



Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ◆ Karyn E. Polito, Lieutenant Governor ◆ Chrystal Kornegay, Undersecretary

**PUBLIC HOUSING NOTICE 2017-18**

To: All Local Housing Authorities  
From: Amy Stitely, Acting Associate Director, Division of Public Housing & Rental Assistance  
Subject: DHCD Guidelines for At-Will Employment of Executive Director  
Date: August 9, 2017

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Statutory Authority: M.G.L. c.121B, §7A as added by Section 7 of Chapter 235 of the Acts of 2014.

Regulatory Authority: 760 CMR 4.04

Effective Date: These Guidelines are effective August 9, 2017, and supplement the previous guidelines issued December 27, 2016 as PHN 2016-40.

Transition After Effective Date: At-will executive director employment agreements that are in existence on the effective date of these Guidelines but have not been approved in writing by Department of Housing and Community Development (DHCD) will be valid until the end of the Local Housing Authority (LHA)'s fiscal year.

Within thirty (30) days of the effective date of these Guidelines shown above, each LHA that has not already done so shall send a written communication to its assigned Housing Management Specialist (HMS) at DHCD specifying whether it has an existing at-will employment agreement in effect and, if so, stating whether the agreement is oral or written and providing the expiration date of that agreement, if any.

Failure of an LHA with an at-will executive director to obtain DHCD approval of a Memorandum of Agreement for At-Will Employment of Executive Director prior to the end of its fiscal year may result in delays to or denial of DHCD approval of the LHA's budget in full or in part, or in other sanctions.

Other Pertinent Guidelines: DHCD Guidelines for Hiring an Executive Director, DHCD Guidelines for Executive Director Contracts, the DHCD Executive Director Salary and Qualifications Schedule, as well as DHCD Local Housing Authority Budget Guidelines.

**I. PURPOSE**

In response to requests from LHAs and from Massachusetts Chapter NAHRO for a simpler form of contract for LHAs that employ executive directors on an at-will basis, DHCD has developed these Guidelines to supplement the DHCD Guidelines for Executive Director Contracts that were issued on December 27, 2016 as PHN 2016-40. The issuance of these Guidelines is in accordance with M.G.L. c.

121B as amended by Chapter 235 of the Acts of 2014. Specifically, Section 7A of c. 121B states the following:

“The department shall promulgate guidelines for contracts to be executed by the housing authority and an executive director. The department may review all contracts between the housing authorities and executive directors and all terms for payments or monetary remuneration relevant to state payments; provided, however, that the department shall review all contracts and all terms for payments or monetary remuneration worth more than \$100,000 per annum. The department may strike contract provisions that do not conform to the guidelines.”

Every individual who is employed by an LHA as an executive director or the equivalent must have a written agreement setting out the terms of employment. The terms of the employment of every LHA executive director are subject to review and written approval by DHCD in order to ensure that the guidelines and standards for executive director employment have been met. Oral understandings between an LHA and an executive director regarding the terms of the executive director’s employment are without any force, effect, or validity, unless they are reduced to writing and approved by DHCD.

The title “Executive Director” as used in these Guidelines means any person occupying the position of chief executive officer at the housing authority, regardless of title. A person who is temporarily acting as a housing authority chief executive officer, either as a consultant or as an interim or acting executive director, while the housing authority conducts a search for a new executive director, must also execute a contract with the housing authority, unless that person is a current LHA member or employee. Such a contract between an interim or acting executive director or consultant and a housing authority must be approved by DHCD, but is not covered by these Guidelines nor by the DHCD Guidelines for Executive Director Contracts.

These Guidelines are intended to serve as a tool for both DHCD and LHAs to facilitate ease of review by DHCD staff as it fulfills its duty to review the terms of executive director employment. These Guidelines set forth the requirements for agreements for at-will employment, including the Memorandum of Agreement for At-Will Employment of Executive Director template and the Mandatory At-Will Agreement Cover Sheet.

The Mandatory At-Will Agreement Cover Sheet (Attachment A) must be completed and submitted by the LHA with the Memorandum of Agreement for At-Will Employment of Executive Director template (Attachment B) for review by DHCD. All sections of the Mandatory At-Will Agreement Cover Sheet must be filled in, and it must signed by an LHA Board Member who has been duly authorized by a vote of the Board.

Attachment B is the DHCD Memorandum of Agreement for At-Will Employment of Executive Director template. DHCD permits the use of this Memorandum of Agreement template by LHAs that do not employ an Executive Director for a term of years.

**No changes or additions are permitted to be made to the DHCD Memorandum of Agreement template (Attachment B); LHAs desiring different terms of executive director employment MUST use the DHCD Executive Director Contract template.**

## **II. PROCEDURE FOR DHCD APPROVAL OF MEMORANDUM OF AGREEMENT**

The Memorandum of Agreement for At-Will Employment of Executive Director should be submitted to the DHCD HMS who is assigned to the LHA. The Memorandum of Agreement must meet all the requirements set out in these Guidelines and be submitted to DHCD in the following manner:

- The Memorandum of Agreement for At-Will Employment (Attachment B) should be sent to DHCD a minimum of sixty (60) days prior to the proposed effective date of hire or, if already in employ, prior to the LHA's fiscal year end.
- For new hires, the LHA must submit evidence of having followed the hiring guidelines, as set out in DHCD's Executive Director Hiring Guidelines that are in effect at the time of hire.
- Every Memorandum of Agreement must include a fully completed Mandatory At-Will Agreement Cover Sheet (Attachment A), prescribed by DHCD, summarizing the qualifications and basic terms of employment.
- LHAs that agree to provide their executive director with the benefits that are in the LHA's personnel policy must submit the personnel policy to DHCD with the Memorandum of Agreement. DHCD will review all sections of the personnel policy to ascertain whether the benefits granted are within approvable limits. LHAs are strongly encouraged to have a review of their personnel policies conducted by LHA counsel to ensure legal compliance.
- Memorandum of Agreement must include a copy of the job description. A form of job description is included in the Memorandum of Agreement for At-Will Employment of Executive Director as Exhibit A (of Attachment B). LHAs may use this job description form or draft its own job description for review and approval by DHCD.
- DHCD will review and respond within (thirty) 30 days following its receipt of the LHA's submission as long as the required Memorandum of Agreement template and all supporting documents have been received, all information required by the Mandatory At-Will Agreement Cover Sheet is provided, and barring any unusual circumstances. DHCD's response will inform the LHA whether the Memorandum of Agreement is approved, rejected, or approved with revisions and/or conditions.