



Sample Resident Council and PHA Tenant Participation Funds Agreement



TENANT PARTICIPATION FUNDS AGREEMENT

Note: HUD strongly recommends that housing authorities and resident councils consult their own lawyers before signing any legal document, including this sample Agreement. Your state laws or other factors may affect this agreement. Local bar associations, law schools, or legal aid societies may be able to help.



For more information on Tenant Participation Funds, including a Sample Resident Council and PHA Tenant Participation Funds Agreement, a sample budget and workplan, and a decision-support tool for deciding how to use funds see the [Tenant Participation Funds](#) section of this Toolkit. See also [Guide 9: Tenant Participation Funds](#).



This document is part of the **Public Housing Resident Organizing and Participation Toolkit**. The full toolkit includes topical guides, customizable resident council documents and forms, tools related to tenant participation funds, and case studies of resident organizations around the country. To see the full toolkit go to: <https://www.hudexchange.info/programs/public-housing/resident-toolkit/>

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Tenant Participation Funds Agreement

This agreement between _____ (name of housing authority) (the PHA) and _____ (name of the resident council) (the Resident Council) establishes the parties' relationship as it relates to tenant participation funds and governs decisions on how tenant participation funds are budgeted, disbursed, and audited.

This agreement establishes a collaborative partnership, provides flexibility, and supports the independence and leadership of the resident council. This agreement is based on 24 CFR 964.150 and HUD Notice PIH 2021-16 (HA), Guidance on the use of Tenant Participation Funds.

The Resident Council will:

- Work with the membership to determine how tenant participation funds will be used to improve the quality of life for public housing residents.
- Submit an annual budget to request and receive tenant participation funds (24 CFR 964.150).
- Only request and use funds for eligible purposes to improve residents' quality of life and support residents in creating a positive living environment in their community.
- Evaluate expenses to ensure that costs are necessary and reasonable.
- Provide assurance that all expenses comply with all relevant provisions of law and will promote serviceability, efficiency, economy and stability in the operation of the local development (24 CFR 964.130).
 - » For purchases over \$300, the Resident Council will seek at least three (3) bids and choose the lowest bid that meets the requirements for the purchase.
 - » Insurance: in order to insure the value of purchased items, the Resident Council will purchase insurance,
be covered by the housing authority's insurance, or,
other plan agreed to by both parties: _____
- Permit the housing authority to inspect and audit the resident council's financial records related to this agreement on demand, with at least five (5) business days' notice (24 CFR 964.150).
- Provide the following records for the audit:

- (Recommendations include: bank account records, checkbook or other register of account balances, any approved budget revisions, detailed expense records (including a receipt or signature), deposit records for all income, Resident Council meeting minutes, documentation for any cash)
- Within 30 days of the end of the fiscal year, _____ (date), the Resident Council will submit a report to the PHA detailing how the tenant participation funds were used. This statement will be signed by the Board Treasurer and President (or the designee) and affirm that all funds were spent as reported, did not go against any provisions of the law and promote serviceability, efficiency, economy and stability (24 CFR 964.150).

- Will not seek or use funding through this agreement for expenses that have been, or will be, paid for by another funding source.
- Will not use tenant participation funds to attempt to influence any elected or government official in order to obtain a federal contract, grant, or award.
- Will not engage in any activity that could be seen as a bribe, kick-back, or other inducement in any way that would affect the PHA's interests.

The PHA will:

- On or before _____ (date), the PHA will inform the Resident Council of whether funding has been made available by Congress and HUD, and inform the Resident Council of the total amount available for the year (\$15 per occupied unit, if appropriated).
- Subject to funding from Congress and HUD, provide the Resident Council with tenant participation funds.
- Funds will be disbursed _____
(suggested response will be "in a lump sum within a month of the submission of the budget" or "in four equal payments on the first day of each fiscal quarter") (**24 CFR 964.150**).

The amount of funds disbursed cannot be more than the approved budget. If the amount is less, the remainder will be retained by the PHA until a qualifying request has been submitted. (Optional clause, check if applicable.)

- Ensure the Resident Council's requested expenses are allowable under HUD regulations (24 CFR § 964; 2 CFR § 200 Subpart E) and consistent with this agreement (**PIH 2021-16(4)(A)**).
- Advise the Resident Council on the supporting documentation that may be necessary to verify and audit expenses (**PIH 2021-16(4)(A)**).
- Inspect and audit the Resident Council's financial records _____
(frequency of inspections, e.g. "on an annual basis" or "in September and January of each year"). (**24 CFR 964.150**).
- Provide a written explanation for any denied requests, describing why the request failed to meet established evaluation criteria (**PIH 2021-16(4)(C)**).
- Provide the Resident Council technical assistance, or support in finding technical assistance, in the areas of administration, budgeting, and financial reporting to comply with HUD requirements and this agreement (**PIH 2021-16(4)(A)**).

Training & Travel

- Travel to events, including _____ jurisdiction-wide resident council meetings, _____ approved trainings, and _____, shall be reimbursed at **the IRS standard mileage reimbursement rates** or reimbursed based on receipts.
Any travel must be pre-approved by the PHA and resident council either in the budget or another agreement. (Optional section, check if applicable.)
- Travel and lodging for approved out-of-town trainings will be based on the "**GSA Per Diem Rates for Federal Travelers**" which sets maximum rates for lodging, meals, and incidentals.

Transfer of Funds *(Optional Section, check if applicable)*

- The Resident Council has decided to transfer a portion of its tenant participation funds to the _____
(name of the jurisdiction-wide resident council or another resident council).
- \$ _____ (\$ amount per unit) per _____ units (# of occupied units) for a total of \$ _____ annually shall be transferred.
- A budget for the _____
(name of the resident council) must be approved by the PHA.
- These funds will be disbursed _____
(suggested response will be “in a lump sum within a month of the submission of the budget”)
(24 CFR 964.150).
- If funds are not appropriated by Congress in a given year, this transfer will not occur. If funds are partially appropriated, the transferred amount will be prorated accordingly.

Misappropriation of funds:

- For any misappropriation of funds, a remedy will be negotiated between the Resident Council and the PHA. Specifically,

(describe any process for remedying the situation including negotiating specifically with the responsible person, if preferred, and including the role of the PHA counsel in establishing terms of any agreement).

The PHA has the right to withhold funds should it find that funds previously distributed were not spent in a manner consistent with this agreement. (Optional clause, check if applicable.)

The Resident Council will be responsible for returning any funds it finds were spent in a way that was not consistent with this agreement. (Optional clause, check if applicable.)

Administrative Disputes

- The resident council may dispute decisions made by the housing authority by submitting a written statement to the housing authority describing the dispute.
- The PHA shall endeavor to issue a written response within thirty (30) calendar days of receipt of the RC’s dispute.
- The parties shall negotiate in good faith to reach a settlement of any such dispute. In the event they are unable to resolve the dispute within thirty (30) calendar days, such dispute shall be submitted to the HUD Field Office following HUD regulations.

Termination of the Agreement

- In the event that the housing authority withdraws recognition of the resident council as duly elected, this agreement shall automatically end immediately upon the date of withdrawal of recognition. The resident council will be entitled to funding for approved activities up to the date of termination.
- If, due to reduced HUD funding, other financial or administrative issues, or program-wide changes to administration of tenant participation funds, either party deems it necessary to modify this Agreement, the two parties shall negotiate in good faith to modify the Agreement to address the issues.
- If an agreement related to administrative or funding changes cannot be agreed to or the resident council disputes the housing authority's termination of recognition, the resident council may dispute it following the section on Administrative Disputes.

Undisbursed Funds

If, at the end of a fiscal year, the PHA retains any undisbursed funding under this agreement that was not committed or obligated for an eligible expense, that remaining funding will: *(choose one)*

Remain available to the Resident Council for the next fiscal year, provided that the Resident Council may still only use such funding in accordance with this Agreement.

Be retained by the PHA to be used for any purpose allowable by law.

This agreement will be in effect for the _____ (a maximum of 3) fiscal years, beginning _____ (start date) to _____ (end date).

The allocation of funds and the budget will be reviewed and approved annually.

Signature

Name and Position, PHA representative

Date

Signature

Name, Position, Resident Council representative

Date



Resources

Code of Federal Regulations, Part 964—Tenant Participation and Tenant Opportunities and in Public Housing, Subpart B—Tenant Participation, Section 964.150—Funding tenant participation: <https://www.govinfo.gov/content/pkg/CFR-2016-title24-vol4/pdf/CFR-2016-title24-vol4-sec964-150.pdf>

IRS standard mileage reimbursement rates: <https://www.irs.gov/tax-professionals/standard-mileage-rates>

GSA Per Diem Rates for Federal Travelers: <https://www.gsa.gov/about-us/newsroom/news-releases/fy2021-per-diem-rates-for-federal-travelers-released-08142020>

New York City Housing Authority and Resident Council sample agreement: <https://www1.nyc.gov/assets/nycha/downloads/pdf/tpa-funding-agreement-2019.pdf>

US Department of Housing and Urban Development. (2021) Notice PIH 2021-16 (HA): Guidance on the use of Tenant Participation Funds: <https://www.hud.gov/sites/dfiles/PIH/documents/PIH2021-16.pdf>