

U. S. Department of Housing and Urban Development

Office of Public and Indian Housing

Special Attention of:	NOTICE PIH 2001-3 (HA)
Secretary's Representatives;	
State/Area Coordinator;	Issued: January 18, 2001
Senior Community Builders;	
Public Housing Directors;	Expired: January 31, 2002
Public Housing Agencies	

Cross References

Subject: Interim Instructions on Distribution and Use of Operating Subsidy Funds Received for Resident Participation Activities

PURPOSE

The purpose of this Notice is to provide Public Housing Agencies (PHAs) and those Resident Management Corporations (RMCs) that are directly funded by the Department of Housing and Urban Development (HUD) with interim instructions on the distribution and use of operating subsidy funds received for resident participation activities. These instructions will remain in force until such time as HUD can complete rulemaking to revise 24 CFR Part 964.

Because HUD has not yet completed rulemaking on 24 CFR 964, this notice provides guidance on how operating subsidy funds received by PHAs and RMCs for resident participation shall be distributed and used. This notice will apply to federal Fiscal Year (FY) 2001 funds distributed under another notice to be published once the Interim Rule implementing an Operating Fund formula is published. This notice assumes that the Interim Rule will contain provisions regarding the \$25 per occupied unit per year for resident participation activities.

BACKGROUND

On July 10, 2000 (65 FR 42488), HUD published for public comment a proposed rule to implement an Operating Fund Formula for determining the payment of operating subsidies to public housing agencies (PHAs). As required by statute, the July 10, 2000 proposed rule was developed through negotiated rulemaking procedures.

In its development of the proposed rule, the Negotiated Rulemaking Committee (the "Committee") discussed at substantial length the importance of resident participation to the success of public housing. The Committee convened pursuant to Section 9(f) of the United States Housing act of 1937, as enacted by the Quality Housing and Work Responsibility Act of

1998 (QHWRA), hereafter, referred to as the Public Housing Reform Act (PHRA). The Committee noted that the PHRA places value on resident participation by requiring, with certain exceptions, at least one resident on the PHA Board of Commissioners as well as resident involvement in the PHA Plan process through Resident Advisory Boards (RAB).

As a result, one of the most significant changes to the current Performance Funding System (PFS) regulations contained in the July 10, 2000 proposed rule was a proposal to require each PHA to include in its operating subsidy calculation, \$25 per occupied unit per year for resident participation activities as an add on expense component for subsidy eligibility.

In reaching a consensus on supporting resident participation activities through the new operating subsidy formula, the Committee agreed that details on the distribution and use of operating subsidy funds received for resident participation activities would be provided in 24 Part 964 of HUD's regulations. HUD had announced to the Committee that it was developing a proposed rule that will revise the Part 964 regulations in their entirety.

HUD is committed to developing 24 CFR 964 with the active participation of public housing residents. HUD has solicited resident input through the scheduling of public forums, especially those that were held in conjunction with training for resident organizations and PHAs on the Public Housing Reform Act.

HUD POLICY ON ADMINISTERING RESIDENT PARTICIPATION FUNDS

Funding for resident participation shall be made in an equitable manner based on the number of occupied units per year. For purposes of determining the amount of funds to be received, a unit may be occupied by a public housing resident, a PHA employee, or a police officer. PHAs shall work in partnership with the recognized City-Wide Resident Organization (CWRO), where such organizations exist to determine the activities and distribution of resident participation funding. In cases where there is no CWRO, the PHA and the duly elected RCs, where they exist, will partner to determine the activities and distribution of resident participation funding. Since a duly elected RC may not exist for every housing development, the duly elected RCs that do exist shall negotiate with the PHA on behalf of all residents. In situations where there are no duly elected RCs or a CWRO, the PHA shall work in partnership with the Resident Advisory Board (RAB) that is formed in connection with the PHA Plan. Under these circumstances, the RAB shall provide resident input in the annual decision making process for resident participation activities and funding. The RAB membership consists of residents who adequately reflect and represent all the residents assisted on a PHA-wide basis.

The specific roles and responsibilities regarding the activities to be undertaken between the parties shall be documented in writing. Written documentation regarding the agreement must be reviewed and updated annually by the parties.

ACTIVITIES ELIGIBLE FOR RESIDENT PARTICIPATION FUNDS

Resident participation activities are intended to supplement PHA Plan activities and training. Activities eligible for resident participation funds include consultation and outreach for public housing residents that support active interaction between the PHA and residents. The scope of resident participation shall include such activities as those to inform, acquaint, advise, promote and update residents of public housing concerning the issues and/or operation that affect resident households and their living environment, resident surveys and other forms of resident input, as well as, annual membership events or site-based community promotions/publicity that enhance resident participation. Minimal refreshment costs that are directly related to resident meetings for the activities discussed above are eligible uses of resident participation funds. Refreshment costs associated with entertainment shall be prohibited under this funding.

Additionally, resident participation may include but is not limited to resident outreach and promotional activities, commissioner training, RC training, RAB training, RC elections and organizing, leadership development, household training, and communication; orientation and responsibilities for new and existing residents; and planning functions for such items as the Public Housing Agency Plan, revitalization, safety and security, property management and maintenance, and capital improvements.

FUNDING AMOUNT

Each PHA shall include in the operating subsidy eligibility calculation, \$25 per occupied unit per year for resident participation activities, including, but not limited to, those described in , “Activities Eligible for Resident Participation”, above. If in any fiscal year, appropriations are not sufficient to meet all funding requested for operating subsidy, then the \$25 per occupied unit per year for resident participation activities will be subject to pro-ration. For purposes of this Notice, a unit may be occupied by a public housing resident, a PHA employee, or a police officer. The PHA must: (1) provide and expend funding allocated for resident participation regardless of the PHA’s financial status; and (2) determine the use of funds for resident participation in accordance with the results of collaboration between the PHA, duly elected RCs, CWRO, or RAB members, as applicable, where such organizations exist.

DISTRIBUTION OF FUNDS FOR RESIDENT PARTICIPATION ACTIVITIES

Resident participation funds shall be distributed to those entities that hold an Annual Contribution Contract (ACC). The PHA, or a Resident Management Corporation (RMC) if receiving operating subsidy directly, is responsible for allocating funding received for resident participation activities. These entities can, in turn allocate and redistribute funding to RCs, CWRO or the RAB, with the capacity to administer and account for funds. Funding decisions should be a collaboration between the PHA or RMC (as a direct funding recipient), and RC, CWRO, or RAB. This collaboration is evidenced by the MOU.

RESOLUTION OF FUNDING DISPUTES

If disputes regarding funding decisions arise between the PHA and the affected parties, and if no agreement is reached on the activities or the disposition of funds within 120 days from the start of the PHA's fiscal year, then resident participation funding must be used by the PHA for resident education activities related to HUD policies and procedures. In this case, the uses of resident participation funding must be included in the PHA Plan or an amendment to the PHA Plan (which shall not be considered a "significant amendment" to the PHA Plan).

ACTIVITIES INELIGIBLE FOR RESIDENT PARTICIPATION FUNDS

Activities ineligible for resident participation funds include but are not limited to entertainment, including associated cost such as food and beverages, except normal per diem for meals related to travel performed in connection with official duties and responsibilities (in accordance with travel policy established by HUD Notice 99-24, purchase or rental of land, purchase of any vehicle car, van, bus, etc.), payment of fees for lobbying services, any expenditures that are incurred contrary to HUD or OMB directives, and any cost for which funds are being provided from other HUD sources.

RECIPIENTS INELIGIBLE FOR RESIDENT PARTICIPATION FUNDS

Housing choice and enhanced voucher recipients are not eligible for resident participation funding from operating subsidy.

The PHA must use funds in the administrative fee reserve to pay Section 8 administrative expenses. If any funds remain in the administrative fee reserve, the PHA may use the administrative fee reserve funds for other Section 8 housing purposes if permitted by State and local law. The Section 8 administrative reserve funds may be used to fund Section 8 family participation activities separate from operating subsidy distributions.

MONITORING AND FUNDING ACCOUNTABILITY

Each PHA shall develop a system for annual fiscal accountability. RCs, CWRO, or RAB that fail to adequately report to PHAs will be ineligible for future resident participation funding.

/s/
Harold Lucas, Assistant Secretary
for Public and Indian Housing

