



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

**Special Attention of**

**NOTICE H 2011-08**

**All Multifamily Hub Directors**  
**All Multifamily Program Center Directors**  
**All Multifamily Operations Officers**  
**All Multifamily Directors of Project Management**  
**All Multifamily Field Counsel**

Issued: February 28, 2011

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Cross References:

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Subject: Policy Clarification Regarding Pension Plan Expenses Charged to the Project Operating Account

**A. Purpose**

The Departmental policy guidance regarding the eligibility of pension plan expenses as an allowable project operating cost at HUD-assisted and/or insured multifamily housing.

**B. Background**

The Department has been reviewing certain policies regarding property management. One of these policies is the eligibility of employee pension plan contributions as a project expense. Specifically, HUD Housing Handbook 4381.5 REV-2 Section 6.38.e.(2) permits the funding of retirement accounts for front-line project or management agent staff from a project's operating account for full-time employees that work more than 20 hours per week at a single project. Industry partners have advised the Department that it is common practice for employees to work at several projects throughout the work week. Such employees may not satisfy the existing requirement to work 20 hours per week at a single project and would not qualify for retirement fund contributions from project operating funds. The Department's policy had the unintended consequence of penalizing front-line staff with duty assignments at more than one project.

Accordingly, the Department is revising its policy to permit management agents to make pension plan contributions from project operating funds for employees that perform front-line services at various projects during the work week. This policy change is essential for Owners and management agents to hire and retain qualified employees to perform critical functions at HUD-assisted and insured projects.

### **C. Applicable Programs**

Projects with insured or HUD-held loans that were insured under the following sections of the National Housing Act:

- Section 207 Rental Housing Insurance
- Section 213 Cooperative Housing Insurance
- Section 220 Rehabilitation and Neighborhood Conservation Housing Insurance
- Section 221 (d)(3) and Section 221 (d)(4) Mortgage Insurance for Rental and Cooperative Housing
- Section 221 (d)(5) of the National Housing Act (221(d)(3) Below Market Interest Rate)
- Section 223 Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing
- Section 231 Housing for Elderly Persons
- Section 236 Rental Housing (including units for which tenants receive rental assistance payments)

Projects receiving direct loans, grants, or assistance from the Department under the following programs:

- Section 202 Supportive Housing for the Elderly
- Section 202/8 Direct Loan Program for Housing for the Elderly or Persons with Disabilities
- Section 202 Assisted Living Conversion Program
- Section 811 Supportive Housing for Persons with Disabilities
- Section 201 of the Housing and Community Development Amendments Act of 1978, as amended (Flexible Subsidy and Capital Improvement Loans)

Projects receiving rental assistance under the following programs:

- Section 101 of the Housing and Urban Development Act of 1965 (Rent Supplement)
- Section 8 Project-Based Rental Assistance Programs, including:
  - Section 8 New Construction
  - Substantial Rehabilitation
  - Loan Management Set-Aside
  - Property Disposition
  - Rental Assistance Payment

### **Amendment of HUD Housing Handbook 4381.5**

This Notice amends HUD Housing Handbook 4381.5 REV-2 Section 6.38.e.(2) as follows:

Management agents with employees that split their work week among properties may charge employee pension plan costs to project operations under the following requirements:

- The percentage of project funds paid to the management agent for the employee's pension plan contribution should be proportional to the amount of time the employee works at each project. For example, in a 40-hour week, an employee works 10 hours at HUD Project A, 20 hours at HUD Project B, and 10 hours at a non-HUD project. HUD Project A would contribute 25 percent and HUD Project B would contribute 50 percent of the required weekly contribution to the employee's pension plan. The remaining 25 percent contribution to the employee's pension plan would not be paid from HUD project funds.
- Management agents must ensure that individual employees are eligible to participate in pension plans in accordance with applicable federal, state, and/or local laws.
- Management agents must maintain records demonstrating compliance with these requirements. This documentation must be included in audited financial statement filings, and on the Management Entity Profile and individual project Management Certifications.
- Pension plan costs paid from the project operating account are for on-site, front line employees who work at the projects on a daily basis only, and do not apply to off-site, non-front line supervisors.

This Notice amends the HUD Housing Handbook 4381.5 REV-2 Section 6.38.e.(2) guidelines for employee pension plan contributions. If there are any questions regarding permissible charges for pension funds, industry partners should contact Hub or Program Center staff. Hub or Program Center staff should contact HQ's Office of Asset Management with questions on this Notice.

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David H. Stevens  
Assistant Secretary for Housing-