

When an individual working for or with the public housing agency (PHA) has interests that could shape his or her decisions, there is a conflict of interest. Identifying these circumstances is the first step toward preventing any impropriety that can result from this potential conflict.

The conflict of interest provisions of [2 CFR 200.317 through 2 CFR 200.326](#) apply to the procurement of property, services, and legal counsel by PHAs. Other important sources of information for PHA ethical guidelines include the [Procurement Handbook for Public Housing Agencies \(7460.8 rev-2\)](#); the ACC; the HAP Contract; and the PHA's internal bylaws, policies, and procedures (see box). Both federal and state laws apply to public housing agencies, and when the law varies, the strictest rule applies.

Conflict of Interest

Ensuring that your public housing agency is ethically run is one of your core responsibilities as a board member. Any conflicts of interest must be disclosed to the PHA and to HUD, who may waive conflicts of interest for good cause.

Procurement and Housing Choice Voucher Administration

PHA employees or representatives may not participate in the selection or administration of a contract supported by federal funds, including Housing Choice Voucher tenant-based programs, if that person:

- Will also be awarded the contract
- Is any member of the immediate family of the awardee
- Is the partner of the awardee
- Is an organization that employs or is about to employ any of the above individuals
- Has financial interest in the firm selected (real or apparent)
- Is a public official, member of the state or local government body, or in the immediate family of a public official or member of the state or local government body, who exercise functions or responsibilities regarding the PHA
- Is a member of the U.S. Congress

Resources

Annual Contributions Contract (ACC)

- Procurement Restrictions: [ACC Section 19\(A\)\(D\)](#)
- Nepotism: [ACC Section 19\(B\)](#)
- Moderate Rehabilitation Program: [ACC Section 2.18](#)

Federal Law

- Conflict of Interest: [24 CFR 982.161](#)
- Procurement Restrictions: [2 CFR 200.318\(c\)](#)
- Resident Council Officers: [24 CFR 964.145](#)
- Mixed Finance: [24 CFR 905.604](#)

Housing Assistance Payment (HAP) Contract

- Conflict of Interest: [Section 8 HAP Contract Part B Section 13](#)
- Moderate Rehabilitation: [Section 8 HAP Contract](#)
- Project-Based Assistance: [Section 8 HAP Contract](#)

Nepotism

PHAs may not hire employees in connection with a project under the ACC if the prospective employee is an immediate family member of:

- A present or former member or officer of the governing body of the PHA
- An employee of the PHA who makes policy or influences decisions
- A public official, member of local governing body, or state or local legislator who exercises functions or responsibilities with respect to projects or the PHA

Housing Choice Voucher Program Integrity Issues

PHAs with Housing Choice Voucher programs must ensure that landlords, participants, and staff all behave with integrity. Unethical behavior examples are included below.

Landlords

- Requiring side payments of participants
- Misrepresentation of ownership
- Owner living in an assisted unit
- Owner receiving housing assistance payment (HAP) after the tenant family has vacated
- Requiring that the tenant pays utilities included in the rent
- Attempting to evict the tenant for unpaid HAP
- Attempting to bribe PHA staff

Participants

- Non-disclosure of income
- Non-disclosure of household members
- Not using the unit as prime residence

PHA Staff

- HAP paid to phony landlord accounts
- Waiting list fraud
- Inspectors seeking/taking bribes to pass units

The Hatch Act

The HATCH Act applies to political activities of certain state and local employees. As a public housing board member, you may do any of the following activities:

Be a candidate in nonpartisan elections

- Attend political meetings and conventions
- Contribute money
- Campaign in partisan elections
- Hold office in political parties

You may NOT do the following activities:

- Be a candidate in partisan elections
- Use official influence to interfere in elections
- Coerce political contributions from subordinates in support of political parties or candidates

The Office of Special Counsel operates a website that provides guidance concerning [Hatch Act issues](#).

What should you do if you suspect unethical behavior?

- Review your agency's bylaws to better understand how they guide unethical behavior.
- Contact the PHA's legal counsel.
- Do not contact the suspected individual.
- Observe strict confidentiality.

Procurement

See your section resource, **Procurement Practices at Public Housing Agencies**, for more information about procurement practices at PHAs. In summary, concepts that should guide procurement at your PHA include:

- Full and open competition is key.
- Reasonable price must be determined by performing a price/cost analysis.
- Responsive and responsible bidders should be selected.
- Contract files must be documented.
- Contract compliance must be ensured.

Lobbying

PHAs are prohibited from using funds received under Federal contract, grant, loan, or cooperative agreement to pay for certain lobbying activities per the Byrd Amendment of 1989 (31 U.S.C. 1352). Prohibited lobbying activities under this legislation include payments for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the following:

- Awarding Federal contracts
- Making Federal grants or loans
- Entering into cooperative agreements
- Extending, continuing, renewing, amending, modifying Federal contracts, grants, loans, or cooperative agreements

Further details on the Byrd Amendment of 1989 requirements are available in [24 CFR Part 87](#). Guidance is also available in the [PIH Lobbying Handbook No. 7570.1](#).

In addition, The Lobbying Disclosure Act of 1995 expands the federal activities above to include the following:

- Formulation, modification, or adoption of Federal legislation; adoption of Federal rule, regulation, Executive Order, any program, policy or position of the U.S. government
- Administration of execution of a Federal program or policy
- Nomination or confirmation of a person or a position subject to confirmation by the Senate

It also requires PHAs to disclose lobbying under the administration of execution of a Federal program or policy.