

## CHAPTER 4

### RENTAL UNIT MANAGEMENT

The Indian Housing Authority's (IHA's) role as a rental property manager is similar in many ways to the job of any private market landlord. The HA must collect rents, maintain the property and enforce the lease between the tenant and the IHA.

However, as a manager of federally assisted housing, the IHA is also responsible for charging rents as required by federal laws and regulations, reexamining tenant incomes at least annually and providing counseling to help IHA families succeed as tenants and as good neighbors.

This chapter discusses IHA responsibilities related to rent calculations and lease enforcement. Chapter 5 provides the information for managing IHA homeownership units. Chapters 6 and 7 discuss maintenance and resident counseling, respectively.

#### PART I: TENANT RENT CALCULATIONS

##### 4.1 AN OVERVIEW OF RENT REQUIREMENTS

How much a tenant is required to pay is affected by federal law, IHA policy and individual family circumstances. Four primary factors -- family income, the IHA's ceiling rent and minimum payment policies, and tenant-paid utilities -- determine how much each tenant pays. Each of these factors is discussed in detail in Part I of this chapter.

**Income:** Family income is the most important factor. IHA rents are income-based -- that is, rents generally go up when a family's income increases and down when a family's income decreases. Chapter 3 discusses in detail the rules for calculating tenant annual (or gross) income and adjusted income. Both of these income calculations are used to compute a tenant's rent.

**Minimum Payment:** Each IHA must establish a minimum total tenant payment (TTP) that is no less than \$25 and no more than \$50. This requirement is intended to assure that even the lowest-income families make some contribution toward their housing costs.

#### Minimum Payment

The minimum payment requirement was enacted for the federal fiscal year ending September 30, 1996. To obtain the current status of this requirement, contact the area Office of Native American Programs (ONAP).

**Ceiling Rents:** Ceiling rents are based on the relative market value of the housing. They are unit-based, while rents calculated

on the family's income are income-based. Ceiling rents put an upper limit on the amount families must pay. IHAs may establish ceiling rents, but are not required to do so. Ceiling rents are intended to assure that families are not required to pay more than the reasonable value of the housing.

**Tenant-Paid Utilities:** HUD rules specify the amount the tenant must pay for housing costs -- that is, rent and utilities. How much a family pays for housing will be affected by their utility consumption. Whether the IHA or another source provides utilities, families who use more than an IHA estimated "average" consumption will pay a higher amount for housing costs.

- o **Utility allowances:** The IHA develops utility allowance schedules for each size and type of unit. The schedule estimates the average monthly utility costs for each type of utility provided. Making sure that the utility allowance schedule is accurate is very important. A utility allowance that is too low creates a hardship for families.
- o **Utility surcharges:** When the IHA provides utilities, the rent charged to the family assumes an average level of usage by the family. Families that consume excess utilities must pay an additional amount, known as a utility surcharge.

#### 4.9 CALCULATING THE TOTAL TENANT PAYMENT [24 CFR 950.325]

##### TTP Covers Rent and Utility

**Costs:** The TTP is the amount each IHA tenant is expected to pay for rent and utility costs. It is established using a formula, but IHA policies on ceiling rents and minimum rents can affect the TTP.

**TTP Formula:** The TTP formula requires tenants to pay the greatest of:

- . 30 percent of family monthly adjusted income,
- . 10 percent of family monthly (gross) income, or
- . the amount of welfare rent for welfare recipients in as-paid localities.

**What Must IHA Tenants Pay?**  
The greatest of:

- . 30% of monthly adjusted income,
- . 10% of monthly (gross) income, or
- . welfare rent;

but if the IHA established a ceiling rent, the tenants must not pay more than the ceiling rent plus the applicable utility allowance; and,

if the minimum rent is in effect, the tenants must not pay less than the IHA established minimum rent.

Chapter 3 of this guide provides instructions for calculating gross and adjusted income. The example below illustrates the TTP calculation.

The Strong family includes two parents and two children. Their annual income is \$8,000. With the dependent deductions, their adjusted annual income is \$7,040. The family's TTP is the greater of:

\$176	30% of adjusted income (\$7040 + 12 months x 0.30)
\$ 67	10% of monthly income (\$8000 + 12 months x 0.10)
N/A	Welfare rent (family does not receive welfare)

The Strong family TTP is \$176 a month.

Welfare Rent: Welfare assistance is counted as income for all welfare recipients. In addition, in a few as-paid localities, welfare assistance is part of the TTP calculation.

An as-paid locality is one where assistance for housing costs is established separately from the rest of welfare assistance and may be adjusted based upon the actual cost of the family's housing. In such jurisdictions, the maximum amount the welfare agency could allow the family for shelter and utilities is used as the welfare rent in the TTP calculation, even if this is different from what the family is actually receiving.

#### 4.3 ESTABLISHING A MINIMUM TOTAL TENANT PAYMENT

What Is the Minimum TTP? In addition to the TTP formula. HUD requires a minimum TTP of \$25 and permits IHAs to impose a minimum TTP as high as \$50. The IHA establishes the minimum TTP in its Admissions and Occupancy (A&O) Policy. The example below shows how the minimum TTP works.

##### Example: The Minimum TTP

The Wolf family includes John Wolf (age 66) and Maria Wolf (age 62). The amount of their annual income that is counted using HUD's definition is \$1,200. After applying the elderly household deduction, the family's adjusted income is \$800. The IHA's A&O Policy specifies a \$25 minimum TTP.

The TTP is initially calculated as the greatest of:

0.3)	\$20	30% of adjusted income (\$800 + 12 months = \$67 X
0.1)	\$10	10% of monthly income (\$1,200 - 12 months = \$100 x
	N/A	Family does not receive welfare assistance

Although the family's calculated TTP is \$20, the Wolf family would pay \$25 because of the minimum TTP requirement.

Establishing a Fair Policy:	
Establishing a higher minimum rent	Minimum TTP After FY
1996 may cause a hardship for households	
with the lowest income. Remember	The minimum TTP
requirement -- the higher the minimum payment,	expires on

September 30, 1996.

the higher the percentage of ad- For updated information  
con- justed income the family must pay. tact the area ONAP.

For example, the minimum rent policy requires the Wolf family discussed here to pay 37 percent of household income (\$25 + \$67 = 37 percent).

Accommodations for Hardship Circumstances: IHAs may waive the minimum rent requirement for up to a three-month transition period for affected families. In addition, the IHA should counsel families about the availability of assistance from other sources, such as welfare assistance, that may be available to prevent eviction and local relief funds. IHAs that also administer Section 8 funds may use operating reserves derived from administrative fees to pay all or a part of the minimum rent.

#### 4.4 USING UTILITY ALLOWANCES

When all utilities are provided by the IHA, the full amount the family owes is paid to the IHA. However, most tenants make separate payments to utility providers. In this case, the amount the family pays to the IHA is calculated by subtracting a utility allowance from the total amount the family must pay.

Utility Allowance Schedule [24 CFR 950.865]: The IHA must establish utility allowances which estimate the average monthly costs for each utility and for each type of housing. As shown in the example below, the utility allowance is subtracted from the TTP to determine the rent owed to the IHA.

Example: If Utility Allowance Is Less Than the TTP

\$100	Total Tenant Payment
-\$ 80	Utility Allowance
\$ 20	Rent to IHA

Utility Reimbursements [24 CFR 950.325(b)]: For some tenants, the utility allowance may be more than the family's TTP. In such cases, the family owes no rent to the IHA, and if the tenant pays the utilities directly to the utility company, the IHA makes a payment to the resident to cover the difference between the amount of the utility

Indian Housing Management Guidebook 4-4  
1996

August

allowance and the TTP. If the utility company agrees, the IHA may pay the utility reimbursement directly to the utility.

Example: If Utility Allowance Is More Than the TTP

\$45	Total Tenant Payment
-\$80	Utility Allowance
\$(35)	IHA Utility Reimbursement to Tenant

Minimum TTP: When the minimum TTP applies, the utility

reimbursement is calculated in the same way.

Example: When the Minimum TTP Applies

Income)	\$20	Calculated TTP (Based Upon 30% of Adjusted
	\$25	Minimum TTP
	\$25	Required TTP
	-\$80	Utility Allowance
	\$(55)	Utility Reimbursement

Surcharges for Excess Utility Consumption [24 CFR 950.872]: In units where the IHA provides the utilities, the IHA must establish a system for collecting additional amounts from families that use excess utilities. This is called a utility surcharge.

Where units are individually metered, the household can be charged for the actual dollar amount above the allowance that they consume. In units without individual meters, the IHA can establish standard fees based on tenant-owned appliances.

Relief from Utility Charges [24 CFR 950.876]: The IHA may grant relief from utility charges if: (1) actual utility charges to a tenant are greater than the utility allowance used to calculate the tenant's rent and (2) payment of the additional amount represents a hardship for the family. The IHA must include in its utility allowance policy the acceptable grounds for granting relief. The IHA may consider the household's circumstances, such as special needs of elderly, ill or handicapped residents, or special factors affecting utility usage that are not within the residents' control.

Informing Families About Relief from Utility Charges  
Whenever the utility allowance or surcharge schedule changes, information about the criteria the IHA will use to consider requests for relief and who to contact must be given to all -- including new residents.

#### 4.5 ANNUAL REVIEWS OF UTILITY ALLOWANCES

The IHA shall review all utility allowances and surcharges each year, and revise them as necessary. The IHA may revise its allowances between annual reviews if there is a rate change, and must revise allowances any time the rates change by at least 10 percent from rates upon which the allowances were established.

Tenant Notification: The IHA shall notify all tenants of the proposed changes at least 60 days prior to the proposed effective date. The notice must:

- o explain the basis for the determination of the proposed allowances and surcharges,

- o offer tenants the opportunity to review IHA records related to the determination, and
- o permit tenants to submit written comments during a period expiring not less than 30 days before the proposed effective date.

Documentation: The IHA should retain all documents used to establish the allowances and surcharges, and any written comments received from tenants.

#### 4.6 CEILING RENTS

The Purpose of Ceiling Rents: Using the TTP formula only, a family's rent would increase at annual reexamination whenever the household income increases. Ceiling rents put a cap on rents for families whose incomes have increased to a point where a rent based solely on income would cause the family to pay more than a reasonable amount for housing. Ceiling rents are especially appropriate in areas where little or no alternative housing exists. The example below shows how ceiling rents work.

Which Units Should Have Ceiling Rents? IHAs are not required to establish ceiling rents, but if they do, they must do so on the basis of types of units -- and not individual families. Ceiling rents can be established for particular developments, particular classes of units (for example, all four-bedroom units or all duplexes) or for the entire rental inventory. IHAs should go to the effort of establishing ceiling rents only if it appears that families are paying more than a reasonable amount for IHA housing.

Methods for Calculating Ceiling Rents: Three methods are permitted. Whichever method is used, ceiling rents may never be more than the amount a tenant would be required to pay using the TTP calculation, and never less than the cost to the IHA of operating its units (debt service and operating expenses).

Indian Housing Management Guidebook 4-6  
1996

August

##### Example: The Impact of Ceiling Rents

The Fox family includes two parents and three children. Their annual income is \$15,000. With dependent deductions, their adjusted income is \$13,560. The IHA has established a minimum rent of \$25 and a ceiling rent of \$200. The utility allowance for the unit is \$75.

The family's TTP is calculated as the greatest of:

0.30)	\$339 30% of adjusted income (\$13,560 + 12 months x
	\$125 10% of monthly income (\$15,000 + 12 months x 0.10)
	\$ 25 IHA minimum TTP
	N/A Welfare rent

To compute the rent paid to the IHA, subtract the utility allowance from the TTP and compare the result to the ceiling rent. Charge the family the smaller amount.

\$339	TTP
\$-75	Utility Allowance
\$264	Calculated Rent to IHA

The Fox family would be charged the ceiling rent of \$200.

The three methods:

- o Existing Housing Fair Market Rent method: IHAs may use the HUD published Existing Housing Fair Market Rent (FMR) (or HUD-approved exception rent) as the ceiling rent. The ceiling rent is the Existing Housing FMR for the appropriate bedroom size minus the applicable utility allowance.
- o 95th percentile of rents method: Using this method, the IHA establishes the ceiling rent at the 95th percentile of rents paid for units of comparable size in the same housing development or a group of comparable developments.
- o Cost-to-operate method: Under this method, the IHA calculates the amount of debt service and operating expenses that are attributable to each unit. The area ONAP will provide the IHA with the debt service amount to be used in calculating the minimum ceiling rent using this method. Operating costs come from the IHA's budget.

Appendix 14 provides a worksheet for calculating ceiling rents.

Approval Process Fair Market Rent and 95th Percentile of Rent Methods: During federal fiscal year 1996, IHAs need not obtain HUD approval to implement ceiling rates based upon the 95th percentile of rents or fair market rent methods. Ceiling rents may be established by a resolution of the IHA Board that specifies:

Indian Housing Management Guidebook 4-7  
1996

August

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>o the ceiling rents to be imposed and the information on which the rents were based,</li> <li>o the effective date of the new policy, and</li> </ul> | <p>Ceiling Rents After</p>                          |
| <p>FY 96</p> <ul style="list-style-type: none"> <li>o a statement that the policy automatically expires on</li> </ul>   | <p>Ceiling rent policies</p>                        |
| <p>related</p> <p>September 30, 1996.</p>   | <p>to the FMR and 95th</p>                          |
| <p>percentile</p>   | <p>of rents methods expire</p>                      |
| <p>on</p> <p>A copy of the board resolution must be provided to the area ONAP as contact</p>  | <p>September 30, 1996. For updated information,</p> |

soon as it is adopted.

the area ONAP.

Approval Process -- Cost-to-Operate Method: HUD Headquarters approval must be received before ceiling rents are established using this method. The IHA must submit a request to the area ONAP that states the:

- o number of families currently residing in IHA rental units that exceed the value of the housing provided (this may be demonstrated by comparing IHA rents to rents for comparable unassisted rental units or to the current Existing Housing FMR or by another method developed by the IHA);
- o ceiling rents proposed for each unit size and project, and the number of units to which each ceiling rent will apply;
- o average monthly amount of debt service and operating expenses attributed to units of similar size in projects owned and operated by the IHA; and
- o estimated direct financial impact of the ceiling rents, by stating the number of families affected, the average dollar amount of rent reduction per family and the total cost of the rent deductions.

The area ONAP will submit the request to Headquarters with a recommendation.

Implementation of Approved Ceiling Rents: Once ceiling rents have been approved, the TTP for affected households is limited by the applicable ceiling rent.

Families may continue to pay the ceiling rent for as long as the family's calculated TTP is greater than the ceiling rent, plus any applicable utility allowance.

A family paying a ceiling rent could experience a change in financial circumstances so that the calculated TTP would be lower than the ceiling rent and any applicable utility allowance. If this happens, the family must be given the benefit of the lower TTP.

Indian Housing Management Guidebook 4-8  
1996

August

IHAs may evoke or raise ceiling rents at anytime, but must give affected tenants reasonable notice. HUD may require the IHA to change its ceiling rents for reasonable cause.

Impact of Ceiling Rents on the IHA Budget: Once ceiling rents are implemented, an IHA may need a larger operating subsidy because of the decreased rent rate. If this is the case, the IHA should submit a request to revise its subsidy amount. (See the Indian Housing Financial Management Guidebook for additional information.)

#### 4.7 RENT CALCULATIONS - PUTTING IT ALL TOGETHER



As the discussion above illustrates, the process of determining rents involves many steps and considerations. Of course, accuracy is essential to assure that all families are treated in a fair and equitable manner.

TTP Calculation Case Study and Format: Appendix 13 provides a sample tenant payment calculation format and a sample case study that illustrates the process. IHAs may use this format or another method that results in the same calculations. Many IHAs use automated systems that compute the TTP and tenant rents.

#### 4.8 REPORTING TO HUD

What Information to Report: The IHA must complete a Form HUD-50058 for each family in IHA housing. The form must be filled out at admission, and annually after reexamination. The purpose of reporting this information is to enable HUD to maintain a database of households receiving HUD assistance. The data collected include:

- o General characteristics of the family: number of household members. race/ethnicity, preference status;
- o Income and payment data: net family assets, income and TTP; and
- o Occupancy data: address, size of unit, date of application, admission and reexamination.

How to Submit the Information: The form must be submitted to HUD via telephone modem. In cases where an IHA does not have the capability to transmit the data by telephone, a contractor should be hired to provide this service. IHAs unable to do so must contact the area ONAP for guidance.

Indian Housing Management Guidebook 4-9  
1996

August

#### PART II: LEASE-UP PROCEDURES

#### 4.9 LEASE EXECUTION [24 CFR 950.340(b)]

The lease is the legal agreement between the IHA and each tenant. It specifies the rights and responsibilities of the tenant(s) and the IHA. The IHA must execute a written lease agreement with all new tenants before they move into IHA housing. The IHA must update the lease as necessary.

Form of Lease: Each IHA must adopt and use a rental program dwelling lease that is consistent with the IHA's A&O Policy and HUD tenant requirements. The IHA may not remove rules any of the HUD-required provisions can or include any requirements that

Helping Tenants Understand the Lease Making sure that the understands the IHA's from the very beginning prevent problems later

on.

are unreasonable. Exhibit 4-1  
help:  
summarizes required and recommended  
lease provisions.

The following tips can

one-

Lease Briefing: Before asking a  
tenant to sign a lease, the IHA  
should explain the lease in detail

- . Allow enough time to  
counsel the family;
- . Explain requirements

from

and answer any questions that may  
arise. Important points to cover

- at-a-time;
- . Encourage questions

to

in the briefing are:

- the family;
- . Pay a follow-up visit

weeks

the family several

to

after lease execution

- o the tenant's responsibilities  
to: (1) use the unit only as a  
primary, private residence; (2)  
pay rent and utilities on a regular basis; (3) help keep the  
unit in good and safe condition; (4) cooperate with annual  
income reexamination procedures and periodic inspections;  
and (5) assure that household members and guests follow  
reasonable rules that do not disturb neighbors;
- o the IHA's responsibility to furnish the specified utilities  
and appliances and to maintain the property in decent, safe  
and sanitary condition;
- o how the tenant should request maintenance work, and policies  
about charging tenants for tenant-caused damage;
- o how the tenant should notify the IHA when changes in family  
circumstances occur or when the family intends to move out;
- o procedures the IHA will follow in terminating tenancy if the  
tenant violates the lease, and how disputes and grievances  
will be handled.

answer additional  
questions.

Indian Housing Management Guidebook 4-10  
1996

August

Lead-Based Paint Notification: At lease-up, the IHA must provide  
new tenants who will move into units built before January 1, 1978  
a copy of EPA's brochure Protect Your Family from Lead in Your  
Home. To document that the family received the brochure, the IHA  
should request that the tenant sign a form stating that they  
received the brochure, and place the signed form in the unit  
file.

#### 4.10 COLLECTING THE SECURITY DEPOSIT

Collecting a security deposit is  
Enforcing  
optional, but recommended. The  
IHA's security deposit policy must

Establishing and  
A Security Deposit Policy

be described in the A&O Policy and in tenant leases.

their

Amount of Deposit: IHAs may determine the amount of security deposit to be collected. The IHA may:

notice.

- o establish a set amount for collect
- o different sizes of units; or
- o base the amount on the tenant's unpaid residents
- o ability to pay, by charging a percentage of income.

for

Security deposits:

- . encourage residents to take better care of

units;

- . may help to reduce the number of residents moving out without

- . enable the IHA to

from the deposit

balances owed by

who move out, and

- . can reduce IHA costs

renovation of units by charging damage above "wear-and-tear" to the deposit.

Security deposit policies must be consistently applied to all tenants.

Deposit Installments: The IHA's policy may allow tenants to pay the security deposits in installments. Although such a policy may assist prospective tenants who have difficulty meeting all of the costs of moving, it also could leave the IHA financially vulnerable if the tenant moves out before paying all installments.

Compliance with Applicable Laws: IHAs must abide by any applicable laws that relate to paying interest on security deposit accounts and how refunds must be made.

#### 4.11 MOVE-IN INSPECTION

Each unit must be decent, safe and sanitary before it is offered for leasing.

Joint Inspection: Generally, at the same time the lease is executed and before the family moves in, a joint IHA/tenant inspection should be conducted. The purpose of the inspection is to confirm that the unit is suitable for occupancy. It also provides an opportunity to

Indian Housing Management Guidebook 4-11  
1996

August

brief the family on the use of household appliances and how to obtain maintenance services.

Documenting Inspection Results: The results of the inspection should be recorded in writing and maintained in the tenant file. Minor deficiencies that will not be repaired should be noted to assure that the tenant will not be charged for these items at

move-out. Appendix 15 provides a sample inspection form.

See Section 6.6 for additional information on inspections.

### PART III: ONGOING MANAGEMENT ACTIVITIES

#### 4.12 RENT COLLECTION

Policy: The IHA must adopt and follow a written rent collection Responsibility	Rent Collection -- An Essential IHA
policy. A copy of the rent payment policy must be posted prominently collection	An effective rent
in the IHA office and should be provided to tenants upon request. share,"	policy assures that every family pays its "fair
is	and provides funding that
Guidelines for a rent payment policy are provided as Exhibit 4-2.	essential to maintaining quality housing and
services	for IHA residents.
Appendix 3 includes a sample outline. HUD approval of the policy is not required.	

Termination for Non-Payment: Eviction is a necessary part of any collection system. When IHA counseling cannot solve collection problems, delinquent families should be evicted so that other families that demonstrate the ability and willingness to meet program requirements can be served.

A firm collection policy that is administered consistently makes the process fair for families who do make timely payments. In addition, the lower the IHA's tenants accounts receivables (TAR), the more funds are available to improve the quality of housing and services to its residents.

#### 4.13 ANNUAL REEXAMINATIONS

IHAs must reexamine family circumstances annually to identify changes in income, family composition or expenses that affect the family's rent or appropriate unit size.

Indian Housing Management Guidebook 4-12	August
1996	
Schedule for Reexaminations:	New Tenants
Reexamination schedules should be tenant	To incorporate a new
established to maintain a relatively sche-	into a reexamination
constant workload for IHA staff. re-	dule, the new tenant's
By avoiding times of "boom and bust," place	examination may take
reexaminations are more likely to	earlier or later than the
take place in an effective and timely	12-month anniversary of

move- fashion. The IHA may choose to in.  
schedule reexaminations:

- o by date: on the anniversary date of the initial lease, or
- o by geography: reexamining all or a certain portion of the families in a given area at one time.

Reexamination Procedures: The IHA must verify income, eligibility for deductions from income and household expenses in the same manner described in Chapter 3. Tenants must execute Form HUD-9886. Authorization for Release of Information (see Appendix 11 for a copy).

Appropriate documentation must be provided for any new family members who have not yet shown proof of citizenship or eligible immigrant status.

The IHA must determine whether the unit is still the appropriate size for the family. If the IHA requires the family to transfer to another unit, the household should be moved at IHA expense.

Notice of Reexamination Results: Decreases in rent should be made effective with the effective date of the reexamination. Increases in rent may be made effective only after reasonable notice is given to the tenant, as specified in lease and any applicable landlord/tenant laws.

Lease Modifications: The lease must be modified to reflect any changes in the amount of rent due. If permitted by applicable law, the lease may permit IHA modification for changes in rent by notice, without obtaining the tenant's signature on the modification.

#### 4.14 INTERIM REEXAMINATIONS

Family circumstances may change between annual reexaminations. Although not required by HUD, the IHA may include in its A&O Policy procedures for more frequently reexamining family circumstances and changing the amount of rent due.

If the IHA adopts an interim reexamination policy, it should be applied consistently and should specify: (1) the changes in family circumstances that tenants are required or permitted to report

Indian Housing Management Guidebook 4-13  
1996

August

between annual reexaminations, and (2) how the effective date for changes will be determined.

#### 4.15 UNIT MAINTENANCE

The IHA is responsible for unit maintenance. The tenant, however, must play a part in the maintenance process by agreeing to regular inspections of the unit and alerting the IHA of any maintenance problems that require attention. See Chapter 6 for a

full discussion of maintenance.

#### 4.16 TRANSFERS

The IHA must specify in its A&O Policy criteria for unit transfers. The policy should address both required and requested transfers. The IHA may consider the following when developing the policy:

- o priority to overcrowded families,
- o circumstances in which families must transfer from overcrowded or underutilized units, and
- o whether transfers for the convenience of tenants will be permitted.

#### 4.17 TENANT-INITIATED MOVE-OUTS

**Tenants Should Be Required to Give Notice:** The lease should require that tenants who intend to move out of IHA housing must give the IHA advance written notice. It should also specify that failure to give the required notice causes the tenant to forfeit the security deposit.

**Move-out Inspection:** A move-out inspection should always be completed. Whenever possible, the inspection should be a joint IHA/tenant inspection. (See Section 6.7 for more information.)

**Refund of Security Deposit:** Tenants who move out leaving a unit in good condition except for normal wear-and-tear, and who do not owe the IHA rent or other past-due amounts are entitled to a refund of any security deposit that was collected. The A&O Policy should specify procedures for returning the security deposit.

Indian Housing Management Guidebook 4-14  
1996

August

#### 4.18 TERMINATION OF TENANCY

The lease and A&O Policy should be written to permit prompt eviction of tenants who do not live up to the terms of the lease. The IHA must also comply with any applicable tribal or other laws.

**Grounds for Termination:** The IHA may not terminate or refuse to renew a lease other than for serious or repeated violation of material term' of the lease.

Notice of Termination: When the  
Notice

IHA wants to terminate a lease, the  
IHA must provide reasonable written  
reason- notice of termination to the tenant,  
termin- which specifies:  
are

Timing of Termination

Tenants must be given  
able notice of the  
ation. Some examples

listed here.

. reasons for termination;

. the date by which the tenant must move out; . the tenant's right to make a reply; and time, . the tenant's right to request a hearing, as stated in the IHA advance. grievance procedures (see Section 4.19 below).	. For failure to pay rent: 14 days in advance; . For threats to health and safety: a reasonable . For all other situations: at lease 30 days in
--	---

Notice to Post Office: When an IHA evicts an individual or a family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the IHA should notify the local post office serving that dwelling unit that the evicted individual or family is no longer residing in the dwelling unit. This is done so that the post office will terminate delivery of mail to that individual or family, and the family or individual will not return to the unit to pick up their mail.

#### 4.19 GRIEVANCE PROCEDURES [24 CFR 950.340]

Grievance policies are for residents Practices who believe that the rules governing the housing have been violated. An ask IHA must adopt a written grievance their policy. This policy should describe the procedures that the IHA and residents must follow when a it. resident has a grievance. There are three basic grievance ONAP to procedures: a full grievance fits the procedure, an expedited grievance IHA.	Grievance Policy Best DO: To stimulate ideas, other IHAs for copies of policies. DON'T: Copy another IHAs policy without adapting DO: Work with the area develop a policy that particular needs of the
--	--

Indian Housing Management Guidebook 4- 15  
 1996

August

procedure and no grievance procedure (which occurs only when tribal or local law requires a court hearing for the action and that hearing provides the basic elements of due process).

Decisions that are not in a resident's favor are known as adverse actions. Adverse actions can be both administrative actions taken by IHA (such as the decision to evict) or failure of the IHA to take action (such as not following a procedure specified in the A&O Policy). Grievance procedures are intended to protect residents by providing a process for reviewing adverse actions. They are not to be used to challenge the IHA's policies, HUD

program requirements or regulations.

Applicants who are determined ineligible for admission may request an informal hearing, but are not entitled to the full grievance procedures that apply to residents.

Contents of the Grievance Procedures: IHAs must adopt written grievance procedures and make them available to the public upon request. The procedures must assure that all residents will:

- o be advised of the specific grounds of any proposed adverse action by the IHA;
- o have an opportunity for a hearing before an impartial party, if they make a timely request;
- o have a reasonable opportunity to examine any documents, records or regulations related to the proposed action before the hearing;
- o be entitled to representation by another person of their choice at any hearing;
- o be entitled to ask questions of witnesses and have others make statements on their behalf; and
- o be entitled to receive a written decision by the IHA on the proposed action.

Appendix 2 provides a sample outline of grievance procedures.

Expedited Grievance Procedures: An IHA may adopt expedited grievance procedures for eviction or termination of tenancy, to be followed when a resident is accused of:

- o any drug-related criminal activity on or near the premises;  
or
- o any criminal activity that threatens the health, safety or right to peaceful enjoyment of the IHA development by other residents or the employees of the IHA.

Indian Housing Management Guidebook 4-16  
1996

August

When a Grievance Hearing Is Not Required: An IHA can deny a resident a grievance hearing only if	Good Grievance Procedures
actions	. Clearly describe the
each	that must be taken by
the resident has access to other	party.
that must due process protections, such as a criminal trial or hearing	. Specify timeframes for
each	step of the process.
under tribal state law. HUD must review the state or tribal law to determine that residents have protections.	. Specify the rights of program applicants and residents.



may

. Define any terms which

Eviction or Termination Without  
confusing.

be ambiguous or

Completion of the Grievance

Process: An IHA may evict a

tenant without grievance procedures if the, tenant is involved  
in:

- o any criminal activity that threatens the health, safety or  
right to peaceful enjoyment of other tenants or IHA  
employees; or,
- o drug-related criminal activity on or near the premises in  
any jurisdiction.

To evict or terminate without completion of the grievance  
process, the applicable state, local or tribal procedures must  
also call for a court hearing before eviction, and HUD must have  
determined that the applicable procedures provide adequate due  
process.

Indian Housing Management Guidebook 4-17  
1996

August

Exhibit 4-1  
Lease Provisions

Required provisions:

- o Does not contain any unreasonable terms and conditions.
- o Obligates the IHA to maintain the development in a decent, safe  
and sanitary condition.
- o Requires the IHA to give adequate written notice of termination  
of the lease, which shall not be less than:
  - . a reasonable time (not to exceed 30 days), when the health  
or safety of other residents or IHA employees is threatened;
  - . 14 days, in the case of non-payment of rent;
  - . 30 days in any other case.
- o Requires that the IHA may not terminate the tenancy, except for  
serious or repeated violation of the terms or conditions of the  
lease or for other good cause.
- o Provides that any criminal activity that threatens the health,  
safety or right to peaceful enjoyment of the premises by other  
tenants is cause for termination of tenancy.
- o Provides that any drug-related criminal activity on or near the  
premises engaged in by a housing tenant, any member of the  
tenants household, or any guest or other person under the  
tenant's control shall be cause for termination of tenancy.
- o Specifies that with respect to any notice of termination of  
tenancy or eviction, notwithstanding any applicable tribal or  
state law, a tenant shall be informed of the opportunity, before  
any hearing or trial, to examine any relevant documents, records  
or regulations directly related to the termination or eviction.

Other Information that the IHA should also include in its lease form:

- o Identification of the development and unit which the resident is

- leasing.
- o An effective lease date, monthly rental charge and security deposit amount applicable to the unit.
- o A lease term of one calendar-month, renewable on a monthly basis with payment of the monthly rental charge.
- o Statement of utility services to be provided by the IHA.
- o Statement of the terms and conditions for continued occupancy, including:
  - . reexamination of rent, dwelling size and program eligibility;
  - . use by the resident as his/her principal residence;
  - . damage, repair and inspections; and,
  - . all resident and IHA obligations.
- o Statement regarding serving notice.
- o The terms under which the lease may be terminated.
- o Statement which references the IHAs adopted grievance procedures.
- o A section where the names of the persons authorized to reside in the unit are listed.

Indian Housing Management Guidebook 4-18  
1996

August

#### Exhibit 4-2

#### Suggested Guidelines for Rent Payment Policies

The following provisions should be included in the IHA's rent payment policy:

- o Time, place and method for payment.
- o A statement that prompt payment is required for continued occupancy.
- o Special payment arrangements for families with irregular or seasonal income.
- o Procedures for counseling, to minimize the need for eviction.
- o Procedures for enforcement of resident obligations (monthly payments, other charges, etc.), including procedures for eviction.
- o Procedures for collection from terminated residents of amounts remaining due and unpaid.
- o Procedures for implementation of the tribal ordinance provision that states, "The powers of the tribal government shall be vigorously utilized to enforce eviction of a rental resident or homebuyer for nonpayment or other contract violations including action through the appropriate courts."
- o In a case where an applicant has previous delinquencies owed to the IHA, or to neighboring IHAs or Public Housing Agencies (PHAs), the IHA should require payment in full of any delinquencies due from previous leases or homeownership agreements, or provide evidence of a repayment plan before a

tenant(s) is placed in an IHA unit. This requirement should be made a part of both the A&O Policy and the rent payment policy.