CHAPTER 5
HOMEOWNERSHIP UNIT MANAGEMENT

The Indian Housing Authority's (IHA) role for the Indian Housing homeownership programs is similar in many respects to the rental program. The IHA develops the housing. determines who is eligible to live in the units, collects payments from residents and is responsible for assuring that the property remains in good condition. But, because the Mutual Help (MH) and Turnkey III programs are intended to help families make the transition to homeownership, the relationship between the IHA and residents is quite different. The IHA has a greater counseling responsibility to help families prepare for homeownership and succeed as homeowners. In turn, the family has more financial responsibility and a larger role in maintaining the units.

This chapter covers the unique IHA management responsibilities for homeownership programs. Part I provides an overview of how homeownership programs work. Parts II and III, respectively, address the specifics of the MH and Turnkey III programs. Part IV covers conversion from one program to another.

PART 1: OVERVIEW OF HOMEOWNERSHIP PROGRAM REQUIREMENTS

5.1 HOW IHA HOMEOWNERSHIP PROGRAMS WORK

Under both the MH and Turnkey III homeownership-programs, eligible families enter into lease-purchase agreements with the IHA. Families make monthly payments to the IHA that are based upon the family's income. Over time, families can accrue enough equity to purchase a home.

Qualifying for Homeownership: Applicants for the homeownership programs must meet the basic eligibility criteria as described in Chapter 2. In addition, they must demonstrate the ability and willingness to undertake the additional responsibilities of homeownership. It is the IHA's responsibility to assess: (1) whether the family can reasonably be expected to receive enough income to meet its obligations on an ongoing basis, and (2) whether the family can perform the required maintenance on the unit.

Homebuyer Agreements: Both the purchaser and the IHA must sign a homebuyer agreement that specifies their respective responsibilities. A different agreement is needed for each program. These agreements have changed several times over the years; therefore, rules for homebuyers are governed by the particular

version of the agreements that they signed.

IHA Policies Related to Homeownership: Policies related to homeownership that must be included in IHA's Admissions and Occupancy (A&O) policies are summarized in Exhibit 5-4 and discussed throughout this chapter.

During the Management Period: The IHA establishes accounts that record the amount of equity accrued by the homebuyer. In addition, for Turnkey III families only, a reserve is established to provide funds for non-routine maintenance. Each year, the IHA reexamines family income and adjusts the family's required monthly payment, as necessary.

Transfer of Ownership: The IHA must convey to the homebuyer title to the unit when the homebuyer has accrued enough equity to cover the balance of the purchase price. Families who remain in a home for the length of the agreement and who are in full compliance with program requirements will own the home at the end of the agreement period.

Conversions: Each IHA housing development is funded under a specific Indian Housing Program. However, to help IHA's make the best possible use of their housing resources, HUD may permit IHAs to convert units from one program to another. Part IV of this chapter discusses conversion of:

- rental developments to MH housing,
- MH developments to rental housing, and
- Turnkey III developments to rental or MH developments.

5.2 HOMEBUYER RESPONSIBILITIES AND UNIT USE PROVISIONS

Utility Payments: The homebuyer is responsible for providing all utilities for the unit. The IHA has no responsibility to pay for utilities for the unit. However, in certain circumstances, the IHA may pay for the utilities, or a portion of the utility cost with a charge to the reserve account. This should be a temporary situation ([24 CFR 950.428 and 950.521]).

Utilities paid by the IHA are charged to the homebuyers' Mutual Help Equity Payment Account (MEPA) and to the operating reserve for. Turnkey III. When the homebuyer's account has been exhausted, the IHA should pursue termination of the homebuyer agreement and may offer the homebuyer a transfer to the rental program if a unit is available.

Maintenance: Generally, MH homebuyers have full responsibility for performing unit maintenance. Turnkey III homebuyers are responsible for performing all routine maintenance, but the IHA is responsible for non-routine maintenance. Additional information on maintenance is provided in Chapter 6.

Structural Changes: The homebuyer is not permitted to make any structural changes to the unit without IHA approval.

Temporary Absences from the Unit: The IHA should specify in its A&O Policy the circumstances under which homebuyers may be absent from the unit. The policy should address:

- acceptable reasons for absences (examples: education, medical treatment or military duty);

- the period of time for which absences will be allowed; and
- the period of time for which a unit may be sublet.

When the homebuyer is pursuing education or employment-related opportunities and no suitable sublessee can be found, the homebuyer may terminate the agreement or submit an alternate proposal to the IHA for its consideration and approval. In no event may a homebuyer's alternate proposal violate HUD statutory, regulatory or contractual requirements.

Subleases: With IHA approval, homebuyers may sublet a unit during a temporary absence as long as the sublease is in accordance with the IHA's A&O Policy. Although the IHA should not be a party to the sublease, the IHA legal advisor should review the proposed sublease to ensure that it is consistent with the homebuyer agreement. The IHA should give the homebuyer written approval of the sublease document. In the approval letter, the IHA should explain the following requirements.

- The IHA's approval of a sublease does not waive any other provisions of the agreement, including making monthly payments and providing for maintenance.

- The required monthly payment will continue to be computed and assessed using the homebuyer's income.

The IHA does not have the authority to terminate a sublease between a homebuyer and sublessee. However, the IHA does have the authority to terminate a homebuyer agreement if the homebuyer is not in compliance with its terms, including maintaining the home and making monthly payments.

Use of the Home for the Operation of a Small Business: The homebuyer must use the home as a principal residence. The homebuyer may also request the IHA's permission to operate a small business in the unit.

In determining whether to grant permission, the IHA should consider the following questions:

- Will the business activity disrupt the basic residential nature of the unit?

- Will the business require permanent structural changes to the unit that could adversely affect a future homebuyer's use of the unit?

The IHA may rescind the authority to operate a small business at any time if the homebuyer does not comply with IHA policies.

5.3 OWNERSHIP SUCCESSION [24 CFR 950.449 and 950.5076(j)]

The IHA must adopt policies that specify what actions the IHA will take in the case of death, mental incapacity or other circumstance that makes it impossible for a homebuyer who originally signed a homebuyer agreement to be responsible for the unit.

Designating a Successor: At the time the homebuyer agreement is executed, the IHA should encourage the family to designate a successor. The homebuyer may change the designation at any later time by written notice to the IHA.

IHA Succession Policy: The IHA should include in its A&O Policy:

- a description of any circumstances in addition to death or mental incapacity that would require a successor;
- the qualifications that the successor must meet in order to be accepted by the IHA;
- the actions the !HA will take if no successor has been designated by the homebuyer.

If No Successor Was Designated: If no successor was designated by the homebuyer, the IHA may:

- designate another family member; or
- if a minor child of the homebuyer is living in the home, the IHA may permit an adult who has been appointed legal guardian of the child to occupy the unit. This is done in order to protect the child's continued occupancy and opportunity to own the home. The guardian has a duty to perform the obligations of the homebuyer agreement on the child's behalf.

If No Qualified Successor is Available: If no qualified successor as specified in the IHA's A&O Policy is available, the IHA should terminate the homebuyer agreement and select a subsequent homebuyer to occupy the unit.

Succession to Trust Lands: In the case of a home on trust land -subject to restrictions on alienation, a person who is prohibited by law from succeeding to the IHA's interest on such land may continue to occupy the unit with all the rights, obligations and benefits of the homebuyer agreement, modified to conform to the restrictions on succession to the land.

PART II: MUTUAL HELP [24 CFR 950, Subpart E]

5.4 AN OVERVIEW OF MUTUAL HELP

Old and New Mutual Help: MH is one of the Indian Housing Programs under which families buy a home over time through a lease-purchase agreement. Units developed under the MH program before March 9, 1976 are considered "old MH" units. Units developed after that date are considered "new MH" units. This part discusses MH, and when appropriate, highlights differences in managing the two programs.

Management Responsibilities During MH Development: Resident selection and counseling both begin during the development process. The IHA should make a preliminary selection of MH homebuyers within 30 days after HUD approval of the application for the MH project. Final selection should be made only after the site has received final site approval and the prospective homebuyer has provided the required up-front contribution. In addition, the IHA must provide or refer the prospective homebuyer to required counseling sessions. For additional information on MH development, see the Indian Housing Development Guidebook.

MHO Agreement: The legal agreement between the IHA and the homebuyer for the MH program is the Mutual Help and Occupancy (MHO) Agreement. For developments other than those built using the Self-Help development method, the MHO Agreement should be signed for all units before execution of the construction contract for the development.

5.5 SELECTING APPLICANTS FOR MUTUAL HELP

Income Eligibility: Most families selected for MH, units must have incomes at or below the low-income limit, as described in Chapter 2. However, with HUD's concurrence, IHAs may admit applicants whose incomes exceed the low-income limit if the IHA demonstrates to HUD's

satisfaction that there is a need to house such families and that the need cannot reasonably be met in any other way.

The number of dwelling units in any MH development that may be occupied by or reserved for families whose incomes exceed the low-income limit may not exceed the higher of 10 percent of the development's dwelling units or five dwelling units.

Because sources of private financing -- such as the Section 184 Indian Loan Guarantee Program -- are now available, IHAs must demonstrate efforts to use these sources before using the income exception.

Non-Indian Applicants: The IHA may establish criteria in its A&O Policy for admission of non-Indian applicants when the IHA determines that: (1) the presence of the non-Indian family is essential to the well-being of Indian families, and (2) the need to house the non-Indian family cannot reasonably be met in any other way.

Selection Criteria: The A&O Policy should also provide standards for determining the homebuyer's ability to maintain the unit and to maintain at least his/her current level of income.

Primary Residence: Homebuyers must agree to use the home as their Principal residence during the term of the MHO Agreement. Generally, this means that MH homebuyers cannot own. use or acquire another residence that is decent, safe and sanitary during the term of the agreement. However, there are two exceptions to this rule.

- o First, a MH homebuyer may own or use a secondary home that is necessary for the family's livelihood or for cultural preservation.

- o Second, the IHA may allow a family to be temporarily absent from the MH home, and to sublet it for reasons and time periods prescribed in the IHA's A&O Policy.

5.6 MUTUAL HELP CONTRIBUTION [24 CFR 950.419]

Applicants who purchase homes under the MH program are required to make an up-front, initial contribution valued at least $1,500. The total contribution must be provided before the family occupies the unit.

Form of Contribution: The contribution may be made in cash, or in the form of the value of land, labor, materials or equipment. Tribes may make a contribution, other than labor, on behalf of the family.

Valuing Non-Cash Contributions: The market value of any non-cash contribution is determined by the IHA. For example, the IHA could determine:

. the value of land by appraisal or by an estimate from a knowledgeable source,
. the value of labor by multiplying the estimated number of hours to be worked by a reasonable hourly rate, and
. the value of equipment or supplies by establishing the reasonable purchase price for such items.

Counting Donated Land as a MH Contribution

To be counted toward the MH contribution, donated land must be owned in fee simple by the homebuyer, or have been assigned to the homebuyer before the application to participate in the MH program. Land donated by another person on behalf of the homebuyer will satisfy the requirement for the MH contribution.

Applicants Who Fail to Make the MH Contribution: If the homebuyer does not provide the required contribution, the IHA must terminate the agreement and select another homebuyer. Before terminating the agreement, the IHA must give the applicant reasonable advance notice. Substitute homebuyers also must make the required contribution before occupying a unit.

Refunding the MH Contribution: When an agreement is terminated by either the IHA or the homebuyer before the homebuyer moves into the unit, any MH contribution which the family has provided must be refunded (see Section 5.15).

5.7 HOUSING COUNSELING [24 CFR 950.453]

Homebuyers are required to attend homeownership counseling sessions as a condition of program participation. The family should attend all mandatory sessions. Failure to do so without good cause is considered grounds for termination of the MHO Agreement. Additional information on counseling is provided in Chapter 7.

5.8 INITIAL PURCHASE PRICE AND SCHEDULE [24 CFR 950.440(b)]

The purchase price is established by the IHA. The IHA may base the purchase price on the development cost of the unit, current market conditions or other factors determined by the IHA. The method used

to establish the purchase price should be described in the A&O Policy.

Purchase Price Schedule: The purchase price, less the homebuyer's contribution, must be amortized over a period of not less than 15 years and not more than 25 years, The IHA may charge interest, or choose to forego interest and calculate the payment with an interest rate of zero. The A&O Policy should specify the IHA's policy regarding amortization and interest.

Exhibit 5-1 illustrates how the repayment schedule and interest rate can affect monthly debt service.

Exhibit 5-1

The Effect of Interest Rates and
Payment Terms on the Monthly Debt Service

The IHA has established a purchase price of $60,000 for a MH home. The chart below illustrates how the period over which the purchase price is scheduled and the interest rate can greatly affect the monthly debt service.

Period	Interest Rate	Monthly Debt Service
15 years	6%	$506
15 years	0%	$333
25 years	6%	$386
25 years	0%	$200

5.9 OCCUPYING A HOMEOWNERSHIP UNIT [24 CFR 950.425 and 950.270]

When a homeownership unit is ready for occupancy, the IHA should notify the family of the date after which the family can move into the unit, assuming the family has fulfilled all requirements.

Move-In Inspection: To establish a record of the condition of the home on the date of occupancy, the IHA must inspect the home as described in Chapter 6. The homebuyer must be present for the inspection. Both the homebuyer and the IHA representative must sign the inspection report.

Failure to Meet Homebuyer Requirements

If a family selected for homeownership does not meet all of the conditions for occupancy, the IHA must notify the family in writing of the outstanding requirements and the date by which the family must comply. If the family fails to meet requirements, the homeownership agreement is cancelled and another family is selected from the waiting list.

Delivery of Warranties: Within 30 days of occupancy, the IHA must furnish each homebuyer with a list of the applicable contractors', manufacturers' and suppliers' warranties that explain the items covered and the period of the warranties. The IHA must also inform homebuyers of their responsibility to notify the IHA of any deficiencies that would be covered under the warranties.

Establish the MH Reserve Accounts [24 CFR 950.4371]: At occupancy, the IHA must establish both a refundable and a non-refundable MH reserve for each homebuyer. The value of either of these accounts may be used, at the option of the homebuyer, to purchase the unit.

- Refundable reserve: The IHA must credit the refundable reserve with the amount of the homebuyer's cash MH contribution and the value of the labor, materials, or equipment provided as a MH contribution.

- Non-refundable reserve: The IHA must credit the non-refundable reserve with the value of the homebuyer's share of any land contributed to the project and the homebuyer's share of any credit for non-land contributions by a terminated homebuyer.

5.10 REQUIRED MONTHLY PAYMENT - NEW MUTUAL HELP [24 CFR 950.427]

Required Monthly Payment

The calculation of the required

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monthly payment for new MH uses four factors: (1) the homebuyer's monthly adjusted income, (2) the applicable utility allowances, monthly (3) a maximum payment calculated by the IHA, and (4) a minimum payment established by the IHA. Each of these factors is discussed below. Exhibit 5-2 provides a sample calculation.

Old MH

This section describes in detail the required monthly payment for homebuyers still receiving assistance under the old MH program should be calculated according to instructions in their hoomebuyer agreement.

Establishing the Percentage of Monthly Adjusted Income to Use: The IHA may select a percentage as low as 15 percent or as high as 30 percent. The lower percentage leaves the homebuyer with more resources to pay for maintenance, utilities and other costs of homeownership. A higher percentage leaves the homebuyer with less discretionary income, but gives the family the opportunity to own the unit sooner through increased credits in the MEPA account (see Section 5.12).

Exhibit 5-2

Sample Calculation of New MH Required Monthly Payment

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 utility allowance for the size and type of unit the family will occupy is $75. The IHA's administration charge is $90. The IHA's A&O Policy specifies that the percentage to be used in calculating the MH homebuyers' payment is 15 percent of their adjusted income. The purchase price for the Fox's home is $35,000.

The required monthly payment for the Fox family is:

- o 15% of monthly adjusted income minus the utility allowance = $95 ($13,560 + 12 months = $1,130 x 0.15 = $170 minus $75 = $95)

- o but never less than the minimum monthly payment of $90 (the IHA's administration charge)

- o but never more than the maximum monthly payment of $202

	$112	Debt service for the home for 25 years at no interest ($35,000 minus $1,500 = $33,500 + 300 months)
plus	$ 90	IHA's administration charge
	$202	Maximum monthly payment

The Fox family's required monthly payment is $95.

The Minimum Required Monthly Payment: The minimum payment

Required Monthly Payment

must be the per-unit share of IHA costs to administer the program. The administration charge is the amount budgeted by the IHA for monthly operating expenses, excluding expenses for which the HUD operating subsidy is provided. (see [24 CFR 950.434]).

Determining the Maximum Required Monthly Payment: The maximum required monthly payment is the sum of the administration charge and the monthly debt service amount for the unit. The monthly debt service is the monthly amount required to repay

The required monthly payment is:

. monthly adjusted income x the IHA-established percentage (between 15 and 30) minus the utility allowance.

. never more than a maximum monthly payment, and

. never less than a minimum monthly payment.

the purchase of the unit over the time period and at the interest rate specified by the IHA.

5.11 REEXAMINATION OF HOMEBUYER INCOME

Annual Reexamination: Annually, the IHA is required to reexamine family income as described in Chapter 3 and adjust the required monthly payment, as appropriate.

Seasonally Adjusted Payment Payment Schedules

The IHA may develop a special payment schedule for homebuyers with seasonal income. Regardless of the number of payment installments, by the end of the year the homebuyer must have made payments equivalent to 12 monthly installments.

Interim Reexamination: Family circumstances may change between annual reexaminations. Although not required by HUD, the IHA may include in its A&O Policy procedures for more frequent reexaminations.

5.12 MUTUAL HELP EQUITY PAYMENT ACCOUNT [24 CFR 950.437(b)]

A MEPA must be established for each homebuyer. The MEPA account records the equity homebuyers accrue by making monthly payments.

How MH Homebuyers Accrue Equity: Whenever the required monthly payment exceeds the administration charge, the homebuyer accrues equity. Exhibit 5-3 gives an example of how a homebuyer accrues equity in the MEPA account.

Annual Statements: The IHA must provide the homebuyer with an annual statement that shows the activity (credits and debits) in the MEPA account during the past 12 months. The statement should also include the remaining balance on the purchase price of the unit.

Charges Against the MEPA Account: The IHA may deduct from the MEPA:

- unpaid monthly charges,
- charges for maintenance work completed by the IHA that is the responsibility of the homebuyer, and
- cost of improvements to the unit that the IHA approves to be taken from the MEPA.

Exhibit 5-3

How a MH Homebuyer Accrues Equity Toward Purchase

The Birdsong family includes two parents and three children. Their annual income is $20,000. With the dependent deductions, their adjusted income is $18,560. They are purchasing a three-bedroom home with a purchase price of $35,000. The utility allowance for this unit is $95. The IHA's monthly administration charge is $105. The family's MHO Agreement calls for the home to be repaid over a 25-year period at 0% interest. Monthly debt service on this amount is $116.

Calculation of Required Monthly Payment: The family must pay the greater of:

$137 Required monthly payment based upon income ($18,560 + 12 months x 0.15 = $232 minus $95 utility allowance = $137)

or

$105 Minimum monthly payment based upon administration charge

But never more than:

$221 The administration charge ($105) plus the debt service ($116)

The Birdsong family's required monthly payment is $137.

Accruing Equity: The family accrues equity at the rate of $32 per month ($137 - $105 = $32). In a 12-month period, the family would accrue $384 in equity ($32 x 12 months = $384).

5.13 TRANSFERRING TITLE TO THE HOMEOWNER [24 CFR 950.440(e)]

The IHA must convey title to the homebuyer when the balance of the purchase price can be covered from the amount in the equity account or at the end of the time period allowed for the purchase. To purchase the home over a shorter period, the homebuyer can supplement the amount in the equity account with other funds.

Disposition of MEPA Account and Homebuyer Reserves: When the homebuyer purchases the home, the amount in the MEPA account and the refundable and non-refundable reserve must be applied in the following order:

- o for IHA financing only, the initial payment for fire and extended coverage insurance on the home after conveyance;

- o for settlement costs, if the homebuyer so directs (settlement costs are the costs incidental to acquiring ownership, such as the costs and fees for credit report, field survey, title examination, title insurance, inspections, etc.); and

- o for the purchase price.

The balance, if any, is refunded to the homebuyer.

Transfer of Ownership: The following steps are taken to transfer ownership.

- . The Board of Commissioners adopts a resolution authorizing the preparation of title documents and the mutual release of obligations under the MHO Agreement.

- . The IHA attorney approves the documents necessary to convey all interests of the IHA in the house and land to the homebuyer. The documents should adequately describe the home, contain appropriate reference to the land lease and include restrictions applicable to homeownership.

- . The approved documents are executed and notice of the transfer is filed with the tribal or state entity responsible for recording ownership titles.

IHA Investment and Use of Purchase Price Payments

After conveyance of a MH unit, all funds held or received by the IHA from the sale of a unit in a project financed with grants should be held separate from other project funds. These funds should be used for purposes related to low-income housing.

Funds held or received by the IHA from the sale to a home-buyer of a unit in a loan-financed development are subject to loan forgiveness.

Removal of the Unit from the MH Project: Upon conveyance of title, the unit is removed from the IHA's MH project under the Annual Contributions Contract (ACC). The IHA must notify the insurance carrier that the unit has been paid off and that coverage should be terminated.

5.14 UNITS PAID OFF, BUT NOT CONVEYED [24 CFR 950.440(e)(8)]

If, at the end of the amortization period, the homebuyer is delinquent or otherwise not in compliance with the MHO Agreement, title to the unit will not be transferred. Such units are considered paid off, but not conveyed. Generally, these units are not eligible for assistance from HUD. However, the IHA may complete emergency modernization work and modernization work required by statute or regulation during the term of the repayment schedule.

Upon repayment of the total delinquency and prior to conveyance, the IHA may complete non-emergency modernization work on the unit.

Until title is conveyed, the homebuyer is responsible to make monthly payments to cover the monthly operating expenses for the unit.

5.15 DEALING WITH UNSUCCESSFUL HOMEBUYERS

The IHA is responsible for seeing that program participants abide by program rules. Although the IHA should work closely with families to try to resolve problems, the IHA should be prepared to terminate homebuyers who fail to fulfill their responsibilities. The MHO Agreement contains specific language governing the termination of homeownership.

Written IHA Procedures

The IHA should have written eviction procedures that have been reviewed by its legal advisor, to ensure that the IHA is in compliance with the MHO Agreements, HUD program regulations, the ACC, and applicable tribal and state laws.

Plan of Action: Promptly after the IHA becomes aware of a violation of the homebuyer's agreement, the IHA must take several steps.

- Arrange a meeting with the resident to discuss the matter and to give the family an opportunity to explain any extenuating circumstances that prompted the violation.

- Require that any funds in dispute be placed in an escrow account pending a resolution of the dispute.

- Require the family to continue to pay all other required payments not in dispute.

- Develop a specific plan describing the actions the family and the IHA will take to resolve the problems. This written plan should be signed by both parties: each party should keep a copy.

- Clearly state in the agreed-upon plan a date by which the violation will be corrected. If the plan includes periodic payments for a delinquent balance owed the IHA, it should state that these payments are in addition to homebuyer payment charges assessed the family.

The IHA must check compliance with the plan at monthly intervals or, in the event of failure or refusal by the family to comply with the plan, issue a Notice of Termination. The IHA should then proceed to take action to evict the family.

Notice of Termination and Right of Homebuyer to Respond: If all actions available to the IHA to resolve the breach or default have been unsuccessful, the IHA must take action to regain possession of the home.

The homebuyer has a right to a written Notice of Termination and a chance to respond. The notice and hearing procedures must comply with the Indian Civil Rights Act, if applicable, and must incorporate all the steps and provisions needed to comply with state, local or tribal law. Any notice of termination must:

- be given in writing,
- comply with the terms of the MHO Agreement, and give the homebuyer a reasonable opportunity to have any response heard and considered by the IHA.

Settlement Upon Termination: Once termination has occurred, settlement should be completed as promptly as possible.

The IHA must conduct a move-out inspection of the home with the homebuyer or homebuyer's representative. This inspection will determine whether any repairs are required to place the home in satisfactory condition. The homebuyer must be notified in advance of the time of the inspection and subsequently receive a written report on the maintenance required.

Any repair costs must be charged to the homebuyer vacating the home. If the homebuyer is willing to accept the IHA's estimate of the amount of such costs, settlement can be completed before the determination of actual costs is available.

Upon termination, the IHA must dispose of all funds in accordance with the applicable MHO Agreement, as follows:

- pay off any outstanding payments for maintenance or repairs,
- refund any remaining balance in the MEPA and refundable reserve, and
- pass on to the next owner amounts remaining in the non-refundable reserve.

5.16 TERMINATION BY HOMEBUYER

The homebuyer may terminate the homeownership agreement by giving the IHA written notice as specified in the MHO Agreement.

Timing: The IHA should terminate the agreement on the 30th day after the r-,t receipt of homebuyer's notice.

If the Homeowner Vacates Without Notice: It the homebuyer vacates the home without notice to the IHA, the homebuyer remains subject to all obligations of the MHO Agreement until the IHA terminates the document in writing. The homebuyer must be notified of the termination, if possible, and the termination should be effective on the date stated in the notice.

PART III: TURNKEY III

5.17 AN OVERVIEW OF THE TURNKEY III PROGRAM

No new units are being developed under the Turnkey III program, and many IHAs have converted Turnkey III units to the MH program. New homebuyers will participate in the program only by purchasing an existing Turnkey III unit.

Eligibility: Applicants must have income at or below the low-income limit, as described in Chapter 3, and must demonstrate the ability to meet all of the requirements of the homebuyer agreement. Applicants' income must be sufficient to cover the estimated cost of utilities and contributions to the homebuyer accounts and reserves discussed in Sections 5.19 and 5.20.

Applications: Applicants who wish to be considered for Turnkey III must apply specifically for that program. An application for Turnkey III does not affect the status of an application from the same family for a rental unit.

Homebuyer Agreement: The legal agreement between the IHA and the homebuyer for the Turnkey III Program is the Homebuyer Ownership Opportunity Agreement (HOOA). Over time, several different versions of this agreement have been in effect. Both the IHA and homebuyers are bound by the provisions of the agreement that each homebuyer signed.

Required Monthly Payments: The required monthly payment is calculated in different ways, depending upon the form of HOOA the homebuyer signed. IHAs must use the method specified in the homebuyer's agreement to calculate the monthly payment. If the agreement establishes a minimum or maximum monthly payment, the amount must not exceed the total tenant payment (TTP) (See Section 4.2 for additional information on calculating the TTP.)

Operating Subsidies: Subject to the availability of funds for this purpose and at HUD's sole discretion, HUD may pay operating subsidies to cover a deficit in the operating budget. But, operating subsidies and project funds must not be used to establish or maintain the homebuyer reserve accounts.

Homebuyers and Homeowners Associations: Turnkey III projects are required to have a homebuyers' association (HBA) unless the development is on scattered sites or too small to make a HBA feasible. The HBA includes both homebuyers and homeowners and is intended to serve as a support mechanism for homeowners and is intended to serve as a support mechanism for individual homebuyers. The functions of the HBA are agreed upon by the IHA and HBA and set forth in articles of incorporation and by-laws.

Some developments also may have a homeowners' association (HOA) that acquires ownership of and is responsible for maintaining the common areas. Only residents who have acquired title to their homes are members of the HOA.

5.18 PURCHASE PRICE AND PURCHASE SCHEDULE [24 CFR 950.525]

Purchase Price: The purchase price to be paid by both the initial and subsequent homebuyers is established by the IHA. The IHA may base the purchase price on the development cost of the unit, current market conditions or other factors determined by the IHA. The method used to establish the purchase price should be described in the A&O Policy.

Purchase Schedule: The purchase price must be amortized over a period of no, less than 15 years and not more than 25 years. The IHA may charge interest or choose to forego interest and calculate the payment with an interest rate of zero. The A&O Policy should specify the IHA's policy regarding amortization and interest.

5.19 EARNED HOME PAYMENTS ACCOUNT [24 CFR 950.517]

The IHA establishes an Earned Home Payments Account (EHPA) for each homebuyer. The account is a means of recognizing the value of the routine maintenance performed by the homebuyer and, if applicable, the value of maintenance of common areas provided by the homebuyer.

Credits to the EHPA: The EHPA is credited with:

- a portion of the homebuyer's required monthly payment that is equal to the IHA's estimate of the monthly cost for routine maintenance on the homebuyer's unit,

- the IHA (or HBA) estimate of the value of maintenance of common property (an advance agreement between the homebuyer and the IHA -- or HBA -- is required), and

- any voluntary contributions made by the homebuyer.

Charges to the EHPA: If, for any reason, the homebuyer is unable or fails to perform any item of required maintenance, the IHA must arrange to have the work done in accordance with the procedures established by the IHA, and the cost must be charged to the homebuyer's EHPA. Non-routine maintenance costs that are attributable to the fault or negligence of the homebuyer are charged to the EHPA account. Any maintenance or repair done on the dwelling by the IHA that is chargeable to the EHPA or NRMR must be accounted for through a work order, a copy of which must be sent to the homebuyer.

Annual Statement: The IHA must provide an annual statement to each homebuyer specifying the amounts in the EHPA and the non-routine maintenance reserve (NRMR) (discussed below in Section 5.20).

5.20 NON-ROUTINE MAINTENANCE RESERVE [24 CFR 950.519]

The IHA establishes a NRMR for each homebuyer to provide funds for non-routine maintenance of the unit. The IHA uses a portion of the homebuyer's required monthly payment to fund the NRMR. The amount to be set aside is determined by the IHA on the basis of the non-routine maintenance schedule that is prepared by the IHA and updated annually.

Charges to the NRMR: The cost of non-routine maintenance provided by the IHA is charged to the NRMR account, except in the following cases:

- Negligence of the homebuyer: Non-routine maintenance costs that are attributable to the fault or negligence of the homebuyer are charged to the EHPA account.

- Defective materials or workmanship: The cost of non-routine maintenance attributable to defective materials or workmanship that is not covered by a warranty is charged to the operating expense account for the project. Maintenance on warranty items that are not paid under the warranty through no fault of the homebuyer may also be charged to the operating expense account.

Credits to the NRMR: With the prior agreement of the IHA, the homebuyer may perform non-routine maintenance tasks and receive credit to the NRMR upon completion of the work.

Deficits in the NRMR: During the term of the purchase agreement, a deficit (negative balance) in the NRMR is permitted. This deficit occurs when the charges against the NRMR exceed the balance in the account. Over time, the deficit may be reduced by the homeowner's monthly payments.

What Happens to the NRMR When the Homebuyer Acquires the Property? The IHA pays any balance in the NRMR to the homebuyer at settlement. If a deficit exists at the time the homebuyer acquires title to the property, the homebuyer must pay the amount at settlement.

Annual Statement: As stated in Section 5.19, the IHA must provide the homebuyer an annual statement specifying the amounts in the EHPA and NRMR and accounting for any charges to them.

What Happens to the NRMR When an Agreement Terminates? Homebuyers whose agreements are terminated are not permitted to receive any funds from the NRMR at the time of termination. Neither are they required to make up any deficit. When a subsequent homebuyer moves in, any positive amount in the NRMR is credited to the subsequent homebuyer's NRMR.

5.21 TRANSFERRING TITLE TO THE HOMEOWNER [24 CFR 950.525]

The IHA must convey title to the homebuyer when: (1) the balance of the purchase price can be covered by the amount in the EHPA plus any amount from the NRMR that the homebuyer elects to use for this purpose, or (2) at the end of the specified period to achieve ownership. The period to achieve ownership is specified in the HOOA and must not exceed 30 years. Homebuyers may purchase the home over a shorter period by providing funds from another source.

To transfer the property, the parties mutually agree on a closing date. The homebuyer than pays any amounts due and receives the deed for

Going to Settlement

The IHA attorney should approve all documents necessary to convey title to the homebuyer. The documents should adequately describe the home, contain appropriate reference to the land lease and include any restriction on the property.

the home from the IHA.

PART IV: CONVERSIONS

5.22 OVERVIEW

Each IHA housing development is funded under a specific program. To help IHAs make the best possible use of their housing resources, HUD may permit IHAs to convert units from one program to another. This part discusses conversion of:

- rental developments to MH housing,
- MH developments to rental housing, and
- Turnkey III developments to rental or MH housing.

All Conversions Require HUD Approval: IHAs must submit conversion requests to the area ONAP. Because each conversion has aspects that make it unique, requests for conversions will be considered on a case-by-case basis. For conversions to be considered, the IHA must demonstrate the points discussed below.

- The conversion would meet applicable legal requirements. This refers to HUD review of the board resolution and documentation supporting the conversion.

- The tribe supports the conversion. HUD does not prescribe a particular form for tribal approval or acceptance. A letter from the tribe or resolution indicating acceptance would be sufficient.
- The conversion is in the interest of affected families. Again, HUD does not prescribe a format, but a letter of intent or acknowledgement from the homebuyer would be acceptable.
- The conversion is financially feasible. In the rental program, a project is considered financially feasible if operating costs are within the allowable expense level.
- If the IHA does not propose to convert all units in a development, the IHA's ability to operate the remaining units will not be adversely affected.

Other requirements specific to a particular type of conversion are discussed in the following sections.

When Might Conversion Be Appropriate? An IHA may wish to consider program conversions for a number of reasons. Conversion of units from rental to MH enables the IHA to offer families who have demonstrated an ability to be homeowners the opportunity to do so without requiring them to move. Conversions to rental may be necessary if selected homebuyers are unable to fulfill the requirements, or the IHA has been unable to identify a sufficient number of homebuyers.

5.23 CONVERTING RENTAL HOUSING TO NEW MUTUAL HELP

Units proposed for conversion to new MH must: (1) have individually metered utilities, and (2) be habitable and in decent, safe and sanitary condition at the time of conversion. The IHA must demonstrate that a sufficient number of families are qualified as MH purchasers, and each proposed MH homebuyer must make the entire required MH contribution before the unit is converted.

If the IHA does not propose to convert all units in a project, the IHA must demonstrate that the IHA's ability to operate the remaining rental units will not be compromised. If projected operating costs are within the allowable expense level (AEL) established for the IHA, the project is considered financially feasible.

For conversion of apartments or row houses to condominiums or cooperatives, all units in the structure must be converted. Any occupants who do not qualify or wish to convert must be relocated and replaced with qualified applicants before the conversion.

5.24 CONVERTING NEW MUTUAL HELP TO RENTAL HOUSING [24 CFR 950.458]

Conversions to rental housing may be an appropriate strategy to assist homebuyers who can no longer meet the requirements of homeownership.

If HUD approves a conversion to rental housing, any balance remaining in the MEPA must be applied first to any outstanding tenant accounts receivable (TAR), and then to the repair of homebuyer maintenance items. Any remaining balance must be returned to the homebuyer.

5.25 CONVERSION OF TURNKEY III TO MUTUAL HELP OR RENTAL HOUSING

Minimum Requirements: To be eligible for conversion to either MH or rental housing, the units must have individually metered utilities and be in decent, safe and sanitary condition. If the units are not decent, safe and sanitary, the IHA must submit a plan to correct deficiencies.

Additional Requirements for Conversions to Mutual Help: The IHA must demonstrate that a sufficient number of families are.qualified as MH purchasers. The proposed purchaser must make the entire required MH contribution before the unit is converted. In determining the purchase price and term, homebuyers may receive credit for the period of time they have been residing in a Turnkey III unit.

If the IHA does not propose to convert all units in a project, the IHA must demonstrate that its ability to operate the remaining Turnkey III units will not be adversely affected.

Exhibit 5-4

IHA Policies Related to Homeownership

A&O Policy: The IHA's A&O Policy must include a discussion of the following topics specifically related to its homeownership programs:

- o how the IHA will determine whether an applicant has the financial capacity to assume homeownership responsibilities on an ongoing basis;
- o how the IHA will determine whether an applicant has the ability to perform the required maintenance work;
- o taking applications and processing procedures (applications for MH or Turnkey III assistance must be separate from any application for rental assistance);
- o the method the IHA will use to establish the purchase price for homeownership units, and the interest rate and amortization period to be used;
- o the circumstances in which the IHA will permit the homebuyer to be temporarily absent from or sublease the unit; and
- o the IHA policy regarding succession when all who originally signed the homebuyer agreement are unable to fulfill its requirements.

Payment and Collections Policy: The IHA must adopt a written policy to assure the prompt payment and collection of homebuyer payments. A sample outline for a rent and homebuyer payment and collections policy is provided in Appendix 3.

Grievance Procedures: The IHA must adopt grievance procedures as described in Section 4.19.