

Directors, Offices of Public Housing; Field Office Managers; Housing Management Division Administrators, Offices of Native American Programs; Public Housing Agencies; Indian Housing Authorities; Resident Management Corporations

NOTICE PIH 96-5 (HA)  
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Clarification of policies, procedures and standards in the Public and Indian Housing Amendment to the Tenant Participation and Tenant Opportunities in Public and Indian Housing Final Rule 24 CFR Part 950, et al

#### 1.0 Purpose

The purpose of this Notice is to clarify the intent of certain policies, procedures and standards in the Public and Indian Housing Amendment to the Tenant Participation and Tenant Opportunities in Public and Indian Housing Final Rule (24 CFR Parts 905 and 964) published August 24, 1994.

#### 2.0 Background

Section 20 of the United States Housing Act of 1937, as amended, (42 U.S.C. 1437r) (the "1937 Act") was enacted to encourage increased resident management of public housing projects "to promote formation and development of resident management entities." The Department implemented section 20 of the 1937 Act by regulations (24 CFR 964 for Public Housing, and 24 CFR Part 905, subpart O for Indian Housing), that governed tenant participation and resident management in public/Indian housing.

When the Tenant Participation and Tenant Opportunities final rule was published, it amended the Native American programs found in 24 CFR Part 905, Subpart O. On April 10, 1995, the Department published revised consolidated regulations for Native American programs, which became effective on May 10, 1995. The regulation was renumbered from 24 CFR Part 905 to 24 CFR Part 950. No substantive changes were made to Subpart O at that time.

The Office of Community Relations and Involvement has received numerous inquiries from residents, public housing authorities and HUD field staff regarding certain provisions in the regulation. This Notice provides clarification of policies, procedures and standards specified below to ensure compliance with the regulations. In addition, the clarification involves only provisions in 24 CFR Part 964 which relates to the public housing program, and does not include 24 CFR Part 950.

### 3.0 Clarification of Procedures and Standards

The following are the specific sections of the regulations being clarified:

a. Resident membership on Housing Authority (HA) Board of Commissioners:

964.110. HUD encourages to the maximum extent possible resident membership on HA Board of Commissioners, for the purpose of having maximum input into HA policy and decision-making on matters concerning public housing.

- o It is a conflict of interest when a RC's officer serves in a policy making or supervisory position at the HA and receives a salary from the HA.
- o It is not a conflict of interest when an officer serves on the resident council's (RC's) board and simultaneously serve as a member of the HA's Board of Commissioners, a non-paid position.

b. Election procedures and standards:

964.130 (a) (1). All procedures must assure fair and frequent elections of resident council members - at least once every three years for each member.

- o RCs are required to have elections at least once every three years and members must be democratically elected by the residents of the community to assume the role of the board.
- o The resident council shall have oversight from an independent third-party entity, i.e., the League of Women Voters, the Urban League, etc., to be involved in every aspect of the election process (nomination committee activities, e.g. planning meetings, voting, counting ballots, etc.).



- o The local HA or a member of the resident council cannot serve as the independent third-party entity in an election process.

964.130 (a)(2). Staggered terms for resident council governing board members and term limits shall be discretionary with the resident council.

- o Staggered terms for RC board members/officers are optional, and the length of the staggered terms are discretionary. HUD strongly encourages staggered terms to ensure continuity in the organization's business matters. For example, a RC may decide that the President and Secretary terms are three (3) years in length; the Vice President and Treasurer terms are two (2) years in length; and the Parliamentarian's term is one (1) year.

964.130 (a)(3). Each resident council shall adopt and issue election and recall procedures in its by-laws.

- o Each officer shall hold office until his or her successor shall have been duly elected and shall have been qualified or until his or her death or removal by at least 10% of the voting membership of the residents residing in public housing at the individual resident council's site. This 10% threshold may be higher, and it is clearly up to the RC's Board and voting membership to make this determination.
- o If an officer of the board resigns before his or her term, another resident can be appointed by the resident council board to serve out the term of that position.
- o A resident council's board must consist of democratically elected residents who reside within the applicable building(s) or development(s).
- o To ensure fairness and openness of the election process, the election committee should consist of residents of the development (committee members cannot be candidates running for office), one representative from the PHA (this is optional); and one person from outside of the community (this is optional). The election committee should be chaired by a resident.  
(See role of the third party entity on page 2 and Section 3.0 (b) of this Notice.)

964.130 (a)(5). All voting members of the resident community must be given sufficient notice (at least 30 days) for nomination and election. The notice should include a description of election procedures, eligibility requirements, and dates of nominations and elections.

- o The election notice should be distributed to the voting membership of the community either during a special/monthly meeting or posted in a prominent location in the community.
- o After the slate of officers has been developed, the list of candidates must be posted in a prominent location within the community at least 30 days in advance of the voting process to allow time for candidates to campaign and garner support from the community.

The voting can be held any time after the 30-day period.

964.130 (b). If a resident council fails to satisfy HUD minimum standards for fair and frequent elections, or fails to follow its own election procedures as adopted, HUD shall require the HA to withdraw recognition of the resident council and to withhold resident services funds as well as funds provided in conjunction with services rendered for resident participation in public housing.

- o While the Tenant Opportunities Program (TOP) regulations do not specifically address election procedures for City-wide/Jurisdiction-wide organizations, HUD requires the organizations to conduct fair and frequent elections, and establish elections procedures and standards for officers of the governing board. The election procedures must be a democratic process and the City-wide/Jurisdiction-wide organizations may opt to use the policies established for the RC elections in 24 CFR.964.130.

4.0 Information Contact

For more information or questions, please contact:

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