



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Public and Indian Housing**

Special Attention of:
Public Housing Agencies
Regional and Field Office Directors of Public
Housing
Regional Administrators

Notice PIH 2013- 21 (HA)

Issued: August 23, 2013

Expires: Effective until amended,
superseded, or rescinded

Cross Reference: 24 CFR Part 964
PIH Notice 2001-3

Subject: Guidance on the use of Tenant Participation Funds

1. Purpose. This notice serves to clarify previous guidance on the use of tenant participation (TP) funds as established by 24 C.F.R. § 964.150 and supersedes PIH Notice 2001-3.

2. Applicability. This notice applies to all public housing agencies (PHAs) operating public housing (PH) programs.

3. Background. The regulations on tenant participation funding allow for a more active resident role in determining TP funding use and a broader range of eligible activities than was previously outlined in PIH Notice 2001-3, including allowing self-sufficiency activities as eligible uses. The regulations at § 964.150(a)(2) require PHAs to provide TP funds to duly elected resident councils. The regulation also states that TP funds must be used for activities outlined in § 964 subparts B and this Notice clarifies that subpart C is also applicable in providing guidance on the use of TP funds, specifically § 964.205(b)(1)-(6). A list of eligible uses is provided in Section 7 of this Notice.

4. Tenant Participation Funds and the Roles of PHAs and Resident Councils. To correctly apply the Department's policy on TP funds, it is important that PHAs and RCs understand their specific roles and responsibilities.

The Role of the PHA

The PHA's role in regards to the use of TP funds is to:

- Provide TP funds to duly elected RCs as required by § 964.150(a)(2) (TP funds may be prorated due to Operating Fund proration);
- Collaborate with RCs on how funds will be distributed in accordance with § 964.150(3);
- Administer TP funds reasonably and efficiently, including establishing policies on how a RC is to make a request for TP funds and ensuring that funds are being used responsibly;

- Enter into a written agreement with a RC on the use of TP funds as described in § 964.150(b)(3);
- Ensure the RC's requested activity is consistent with the requirements under § 964, subparts B and C;
- Maintain accurate records of TP funds and expenditures and provide this information to RCs; and
- Advise RCs on the supporting documentation that may be necessary to verify and audit expenses.

PHA policies on the use of TP funds should be designed to ensure that each funding request from a RC:

- 1) Is consistent with the applicable HUD requirements and the PHA Plan;
- 2) Incorporates appropriate financial controls, including the submission of a budget, conforms with procurement rules and insurance requirements, etc.; and
- 3) Meets other administrative requirements specified in the written agreement between the PHA and the RC.

PHAs may need to provide or encourage RCs to seek technical assistance in the areas of administration, budgeting, and financial reporting to comply with PHA policy. If an RC does not have the technical capacity to comply with PHA TP fund use policy, the PHA may use TP funds to provide technical assistance and training in these areas to the RC.

If residents have not yet established a RC, the PHA should fund allowable activities for residents and may use TP funds to improve resident capacity in establishing and operating a RC.

The Role of the Resident Council

In accordance with § 964.100, the role of the resident council (RC) is to improve the quality of life and resident satisfaction and to participate in self-help initiatives that enable residents to create a positive living environment for families living in public housing.

The RC's responsibility regarding tenant participation funds includes:

- Entering into a written agreement with the PHA in order to receive the TP funds;
- Submitting a budget for the use of the TP funds;
- Providing assurances that all resident council expenditures will not violate provisions of law and will promote serviceability, efficiency, economy and stability in the operation of the local development; and
- Accounting to the PHA for the use of the funds and permit the PHA to inspect and audit the resident council's financial records related to the agreement.

RCs and their leadership play an active role in determining how the tenant participation funds will be used to improve the quality of life for public housing residents. In accordance with 24 CFR Part 964 subpart B, each RC has the ability to decide which activities they will pursue to expend TP funds as long as they:

- 1) Meet the intent of HUD's regulations;
- 2) Comply with the PHA's tenant participation funding guidelines and procurement policies; and

- 3) Are made in accordance with the written agreement with the PHA.

Under previous guidance a program providing literacy materials for children could be denied by the PHA. Under this updated guidance, this activity should be an allowable activity because it is consistent with those activities listed under § 964.205(b)(1)-(6). Additional examples of activities that would be allowable under this updated policy, and examples of unallowable activities are listed in Section 6 of this Notice. These lists are not exhaustive.

5. Tenant Participation Funds in Mixed-Income Communities. Public Housing residents in mixed-income communities are eligible to use TP funds in accordance with the requirements outlined in this Notice.

The Department recommends that the amount of TP funds used for eligible activities be in appropriate proportion to the number of public housing residents who live in the development or community. For example, if a mixed-income development is composed of half public housing residents and the resident association would like to purchase computers for a community center, the resident association could fund half of this expense with TP funds. TP funds along with other sources of funds may be used to support eligible resident participation and self-sufficiency activities benefitting all of the development's residents. This does not prohibit the ability of these associations and/or management from funding activities entirely with other sources.

PHAs serving mixed-income communities must adopt policies as outlined in Section 4 of the Notice regarding the use of TP funds in these communities.

6. Resolution of Disputes. The Department strongly encourages residents and PHA staff to resolve questions concerning specific uses of TP funds or proposals for TP funds at the PHA level. § 964.150(a)(3) states that if a dispute over funding arises:

- The issue shall be referred to the HUD Field Office for intervention.
- The Field Office will require the parties to undertake further negotiations to resolve the dispute.
- If there is no resolution after 90 days from the date of the Field Office intervention, the issue shall be referred to HUD Headquarters for final resolution.

Issues deemed unresolved by the Field Office shall be referred to the Office of Public Housing Programs office, and other program offices as appropriate, in Headquarters for resolution.

While HUD may hear disputes over uses of TP funds, the Department cannot overturn PHA policies that are consistent with relevant statutes and regulations. HUD can determine whether the PHA's policy is a permissible implementation of the applicable statutes and regulations.

7. Allowable and Unallowable Activities. The following is not a comprehensive list of allowable and unallowable activities. However, this represents a starting framework that PHAs may use in establishing their TP policies and for RCs to assess the suitability of requests for the use of TP funds.

Allowable Activities

- Those included in PIH Notice 2001-3 and those outlined in § 964.140 and 964.150:
 - Consultation and outreach efforts that support active interaction between the PHA and residents
 - Activities that inform residents on issues and/or operations that affect resident households and their living environment
 - Resident surveys and other mechanisms to collect resident input
 - Annual membership events or site-based community activities that enhance resident participation
 - Resident commissioner training, resident council (RC) training, resident advisory board (RAB) training, leadership development, household training, orientation and training for new and existing residents on resident responsibilities
 - Resident council elections and organizing
 - Planning functions for matters such as the Public Housing Agency Plan (PHA Plan), revitalization, safety and security, property management and maintenance, and capital improvements
 - Reasonable refreshment and light snack costs that are directly related to resident meetings for the activities discussed in this section
 - Stipends to resident council officers who serve as volunteers in their public housing developments
- Self-sufficiency and capacity building activities, such as those listed in § 964.205:
 - Social support needs (such as self-sufficiency and youth initiatives) including: coordination of support services; training of residents for programs such as child care, early childhood development, parent involvement, volunteer services, parenting skills, before and after school programs, and senior programs; training programs on health, nutrition and safety; child abuse and neglect prevention; tutorial services, including those in partnership with community-based organizations such as local Boys and Girls Clubs, YMCA/YWCA, Boy/Girl Scouts, Campfire and Big Brother/Big Sisters, etc.; youth education and sports programs; drug use and violence prevention programs; financial literacy and credit counseling
 - Resident management training for residents in skills directly related to the operation, management, maintenance, and financial systems of a project as potential employees of an existing or proposed resident management corporation (RMC), including training on nondiscrimination and equal opportunity requirements
 - Training related to the development of resident-owned businesses and technical assistance for job training and placement in RMC developments

Unallowable Activities

Any activity outside the scope of the PHA policy and HUD regulatory requirements behind TP funds and activities. Unallowable expenses also include any activities prohibited by laws related to fair housing and non-discrimination. In addition, the Office of Management and Budget's (OMB) Circular A-87 prohibits the use of federal funds, including TP funds, for the following:

- Purchase of alcoholic beverages
- Entertainment, where the dedicated purpose of the event falls under the following categories:
 - Amusement (trips to theme parks, county fairs, etc.)
 - Diversions (theatre, movies, sports events, etc.)

- Social activities (parties, bowling nights, etc.)
- Any directly associated costs for the events in the categories above (tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities)
- Organized fund raising costs, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions, regardless of the purpose for which the funds will be used

Although TP funds cannot be used for the activities listed above, the Department encourages RCs and PHAs to seek additional funds or partnerships to provide activities with beneficial outcomes to public housing residents and communities.

8. Proposed Criteria for Evaluating Use of TP Funds. HUD encourages PHAs and RCs to consider the following criteria in conducting the evaluation of proposed TP fund expenditures:

- Is the proposed TP activity consistent with the written agreement between the PHA and the RC regarding TP funding?
- Is the requested activity consistent with the intent of HUD's regulations and the PHA's policies?
- Is the request clear? What exact activity or resource is being requested by the RC?
- Will residents have equal or broad access to the resource being provided? Will this expense benefit an individual or is it being made available to a larger group?
- Is the proposed TP activity reasonable in cost? Does the request include consideration of other more affordable alternatives? Can other vendors provide a similar resource at a lower cost? Will this expense present any conflicts of interest? Does the proposed expense abide by applicable procurement policies?
- Is the requested expense reasonable considering the PHA's size, residents served, and the amount of TP funds available?
- Is the proposed TP activity to take place locally? If not, is there a compelling reason for the activity to take place outside of the PHA's jurisdiction?
- Are the needs of the community, such as those documented in the PHA Plan, being met by the proposed TP activity?
- Will the RC be able to provide the appropriate receipts and invoices for auditing purposes?

In addition, HUD recommends that PHA policy on TP fund use require a written explanation for any denied requests, which should provide specific details as to why the request failed to meet established evaluation criteria.

9. Further Information. Questions regarding this memorandum may be directed to Ms. Virginia Flores at 202-402-6270 or by email at Virginia.Flores@hud.gov.

/s/

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Housing