

FLASH ALERT

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Use of Tenant Participation Funds

The use of tenant participation funds applies to all Public Housing Authorities (PHAs) operating public housing programs. 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 as well as to participate in self-help initiatives which enable residents to create a positive living environment for families living in public housing.

The PHA receives the tenant participation funding through the operating fund calculation. The PHA will receive \$25 per unit based on average occupancy. For example, if a PHA has 1,050 unit months leased per the operating subsidy calculation, then the PHA will receive \$2,187 ($1,050 \div 12 \text{ months} \times \25) before proration. If there was a proration factor 85%, the PHA would be required to provide \$1,859 ($\$2,187 \times 85\%$) for eligible tenant participation activities. Tenant participation activities can be found in 24 CFR 964. Let's dissect the \$25 even more. The \$25 can be divided as follows; \$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. \$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 PIH Notice 2021-16. Any proration factor would have to be applied evenly to the \$10 and the \$15 amounts.

HUD requires the PHA and the Resident Council (RC) meet specific requirements to administer the tenant participation (TP) funds.

The PHA must:



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



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.

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.

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

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.

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. 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 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.

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. 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. 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.

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.

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:

- ▶ 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.

The guidance issued by HUD mentions expenditures by calendar year, to only assume that it matches the funding period of the operating subsidy. Many auditors are reviewing the TP expenditures to make sure the expenditures meet the eligibility requirements and the PHA is actually spending the funds. We see many PHAs set up a liability for the funds by debiting tenant expenses and crediting tenant expense payable and as costs are paid, the liability is reduced by the expenditure. This will provide a clear audit trail.

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ABOUT BDO PHA FINANCE

BDO PHA Finance, a division of BDO USA, LLP, provides accounting and management consulting services to Public Housing Authorities (PHAs) nationwide. We are proud to be making a difference for the housing authorities that serve communities throughout the United States.

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