHA has responded to these comments. Developments with federal housing already do this. To lessen the burden on smaller housing authorities, we recommend that this be required of "significant" resident comments because these should make their way up the chain of command. What would be "significant" could be spelled out in guidelines.

h) While we feel that the Annual Plan provided in (b) is already streamlined, especially compared to the federal annual plan, (d) should clarify that any streamlined plan include the operating budget as in (b)(iii) and the narrative as in (b)(iv), and that DHCD will develop guidelines about the streamlined Annual Plan process and format.

i) In (f), the public comment period should at least be from the time the notice is published through the public hearing date and could be a longer period. In (f)(ii), the notice instructing the public on how and when the LHA will receive public comments should include a statement that the LHA should accept oral comments at the public hearing and written comments, including by email.

j) On (g), DHCD should distinguish between technical amendments (correcting errors or revising numbers) and substantive amendments. As with HUD LHA Plans, if there are substantive amendments where a policy change is involved and where residents/public are likely to want to weigh in, substantive amendments should trigger a public and resident comments and public participation process. What is considered a "substantial amendment" should be defined in DHCD guidance and not up to each LHA.

**760 CMR 6.09(6): Resident LHA Board Members in Towns**

a) In (6)(a)(ii) "good standing" should be defined. We recommend that "good standing" be defined as being "in compliance with the lease." See HUD definition of who is eligible to serve as the resident council governing board. 24. CFR 964.125(c). Regulations should also require that there be further DHCD guidance for residents and LHAs about exactly where the "compliance" line is because situations have occurred where lease compliance is being determined or resolved and that until it is determined or resolved, a tenant should be considered in good standing.

b) In (6)(b)(v), DHCD should specific that if an LHA seeks a waiver with respect to the tenant member election requirement, the waiver, if approved, should be for no longer than five years or the term served by the tenant member, if less than five years.

**760 CMR 6.04(1): Rent Determination - Amount of Rent**

1. Rent regulations should reflect that the Massachusetts Appeals Court has held that a tenant's rent in state public housing should be whichever is less: 30% of income (or the income percentage required by law) or the Fair Market Rent as determined by HUD. We recommend adding a new section 6.04(1)(d) which states: *When the monthly rent is calculated the tenants rent should be whichever is less: the amount calculated under 6.04(1)(a)-(c) or the fair market rent as determined by HUD*. See *Northampton Housing Authority v. Kahle, 74 Mass. App. Ct. 559 (2009)*.

2. The new language for 6.04(1)(e) on minimum rent and hardships is good. We recommend adding the following:

    1. The proposed language states that: "[I]f a retroactive exemption does not apply, the tenant shall make payment of minimum rent within fifteen (15) days of the ninety (90) day period." Need to clarify. Recommend that is reads as follows: *If a retroactive exemption does not apply, the tenant shall make payment of minimum rent within fifteen (15) days of the end of ninety (90) day period*.

2. Additional language to ensure that any tenant paying minimum rent receives notice from the LHA about the right to seek a hardship exemption. Such notice should include the criteria and the procedure for seeking a hardship exemption. Recommend the following language: *The LHA must notify any tenant faced with minimum rent of the right to seek an exemption and include the criteria and the procedure for seeking an exemption*.

3. Language stating that if a retroactive exemption does not apply, there shall be no late fees during the 90-day period when seeking a hardship exemption. Recommend adding the following language: *Imposition of late fees will not apply during the period when a tenant is seeking an exemption*.

**760 CMR 6.05(2): Inclusions in Gross Household Income**

a) Currently 6.05(2)(f) provide that tenant households must report "regularly recurring contributions or gifts received from non-household member. It defines "regularly recurring" as any contribution or gift that occurs at least twice a year for two more years, unless the contribution or gift is more than $2,000, which occurs once a year from year to year for two or more years.

b) DHCD's first draft of proposed changes to regulations would add that: "For tenant households reporting zero income, contributions or gifts received from non-household members need not be regularly recurring to be included in household income." DHCD stated that Directors in the Metro area note that some adult children of elderly residents are assisting parents new to the country in securing public housing and are gifting them income to live on. DHCD has stated that the intent is to "close the loophole" and require these households reporting zero income during their first two years of living in public housing to report and include any contributions or gifts as part of the gross household income. It would be helpful to understand the scope of this problem.

c) The language proposed goes beyond its intent and applies to any tenants at any point in their tenancy if they have zero income. It provides no clear standards about what kinds of "contributions or gifts" would be counted and would not be counted and whether there is any threshold in terms of the amount received. For example, if someone paid for a tenant's medical bill, would that be considered a gift? Are birthday gifts of any amount counted? What if it is a one-time gift?

d) DHCD asked what approach would we be comfortable with if people are receiving "substantial gifts" and stated that one-time birthday gifts and possibly medical care should not be counted.

e) We would recommend redrafting the language: *For tenant households reporting zero income, substantial direct cash contributions or gifts received from non-household members in an amount over $3,600 a year need not be regularly recurring to be included*

*in household income, except those intended for medical care, transportation to work, training, or educational programs, or other categories of income excluded under 6.05(3).*

**760 CMR 6.09: Tenant Participation**

a) Conceptual Questions

DHCD specifically asked MUPHT to give it feedback on the following:

- How to provide a vehicle for residents to have input where there is no LTO?
- Where LTOs do exist, how to create a vehicle for an umbrella-level participation?
- How to encourage resident participation where there is none?
- We have organized our comments with the conceptual comments first, and then more detailed comments about specific proposed amendments.

b) Annual Plans

We agree DHCD's hope that the process around the new annual plans should compel LHAs to engage residents. We think that the vehicle for resident engagement should be a Resident Advisory Board. That is the vehicle that is required at the federal level to review yearly plans, and it presents itself naturally to be used at the state level to review the newly required state annual plan. The RAB is a vehicle that provides residents input where there is no LTO. And the RAB is a vehicle that can create "umbrella-level" resident participation.

We urge DHCD to require that all LHAs, regardless of size, establish a RAB based on guidelines established by DHCD. It doesn't matter how small an LHA is, if there are people there, a RAB structure should exist through which residents can engage with the LHA about the annual plan.

RABs provide a structure for residents to review plans and provide organized comments to the LHA. A RAB would not replace a jurisdiction-wide LTO or development-wide LTO. LTOs represent residents on matters affecting their interests, a purpose which is much broader than the RAB. The RAB is about the LHA plan. A development-wide LTO gives residents a voice at the development level—they know about their property; and a jurisdiction-wide LTO gives residents a voice about issues and policies that affect all the residents.

The way a RAB should be established and operated should be flexible and articulated in guidelines. Guidelines could provide options about how a RAB can be established. It should be a local decision and vary depending upon the size and structure of the LHA. What is important is that a is RAB allows for representation from all developments. For example:

- LHAs with federal housing may already have a RAB that can be expanded to include state tenants or it may actually already include state tenants.

- If there is already a jurisdiction-wide LTO, that should function as the RAB so there is no duplication of effort to set up two structures.

- Where there is no LTO or where some developments have an LTO and other developments do not, we recommend that the guidelines provide that the LHA sets up a steering committee with tenants to identify the best process for establishing a RAB.

- Where there is a small LHA and no LTOs, LHA could establish a steering committee and invite at least two residents from each development or program to form this steering committee for a limited period of time in order to develop or elect a RAB. Again, this should be spelled out in guidelines. The principle is that all developments or programs (elderly, disabled and family) within an LHA should have a place at the RAB table. The RAB should be representative.

- If there are LTOs, the LTO should be able to elect its representative(s). For example, in Brockton, Presidents from LTOs form the RAB and there is an election. In Fall River, LTOs send all of their officers to participate in the RAB, which is currently 48 members. In Boston, there is an election procedure for a 30 member RAB, with 10 residents from elderly/disabled public housing, 10 from family public housing, and 10 Section 8 residents (and 10 alternates for each category).

- We urge DHCD to take the new section it has established called "Consulting between LHA and LTOs regarding the LHA's Annual Plan" and make this a separate section in (4) Additional Resident Participation and title it "Annual Plans."

c) <u>Resident Association</u>

We have significant concerns about replacing "LTO" with "resident association" in 6.09(2)(a). While the intent may have been that a "resident association" is the precursor to an LTO, regulations should continue to state and also add the words in bold that the "LHA shall encourage and assist public housing tenants....to form **a democratically elected** LTO...."

In addition, "resident association" is undefined and will cause increased confusion. In 6.09(2)(d), DHCD added that a "resident association" may ask the LHA to seek revocation of recognition of an LTO. How many people constitute a "resident association?" What if it is two people who want to challenge an LTO because of a personal grudge? How do we know that that these two people were constituted in a democratic way?

In fact, we realized as we read the regulations that the word "association" was already in the regulations and that this should be replaced with "LTO," so as not to cause confusion.

The way to challenge a dysfunctional or non-representative LTO is for residents to call

for a Special Election or recall election, which current regulations provide at 6.09(2)(a)(viii). Current regulations provide that a group of residents may submit a written request to the LHA specifying the reason why an LTO should no longer be recognized and it is signed by one or more residents in 20% or more of the households represented. DHCD has removed this 20% and replaced it with language that a Special Election may not be held unless it is to fill a vacancy on the LTO Board or for some other reason recognized in the by-laws. We feel it is important that the petition process for a recall or special election remain in regulations, and that the threshold for a petition be lowered to 10% or more of the households represented. It is important to have clear statewide regulations on this matter and not leave it to each LTO to determine in by-laws (although the recall process should be included in by-laws and typically are).

Regulations should also require in any special or general elections that tenants receive a notice from the LHA that tenants cannot be retaliated against for voting in an LTO election or running to be an LTO Board member.

d) Encouraging Resident Participation

6.09(1) states that the purpose of the Tenant Participation subsection "is to encourage the formation of representative organizations." We urge DHCD to give these words meaning by providing reasonable resources that will provide resident organizations with office space and resources, meeting space, community building support, tenant board training, and an increase in the per unit funding.

The Tenant Participation Funding provided in 6.09(3)(c) of $3 per unit (with discretion for the LHA to provide $6/unit) is extremely low and has been unchanged for decades. Paying for flyers, printing, postage, or sending residents to trainings or conferences with this amount of per unit funding stymies LTO communication and learning. At the federal level, regulations provide that:

- LHAs provide up to $25 per unit to recognized LTOs, based on total funding provided to LHAs. If LHAs receive 85% of their operating funds, the $25 is reduced to $21.25 **p**er unit. 24 CFR 964.150(a)(1) provides for an optional $15/$10 split, with $15 to development and/or jurisdiction-wide LTOs and $10 for the LHAs to use for resident participation activities in the regulations. The federal regulations also provide that LHAs allocate Resident Advisory Boards with reasonable resources to communicate in writing and by telephone and hold meetings, taking into account the size and resources of each LHA. See 24 CFR 903.13(a)(2).

- We recommend that DHCD match the amount provided by the federal government and provide $24 per unit but divide it evenly as follows:

    - $8/per unit for development LTO,
    - $8/per unit for jurisdiction-wide LTO,
    - $8/per unit for RABs to support a meaningful annual planning process, and
    - that the minimum of $250 be increased to $750.

- We further recommend that DHCD issue guidelines about:
    - what these funds can and cannot be used for (HUD has issued several notices about the use of tenant participation funds which have been very helpful in clarifying the use of such funding);
    - reporting requirements from the RAB or LTO to the LHA and how funds should be separately accounted for and held in separate bank accounts;
    - how LHAs should provide timely distribution of funds; and
    - what recourse tenants have if an LHA does not provide funds.
- We further recommend that DHCD create guidelines about how LHAs can "encourage and assist" tenants in forming LTOs. LHAs and residents struggle with where the line is as to what LHAs can and should do so that the LTO formation/ election process is independent. But LHA support and resources are needed so that it can happen. We encourage such guidelines to include a sample budget request and reporting forms so each LTO and LHA do not have to reinvent this wheel.

e) 5-Year Term of Recognition

A new provision added throughout was that an LTO's recognition would have a term limit of 5 years. We feel that this is very confusing and does not mesh with how LTOs are recognized. We are not opposed to regular review of the recognition, but feel that it should make sense with the whole process and coincide with an LTO's election when they submit their election paperwork to an LHA showing that an election was held pursuant to a fair election procedure as articulated in (2)(a)(viii). Recognition is, in part, about whether this particular Board has been democratically elected. So every time an election is held, that LTO should be formally recognized. We strongly recommend that DHCD remove all references to the 5-year term limit. This will cause great confusion and get people very muddled up.

f) Specific Comments

1. In Persons Represented (2)(a)(i), which includes representation through city or town-wide LTOs and development LTOs, we feel it is important to continue to allow for both citywide or town-wide LTOs and for development LTOs because some developments may not have an LTO. In those cases city/ townwide LTOs will be the only available form of representation.

2. There should also be flexibility that enables citywide/townwide LTOs to represent both state and federal tenants.

3. At some point, if there is an increase in state public housing turning into mixed finance housing, these regulations should be revisited to allow for an option to recognize LTO in mixed finance sites where some residents are public housing and

some are voucher holders, tax credit, or other. Boston Housing Authority is encouraging the formation of LTOs in its mixed finance properties and has developed an MOU with residents and advocates to negotiate roles and resources.

4. In Notices (2)(a)(iv) there should be be flexibility to allow for emergency notices that an LTO can give in less than 7 days. For example, residents in Brockton provide tenants with a 48-hour notice for emergency meetings.

5. In Written By-laws (2)(a)(v) DHCD should work with MUPHT to issue model bylaws for tenants. Instead of posting bylaws, which can be long, in community rooms, LTO's could post a notice of where to get a copy of the by-laws.

6. In Meetings (2)(a)(vi) it should specify that meeting should be held in places that are physically accessible. Resources should be available to translate meetings into primary languages in the development.

7. In Elections (2)(a)(viii) we strong urge for clarity sake that the words "on a regular basis not less than every three (3) years" be replaced with "at least once every three (3) years." Residents have been confused by the currently language and would rather it be stated directly.

8. In Special Election (2)(a)(ix) we recommend that the section be retitled "Filling Vacancies and Special Elections" since it is about both.

   a) In addition, guidelines should be issued that provide for alternate ways to fill vacancies beyond special elections, such as other means that are not so resource intensive. For example, guidelines may allow that the candidates from the last election with the next highest votes be invited to become an officer to fill a vacancy.

   b) We recommend that regulations continue to specify a minimum percentage necessary to call for a special election and that the percentage be reduced from 20% to 10% or more of the households represented.

9. In Recognition When There is More Than One Association Requesting Recognition, (2)(b), while the purpose statement recognizing that "cooperating working relationships" enhances public housing, we strongly urge that regulations not state that LHA shall consider the extent to which an LTO "maintains a cooperative working relationship with LHA" in determining whether an LTO represents its community. This is because an LHA may decide that an LTO that challenges it should not be recognized.

10. Where there are two competing groups, it would be better for a mediator to be brought in to air issues. This is a difficult role for an LHA to play with out taking sides, and a neutral outside party could unlock the differences and give people tools to resolve them.

11. In Recognition of an LTO after Expiration of Term (2)(c), we recommend extending the recognition/ funding through "conditional recognition" as long as an LTO is working on the issues that have been flagged. We need to figure out ways to support LTOs; group work is not easy, especially where people live together.

12. In Revocation of Recognition (2)(d):

    a) We recommend removing the term "other good cause," which DHCD has added. This is vague, undefined, will lead to confusion, and could be abused.

    b) We strongly urge that DHCD remove the language added stating that a "resident association" can seek the revocation of an LTO. There is no definition of "resident association." It could be a handful of residents that declare that they are a resident association. We prefer that if there is a dysfunctional LTO this be addressed through a petition with at least 10% of the households signing to call for a special election.

    c) We further note that an important enforcement mechanism is in the second paragraph, which states that prior to DHCD revoking an LTO's recognition, the LHA must provide a written warning to the LTO, specify the reasons in detail, and include a description of how the LTO can cure the violation. This cure provision is an important part of helping a struggling LTO regain its strength and be clear about what it needs to do to be recognized. We would like to discuss with DHCD more about whether it sees this cure provision being used currently.

13. In Transitional Rule for Existing LTOs (2)(f) and the Term of LTO Participation (3), DHCD has drafted a new provision that would automatically establish the term of an LTO's recognition as 5 years. DHCD clarified that this has no bearing on the requirement that there be elections at least every 3 years. But it is unclear why DHCD seeks to add a term limit to recognition in (2)(f), and open the door to revocation of recognition without any DHCD review (which is provided in 2(d)). We would like to learn more about the rationale for this term limit of recognition. Under 2(d), as proposed, an LHA can request the revocation of recognition at any point and only DHCD may revoke recognition. We feel that 2(d) provides for the best process for revocation and that a term limit, without DHCD review, could be abused.

14. In Terms of LTO Participation (3) it should be clarified that the agreement that the LHA and LTO negotiate regarding LTO participation be in writing and if the LTO represents both state and federal, that there be one agreement that covers all.

15. In Meetings (3)(a) there should be guidelines that spell out what "regularly" means and how often the director meets with residents. We recommend that guidelines state that directors meet with an LTO at a minimum of once a year. Many do much more than this.

16. In LTO Funding of LHA (3)(c) Paragraph 2, we feel that the following new language should be clarified by adding the words underlined: "The LTO must submit a statement to the LHA at the end of the LHA fiscal year, accounting for all LHA-provided tenant participation fund expenditures in accordance with their approved budget." One of the issues which has caused conflict between LHAs and LTOs is that LHAs seek an accounting of all LTO money, even non-government funds that LTOs raised themselves. We feel that this practice goes beyond what the LTO should be accountable to the LHA for—if the LHA provided tenant participation funds, that's what the LTO should report on. We also feel, however, that the LTO should be completely accountable to its members - the residents - about all funds and expenditures from all sources, both government and non-government. If this can be added to regulations that would be helpful.

17. Telephone Service for Large LTOs (3)(e):

    a) Why should this be just for "large" LTOs with more than 100 units? We strongly urge that the 100 unit limit be removed and that all LTOs receive telephone service.

    b) To encourage participation LHA should provide LTOs with internet service, and whenever possible with access to computer, printer, photocopier, fax machine and basic office supplies (paper, toner, etc...).

18. Meeting space (3)(f) for LTO meetings should be accessible.

19. In Consultation between LHA and LTO Regarding LHA's Annual Plan (3)(h), we recommend, in addition to comments above, that:

    a) The annual plan be released 30 days, not 14 days, before the public hearing. Fourteen (14) days does not provide tenants with enough time to meet with one another or their technical advisors to review and process the plan and organize recommendations.

    b) The plan with all of its materials should be complete upon being released.

    c) Comment period should be at least from the time the notice is published through the public hearing date, with a proviso that LHAs could make it longer.

    d) Regulations should specify that LHAs should accept oral comments given at the public hearing and written comments, including by email.

    e) Instead of LTO signatures or letters as a sign-off on the plan to show tenant participation, we would require more meaningful engagement during the annual plan process and that the LHA compile a summary of tenants oral and written

comments, that LHAs respond to tenant comments in writing, and that both the summary and the LHA response be submitted to DHCD as they are to HUD. This makes the tenant's comments transparent. For smaller LHAs, the Department may allow for a more streamlined approach.

20. In Consultation between LHA and LTO regarding the LHA's Modernization Program (3)(i):

a) Regulations should clarify that each LHA is responsible for consulting with LTOs, and if no LTO exists, it should consult with a RAB (which we propose be adopted) about Modernization, Capital Plans, and RCAT projects. We recommend this because, with different players involved with the RCATs, it needs to be clear who is ultimately responsible for tenant consultation. This section should also provide a clear cross-reference back to the 760 CMR 11.

b) In addition to an LHA informing each affected LTO of the capital award, the construction contract, and the proposed construction schedule, the LHA should also inform the LTO about "significant" change orders. Significant would need to be defined.

c) We strongly urge that LHAs invite an LTO representative to participate in the interview of the finalist(s) for designer for <u>all</u> projects, not just large projects. Residents have contributed invaluable advice and input on many issues, especially accessibility issues, including how doors are opening, reachability of storage space for people in wheel chairs, emergency egresses, and other space and design issues.

d) There should be a role spelled out in regulations for an LTO representative to be part of regular construction meetings to monitor progress. When things change in midstream, this provides a critical way that LHAs can be accountable to the residents.

e) LHAs should be required to share with that LTO not only the budgets, but reports showing expenditures.

21. In LHA Board Meetings (3)(l) in addition to the LHA providing notice to each LTO of regular and special LHA Board meetings and a copy of the agenda, the LHA should also provide the LTO with copies of the approved minutes of any board meeting in a timely manner.

22. In Additional Resident Participation (4), we commend DHCD for clarifying that all residents, whether or not represented by an LTO, must receive the opportunity to comment on issues affecting their rights, status, duties, or welfare. This was a major addition to the regulations.

23. In Additional Resident Participation (4)(a)(iii) we urge DHCD to clarify, as HUD has, that residents should be involved in all aspects of the modernization process from developing proposals to planning, implementation, and the 9-month inspection DHCD is requiring in large projects. As written, residents would only have the ability to participate in "proposed" modernization projects.

24. In Notice and Comments (4)(b) where notice to residents under this section (4) shall be sufficient if given, it should be clarified that "given" means sent or delivered to each resident.

25. Definition of "LHA Board" should include BHA Monitoring Committee and other governing bodies where there is no Board of Commissioners.