



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

Charles D. Baker, Governor ♦ Karyn E. Polito, Lieutenant Governor ♦ Chrystal Komegay, Undersecretary

PUBLIC HOUSING NOTICE 2017-21

To: All Local Housing Authorities
From: Amy Stitely, Associate Director, Division of Public Housing
Subject: DHCD Guidelines for Local Housing Authority Hiring of Executive Director
Date: September 7, 2017

With this Public Housing Notice (PHN) DHCD is updating its Executive Director Hiring Guidelines to cover At-Will Employment and Interim/Acting Executive Director situations. This PHN supersedes PHN 2016-41.

Introduction

For many years, the Department of Housing and Community Development (DHCD) has issued guidance regarding the hiring of executive directors pursuant to the regulation at 760 CMR 4.04 (formerly 4.05) and its general oversight authority under G.L. c. 121B.

G.L. c.121B, §7A, as added by Section 7 of Chapter 235 of the Acts of 2014, sets out a more specific mandate directing DHCD to issue guidelines governing contracts between local housing authorities (LHAs) and their executive directors. Pursuant to this mandate, DHCD issued three Public Housing Notices: PHN 2016-40 and PHN 2017-18 pertaining to the substantive terms of executive director employment agreements, and now this PHN (which supersedes PHN 2016-41), concerning the hiring process to be followed by LHAs. In addition to this Guideline, LHAs must follow the DHCD Executive Director Salary and Qualifications Schedule that is currently in effect and all other related Guidelines as they may be revised from time to time.

The title “Executive Director” as used in these Guidelines means any person who will occupy the position of chief executive officer at the housing authority regardless of title.

Interim/Acting Executive Directors

In the event that an existing executive director leaves the employ of an LHA before a replacement is hired, the LHA may request DHCD’s approval for a short term interim or acting executive director to temporarily fill the position of executive director while assisting the LHA to conduct the hiring process. Such interim or acting executive director, whether hired as a consultant or as a temporary LHA employee, must execute a short term contract with the LHA, unless that person is a currently existing LHA member or employee. A contract between an interim or acting executive director and an LHA must be approved

by DHCD, but is not covered by the DHCD Guidelines for Executive Director Contracts or by the DHCD Guidelines for At-Will Employment of Executive Director.

If an LHA employee temporarily fills the position of executive director during the hiring process, no at-will employment agreement or contract is required, and the DHCD Executive Director Salary and Qualifications Schedule does not apply. The LHA employee's salary may be increased for the period during which the employee is temporarily acting as executive director, but the salary may not exceed 105% of the current salary for the position that the employee occupied prior to being appointed as acting executive director. Board members who temporarily act as interim executive directors during the process of hiring a new executive director may not receive any payment for their service. An existing LHA employee or member may temporarily fill the position of executive director for no longer than 6 months from the time that the former executive director gives notice of termination or vacates the executive director position without notice.

Newly Appointed Executive Directors

Executive directors may work full or part-time, depending on the numbers of housing units administered by the LHA as set out in DHCD's most recently issued Executive Director Salary and Qualifications Schedule. The procedure for recruiting, interviewing, selecting, appointing, contracting and obtaining DHCD approval for the new executive director is as follows:

1. Job Description

LHAs may use the DHCD job description that is attached to the DHCD Guidelines for Executive Director Contracts or the DHCD Guidelines for At-Will Employment of Executive Director, or an LHA job description should be prepared that outlines all of the duties and responsibilities that the LHA expects of the employee in the executive director position. The responsibilities of the executive director include fiscal management, personnel, and board administration and support. Included in this description must be daily, weekly, monthly, quarterly and annual duties. Such duties usually range from rentals, collections, and accounting, as well as, supervision of staff, physical maintenance of the property, tenant relations, relations with and reports to the LHA board, DHCD, and other agencies as required.

2. Qualifications

The LHA must set forth the required minimum qualifications for the position in its advertisements and job postings in accordance with the DHCD Executive Director Salary and Qualifications Schedule, currently in effect. Selected candidates must meet the required minimum qualifications in order to be approved by DHCD. In accordance with 760 CMR 4.04(1)(c), at the time of hire, the selected candidate's Criminal Offender Record Information (CORI) must not contain criminal convictions reflecting the potential employee's dishonesty, untrustworthiness, unreliability or unsuitability to perform the duties of the position or reflecting activity, which if repeated by an employee, would endanger the safety or security of tenants, household members, employees, or guests or the security of their property or the property of the LHA.

3. Compensation

In its advertisements and job postings for the position, the LHA should indicate the possible salary range as calculated by DHCD based on the latest salary schedule per the DHCD Executive Director Salary and Qualifications Schedule, currently in effect and all other applicable regulations and guidelines.

4. Written Employment Agreement: At-Will Employment Agreement or Contract

The executive director will be required to enter into a written employment agreement with the LHA, the terms of which are governed by the DHCD Guidelines for Executive Director Contracts or the DHCD Guidelines for At-Will Employment of Executive Director. Pursuant to the DHCD Guidelines for At-Will Employment of Executive Director, executive directors who are employed at the will of the LHA will not have a contract for a term of years. If not employed At-Will, the length of the term of the contract for an executive director hired for the first time at the LHA is no more than one (1) year plus such additional fraction of a year as shall be required to cause the end of the contract term to coincide with the end of the LHA fiscal year. The contract may contain a provision for a one (1) year renewal, which may be exercised only upon joint agreement of the parties and subject to DHCD approval.

5. Method of Applying

In its advertisements and job postings for the position, the LHA shall specify procedures for submitting an application and all required back up documents (i.e., resume, references, etc.), the deadline for filing an application, where and to whom all information should be sent, and shall identify a person at the LHA to whom any questions may be addressed by phone, email, and/or mail.

6. Recruitment/Advertisement

LHAs must publish an advertisement for an executive director job opening within sixty (60) days from the time that the former executive director gives notice of termination or vacates the executive director position without notice. Prior to advertising, the LHA must submit the advertisement content to DHCD for its review and approval. Once DHCD approval is obtained, the LHA should make use of every reasonably available communications medium to publicize the vacancy. Regional and local newspapers, professional journals, periodicals, posted notices, as well as direct mailings to neighboring LHAs, housing agencies or previously interested candidates should be utilized. Media sources which will reach minorities, women, persons with disabilities, and veterans should be included. Newspaper advertisements should be placed at least once a week for a minimum of two (2) weeks, and at a minimum, no position shall be filled until at least two (2) weeks after the publicizing efforts have been taken. Applications must be accepted from all interested persons. Other recruitment efforts required by the Affirmative Action regulation can be found in 760 CMR 4.06.

7. Selection Committee

The LHA should form a Selection Committee, and, consistent with DHCD's Tenant Participation Regulation (760 CMR 6.09), local tenant organizations (LTOs) must be given the opportunity to participate in the process of selecting an executive director by: examining resumes of qualified candidates, expressing the LTO's view of the qualifications of some or all of the candidates, recommending one or more of these candidates to be interviewed, participating in interviews of the candidates who are interviewed, and making a recommendation about which candidate should be hired. The LHA and the LTO should negotiate the process through which the LTO will participate, for example, one LTO representative may be appointed to sit on the Selection Committee or a separate LTO Selection Committee may interview all candidates.

8. Paper Screening

The first step is to screen applications to determine which candidates meet the required minimum qualifications "on paper." The required minimum qualifications are set forth in DHCD's Executive

Director Salary and Qualifications Schedule, currently in effect. The Selection Committee should invite those applicants who have the required minimum qualifications for an interview.

9. Interviews

A personal interview is the best way to evaluate candidates for the position. Since prior work experience and education can usually be understood and evaluated from the resume, interviews should focus on the individuals' knowledge of housing management, finance and interpersonal skills.

The Selection Committee should draft a set of interview questions in advance. The questions should attempt to access the candidate's leadership abilities, professionalism, knowledge, skill level and experience. Every candidate should be asked the same set of questions during the interview. Each question should be given a score based upon the candidate's answer. The results of the interviews should be rank ordered from first to last choices by the Committee, to be presented to the LHA Board.

10. References, Background Checks, and Other Considerations

Recommendations and support from local or state public officials should not be taken into account; however, appropriate references should be checked, for at least the top candidate. The recommendation of the LTO should be taken into account. Goals established by the LHA under its Affirmative Action Plan adopted pursuant to 760 CMR 4.06 should also be taken into account. The selected candidate's criminal record must also be checked prior to recommendation to the Board. If the LHA requires a physical examination, it may only be conducted after a conditional offer of employment has been made to the candidate, and it shall be limited to an inquiry of whether the candidate can perform the essential functions of the job with reasonable accommodation, if necessary. The Board shall consider any changes to the ranked order of the candidates made by the Selection Committee after this step.

11. Board Appointment

The recommendation of the Selection Committee could be a single selection or a minimal number of finalists who would be interviewed by the full Board if the Selection Committee acted in the capacity of a preliminary screening committee. Included with the Selection Committee's recommendation should be the recommended candidate's resume, the date of the candidate's availability, the salary proposed pursuant to the DHCD Executive Director Salary and Qualifications Schedule, currently in effect, and the proposed contract, including the length of the contract term as allowed by the DHCD Guidelines for Executive Director Contracts. Applications of all other candidates with the Committee's scoring on each should be available for inspection by the LHA Board.

The top ranked candidate(s) of the Selection Committee must be presented to the Board at a posted meeting held pursuant to the Open Meeting Law. The hiring of an executive director cannot take place in an executive session. Upon a motion made and seconded, the LHA Chairman shall call for a vote on the appointment, which shall be subject to DHCD approval. The identity of the selected candidate and a statement of the agreed upon salary and number of hours to be worked must be included in the Board vote and reflected in the extract of the minutes of the meeting to be submitted to DHCD.

12. Execution of At-Will Employment Agreement or Contract.

The LHA and the executive director must execute a written employment agreement that complies with the DHCD Guidelines for Executive Director Contracts or the DHCD Guidelines for At-Will Employment of Executive Director, and the DHCD Executive Director Salary and Qualifications Schedule, currently in effect. The employment agreement or contract is subject to the approval of DHCD, and DHCD may strike provisions that do not conform to the Guidelines.

The employment agreement or contract should be signed by the LHA and the selected candidate immediately after the affirmative vote of the Board described in step number 11 above. The effective date of the agreement or contract must be at least sixty (60) days from the date that it will be submitted to DHCD for review and approval. No newly appointed executive director may begin work until DHCD advises the LHA in writing that the agreement or contract has been approved. An employment agreement or contract, even though signed by the LHA and the executive director, is not valid until it is reviewed and approved by DHCD.

13. Review by DHCD

When all of the steps above are completed, the following should be promptly sent to DHCD for review:

1. A one page summary of the selection process including:
 - Identification of media used for advertising and dates of publication
 - Number of applications received
 - Number of candidates interviewed
 - Rankings of finalists
 - Description of tenant participation and recommendation of the LTO(s), if any.
2. Copies of the advertisement
3. Resume of the selected candidate.
4. Resumes of the finalists for the position.
5. A completed Executive Director's Salary Calculation Worksheet (form attached to the DHCD Executive Salary and Qualifications Schedule, currently in effect.)
6. An extract of the minutes of the meeting at which the vote was taken to appoint the new executive director.
7. At least three (3) original copies of the memorandum of agreement or contract with the executive director, executed by the Chairman, the selected candidate, and attested by the LHA Treasurer. The agreement or contract must include:
 - The LHA's executive director job description attached to the contract as an exhibit.
 - A Certification Page as required by the DHCD Guidelines for Executive Director Contracts or the DHCD Guidelines for At-Will Employment of Executive Director.
 - All other mandatory provisions as required by the DHCD Guidelines for Executive Director Contracts or the DHCD Guidelines for At-Will Employment of Executive Director.
8. A completed Mandatory Contract Cover Sheet as required by the DHCD Guidelines for Executive Director Contracts and the DHCD Guidelines for At-Will Employment of Executive Director.

Appointment of Board Members to Executive Director Position

The State Conflict of Interest law, Chapter 268A, and the DHCD Code of Conduct regulation at 760 CMR 4.03 govern all housing authority board members and employees. The Code of Conduct regulation prohibits board members from being hired by the LHA as executive director or for any other LHA position until one year after the end of service on the board, unless a waiver has been granted by DHCD for good cause as provided in 760 CMR 4.03(3).

Note that for any LHA with federally subsidized units, a board member cannot be employed by the LHA for a full twelve (12) months after the member leaves the board unless a waiver is obtained from by the U.S. Department of Housing and Urban Development (HUD).