



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of:

**All Multifamily Hub Directors
All Program Center Directors
All Supervisory Project Managers
All Project Managers
Owners and Managers of Multifamily Projects**

NOTICE: H 05-08

**Issued: February 25, 2005
Expires: February 28, 2006**

Cross Reference:

Subject : Revised Retirement Accounts for Front-Line Staff

This notice revises outstanding program guidance, handbooks and instructions and shall be implemented by all offices upon receipt. Many concerns from the housing industry prompt HUD to review present policies and their relationship with other governmental branches and customary industry procedures.

I. The Management Agent Handbook

HUD Handbook 4381.5 REV-2, The Management Agent Handbook, is the model tool used to monitor procedures authorized by HUD for all Management of HUD projects. Areas of conflict with other governmental agencies such as Employee Retirement Income Security Act (ERISA) rules and our auditing process and procedures of a qualified retirement plan need clarification. HUD has examined all questionable conflicts to assure that the usage or implementation of authorized changes occurs without misunderstandings.

These changes to the handbook will help managing agents attract and maintain the better workers in the work force. To conform to HUD guidelines, IRS must have approved the Qualified Retirement Plan of the company.

II. Changes to HUD Handbook 4381.5 Chapter 6, Program Monitoring

This chapter provides an overview of many of the monitoring tools that are available to the Asset Management staff in monitoring the management of HUD properties. In addition to Management Reviews, Physical Assessment Subsystem (PASS) and Financial Assessment (FASS), this handbook develops a management review process for the management agents central office.

- A. Matching Contribution: After reviewing retirement plans approved by the IRS and analyzing other retirement plans administered by other organizations, and, the

request of managing agents for HUD to re-evaluate HUD Handbook 4381.5 REV-2 Chapter 6.38 e, "Retirement Accounts for Front-Line Staff", it was determined that overhead expenses for retirement plans are justified. On August 23, 2001, the Office of Asset Management issued a memorandum approving the increase of matching contribution funds for pension/retirement plans from 5 percent to 10 percent.

Therefore, future changes in HUD Handbook 4381.5 REV-2 Chapter 6 Paragraph e(2)(c) are as follows: "*The projected cost of employer contributions to be paid out of project funds may not exceed ten percent of the base pay of eligible employees.*"

This increase falls within industry standards and are in compliance with the guidelines in HUD Handbook 4381.5 REV-2 Chapter 6 paragraph 6.38 (a) (1) "Management Costs Charged to the Project's Operating account."

Making this necessary change in the managing agents retirement plan for front-line staff will encourage managing agents to hire more professional and knowledgeable employees to perform on HUD's projects. Thus, eliminating high turnover of trained and well-informed persons working on HUD's projects.

- B. Additional Qualifications: HUD Handbook 4381.5 (ref: Retirement Accounts for Front-line Staff) has other policies in conflict with ERISA rules and our auditing process and procedures of a qualified retirement plan.

Presently the HUD Handbook 4381.5 REV-2 Section 6.38 e (2)(b) states "Only permanent, front-line employees who work full-time at the project (i.e., more than 30 hours per week) may participate. Off-site employees and temporary or part-time on-site employees are not eligible. Also, rotating employees working at more than one project are not eligible unless they qualify as a full-time employee at one project."

The Office of Asset Management has examined these conflicts with ERISA requirements in HUD policy for retirement plans. The following changes reflect HUD response to clarifying ERISA rules and implementing these changes within HUD management system:

1. To coincide with ERISA Code 29 C.F.R. 2530.202-2 (Eligibility Computation Period requirement), HUD Handbook 4381.5 Section 6.38e(2)(b) changes will reflect "Only permanent, front-line employees who work full-time at the project (i.e., more than 20 hours per week) may participate. Temporary or part-time on-site employees are not eligible. Also, rotating employees working at more than one project are not eligible unless they qualify as a full-time employee at one project."
2. HUD does not require a separate retirement plans, from the one approved for the company, for front-line staff. What HUD requires is:
 - a. The plan must be a qualified plan approved by federal, state, and

- local laws and regulations governing such programs.
 - b. There can be no commingling of employee accounts.
 - c. Contribution for eligible employees may not exceed ten percent of the base pay of employee.
 - d. Generally, employers should be 100 percent vested within five years.
3. HUD Handbook 4381.5 6.38 (a)(1) (Front-line costs and Day-to-Day Activities). Figure 6-2 “Costs Paid from Project account“ approves costs of IRS Section 401-K, 125, and 403-B, and related retirement and Health plans for on-site staff. HUD Handbook 4381.5 6.38 (a)(2) states if “Front-line management functions for several properties are performed by staff of the agent operating out of a single office the following conditions apply.” (2)(a) “The agent must prorate the total associated costs among the projects served in proportion to the actual use of services.”

III. Effects on Owners/Agents and Project Managers (PM)

Making the change from 30 to 20 hours per week or 1,000 hours per year, allows employers to adjust the classification of employees who may have previously worked 29 hours as part-time under the old requirements to full time and eligible for the company’s pension plan. This change also makes off-site employees eligible if the above 4381.5, 6.38 (a)(2) and (2)(a) are adhered to by the employer.

Field Office staffs are reminded to insure that the company approved for the pension plan has adhered to all the above compliance measures and that the plan is offered to front-line staff working on HUD projects.

Any questions pertaining to these changes please address them to Roland C. Diggs, II at (202) 708-1320 ext. 2601.

John C. Weicher
Assistant Secretary for Housing-
Federal Housing Commissioner