Item 5A
NEW BUSINESS
April 9, 2020

To: Honorable Chairperson and
Members of the Housing Authority Commission

From: Jesy Yturralde, Acting Executive Director/Finance Manager and Rachel Gonzales
Levine, Acting Deputy Director/Management Analyst

Subject: Public Hearing and Adoption of 2020-25 Five-Year/Annual Plan

RECOMMENDATION
Conduct a public hearing and upon conclusion, adopt a Resolution approving the 2020-25 Five-Year/Annual Plan for Fiscal Years (FY) 2020-2025, and authorizing the Executive Director to certify and submit the 2020-25 Five-Year/Annual Plan to the U.S. Department of Housing and Urban Development (HUD).

BACKGROUND
Every public housing authority is required to submit an Annual Plan to HUD by mid-April of each year (or 75 days prior to the beginning of the next fiscal year). This year we are required to submit a Five-Year Plan. Our Plan document, electronically submitted to HUD using its template, is designed to provide a general overview of BHA’s programmatic operations. The Plan includes the HUD Five-Year Plan form; required certifications including adherence to Civil Rights laws and consistency with the local consolidated plan; as well as updates to our Administrative Plan, which describes BHA’s policies as they pertain to operating the 58 programs. In accordance with 24 Code of Federal Regulation, Part 903 Public Housing Agency Plans, BHA conformed to Annual Plan requirements as follows:


2. Dissemination of Information. Website posting of the proposed changes in various chapters of the Annual Plan occurred Feb. 13, 2020. The public was advised that they could receive a hard copy upon request; no request for copies was received. A copy was available for review at the front office.

3. Resident Advisory Board (RAB). Staff reached out to all of our program participants inviting them to serve on the RAB. Eight participants responded and all who responded were invited to participate on the RAB. Staff moved the RAB meeting to a teleconference format, after the COVID-19 Shelter in Place by the City of Berkeley Health Officer was announced.
Staff took special care to reach out numerous times via email and phone to ensure RAB members understood the teleconference mechanism used to convene the RAB, for the March 31 meeting. Of the 8 RAB members, five called in for the meeting and provided comment.

4. **Opportunity for Comment.** The website link to electronic copies of the Administrative Plan was emailed to legal and disability rights advocates: Bay Area Legal Aid, East Bay Community Law Center, National Housing Law Project, Disability Rights California; and non-profit housing developers: Satellite Affordable Housing Associates (SAHA), Resources for Community Development (RCD), Northern California Land Trust (NCLT).

The Plan presented this evening reflects comments from RAB participants and Bay Area Legal Aid staff.

5. **Public Hearing.** This evening's hearing is open for additional comments on the proposed Plan. Staff will analyze further comments and make changes as deemed appropriate prior to submitting the finalized Plan to HUD.

**STATUS**
The Administrative Plan is relied upon by staff in administering our housing programs. We strive to have simple, straight forward language, and thus avoid conflicting interpretations. Changes proposed in the Plan are the result of: (a) regulatory updates; (b) challenging issues/situations experienced over the course of the prior year; and (c) comments provided to us by advocacy organizations and service providers. Attached you will see a chart listing the proposed changes, with comments from legal advocates as well as from the RAB, and BHA's response to those comments.

In keeping with environmentally friendly practices, we have not printed copies of the full Administrative Plan. The document, with proposed changes in cross-out, underline format, is available for viewing at the BHA office, and on BHA's website: www.cityofberkeley.info/bha.

**FISCAL IMPACTS OF RECOMMENDATION**
No direct impact at this time, however, Plan adoption and submission is a HUD requirement.

**CONTACT PERSON**
Jesy Yturralde, Acting Executive Director/Finance Manager, 981-5488
Rachel Gonzales-Levine, Acting Deputy Director/Management Analyst, 981-5485

Attachments:
1. Resolution
2. Chart outlining RAB and agency comments received with BHA responses
3. HUD Form 50075-5Y
BERKELEY HOUSING AUTHORITY
RESOLUTION NO. 20-_-

ADOPTING THE BERKELEY HOUSING AUTHORITY'S 2020-2025 FIVE-YEAR/ANNUAL PLAN AND AUTHORIZING THE ACTING EXECUTIVE DIRECTOR TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

WHEREAS housing authorities are required to submit a 5-Year/Annual Plan to the U.S. Department of Housing and Urban Development ("HUD"); and

WHEREAS, housing authorities are required by HUD regulations to establish a Resident Advisory Board to provide input on the draft Plan to the Housing Authority; and

WHEREAS, BHA is a Section 8-only Authority; and

WHEREAS, the changes to the Administrative Plan containing discretionary policies utilized in the administration of the Section 8 Voucher Programs including the Project-based Section 8 and Moderate Rehabilitation Programs, were made available for public review and comment beginning February 13, 2020 for the required 45-day period; and

WHEREAS, the Resident Advisory Board assisted in the review of the proposed Administrative Plan changes; and

WHEREAS, various legal, disability rights advocacy organizations, and low income housing developers were provided links to view proposed Administrative Plan changes for review and comment; and

WHEREAS, a public hearing has been conducted on April 9, 2020.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Berkeley Housing Authority:

1. Adopts the Berkeley Housing Authority's 5-Year/Annual Plan for Fiscal Years 2020-2025, and hereby authorizes the Executive Director to submit the Plan to the U.S. Department of Housing and Urban Development; and

2. Adopts a revised Administrative Plan for the Section 8 Housing Choice Voucher Program Programs including the Project-based Section 8 and Moderate Rehab. Programs.

The foregoing Resolution was adopted by the Board of the Berkeley Housing Authority on April 9, 2020 by the following vote:

Ayes:

Noes:

Absent:

Attest: ________________________________

Jesy Yturralde, Secretary
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<tr>
<th>Chapter</th>
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<th>Comments: RAB = Resident Advisory Board; BALA = Bay Area Legal Aid</th>
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<tr>
<td>3 Eligibility</td>
<td>Reduces criminal background screening thresholds in line with City of Berkeley’s Fair Chance Housing Ordinance, including that property owners may not inquire about criminal history until a determination that the applicant is qualified to rent under all other criteria, has a conditional lease, and applicant is notified in advance that a criminal background check will be run with written consent. The Fair Chance Ordinance allows BHA the ability to screen for two particular criminal activities of applicants for Section 8 voucher assistance, prior to issuing a voucher.</td>
<td>19-25</td>
<td>RAB: (a) Why does BHA look back 3 years for criminal history as opposed to a 1 year lookback? (b) use “convicted” rather than culpable.</td>
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<td><strong>BHA response:</strong> (a) The HUD regulation 24 CFR 982.553 Denial of admission and termination of assistance for criminals and alcohol abusers, requires a 3 year lookback but also allows for BHA to admit applicants with convictions that show evidence of participation in a rehabilitation program. (b) Agreed.</td>
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<td><strong>BALA:</strong> Change subsidy standards to count a dependent of a family with at least 50% custody of that dependent, rather than the current BHA threshold of at least 51% custody. [Note: BALA made the same comment regarding Chapter 6; BHA response remains the same.]</td>
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<td><strong>BHA response:</strong> Per the HUD Housing Choice Voucher handbook, housing authorities are required to provide for the smallest number of bedrooms needed to house a family without overcrowding; BHA believes 51% custody is a reasonable threshold and prudent use of limited HAP resources.</td>
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<td><strong>BALA:</strong> Add exceptions to the 30-day absence policy to account for absences as needed for a reasonable accommodation and absences directly resulting from disaster or pandemic-related emergencies.</td>
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<td><strong>BHA response:</strong> Agreed.</td>
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<td>4 Waitlist</td>
<td>Adds ability to allow applicants on Project-based waitlist to be offered to move to the Tenant-based waitlist and vice versa, in order to identify applicants eligible for a special population voucher or prior to closing a waitlist. Clarifies that the Mod Rehab interest lists are managed by the Coordinated Entry System.</td>
<td>5</td>
<td>RAB: (a) Remove the word “could” in describing circumstances to move applicants from tenant-based to project based waitlists and vice versa. (b) Remove requirement that all household members must work</td>
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|         | Adds language with regard to a Mainstream Voucher limited waitlist opening, with limited public notice, to allow for referrals to BHA’s tenant-based wait list from the Coordinated Entry System, until all Mainstream Vouchers are leased up. | 7        | and add “unemployment” as income options for Project-move up eligible.  
**BHA response:** (a) Agreed. (b) Agreed, as all Project Move up participants have been single person adults. Will add unemployment as an option. |
|         | Clarifies the Project Move-up referral criteria is defined by referring agency staff: Shelter Plus Care Program Managers and Mod Rehab property managers. | 10       | **BALA:** Broaden outreach plan for limited waitlist opening for Mainstream Vouchers to include media outlets like television and radio. |
|         | Adds language for Mainstream Voucher Program local preference to include a HUD-defined category of eligible population. | 11       | **BHA response:** BHA has been in communication with HUD about the special nature of the 70 mainstream vouchers allotted in Berkeley, which are deemed eligible to be referred specifically by the Homeless Coordinated Entry System. Broadening media notification will provide a false sense of hope to the wider community that BHA is opening it’s Tenant-based waitlist again, when in fact, this limited opening will be simply for a very specific subset of the population that could qualify for a Mainstream Voucher, as identified and referred by BHA’s community partner, the Homeless Coordinated Entry System. |
| 6 Income/Subsidy Determinations | Adds ABLE (“Achieving a Better Life Experience”) savings accounts for people with disabilities to use for qualified disability expenses, to the list of excluded sources of income. | 36, 46   | **RAB:** Add language about whether making a withdraw from an ABLE account is counted as income  
**BHA response:** Added language that withdrawals from ABLE accounts are not counted as income, per HUD. |
| 8 Housing Quality Standards/Rent Reasonableness | Adds lack of working carbon monoxide detector to list of 24-hour/ emergency fail items. | 7        | **RAB:** None.  
**BALA:** In an effort to expedite move ins, BHA should implement alternative inspections as allowed per HUD HOTMA Notice 2017-20.  
**BHA response:** HUD Notice 2017-20 explicitly states that the alternative inspections provision does not eliminate the
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<td>11 Reexaminations</td>
<td>Adds language in line with HOTMA indicating that when Payment Standard decrease is implemented, the family will benefit from the higher Payment Standard as long as residing in the unit.</td>
<td>12</td>
<td>RAB: BHA should allow for a bedroom for a foster child.</td>
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<td><strong>BHA response:</strong> Fostering a child is considered a temporary arrangement. BHA provides increased voucher size for a child under court awarded or adoptive custody.</td>
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<td>13 Owners</td>
<td>Adds City of Berkeley’s Fair Chance Housing Ordinance as one of the rules/policies with which property owners have responsibility to be in compliance. Adds missing language “convicted of” to list of actions by a landlord for which BHA may refuse to enter into a tenancy of a program participants.</td>
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<td>RAB: None.</td>
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<td>BALA: None.</td>
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<td>15 Special Housing Types</td>
<td>Relaxes options for various special housing types as a reasonable accommodation. Clarifies language around homeownership option, that BHA does not operate a current homeownership program due to exceedingly high housing costs.</td>
<td>1</td>
<td>RAB: Land trusts may be able to assist with BHA embarking on a homeownership program.</td>
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<td>14</td>
<td><strong>BHA response:</strong> Agreed; should the housing purchasing market become an affordable reality, BHA will reconsider implementation of a Section 8 homeownership program.</td>
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<td>16 Program Administration</td>
<td>Adds language that family owing funds to BHA will not be able to port outside of the jurisdiction until debt paid in full.</td>
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<td>RAB: None.</td>
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<td><strong>BALA Comment #1:</strong> (a) Insert language reflecting that denial notices issued to applicants will cite the regulatory basis for the denial. (b) Insert language reflecting that VAWA notices will be provided with notices of proposed denial of assistance as well as proposed voucher termination. (c) Insert language that final informal review and informal hearing decision notices will advise the applicant that the</td>
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| 17 Project Based Vouchers | Adds language for consideration of extension of 1 – 20 year second PBV master HAP term to include “other fiscal justification...subject to Board review/approval.”
Adds language in line with HOTMA categories allowable for the extra 10% of Annual Contributions Contract approvable Project-based Vouchers.
Removes outdated language regarding selection of proposal criteria (making BHA entity responsible for maintaining the PBV waiting list and extent to which BHA will manage the compliance for tax credit units). | 2 | TIMELINE FOR REQUESTING JUDICIAL REVIEW OF THE FINAL DECISION IS GOVERNED BY CAL. CODE OF CIV. PROC. § 1094.6

**BHA response:** (a) BHA’s Admin. Plan already requires denial notices to include the regulatory reference. (b) Accepted. (c) Accepted.

**BALA Comment #2:** Eliminate the 50% down payment requirement for client repayment agreements. Make monthly repayment amounts lower, in alignment with HUD Notice 2017-12, so that rent costs and repayment costs equal no more than 40% of income; increase the number of months to complete repayment agreement.

**BHA response:** HUD Notice 2017-12 states that housing authorities have the discretion to establish thresholds and policies for repayment agreements. BHA will allow for flexibilities where program participants are experiencing undue hardships in being able to enter into repayment agreements, in keeping with BHA’s goals.

**BHA response:** Use “Housing Choice Voucher” instead of Tenant-based Section 8 Program.

**BHA response:** Made changes as appropriate. | 6 |
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<td>Adds items to selection notification sent to developers awarded PBVs to include requirements for conducting subsidy layering and environmental reviews and hiring Davis-Bacon wage monitor. Removes provision for allowing conditional approval of PBVs as long as site control is demonstrated within 90 days of award. Adds Certificate of Occupancy as one of the items required as evidence of completion of construction. Removes number of vacancy loss claims and demand for units as criteria for extending a master HAP PBV contract. Adds language that referrals from the Coordinated Entry System are accepted for units set aside for homeless populations. Clarifies language that families with a tenant-based voucher, qualifying under Violence Against Women Act (VAWA) may bypass the PBV waitlist. In compliance with the City of Berkeley’s Fair Chance Housing Ordinance, removes language that BHA may provide criminal activity to landlords. Clarifies that PBV rent increases may be requested at tenants’ contract anniversaries rather than the master HAP contract anniversary date.</td>
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| 18 Moderate Rehab Program   | Clarifies Project Move-up referrals come from Mod Rehab property managers.                                                                                                                                                                                                                                                                     | 6       | RAB: Change “Berkeley Food and Housing Project” to “Bay Area Community Services” as Coordinated Entry System service provider.  
  
  BHA response: Accepted. |
|                             |                                                                                                                                                                                                                                                                                                                                               |         |                                                                  |
## 5-Year PHA Plan
(for All PHAs)

**Purpose.** The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA’s operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA’s mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families.

**Applicability.** Form HUD-50075-SY is to be completed once every 5 PHA fiscal years by all PHAs.

### A. PHA Information.

#### A.1 PHA Name: Berkeley Housing Authority

PHA Code: CA058

- **PHA Plan for Fiscal Year Beginning:** (07/2020)
- **PHA Plan Submission Type:** ☒ 5-Year Plan Submission  
  [ ] Revised 5-Year Plan Submission

**Availability of Information.** In addition to the items listed in this form, PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. Additionally, the PHA must provide information on how the public may reasonably obtain additional information on the PHA policies contained in the standard Annual Plan, but excluded from their streamlined submissions. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official websites. PHAs are also encouraged to provide each resident council a copy of their PHA Plans.

Specific locations where the public may obtain copies of the 5-Year and Annual PHA Plan are:

1. BHA’s office, 1936 University Ave., Suite 150, Berkeley, CA 94704
2. BHA’s website, [www.cityofberkeley.info/bha](http://www.cityofberkeley.info/bha)
3. Calling 510-981-5470 for a copy to be mailed or
4. Emailing bha@cityofberkeley.info for a copy to be emailed.

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<th>PHA Consortia</th>
<th>(Check box if submitting a Joint PHA Plan and complete table below)</th>
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<td>Participating PHAs</td>
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<td>Lead PHA:</td>
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## B. 5-Year Plan

Required for all PHAs completing this form.

### B.1 Mission

State the PHA's mission for serving the needs of low-income, very low-income, and extremely low-income families in the PHA's jurisdiction for the next five years.

BHA's mission is to deliver rental housing assistance in the form of rental subsidy, and related services to low-income:
- Families, including those with children;
- Homeless, or at-risk of homelessness including those participating in the HUD Mainstream Voucher and Moderate Rehab Programs;
- Elderly persons 62 or older;
- Persons with disabilities including HIV/AIDS;
- Veterans including those participating in the HUD VASH Program;
- Emancipated youth from the foster care system; and
- Other low-income single persons who are not elderly or do not have verifiable disabilities.

BHA achieves this goal with the involvement of property owners/landlords willing to participate in our programs. To the extent reasonably possible, program participants are expected to avail themselves of supportive resources, services, education, training and job development activities to be able to achieve self-sufficiency and economic independence.

### B.2 Goals and Objectives

Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income, very low-income, and extremely low-income families for the next five years.

**Goals and Objectives for Next 5 Years:**
- Continue issuing new Tenant-based vouchers & Project-based voucher allocations
- Continue to apply for future NOFAs that allocate issuance of new voucher opportunities
- Collaborate with City of Berkeley to determine possible financial support of a sustained housing authority in Berkeley
- Determine feasibility of a low income housing development project with use of disposition proceeds
- Seek low-cost rental space for BHA office, when lease expires Dec. 31, 2020.
B.3 Progress Report. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan.

Progress in meeting the goals and objectives in the previous 5-Year Plan:

The previous 5-Year Plan goals were as follows, with progress reported after each goal.

- Implement the FSS Program (current HUD waiver expired May 2016).
  Progress: FSS program is implemented, with 24 out of 37 slots filled, and the remaining slots actively being filled. Out of those participating in FSS, 16 are earning escrow. FSS Coordinator position has been unfunded since implementation of the program because FSS Coordinator NOFA’s continue to state that only those programs that were funded in prior years can are qualified to apply. Though BHA attempted to apply for a new FSS NOFA for those agencies that had not been funded for an FSS Coordinator position previously, BHA was not selected for funding. Only one PHA in California was selected, out of 16 applications awarded, with 65 applications submitted nationwide.

- Review staffing levels to include possible programmatic expansion.
  Progress: BHA is still considering how this might be possible, given the federal funding level, prorated Admin. Fees, and our continued operational deficit.

- Research possibility of expanding into other programmatic areas including VASH, homeless continuum.
  Progress: BHA has been successful in obtaining three VASH allocations, for a total of 40 VASH vouchers currently. Additionally, BHA was awarded a two allocation of 70 Mainstream Vouchers in total.

- Research possible IT cost savings measures including possible lower cost database, phone system, and paperless office, etc.
  Progress: The City of Berkeley continues to support BHA’s IT/phone systems, and it has not been feasible, due to limited operational resources, to identify and implement a new database/phone system/paperless office.

B.4 Violence Against Women Act (VAWA) Goals. Provide a statement of the PHA’s goals, activities objectives, policies, or programs that will enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

BHA has a robust VAWA Plan, including details in the Administrative Plan, the BHA website, and a notice attached to every reexamination packet. Chapters in the Admin. Plan in which VAWA policies are mentioned include: Fair Housing and Equal Opportunity (Ch. 2); Eligibility (Ch.3); Moving with Continued Assistance & Portability (Ch. 10); Termination of Assistance and Tenancy (Ch. 12); Program Administration (Ch. 16).

For details, see BHA’s website, https://www.cityofberkeley.info/bha for the following documents:
- VAWA 2013 Notice to Program Participants
- VAWA 2013 Notice to Landlords
- Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- Notice of Occupancy Rights under the Violence Against Women Act
- VAWA Emergency Transfer Plan.

B.5 Significant Amendment or Modification. Provide a statement on the criteria used for determining a significant amendment or modification to the 5-Year Plan.

BHA’s definition of significant amendment or modification to the 5-Year Plan include substantial changes to the following facets of the Admin. Plan:
- Policy for insufficient funding;
- Waitlist management, preference categories and/or weights;
- Subsidy standards;
- Administration of the Project-based program.
### B.6 Resident Advisory Board (RAB) Comments.

(a) Did the RAB(s) provide comments to the 5-Year PHA Plan?

- [ ] Y
- [ ] N

(b) If yes, comments must be submitted by the PHA as an attachment to the 5-Year PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.

Please see attached chart which includes RAB Comments from the March 17, 2020 RAB meeting and comments from Bay Area Legal Aide.

### B.7 Certification by State or Local Officials.

*Form HUD 50077-SL, Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan,* must be submitted by the PHA as an electronic attachment to the PHA Plan.

Please see attached. **Forthcoming**
Instructions for Preparation of Form HUD-50075-5Y
5-Year PHA Plan for All PHAs

A. PHA Information 24 CFR §903.23(4)(e)

A.1 Include the full PHA Name, PHA Code, PHA Fiscal Year Beginning (MM/YYYY), PHA Plan Submission Type, and the Availability of Information, specific location(s) of all information relevant to the hearing and proposed PHA Plan.

PHA Consortia: Check box if submitting a Joint PHA Plan and complete the table.

B. 5-Year Plan.

B.1 Mission. State the PHA’s mission for serving the needs of low-income, very low-income, and extremely low-income families in the PHA’s jurisdiction for the next five years. (24 CFR §903.6(a)(1))

B.2 Goals and Objectives. Identify the PHA’s quantifiable goals and objectives that will enable the PHA to serve the needs of low-income, very low-income, and extremely low-income families for the next five years. (24 CFR §903.6(b)(1)) For Qualified PHAs only, if at any time a PHA proposes to take units offline for modernization, then that action requires a significant amendment to the PHA’s 5-Year Plan.

B.3 Progress Report. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan. (24 CFR §903.6(b)(2))

B.4 Violence Against Women Act (VAWA) Goals. Provide a statement of the PHA’s goals, activities, objectives, policies, or programs that will enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking. (24 CFR §903.6(a)(3))

B.5 Significant Amendment or Modification. Provide a statement on the criteria used for determining a significant amendment or modification to the 5-Year Plan.

B.6 Resident Advisory Board (RAB) comments.

(a) Did the public or RAB provide comments?
(b) If yes, submit comments as an attachment to the Plan and describe the analysis of the comments and the PHA’s decision made on these recommendations. (24 CFR §903.17(a), 24 CFR §903.19)

This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the 5-Year PHA Plan. The 5-Year PHA Plan provides the PHA’s mission, goals, and objectives for serving the needs of low-income, very low-income, and extremely low-income families and the progress made in meeting the goals and objectives described in the previous 5-Year Plan.

Public reporting burden for this information collection is estimated to average .76 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

Privacy Act Notice. The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.