

Exhibit 11-1 Tenant Participation

HUD Regulation - 24 CFR 245.5¹

The purpose of this part is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs.

HUD Regulation - 24 CFR 245.10

(a) Except as otherwise expressly limited in this section, this part applies in its entirety to a mortgagor of any multifamily housing project that meets the following –

(4) The project receives project-based assistance under section 8 of the United States Housing Act of 1937 (this regulation does not cover tenant participation in PHAs that administer such project-based assistance);

HUD Regulation - 24 CFR 245.100

The tenants of a multifamily housing project covered under §245.10 have the right to establish and operate a tenant organization for the purpose of addressing issues related to their living environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

AHFC Policy

Although not mandated, AHFC will be following HUD regulations set forth in Part 245, Subpart B, regarding tenant participation. A resident interested in forming a resident council must request an application package from AHFC.

The term:

- “Tenant” is used interchangeably with the term “resident” throughout this policy.
- “Tenant organization” is used interchangeably with the term “resident council” throughout this policy.

¹ This policy includes guidance issued in Notice H2016-05 Revision of Tenant Participation Requirements in accordance with 24 CFR Part 245 issued on March 31, 2016. This notice remains in effect until amended, superseded, or rescinded.

1. Roles

1.A HUD's Role

HUD Regulation - 24 CFR 245.135

(a) Owners of housing identified in §245.10, and their agents, as well as any principals thereof (as defined in 2 CFR part 2424), who violate any provision of this subpart so as to interfere with the organizational and participatory rights of tenants, may be liable for sanctions under 2 CFR part 2424. Such sanctions may include:

(1) Debarment. A person who is debarred is prohibited from future participation in federal programs for a period of time. The specific rules and regulations relating to debarment are found at 2 CFR part 2424.

(2) Suspension. Suspension is a temporary action with the same effect as debarment, to be taken when there is adequate evidence that a cause for debarment may exist and immediate action is needed to protect the public interest. The specific rules and regulations relating to suspension are found at 2 CFR part 2424.

(3) Limited Denial of Participation. An LDP generally excludes a person from future participation in the federal program under which the cause arose. The duration of an LDP is generally up to 12 months. The specific rules and regulations relating to LDPs are found at 2 CFR part 2424, subpart J.

(b) These sanctions may also apply to affiliates (as defined in 2 CFR part 2424) of these persons or entities.

(c) The procedures in 2 CFR part 2424 shall apply to actions under this subpart.

1.B AHFC's Role

HUD Regulation - 24 CFR 245.105

Owners of multifamily housing projects covered under §245.10, and their agents, must:

(a) Recognize legitimate tenant organizations; and

(b) Give reasonable consideration to concerns raised by legitimate tenant organizations.

AHFC Policy

1. A resident interested in forming a resident council must request an application package from AHFC.
2. Resident councils may request attendance by an AHFC employee at any and all meetings to discuss pertinent issues.
3. Upon receipt of a written request from the resident council, the property manager, maintenance supervisor, and a representative from the Resident

Services staff (if required) shall meet, at a time convenient for the resident council, to discuss local management issues.

HUD Regulation - 24 CFR 245.110

A tenant organization is legitimate if it has been established by the tenants of a multifamily housing project covered under §245.10 for the purpose described in §245.100, and meets regularly, operates democratically, is representative of all residents in the development, and is completely independent of owners, management, and their representatives.

AHFC Policy

AHFC shall not recognize a competing tenant organization once a duly elected organization has been established. Any funding of resident activities and resident input into decisions concerning multifamily housing operations shall be made only through the officially recognized resident council.

HUD Regulation - 24 CFR 245.115

(a) Owners of multifamily housing projects covered under §245.10, and their agents, must allow tenants and tenant organizers to conduct the following activities related to the establishment or operation of a tenant organization:

- (1) Distributing leaflets in lobby areas;
- (2) Placing leaflets at or under tenants' doors;
- (3) Distributing leaflets in common areas;
- (4) Initiating contact with tenants;
- (5) Conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization and to offer information about tenant organizations;
- (6) Posting information on bulletin boards;
- (7) Assisting tenants to participate in tenant organization activities;
- (8) Convening regularly scheduled tenant organization meetings in a space on site and accessible to tenants, in a manner that is fully independent of management representatives. In order to preserve the independence of tenant organizations, management representatives may not attend such meetings unless invited by the tenant organization to specific meetings to discuss a specific issue or issues; and
- (9) Formulating responses to owner's requests for:
 - (i) Rent increases;
 - (ii) Partial payment of claims;
 - (iii) The conversion from project-based paid utilities to tenant-paid utilities;
 - (iv) A reduction in tenant utility allowances;
 - (v) Converting residential units to non-residential use, cooperative housing, or condominiums;
 - (vi) Major capital additions; and

(vii) Prepayment of loans.

(b) In addition to the activities listed in paragraph (a) of this section, owners of multifamily housing projects covered under §245.10, and their agents, must allow tenants and tenant organizers to conduct other reasonable activities related to the establishment or operation of a tenant organization.

(c) Owners of multifamily housing projects and their agents shall not require tenants and tenant organizers to obtain prior permission before engaging in the activities permitted under paragraphs (a) and (b) of this section.

AHFC Policy

1. Tenant organizations have the right to communicate with each other and distribute information to fellow residents without AHFC interference. Tenant organizations will ensure that such materials are not discriminatory, do not exclude persons in the voting membership, and do not contain profane or offensive language.
2. Tenant organizations may request attendance by an AHFC employee at any and all meetings to discuss pertinent issues.
3. Upon receipt of a written request from the tenant organization, the property manager, maintenance supervisor, and a representative from the Resident Services staff (if required) shall meet, at a time convenient for the tenant organization, to discuss local management issues.
4. AHFC will provide by-laws containing election procedures and governance to tenant organizations for the members to adopt.

1.C Tenant's Role

HUD Regulation - 24 CFR 245.125

(a) A tenant organizer is a tenant or non-tenant who assists tenants in establishing and operating a tenant organization, and who is not an employee or representative of current or prospective owners, managers, or their agents.

(b) Owners of multifamily housing projects covered under §245.10, and their agents, must allow tenant organizers to assist tenants in establishing and operating tenant organizations.

(c) Non-tenant tenant organizers.

(1) If a multifamily housing project covered under §245.10 has a consistently enforced, written policy against canvassing, then a non-tenant tenant organizer must be accompanied by a tenant while on the property of the multifamily housing project, except in the case of recipients of HUD Outreach and Assistance

Training Grants (“OTAG”) or other direct HUD grants designed to enable recipients to provide education and outreach to tenants concerning HUD’s mark-to-market program (see 24 CFR parts 401 and 402), who are conducting eligible activities as defined in the applicable Notice of Funding Availability for the grant or other effective grant document.

(2) If a multifamily housing project covered under §245.10 has a written policy favoring canvassing, any non-tenant tenant organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

HUD Regulation - 24 CFR 245.130

A tenant has the right not to be recanvassed against his or her wishes regarding participation in a tenant organization.

2. Resident Council Operations

AHFC Policy

AHFC and the tenant organization shall put in writing in the form of a Memorandum of Understanding the elements of their partnership agreement, and it shall be updated at least once every three (3) years.

AHFC Policy

The tenant organization must adopt written procedures such as by-laws which provides for the election of residents to the governing board by the voting membership of the residents residing in the multifamily development on a regular basis but at least once every three (3) years. The written procedures must provide for the recall of the resident board by the voting membership. These provisions shall allow for a petition or other expression of the voting membership’s desire for a recall election, and set the number of percentage of voting membership (“threshold”) who must be in agreement in order to hold a recall election. This threshold shall not be less than 10 percent of the voting membership.

AHFC will provide by-laws containing election procedures and governance to resident councils for the members to adopt.

AHFC Policy

The tenant organization shall hold frequent meetings with the residents to ensure that residents have input, and are aware and actively involved in tenant

organization decisions and activities. "Frequent meetings" is defined as no less than one meeting every three months that is open to the voting membership.

1.A Membership Eligibility

AHFC Policy

1. Any member of a multifamily household whose name is on the lease of a unit in the development and meets the requirements of the by-laws is eligible to be a member of a resident council. The resident council may establish additional criteria that are non-discriminatory and do not infringe on rights of other residents in the development. Such criteria must be stated in the by-laws or constitution as appropriate.
2. The right to vote for the resident council board shall be limited to designated heads of households (any age) and other members of the household who are 18 years or older whose name appears on the lease of a unit in the development represented by the resident council.
3. Any qualified voting member of a resident council who meets the requirements described in the by-laws and is in compliance with the lease may seek office and serve on the resident council governing board.

1.B Election Procedures and Standards

AHFC Policy

The tenant organization must have a democratically elected governing board that is elected by the voting membership. At a minimum, the governing board should consist of five (5) elected board members.

AHFC Policy

Resident councils shall adhere to the following minimum standards regarding election procedures:

- 1) All procedures must assure fair and frequent elections of resident council members – at least once every three years for each member.
- 2) Staggered terms for resident council governing board members and term limits shall be discretionary with the resident council.
- 3) Each resident council shall adopt and issue election and recall procedures in their by-laws.
- 4) The election procedures shall include qualifications to run for office, frequency of elections, procedures for recall, and term limits if desired.
- 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.

3. Meeting Space

HUD Regulation - 24 CFR 245.120

(a) Owners of multifamily housing projects covered under §245.10, and their agents, must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:

(1) Tenants or a tenant organization and used for activities related to the operation of the tenant organization; or

(2) Tenants seeking to establish a tenant organization or collectively address issues related to their living environment.

(b) Tenant and tenant organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the complex has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

(c) Fees. An owner of a multifamily housing project covered under §245.10 may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. An owner may waive this fee.

AHFC Policy

At locations with common rooms, AHFC will give priority to resident council meetings and activities. Where such common rooms do not exist, AHFC shall work with the resident council to arrange for such meeting places, with the cost to be borne by AHFC, subject to available funds.

If requested and available, AHFC shall strive to provide a resident council with reasonable office space. AHFC reserves the right to require that resident council office space be located in non-residential space which conforms to all appropriate building codes.

Whenever practicable, AHFC will offer surplus equipment, furnishings, and supplies to a resident council for use in conducting council business. Other services such as duplication, fax, and telephone shall be made available as needed and subject to funding availability.

4. Funding

See the Tenant Participation Funds exhibit.

Numbered Memo

18-22 Chapter 11 and Exhibits 11-1 and 11-4 Tenant Participation