



OFFICE OF PUBLIC AND INDIAN HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

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

Notice: PIH 2021-16 (HA)
Issued: May 18, 2021
Expires: Effective until amended,
superseded, or rescinded
Cross Reference: 24 CFR Part 964
PIH Notice 2001-3, PIH Notice 2013-21

Subject: Guidance on the use of Tenant Participation Funds

1. Purpose. This notice serves to clarify previous guidance on the use of tenant participation funds as established by 24 CFR § 964.150 and supersedes PIH Notice 2013-21.

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

3. Background. HUD encourages resident participation and the active involvement of residents in all aspects of a PHA's overall mission and operation, particularly through duly-elected resident councils (RC). The role of a resident council is to improve the quality of life and resident satisfaction and participate in self-help initiatives to enable residents to create a positive living environment for families living in public housing. To support resident participation, HUD provides funding through the Operating Fund Grant (24 CFR Part 990) to PHAs specifically for resident participation activities. This Notice provides guidance on the use and financial management of Tenant Participation (TP) funds, including a framework to determine allowable expenses.

4. Tenant Participation Funds and the Roles of PHAs and Resident Councils. When appropriations are sufficient, HUD provides \$25 per unit, per year to PHAs through the Operating Fund Grant (24 CFR 990.190(e)) for TP activities, including but not limited to, those described in 24 CFR part 964. This funding is subsequently provided to the RCs to create a bona fide partnership among the duly-elected resident councils, the PHA and HUD.¹ Of this amount, \$15 per unit, per year is provided to duly-elected RCs at each development and/or those jurisdiction-wide councils eligible to receive the resident portion to carry out purposes for which it was provided.² \$10 per unit per year would be used by the PHA to pay for costs incurred in carrying out activities under 24 CFR 964, subpart B as described in Section 6 of this Notice.

¹ 24 CFR § 964.150(a)(1)

² 24 CFR § 964.150(a)(1)

To correctly apply the Department's requirements on TP funds, it is important that PHAs and RCs understand their specific roles and responsibilities.

A. The Role of the PHA

The PHA's role with respect to the use of TP funds is to:

- Collaborate with the RC and enter into a written agreement on the distribution and use of TP funds;
- Administer TP funds timely and in accordance with the written agreement with the RC;
- Ensure the RC's requested expenses are allowable under HUD regulations and consistent with the written agreement;
- Advise RCs on the supporting documentation that may be necessary to verify and audit expenses;
- Maintain accurate records of TP funds and expenditures and provide this information to RCs; and
- Inspect and audit the RC's financial records.

PHA policies on the disbursement of TP funds, as incorporated in the written agreement, should be designed to ensure that each funding request from an RC:

- 1) Is consistent with the applicable HUD requirements as provided in the written agreement;
- 2) Incorporates appropriate financial controls, including the submission of a budget and conformance with HUD (2 CFR Part 200) and local procurement rules and insurance requirements, if applicable; and
- 3) Meets other administrative requirements specified in the written agreement between the PHA and the RC (described below).

PHAs may need to provide or encourage RCs to seek technical assistance in the areas of administration, budgeting, and financial reporting to comply with HUD requirements for TP funds and the written agreement with the PHA. The PHA may use the PHA's portion of the TP funds to provide technical assistance and training in these areas.

B. The Role of the Resident Council

RCs and their leadership play an active role in determining how the TP funds will be used to improve the quality of life for public housing residents. Each RC has the ability to decide which activities they will pursue to expend TP funds as long as the expenditures:

- 1) Are made in accordance with the written agreement with the PHA and
- 2) Comply with the HUD requirements for use of TP funds.

C. Written Agreement

The written agreement between the PHA and the RC is required and establishes the parties' relationship as it relates to TP funds and governs decisions on how TP funds are budgeted,

disbursed, and audited.³ HUD encourages PHAs and RCs to develop agreements that establish a collaborative partnership, provide flexibility, and support autonomy facilitating the leadership of RCs for their communities.

At a minimum, the written agreement must:

- Require the RC to submit a budget to request and receive TP funds;
- Require the RC to provide assurance that all expenditures comply with all relevant provisions of law and will promote serviceability, efficiency, economy and stability in the operation of the local development;⁴
- Require the RC to account to the PHA for the use of the funds;⁵ and
- Require the RC to permit the PHA to inspect and audit the RCs financial records related to the agreement.⁶

In addition, HUD recommends as a best practice that the written agreement:

- Describe how proposed TP fund requests will be evaluated;
- Describe the method and timing of disbursements;
- Describe any agreements for transfers of funding to either jurisdiction-wide councils or RCs at other developments;
- Describe specific legal, conflict of interest, procurement and/or insurance requirements;
- Describe the PHA's process for inspecting and auditing the RC's financial records;
- Describe the minimum records needed for an audit;
- Provide that the PHA deliver a written explanation for any denied requests, describing why the request failed to meet established evaluation criteria; and
- Describe how the parties will remedy misappropriation of funds.
 - a. For example, the description might include how remedies for misspent funds will be handled, including whether remedies may be negotiated between the PHA and the RC or, if a tenant member of the RC is responsible for that misuse of funds, between the PHA and that member.
 - b. The description might also identify the role of the PHA's counsel in the establishment of the terms of any remedial agreement.

5. Financial Management of TP Funds. This Section provides guidance on accounting for funds provided for resident participation activities.

Resident participation activities is a formula element of the Operating Fund Grant that provides TP Funding. Therefore, PHAs do not receive TP funding, per se. HUD regulations permit PHAs to fund \$25 per unit per year for units represented by duly-elected RCs for tenant participation activities, subject to the availability of appropriations; \$15 per unit per year to the RC and \$10

³ 24 CFR § 964.150(b)(3); While the written agreement for the use of TP funds is separate from the required Memorandum of Understanding (MOU) described in 964.18(a)(10), the written agreement may be included in the MOU.

⁴ 24 CFR § 964.150(b)(3)

⁵ 24 CFR § 964.150(b)(3)

⁶ 24 CFR § 964.150(b)(3)

per unit per year to the PHA.⁷ The minimum amount of \$15 to be provided to the RC may be adjusted to reflect the Operating Fund Grant proration rate each year. A PHA, at its discretion, may fund the RC above the \$15 minimum, however, the PHA remains responsible for supporting TP activities.⁸

Funding can only be provided to an RC, or payments made on behalf of the RC, under a written agreement and the agreement must include provisions as outlined above in Section 4C: “Written Agreement.”⁹

A. PHA Expenditure of Funds for an RC

Any allowable payments made to or on behalf of an RC meet the definition of a PHA expense. Funds due from the PHA to an RC for expenses incurred on or before calendar year end are also considered PHA expenses for the calendar year. PHAs should not place funds for an RC in a PHA controlled escrow. Funds placed in a PHA-controlled escrow are not considered expenses. PHAs should be aware that Operating Funds must be expended by the cancellation date as defined by the Appropriations Law for that fiscal year. Operating Funds from 2016 and before cancel in six years; Operating Funds after 2017 (subject to change based upon future Appropriation Acts) cancel in seven years.

HUD encourages PHAs to pay to the RC the entire \$15 per unit by the end of the calendar year. The written agreement will determine the method and timing of disbursements to the RC. Best practices limit the amount of time between the distribution of funds and expenditure by the RC, such as quarterly disbursements. Any TP funds remaining in RC controlled accounts at the end of the calendar may remain in those accounts for subsequent allowable RC expenses because those funds are considered to have been expended by the PHA. To the extent \$15 per unit is not expended by the PHA because the RC’s allowable expenses did not use all available funds in the calendar year, then there is no requirement for the PHA to pay the RC any remaining balance of the \$15 per unit the following calendar year.

B. Absence of an RC and formation of a new RC

The formula element of the Operating Fund Grant that provides tenant participation funding is not dependent upon the existence of resident organizations. If there is no duly-elected RC, HUD still encourages the PHA to inform residents of the availability of TP funds and to use up to \$10 per unit, per year to carry out tenant participation activities, including training and building resident capacity to establish and operate an RC.¹⁰ If a duly-elected RC is formed during the funding year, the PHA must provide the RC with a minimum of \$15 per unit per year to fund resident activities. These amounts must be available for this purpose for the entire funding year.

If there is interest by residents, a PHA may engage a jurisdiction-wide councils or separate local RC to implement local activities at developments with no RC and may make available the TP

⁷ 24 CFR § 990.190(e)

⁸ 24 CFR § 964.18

⁹ 24 CFR § 964.150(b)(3)

¹⁰ 24 CFR § 964.140, § 964.18

funding allocated for that local development as defined by written agreement. In this scenario, if an RC is formed during the funding year, the PHA must provide the RC with the remaining balance of funds allocated for that local development.

At the end of the funding year, if a duly-elected resident council has not been formed the PHA may use the remaining tenant participation amounts for resident participation activities for any eligible Operating Fund expense.

C. Increasing TP Funding at an Asset Management Projects (AMPs)

Tenant participation is an element of eligibility in the Operating Fund Formula. As such, PHAs do not receive separate funding for tenant participation. Rather, tenant participation is an eligible use of Operating Subsidy. PHAs who do not expend Operating Subsidy at one project may want to increase the TP funding they provide to an RC at another project. Transferring funds between projects is addressed in Section 6.2 of the Supplement to HUD Handbook 7475.1 REV., CHG-1, Financial Management Handbook, transmitted via [PIH Notice 2007-9](#). However, PHAs are not required to transfer Operating Subsidy to another project in order to increase the TP funding they provide to an RC. The amounts referenced in this Notice and in 24 CFR part 964 do not represent caps on amount spent on tenant participation activities, but rather are minimums, provided the requirements for making such payments are met.

Pursuant to written agreements between a PHA and an RC, an RC eligible for TP funding may transfer their eligibility to resident councils at other projects or to a jurisdiction-wide resident council. Such transfers will not impact the calculation of a project's Operating Fund Formula and the amount of Operating Subsidy that project receives.

6. Allowable and Unallowable Expenses

A. Allowable Expenses

TP expenditures are generally allowable if necessary and reasonable¹¹ for the purposes stated in 24 CFR Part 964 Subpart B and consistent with the written agreement between the PHA and RC. Purposes for which TP funds may be used for activities to improve the quality of life, as well as resident satisfaction and participation in self-help initiatives that enable residents to create a positive living environment for families living in public housing.¹² HUD encourages PHAs and RCs to work collaboratively to identify eligible activities within these broad parameters to be included in the written agreement and accompanying budget. HUD encourages RCs and PHAs to partner with local organizations to undertake any of these activities.

B. PHA-specific activities

TP funds are provided to PHAs to pay for costs incurred in carrying out tenant participation activities under 24 CFR Part 964 Subpart B including the expenses for conducting elections, recalls or arbitration required under § 964.130.

¹¹ 2 CFR § 200.404

¹² 24 CFR §964.100

Generally, TP funds cannot be used to supplant the salaries of PHA staff since the PHA is allocated Operating Subsidy from HUD to cover these salary costs. The per unit per year amount allocated to PHAs may be used by the PHA to pay for costs incurred in carrying out tenant participation activities, including the expenses for conducting elections, printing, renting of space for meetings (if requested/needed and not available at the PHA's properties), hiring an arbitrator, or as permitted under 24 CFR Part 964 Subpart B. HUD recognizes that some of these activities represent staff time and some PHAs may employ staff specifically to support and liaise with RCs. In those instances, the amount of funding used for PHA staff salaries must be directly proportionate to staff time specifically carrying out allowable tenant participation activities.

C. Unallowable Expenses

TP funds may not be used for any activity outside the scope of the TP fund written agreement and HUD regulatory requirements at 24 CFR Part 964 Subpart B. Unallowable expenses also include any activities prohibited by fair housing and non-discrimination laws. In addition, federal funds are prohibited, including TP funds, for the following:¹³

- Purchase of alcoholic beverages
- Entertainment, where the dedicated purpose of the event falls under the following categories:
 - Amusement (e.g., trips to theme parks, county fairs)
 - Diversions (e.g., theatre, movies, sports events)
 - Social activities (e.g., parties, bowling nights)
 - Any directly associated costs for the events in the categories above (tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities)
 - Organized fundraising costs, including financial or political 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

As the list provided does not include all unallowable activities, PHAs and RCs should become familiar with the applicable 2 CFR 200 Subpart E requirements related to permissible use of federal funds.

¹³ 2 CFR § 200.420 - § 200.475

7. Proposed Guide for Evaluating TP Fund Expenses. TP expenditures are generally allowable if necessary and reasonable for the purposes stated in 24 CFR Part 964 Subpart B and consistent with the written agreement between the PHA and RC. See 2 CFR 200.403 for further clarification regarding factors affecting allowability of costs. Generally, a cost is reasonable if the nature and amount do not exceed what a reasonable person would incur under the same circumstances.¹⁴ HUD encourages PHAs and RCs to consider the following chart as a resource to evaluate whether a proposed TP fund expenditure is necessary and reasonable. If the answer to the question in the first column is no, then use the additional questions to explore other options. If a yes cannot be reached, the expenditure may not be an allowable expense.

Question		Y	N	If no, Additional Questions/ Tips to help refine request
1.	Is the expense necessary and reasonable in order carry out the purposes ¹⁵ for which the TP funds were provided?			
2.	Is the proposed TP activity consistent with the written agreement between the PHA and the RC?			Can the activity or the agreement be revised?
3.	Is the proposed activity included in the RC's approved budget?			Can be budget be amended?
4.	Is the specific proposed activity or resource requested by the RC clear?			If no, what details does the RC need to include?
5.	Is this expense of benefit to the community at large and not for an individual's personal gain?			Can RC clarify how this will benefit the larger community?
6.	Is the cost reasonable according to procurement policies or other relevant policies in the written agreement?			Are the guidelines for cost reasonableness agreed upon by the PHA and RC? If no, can agreed upon guidelines be established?
8.	Will the RC be able to provide the appropriate receipts and invoices for auditing purposes?			Can tools or training be provided to the RC to assist?
9.	Will this expense present any conflicts of interest?			Are there any alternatives that may prevent this conflict?
10.	If applicable, does the proposed expense abide by the PHA's procurement policy?			
11.	If the proposed activity includes food or transportation, are the costs necessary and reasonable?			Is the proposed activity allowable? How long is length of event? Where it is located? Are there safety concerns? Are there nearby food options are available? What is the time of day? How may it impact participation?

¹⁴ 2 CFR § 200.404

¹⁵ 24 CFR § 964.100

8. 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, the resident association could fund half of the expense of an eligible activity 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.

9. RAD and Resident Councils. Properties converting from Public Housing to Project Based Rental Assistance (PBRA) or Project Based Vouchers (PBV) through the Rental Assistance Demonstration (RAD) program are subject to [Notice H-2019-09 PIH-2019-23 \(HA\), Rental Assistance Demonstration REV-4](#) which includes guidelines on the use of TP Funds (see Section 1.B2 "Resident Participation and Funding").

10. Resolution of Disputes. HUD recognizes that during the collaborative process there may be disagreement.¹⁶ The Department strongly encourages residents and PHA staff to work together to resolve questions concerning specific uses of TP funds or proposals for TP funds. HUD intervention should only be sought when the dispute is at an impasse.

If a HUD intervention is required, the PHA or RC may submit a formal written request that outlines their position and reasoning, setting out the circumstances including attempts to resolve the dispute and providing copies of relevant materials evidencing the efforts to negotiate in good faith.

Intervention requests must be made to the local HUD Field Office. Upon a request for HUD intervention, the Field Office will require the parties to undertake further negotiations in a good faith effort to resolve the dispute. The HUD Field Office, at its discretion, may act as a neutral facilitator; however, HUD suggests that the PHA and RC engage a neutral third-party facilitator or mediator, if feasible which is an eligible TP fund expense. If the PHA and RC do not achieve resolution within 90 days from the date of the request for Field Office intervention, the Field Office will refer the matter to the Office of Public Housing Programs in Headquarters (HQ) for final resolution. The referral to HQ should include a memo that demonstrates attempts to achieve a resolution and a clear outline of the two party's differing positions and reasoning.

The Office of Public Housing Programs may contact the parties for additional information and will only review disputes that have been submitted to the Field Office first. The review process will only determine whether the underlying policy affecting the dispute is a permissible

¹⁶ 24 CFR § 964.150(a)(3)

implementation of the applicable statutes and regulations. While HQ may provide recommendations, HUD cannot overturn actions that are consistent with relevant statutes and regulations. If necessary, HQ's response will outline any required corrective actions the parties must take, to be monitored by the Field Office.

11. Further Information. Questions regarding this Notice may be directed to publichousingpolicyquestions@hud.gov.

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/s/

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