

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Public and Indian Housing

Special Attention of:

State/Area Coordinators;
Community Builders; Public
Housing Directors; Public Housing
Agencies; Resident Management
Corporations; Resident Councils;
Public Housing Residents; and
Tenant-based Assistance Recipients

NOTICE PIH 2000-36 (HA)

Issued: August 21, 2000

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Cross References:

Subject: Transmittal of Guidance on the Requirement for Appointment and Role of Resident Advisory Boards in the Development of Public Housing Agency Plans.

This Notice transmits a copy of questions and answers developed to provide guidance to HUD Field Offices; public housing agencies; resident councils; and public and assisted housing tenants on the requirement for appointment of and the role of Resident Advisory Boards in the development of Public Housing Agency Plans. It supplements information found in the Public Housing Agency Plan regulation at 24 CFR Part 903.

For further guidance, please contact Jeraldene White at (202) 619-8201.

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

Attachment

PURPOSE: THIS NOTICE PROVIDES GUIDANCE ON THE ROLE OF RESIDENT ADVISORY BOARDS (RABs) IN THE DEVELOPMENT OF PUBLIC HOUSING AGENCY (PHA) PLANS (regulation: 24 CFR 903.13)

1. Question: What is a RAB and what is its purpose?

Answer: A RAB is a board whose membership must adequately reflect and represent the residents assisted by the PHA. Section 511 of the United States Housing Act and regulations found at 24 CFR part 903 require PHAs to establish one or more RABs for the purpose of assisting and making recommendations regarding the development of the PHA Plan, and any significant amendment or modification to it.

2. Question: What is the role of RABs in the development of PHA Plans?

Answer: RABs are expected to be actively involved in the development of PHA Plans. RABs should reach out to ensure that the views of all families in public housing and Section 8 Housing Choice Voucher programs are as well represented as possible. Residents also should make every effort to be informed, should volunteer for membership on RABs and generally should be involved in the development of Plans through the RABs. PHAs must ensure that RABs are actively involved in the development of PHA Plans, and should set up timelines and procedures for RAB notification and involvement.

3. Question: When do PHAs have to appoint RABs?

Answer: The first PHA fiscal year covered by these new requirements was the PHA fiscal year beginning January 1, 2000. A PHA's Plan is due to HUD no later than 75 days prior to the commencement of the PHA's fiscal year. A RAB or RABs should be appointed sufficiently in advance of the date the Plan is due to HUD to ensure effective participation in the development of the plan.

4. Question: How is the membership of a RAB determined?

Answer: Where a jurisdiction-wide resident council exists that complies with the tenant participation regulations at 24 CFR part 964, the PHA must appoint the jurisdiction-wide resident council or its representatives as the RAB, except that members shall be added or another RAB formed to provide for reasonable representation of families receiving tenant-based assistance where such representation is required.

If there is no jurisdiction-wide resident council that complies with the tenant participation regulations, but resident councils exist for individual developments that comply with the tenant participation regulations, then the PHA shall appoint such resident councils or their representatives to serve as one or more RABs. A PHA, however, may require that the resident councils choose a limited number of representatives to serve as RAB members.

Where there are no resident councils that comply with the tenant participation regulations, then the PHA must appoint one or more RABs or board members as needed to adequately reflect and represent the residents assisted by the PHA (or portions of RABs where there are some resident councils that comply with the tenant participation regulations, but they do not represent all assisted residents). However, the PHA should give adequate notice of its intentions to residents and encourage the residents to form resident councils that comply with the tenant participation regulations. PHAs have discretion in determining the method of appointment of RABs (more specifically, the representatives to RABs not from resident councils that comply with the tenant participation regulations), so long as a PHA ensures that its RAB or RABs reflect and represent all the residents assisted by the PHA.

PHAs that administer only section 8 tenant-based assistance will not have resident councils that comply with the current tenant participation regulations to draw from in establishing RABs. However, Section 8 only PHAs must appoint one or more RABs that adequately reflect and represent the residents assisted by the PHA. The PHA should give adequate notice of its intentions to residents. These PHAs have discretion in determining the method of appointment of RABs, so long as a PHA ensures that its RAB or RABs reflect and represent all the residents assisted by the PHA.

5. Question: Must Section 8 tenant-based recipients be represented on a RAB?

Answer: Where a PHA has a Section 8 tenant-based assistance program of significant size, the PHA must ensure that families receiving tenant-based assistance are reasonably represented on a RAB and that a reasonable process is undertaken to ensure this representation. Significant size is defined as 20 percent of the total of the PHA's public housing and Section 8 tenant-based assistance units.

6. Question: How many RABs should each PHA have?

Answer: Except for public housing covered by a jurisdiction-wide resident council that complies with the tenant participation regulations, which must be appointed as explained more fully in the answer to question 4 above, the number of RABs is at the discretion of the PHA. The law requires at least one. In determining whether more than one RAB should be appointed, or the size of the RAB, the PHA should consider the number sufficient to provide adequate representation for all its residents.

7. Question: May a RAB include members who are not federally-assisted public housing residents or recipients of Section 8 tenant-based assistance?

Answer: No. Membership of RABs is limited to federally-assisted public housing residents and recipients of Section 8 tenant-based assistance.

8. Question: May a PHA have separate RABs for tenant-based section 8 recipients?

Answer: Yes, if the PHA believes that the interests of the Section 8 families are different enough from those of the public housing families that it may be advantageous to have separate RABs. The process for the involvement of the RABs in the formation of the PHA Plan, however, must be the same for each RAB.

9. Question: Are PHAs with only Section 8 units required to have a RAB?

Answer: Yes. The statute clearly states that membership of RABs shall adequately reflect and represent the residents assisted by the agency. This includes families receiving section 8 tenant-based assistance. The common reference to Section 8 recipients as “participants,” rather than “residents” has no significance in this regard.

10. Question: At what stage in the planning process must PHAs involve the RABs?

Answer: The role of the RABs is to assist and make recommendations regarding the development of the PHA Plan and any significant amendments or modification to it. RABs should be involved in the planning process as soon as it is feasible and must be given sufficient time to fully participate in the process so that they can carry out their proper role and provide representation that is meaningful and relevant to the development of the Plan. The PHA and the RAB should develop a reasonable timetable to promote participation, including adequate notice of meetings. To facilitate productive meetings, PHAs may do preliminary work prior to involving the RABs, such as gathering and compiling data and materials to help residents participate in the process. A PHA must consider the recommendations of the RABs and make revisions to drafts or to the Plan which it determines appropriate.

11. Question: Must PHAs allocate resources to RABs?

Answer: PHAs are required to allocate reasonable resources to assure the effective functioning of RABs. This means PHAs must provide reasonable means for RABs to become informed on programs covered by the PHA Plan, to communicate in writing and by telephone with assisted families and hold meetings with those families, and to access information regarding covered programs on the internet, taking into account the size and resources of the PHA.

12. Question: What if the PHA and the RAB do not agree on certain aspects of the PHA Plan?

Answer: The law requires PHAs to consider the recommendations of the RABs

when preparing the PHA Plan. The PHA is expected to give careful consideration to the recommendations, but is not required to agree to them. PHAs are required to include copies of the recommendations of the RABs and a description of the manner in which the PHA addressed the recommendations in the PHA Plan that is submitted to the Secretary for approval.

13. Question: What is the term of appointment of RABs?

Answer: PHAs have discretion in determining the term of appointment, provided the requirements already discussed for RABs continue to be met.

14. Question: If a resident council or resident council members are appointed as members of a RAB, do they continue to fulfill resident council duties?

Answer: Yes. Participation on a RAB does not diminish the responsibilities of resident council members. Resident councils should be providing input to RAB representatives in any event.

15. Question: Are there specific requirements for notifying RABs of meetings?

Answer: PHAs should provide RABs adequate notice of meetings specifically called to formulate or discuss the Plan (generally at least 48 hours, or more depending on the meeting agenda), make available copies of any proposed plan and ensure that all members are provided an opportunity to express their view and discuss the plan. The PHA must comply with the requirements of open meeting laws, where applicable.

16. Question: What if a PHA is unable to obtain tenant participation on a RAB?

Answer: The USHA requires a RAB. If a PHA has made every effort but still has been unsuccessful in finding residents to serve on a RAB, the PHA could appoint all its residents as the RAB. Should this occur, the PHA must provide adequate notice to the residents that all residents are appointed to the RAB and should follow the procedures for notification set forth above. The PHA must also ensure that a RAB consisting of all the residents is provided the same opportunities to comment on the Plan and to submit any additional comments in writing to the PHA. The PHA will consider these resident comments when drafting the final Plan in the same manner as for other RABs and include any comments provided by its residents when it submits its Plan to HUD for approval.