

**NEW JERSEY HOUSING AUTHORITY  
COMMISSIONERS HANDBOOK**

# **NEW JERSEY HOUSING AUTHORITY COMMISSIONERS HANDBOOK**

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This handbook is designed to introduce Commissioners to their responsibilities as members of the Housing Authority Board to which they have been appointed. It is our hope that this will be a useful tool and reference during your tenure as a Commissioner.

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# **THE PUBLIC HOUSING AGENCY IN NEW JERSEY**

## **Overview**

Today there are over 98 housing authorities in New Jersey. Housing Authorities manage low-income public housing for families and elderly and disabled persons. They also administer a variety of other housing assistance programs.

America's housing commissioners exert a powerful influence in the nation's housing community. They are responsible for overseeing the expenditure of billions of federal, state and local dollars allocated for the purpose of housing low-income families and elderly and disabled persons. They help direct the management of programs that benefit more than 3 million American families, elderly, and disabled persons. At their best, they are the supporters of both affordable housing programs and the people that such programs serve.

The public housing commissioner's role is complex. Commissioners are charged with ensuring fairness in the administration of housing authority policies, attracting adequate resources, balancing the demands of conflicting community groups, and winning public support. Moreover, as they conduct the business of overseeing local public housing operations, commissioners must be aware of and follow federal, state and local laws and housing regulations to the letter. The leadership and service of an involved and committed board of commissioners are essential to meeting the housing needs of low-income citizens.

Commissioners should:

- Believe that it is possible to transform communities and the people who live in them for the better.
- Understand that theirs is an evolving and ever changing industry, subject to federal legislation, and community acceptance. Commissioners then, should keep abreast of the significant legislative and programmatic changes that occur in the field.
- Know that they are responsible for the proper administration of housing authorities and that, with the assistance and cooperation of the executive director, they must assure that an authority operates strictly within the parameters of the law.
- Be familiar with the financial transactions, contracts, and administrative procedures practiced by the housing authority and should work to assure that such activities are instituted and conducted to the highest possible standards.

New commissioners should make a point of becoming familiar with any legal agreements between the authority and the U. S. Department of Housing and Urban Development, federal regulations governing authority activities and with HUD notices and guidebooks.

In September of 1998, Congress passed the Quality Housing and Work Responsibility Act (QHWRA), major legislation that changed many of the operating roles for local housing agencies and for commissioners, too. A description of those changes, and their importance to commissioners is included in this handbook.

## **Functions of a Housing Authority**

A public housing authority is a largely autonomous public corporation established to provide housing assistance primarily to low-income households. The State of New Jersey's Local Redevelopment and Housing Law grants to the housing authority all the public powers necessary or convenient to carry out the purposes of the Authority. These powers focus on construction, acquisition and management of housing and include the power of eminent domain.

Most of the funds awarded to housing authorities come from the U.S. Department of Housing and Urban Development. Other funding sources include the State of New Jersey's Department of Community Affairs. To a great extent the operations of housing authorities are guided by the regulations which come with these funding programs.

## **Linkage to Local Government**

A public housing authority is a separate public corporation with separate powers. The local government is responsible for establishing it. It does not have other direct powers over the housing authority.

In some cases housing authorities contract with the local government to provide various support services. The purpose of these contracts is to allow the authority to focus on the primary mission of creating and maintaining affordable housing.

Housing owned by the housing authority is not subject to property taxes. However, many federal housing funding programs allow the payment of a Payment In Lieu Of Taxes or PILOT to help off set the cost of providing government services to the public housing developments.

## **APPOINTMENT OF COMMISSIONERS**

### **Appointment**

Each Housing Authority is governed by a Board of seven Commissioners, one of the seven commissioners is appointed by the Commissioner of the State Department of Community Affairs, one by the Mayor or other chief executive officer of the municipality, or in the case of a county by the director of the board of chosen freeholders or other chief executive of the political jurisdiction, and five by the governing body of the municipality or county within which the authority is established. Each Commissioner serves a five-year term and may be reappointed. The term of each Commissioner expires in a different year to insure continuity.

### **Residents as Commissioners**

One or more public housing residents may be appointed to Housing Authority Boards of Commissioners; the 1970 Housing and Urban Development Act affirmed the appointments of residents to Authority Boards. Section 211 of that Act states that "no person shall be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low rent housing project."

Updated Regulations – The Quality Housing and Work Responsibility Act of 1998 requires that a recipient of the Housing Authority services be a member of the Board of Commissioners. Please refer to the latest HUD regulations regarding residents on Housing Authority Boards. Part III Department of Housing and Urban Development – 24 CFR Part 964 Public Housing Agency Organization; Required Resident Membership on Board of Directors or Similar Governing Body; Final Rule. Date: October 21, 1999

### **Reimbursement for Expenses**

You, as a Housing Commissioner, serve without pay. You are reimbursed for necessary expenses. Rates and eligible expenses are set forth in the Housing Authority’s travel and expense policy.

### **When Vacancies Occur**

Vacancies on the board are never considered cause to delay program activities. New Jersey statutes provide that you hold office until your successor is appointed and confirmed. The purpose of this stipulation is to assure that the work of the Housing Authority will not be delayed by a vacancy on the Board. On a seven-member Board, four Commissioners shall constitute a quorum for the purposes of conducting business.

### **Qualifications**

You should be chosen on the basis of your demonstrated ability to represent the community and for your experience in housing and community development and redevelopment programs. You must also be willing and able to devote the time and energy required to carry out the demands made on you.

### **Removal of Commissioners**

You may be removed from office for inefficiency or neglect of duty or misconduct in office. Removal is by the appointing authority. You must be given a copy of the charges at least ten days prior to the removal hearing and you have an opportunity to be heard in person or by counsel. In the event of your removal, a record of the proceedings, together with the charges and findings, shall be filed in the office of the city/county clerk.

## **THE BOARD & EXECUTIVE DIRECTOR – AN EFFECTIVE TEAM**

### **Overview**

Housing Authority Commissioners provide leadership, set policy, approve budgets, and earn support in the community for housing programs. They, however, must allow the Executive Director and staff to handle the day-to-day management of the agency’s programs. Their role is that of policy maker, while the responsibility of the Authority’s administration belongs to a paid professional working full or part-time as the Executive Director of the agency. This person is the Chief Executive Officer who manages the operations and reports to the board of commissioners.

Without an effective Executive Director, an authority cannot be successful. Without a positive working relationship with the Board, an Executive Director cannot be effective.

### **Defining Responsibilities**

It is easy to say that the Board sets policy while the Executive Director (ED) is responsible for the management. There are, however, gray areas within this definition, and the Board and ED must come to an agreement on these if they are to succeed.

The Board creates policies for financial management and approves budgets, but the ED invests funds, makes sure bills are paid and handles day-to-day expenditures. The Board approves bids for major purchases, but the ED makes a recommendation and then carries out the actual purchase. The ED usually makes small purchases without board approval.

The Board hires an auditor to audit the financial records, but the ED seeks bids for the audit and makes a recommendation to the Board.

The Board is responsible for writing the agency's long-range plan, but the ED makes recommendations and implements the plan once it is completed.

The Board approves departmental budgets and general funding for staff salaries, but the ED decides the scope of each department's activities and recommends individual salaries and the amount of raises the staff receives.

The Board sets broad personnel policies, but the ED determines the level of staffing, writes job descriptions, and hires, promotes, evaluates, or fires staff. Staff hires, promotions and terminations are usually subject to Board approval. It is not unusual for a staff person to take a concern or complaint directly to the Board or to an individual Board Member. However, when this occurs, it is the Board Member's responsibility to clearly remind the staff person of the chain of command. The board member should urge the staff person to take up the issue with the ED (or his/her immediate supervisor) and to follow the internal grievance procedure as necessary.

### **Roles of Board vs. Executive Director**

<b>TASK</b>	<b>BOARD ROLE</b>	<b>EXECUTIVE DIRECTOR ROLE</b>
Long-term Goals	Approves	Recommends & Provides Input
Short-term Goals (less than 1 year)	Monitors & Evaluates Progress	Establishes and Carries Out
Day-to-Day Operations	No Role	Makes All Decisions
Budget	Approves	Develops & Recommends
Routine Monthly Expenditures	Monitors	Establishes & Carries Out
Development of Policy	Adopts & Monitors	Recommends & Carries Out
Billing, Credit & Collections	Adopts Policy	Recommends & Carries Out
Hire, Promote, Terminate Staff	Approves	Recommends & Carries Out
Direct & Evaluate Staff	No Role	Makes All Decisions
Staff Salaries	Approves	Recommends
Staff Grievances	No Role	The Grievance Stops Here



## **Areas of Responsibility**

Main areas of responsibility for Commissioners include:

1. Making decisions that are in the best interest of your agency. Your job is to serve as an advocate for the Housing Authority.
2. Setting policy for the operation of the Housing Authority. These policies are very important, as they will ensure that the agency is run in an effective, efficient, ethical and legal manner.
3. Approving financial statements. Although you do not have direct responsibility for the daily income and expenses, you could be held responsible if funds are used inappropriately. So it is important that you review these statements and ask questions if you don't understand something.
4. Setting long and short-range goals, with input from the Executive Director. These goals will determine the direction in which your agency is to proceed.

## **What Makes an Effective Commissioner**

An effective Commissioner will:

1. Have knowledge of the purpose, goals, policies, programs, services and needs of your agency.
2. Exhibit leadership capabilities.
3. Avoid making decisions or judgments based on information received from individuals or outside groups.
4. Deal honestly and fairly in all matters related to Housing Authority operations.
5. Be an advocate in the community for your agency. Never discuss actions, decisions, staff or any aspect of the Housing Authority in a negative manner with outside individuals or groups.
6. Refrain from getting involved with the day-to-day operations of the Authority.

## **Chairperson Responsibilities**

The Board Chairperson must understand that he or she has no special authority beyond that of any other Board Member unless the full board decides otherwise. For example, the board may delegate specific powers to the Board Chairperson like managing meetings, representing the Board to the public or signing contracts and checks on behalf of the board.

In other words, any powers the Board Chairperson has must first be granted by the full Board either in policy or accepted board practice. This means that the Chairperson cannot speak or act for the board unless the full board has formally or informally delegated this privilege.

Traditionally, the Board Chairperson has several duties:

- **Planner** – The Chairperson works with the ED to plan the meeting agenda as well as how the meeting will be conducted. The Chairperson keeps an overall view of the board calendar and makes sure that duties mandated by board policy or by law are completed on time.

- Facilitator – The Chairperson must be viewed as a facilitator, rather than a controller, of Board Meetings. He or she begins the meetings on time, directs the Board through the agenda and attempts to adjourn the meeting on schedule. As facilitator, the chairperson
- ensures that all Board Members have the opportunity for a fair participation, attempts to make sure all sides are heard, and moves the Board to action on the issues.
- Delegation – The Chairperson traditionally has the power to appoint Board Members and others to committees, with Board consent. To do this, he or she must spend extra time with individual members to learn their skills, strengths and interests so that appropriate assignments can be made. It is also the Chairperson’s responsibility to make sure that committee assignments are clear and to hold the committees accountable to the job assigned. The Chairperson often serves on committees.
- Liaison – The Chairperson must be able to communicate the Board’s needs and concerns to the ED and vice versa. In addition, the Chairperson offers personal support and counsel to the ED and acts as his or her sounding board.
- Team-builder – It is the duty of the Chairperson to foster team spirit among Board Members. When this cooperation is endangered, he or she must mediate, counsel and discipline fellow board members to keep the team intact.

### **Tenant Commissioners**

With legislation passed in recent years, most housing authorities now have Tenant Commissioners serving on their agency boards. The purpose of including tenants on the Board is to bring their perspective to Board discussions and, ultimately, to the decisions that are made. They are not there to represent any other tenant or organization, but rather to share their knowledge from the tenant’s viewpoint. The Tenant Commissioner has the same duties and responsibilities as the other commissioners.

### **Importance of a Good Working Relationship**

In order to have a well-run agency, it is important to have a good working relationship between the Board and the Executive Director. To this end, a Commissioner should:

1. Offer support to the Executive Director in his/her relationships with outside groups or individuals.
2. Allow the Executive Director to do his/her job without interference.
3. Always be open and honest about any problems or concerns that arise.
4. Avoid asking special favors of the staff, including requests for information, unless you have consulted with the Executive Director.
5. Refrain from taking it upon yourself to meet with staff, discuss Housing Authority business with constituents or seek any public forum on an individual basis. Always ask for information from, and through, your Executive Director, preferably at a Board meeting.

## **Avoiding Conflict**

To avoid conflict, Commissioners should:

1. Serve the agency as a whole rather than any special interest groups or individuals.
2. Avoid even the appearance of a conflict of interest. Disclose any possible conflict of interest to the Board in a timely manner.
3. Maintain objectivity on all matters coming before the Board. Be fair, ethical and always exhibit personal integrity.
4. Never accept (or offer) favors or gifts from (or to) anyone who works for, is a constituent of, or does business with the Housing Authority.

## **Never Second Guess the Executive Director**

If the Board discovers something that the Executive Director is doing which they do not like, or if they have received a complaint, they should sit down and discuss this with him/her. While the Commissioners should be sensitive to the public, they should not allow others to bypass the Executive Director. He/she, not the Commissioners, is ultimately responsible for the daily operations of the Housing Authority and should be given a chance to handle the problem at hand. This also pertains to staff. It is the responsibility of the Executive Director to hire, fire, supervise, evaluate, promote, etc. the staff. All employee complaints, grievances, etc. should be brought to the Executive Director and not the Board.

The Commissioners and the Executive Director work as a team. It is the Board's responsibility to support the Executive Director and it is the Executive Director's responsibility to inform and advise the Board. The Commissioners provide support by providing direction and good policies. The Executive Director carries out the Board's plans and is the manager of the operations.

## **What Not to Do**

A Commissioner should not:

1. Hold meetings individually with constituents. If either the staff or clients contact you, they should be reminded of the chain of command and be encouraged to talk with the Executive Director or their immediate supervisor.
2. Be a spectator at Board meetings. Participation is needed from all who sit on the Board.
3. Interfere in the day-to-day operations of the housing authority.
4. Create situations where you appear to be a manager instead of a policy maker.
5. Criticize the housing authority operations or staff to the press or other outside individuals or groups. Any concerns should be discussed with the Executive Director and at a meeting of the Board.

## **Closed Sessions**

The Board of Commissioners should never meet in closed session without the Executive Director present. The Executive Director is your link with the agency. He/she knows every aspect of the organization and should be involved in all decisions. Meeting without the Executive Director

will break down communications and do damage to the teamwork process. This, in turn, will harm the efficiency of your organization. The Board and Executive Director must work together to be effective leaders. By keeping things in the open with each other, you will be able to survive both good and bad times.

## **BOARD OF COMMISSIONER MEETINGS**

### **Duties of Commissioners**

- Set policies for the Housing Authority regarding its course of action.
- Pass resolutions that give the Housing Authority the direction of the Board.
- Determine how policy is implemented by reviewing reports submitted at meetings by management staff.
- Receive information as to the status of current programs or upcoming issues that are important to the Housing Authority
- Review financial information.

### **Preparation for the Meeting**

- Several days before the meeting, the Commissioners should be provided with copies of the agenda and all resolutions or other materials to be discussed at the meeting. This will allow Commissioners a chance to review the information and make sound decisions on important matters to come before the Board.
- Commissioners should review all materials received prior to the meeting so they will be familiar with the issues that will be discussed at the meeting.

### **During the Meeting**

- Adhere to the established meeting procedures.
- Limit action on any new topic not on the agenda to discussion, unless it is of an emergency nature.
- Keep the meeting focused and stay on time. The actual meeting should not last more than 2 to 3 hours.
- Ask questions so that you understand what you are voting on.
- Suggest issues or topics that you would like to be placed on the agenda for the next meeting.
- Robert's Rules of Order should prevail.

### **Follow-up to the Meeting**

- Minutes are written up and sent to the Commissioners prior to the next meeting.
- If possible, any actions dictated by the Board will be implemented by the Executive Director prior to the next meeting.

### **Suggested Agenda Items**

Roll Call

Approval of Minutes of Previous Meeting

Approval of Financial Statements and Bills

Communications

Reports of Committees

Report of Executive Director

Unfinished (Old) Business

New Business and/or Public Comments

Set Next Meeting Date (*unless always scheduled on a specific date, such as the first Tuesday of every month at 9:00 AM*)

Adjournment

## **STRATEGIC PLANNING**

### **Guiding An Effective Agency**

Once you understand the legal framework and the financial streams that establish and support your agency, your attention should move to helping the agency pursue its missions. The daily duties to fill vacancies, repair apartments and complete extensive paperwork, too often leave little time to concentrate on agency goals.

However, to be truly effective, short and long-range goals have to be established and evident to Commissioners, managers and staff. The purpose begins with a mission. The mission of your agency needs to be clearly identified and re-visited periodically so that funds and energies are properly focused.

Your mission statement should be a brief, clear and concise statement capturing the essence of the agency's efforts and giving direction for future action. The mission statement perspective should span decades. Long-range planning is a key responsibility for Commissioners. It provides direction to the Executive Director and helps the agency adjust to internal changes of staff and programs, and external conditions in the community.

After Commissioners have agreed to adopt or amend a mission statement, strategic planning begins. Strategic planning will help lead the agency from its current status, along a path of progress, toward accomplishing the Authority's mission. By examining your agency's strengths, weaknesses, opportunities and obstacles, commissioners can direct attention and resources in a coordinated plan. As the mission statement establishes direction, specific strategies can be identified to take advantage of strengths and opportunities, and to address weaknesses and obstacles. This exercise might include reviewing program audits, HUD management reviews, PHAS and SEMAP scoring, and fiscal records. Reports on the waiting list, occupancy, and utilization should also be reviewed. From that performance data, specific strategies can be considered that will allow you to work with your Executive Director to develop implementation plans.

At this point, Commissioners move to a role as evaluators to monitor progress on the strategic initiatives and how they impact the mission. This role continues until there is a need to amend the mission statement. With broad agency/community planning goals and strategies in place, Commissioners delegate short-term planning and implementation to the Executive Director and his/her support staff.

Current regulations require non-exempt housing authorities to electronically file an Annual and Five-Year Plan with HUD. These plans can be useful tools for publicizing changes in agency programs or direction, and for documenting the flow of funds. In particular the Five-Year Plan should be reviewed for compatibility with adopted strategies and evaluated in light of the agency's mission.

Completion of the Annual Plan and Five-Year Plan can be tedious. However, it can also be rewarding as focus is shifted from day-to-day tasks to documenting performance, progress and long-term development. The Plans guide the agency through its different components in a comprehensive review of policies, procedures, programs and data. This annual planning process presents an opportunity for mid-course corrections as implementation plans are enhanced or discarded based on their contribution to key strategies and the mission.

Even with a capable Board and Executive Director, and along with a comprehensive mission statement and effective strategies, unforeseen circumstances could change your course of action. Since our programs are the tools of legislators and partisan administrations, they are re-tooled or discarded from time to time. Thus, your planning process must be broad, flexible, inclusive and adaptable. For example, if the political tides shift making funds readily available for a low priority local need, the wise decision might be for your agency to address the lesser need in lieu of pursuing a greater need. Your goal is not to address every contingency or to mandate strict adherence to tasks and a timetable. Rather, your goal is to establish directions and determine broad strategies that will move your agency along paths that will lead to fulfillment of your agency mission.

## **POLICY MAKING/POLICIES**

### **Overview**

The Board of Commissioners of an Authority, in cooperation with the Executive Director, is responsible for developing and adopting policy. Some policies establish procedures to be followed; others set goals and direction for future activity. Adoption of policy should be documented in the written Minutes of Board Meetings. Policies guide the agency director and staff in carrying out their responsibilities. Effective policies provide clear guidance without placing rigid restrictions on implementation.

Federal and state regulations require a number of policies be in place for agency and program management. A policy manual may be useful to consolidate and document authorization and guidance from the Board of Commissioners. Policies should be reviewed periodically in light of changes in operations or regulations. Minutes of the board should note policies reviewed even if no revisions are made. When revisions are made the new policy should be formally adopted by resolution.

Policies required may vary depending on the programs and developments under management. The following is a list of typical policies and examples of items that could or should be covered in these policies.

### **Admissions and Occupancy (A&O) - Authority-owned Housing**

- Marketing the program and property to all eligible persons.
- Determining applicant eligibility.
- Process and procedures for resident selection.
- Process for determining rent.
- Assessing eligibility for continued occupancy.
- Parameters for ongoing rent certifications.
- Procedures for evaluating/re-evaluating proper unit size.
- Procedures for termination and eviction.
- Execution of the lease and related residency documentation.

### **Administrative Plan - Housing Choice Voucher or Moderate Rehabilitation Program**

- Marketing the program and property to all eligible persons.
- Determining applicant eligibility.
- Process and procedures for participant selection and issuance of Vouchers.
- Process for determining rent.
- Process for qualifying dwelling units (inspection/reasonable rent).
- Assessment for continued participation and conducting ongoing rent certifications.
- Procedures for evaluating/re-evaluating proper unit size.
- Procedures for termination.
- Procedures for intake and export for households utilizing Voucher portability
- Provisions for Family Self-sufficiency (FSS), Home Ownership, Congregate Housing or other program variations available as a local option.

### **Grievance Procedure: Allowing For Due Process Challenges to Administrative Acts**

- A grievance policy is mandated under federal regulations. It establishes the procedures to be followed when the Authority is taking an adverse action against an applicant, resident or program participant. The grievance policy is to be conspicuously posted.

### **Rent Collection**

- When rents are due and where rent is paid.
- Permitted or preferred forms of payment (cash, check, credit card etc.).
- Processing for maintenance and miscellaneous charges that arise.
- Process and parameters authorizing and addressing any partial payments.
- Late payment charges and procedures in pursuit of delinquent payments.

### **Personnel: Standards for Agency Relations With Employees**

- Authorizing authority for hiring and firing decisions.
- Delineating positions, job description, salaries and benefits.
- Performance assessment with evaluations, probationary requirements, and a discipline process.

### **Investment: Utilization of Revenues Not Currently Needed for Operations**

- Periodic review of revenue and pending expenses.
- Establishing limitations to HUD approved investment vehicles.
- Requiring depositories be FDIC or FSLIC insured and allowing investment only to the insurance limit unless deposits are collateralized.

### **Capitalization: Define a Capital Investment**

- Establish a reasonable dollar value for capitalizing an item. All purchases above that level whether tools, equipment, improvements or additions are classified as a capital expenditure and not an operating expense. Consequently, all capital items must be inventoried and depreciated.

### **Disposition of Assets: Provide for Discarding Capital Items**

- Define a process to be followed when the Authority wishes to remove capitalized items from inventory. The Annual Contributions Contract with HUD sets minimum standards that must be included in this policy.

### **Community Space: Establish Criteria for Use of Common Areas**

- Set parameters for resident and public use of available space and facilities including price (if any), availability and reservation preferences.

### **Depreciation**

- Adopt a Standard Accounting Procedure for Tracking Depreciation

## **FISCAL AFFAIRS**

### **Overview**

The Board of Commissioners is the legal recipient of all money awarded to the Housing Authority. This fiscal responsibility is reflected in the contracts, budgets, audits and other financial documents presented to them for authorization or rejection at virtually every meeting. It becomes your responsibility to oversee a continuing judicious handling of funds through careful reading of financial reports and votes that guarantee sound fiscal policies. In addition, it is your responsibility



to assure that your policies are established and updated periodically. They include but are not limited to: purchasing and contracting, disposition, capitalization, depreciation, personnel, travel, rent collection and investment.

Several administrative devices for measuring and evaluating the local programs are available to you as a commissioner: the budget, financial statement and fiscal audit.

The Quality Housing and Work Responsibility Act of 1998 included a new procedure for assessing the financial management of housing authorities. This procedure was incorporated into the Public Housing Assessment System, or PHAS. PHAS is intended to evaluate the financial condition, management operations, physical condition, and level of resident services of local authorities. Where financing is concerned, PHAS examines LHA operations to determine whether an authority has adequate monetary sources and to determine if those resources are being managed effectively. As a result, housing authorities are required to prepare financial information in accordance with Generally Accepted Accounting Principles (GAAP). All housing Authorities that administer subsidized programs under the terms of an Annual Contributions Contract must produce an annual financial statement that conforms to GAAP.

A Housing Authority's Board of Commissioners has the major responsibility for approving an authority's budgets. Although the task of drawing up budgets belongs to the authority's Executive Director and professional staff, final approval is the Board's responsibility. Commissioners deal with three kinds of budgets:

1. **Operating Budgets**, which maintain current programs;
2. **Developmental Budgets**, which make future programs possible; and
3. **Modernization Budgets**, which include the modernization of existing housing.

An operating budget is a realistic estimate of the Authority's operating receipts and expenditures. The Board of Commissioners must assure that the Housing Authority's business operations are conducted in a cost-effective and economical manner. You, as a commissioner, can evaluate budget items by:

- Comparing them with similar budget items from the previous year.
- Comparing proposed amounts with expenses charged against the budget item for the previous year.
- Asking for explanations of how the amount of various budget items were set.

Approval of a financial report is a standard part of your Board Meetings. The reports should list expenditures and income by budget item and show balances on hand in various accounts. At a minimum, financial reports should be examined as follows:

- Check whether expenditures are in line with the amount budgeted for various budget items.
- Ask for explanation of items that are not clearly labeled or budgeted.

- Ask for explanation of items that are way above or way below budget.

The Authority's operating budget balances projected income and expenditures and serves as a plan of operation. As the year progresses, the budget also serves as a tool to measure performance and can be used to answer some important questions: Has income lived up to expectations? Have expenditures exceeded expected levels? Are programs funded under the budget performing?

A prudently managed operating budget is important. The challenge facing Commissioners is to achieve a balance between the short- and long-term benefits of budget decisions. For example, a decision may be made to reduce an Authority's day-care program. Not only would the level of services be reduced, but also working parents may be forced to stay home to take care of the children. Thus, a decision to reduce day-care services could result in the loss of a tenant's ability to pay rent.

Budget cuts in maintenance may lead not only to deteriorating living conditions, but also may contribute to a negative community image. The point is that a Commissioner must weigh the affects of decisions made on budgetary matters. A clear understanding of the authority's operations, and the interrelated character of those operations are essential for sound decision-making.

### **Funding for Public Housing**

The main sources of revenue for federally assisted housing programs are:

1. HUD operating subsidy and modernization funds;
2. Rental income; and
3. Interest on investments. Investment income comes from excess funds that are deposited in the general fund and credited to the operating reserve.

The Quality Housing and Work Responsibility Act of 1998 creates two funds—essentially block grants—for local Housing Authority funding: a Capital Fund and an Operating Fund.

The Capital Fund allows housing agencies to develop, finance and modernize public housing—including mixed-finance developments—and to use funds for vacancy reduction.

The Capital Fund also can be used to address deferred maintenance activities, to bring dwellings into compliance with local building codes, for management improvement, demolition and replacement of units, resident relocation, expenditures that improve self-sufficiency efforts, security improvements and home-ownership programs.

The secretary of the Department of Housing and Urban Development may withhold or limit a Housing Authority's Capital Fund or Operating Fund if an agency fails to meet the requirements specified in the Quality Housing and Work Responsibility Act.

## **Annual Contributions Contract**

The Annual Contributions Contract (ACC) is the key funding agreement between the local public Housing Authority and federal government through HUD. In accepting the terms of the ACC, the local authority promises to develop and operate its developments for the sole purpose of providing decent, safe and sanitary dwellings for low-income families. It further pledges to manage its development efficiently and economically, maintaining it for ongoing occupancy. In return, the local Authority receives grants from HUD for the development, operations and modernization of its communities. Originally, the annual contributions were intended to cover only the cost of the initial construction and related financing costs. Today, however, with rental income falling far short of operating expenses, HUD also provides operating subsidies to help authorities meet their expenses.

HUD grants provided under the ACC also help pay for modernizing existing housing. Modernization funds are available, for example, to authorities in need of rehabilitating their housing stock and making other necessary capital improvements. Such funds—previously available under the Comprehensive Improvement Assistance Program (CIAP) and, for larger agencies, under the Comprehensive Grant Program begun in FY 1992—now are available under the Capital Fund Program (CFP).

## **The Annual Audit**

Subject to the criteria stated below in Circular A-133, public Housing Authorities are required by the Single Audit Act of 1984 to conduct an annual audit using the services of an independent public accountant (IPA). It is the Board's responsibility to hire the IPA. Hiring should be done well before the end of the fiscal year subject to audit. The Audit Act provides guidance on what areas should be examined.

Circular A-133 stipulates that non-federal entities expending less than \$300,000 per year in Federal funds are exempt from the Single Audit Act (subpart b .200 of the OMB A-133 Circular). The question has arisen that if an entity is below the SAA threshold, what type of audit can be done under these circumstances. In meetings held with GAO, OIG and the REAC Quality Assurance Director, the "bottom line" conclusion reached was that an entity below the SAA threshold could have whatever type of audit it wanted. Thus, while REAC recommends that PHA's obtain an audit even when they are exempt from the Single Audit Act, the final determination of the type of audit is left to the PHA's management.

Commissioners may meet with the IPA if problems exist. The Board should feel free to ask questions and perhaps provide suggestions that would alter the IPA's scope. Ultimately, the Board should approve the scope of the audit.

As soon as the audit is completed, the Board should request to review the audit-results. During the review, the IPA presents audit results, findings, adjustments, internal control problems and questioned costs to the Board and authority management. Board members should use this forum to ask questions aimed at satisfying themselves that the auditors were independent and objective, and that no scope limitations or restrictions were placed on their work. Ultimately, the Board accepts the audit report and results of work, including management's corrective action plan.

## **Financial Information For Sound Management**

Commissioners must receive a regular flow of information from the executive director in order to make informed decisions. To ensure a regular and consistent flow, Boards and Executive Directors should work out a dependable system for getting information to Commissioners, preferably well in advance of Board Meetings. Of particular importance is financial information.

New Commissioners should be briefed thoroughly on the agency's financial affairs. Well before Board Meetings, Commissioners should receive the reports necessary to assess the financial status of the agency and to ascertain how well the agency is meeting the program and budget objectives. The following items will provide Commissioners with information critical to sound financial management:

Six-month and year-end financial statements (HUD Form 52599, Statement of Operating Receipts and Expenditures, prepared every six months, is very useful to Commissioners. It provides actual spending vs. budgeted amounts for every line item:

- Monthly or quarterly reports on the status of expenditures vs. budget.
- An analysis of the operating reserve.
- An analysis of rent collections and rent collection policies and procedures.
- An explanation of the development of annual operating budget and schedules.
- An analysis of staffing levels vs. units and a trend analysis.
- An explanation of any pending litigation and contingent liabilities.
- Status and analysis of Tenants' Accounts Receivable.
- An explanation of the agency's internal controls.
- A review of any findings of the annual audit.
- A report on any findings from HUD reviews of agency financial activities.

## **HUD Monitoring and Assessment of Authority Performance**

In signing the Annual Contributions Contract (ACC), local public housing agencies agree to undergo regular HUD reviews. Through its field offices, HUD periodically monitors each authority to ensure that it is:

- Providing decent, safe and sanitary housing to low-income families.
- Carrying out statutory, regulatory and contractual obligations.
- Properly managing federal funds without waste or fraud.
- Adhering to civil rights requirements, set forth first in 1962 when the President directed public housing to avoid all racial bias in its development and occupancy policies, and later in 1964 under Title VI of the Civil Rights Act, which prohibited discrimination in programs or activities receiving federal funding assistance.

Copies of the HUD monitoring reviews should be made available to the housing authority boards.

## **LEGAL MATTERS**

### **Overview**

The United States Housing Act of 1937 opened the door for the era of public housing programs. Following the passage of this Act, states were required to pass legislation that would permit local governments to create Housing Authorities. The ensuing State Law mandated:

- The status of the Housing Authority as a legal entity.
- The area of jurisdiction – county, city, etc.
- The legal powers and restrictions.
- The types of activities the Housing Authorities are permitted to engage in.
- The number of Commissioners and whether they are appointed or elected.

Housing Authority Boards must comply with Federal, State and local guidelines in the development and management of their housing stock.

### **Annual Contributions Contract**

Each Housing Authority, in order to receive federal assistance, is required to enter into an Annual Contributions Contract with the Department of Housing and Urban Development. This contract specifies the responsibilities of the housing authority in developing and managing the financial aspect of their programs.

### **The Quality Housing and Work Responsibility Act of 1998**

Congress passed the Quality Housing and Work Responsibility Act (QHWRA) in 1998. This Act requires non-exempt Housing Authorities to prepare annual and five-year plans that outline the Agency's operation, goals, objectives and finances. In addition, it requires de-concentration of low-income residents, safety and security procedures, background checks on prospective tenants, and files to be maintained on public housing residents. It also specifies the targeting of resources to the Authority's clients and allows for a mix of financial development options.

### **Public Officials Liability Insurance**

Many Housing Authorities offer the protection provided by Public Officials Liability Insurance, also called Directors and Officers Insurance. This type of insurance protects Commissioners, officers, and staff against claims based on wrongful acts committed or alleged to have been committed in the course of their duties.

### **Fidelity Bonds**

All Housing Authorities are required to obtain Fidelity Bond Insurance coverage in an adequate amount to protect the agency from dishonest acts by Commissioners and staff. The minimum requirement is that this insurance covers officers or staff who handle cash and/or who are authorized to sign checks on behalf of the agency. Several forms of fidelity bonds are available through insurance carriers.

## **Commissioner's Liability**

Housing Authority Commissioners and staff are subject to potential liability suits in several areas. These include, but are not limited to:

- Breach of contract.
- Torts – intentional or negligent wrongful acts.
- Constitutional or civil rights violations.
- Acts in excess of authority.
- Discrimination against any of the protected classes.

New Jersey Statutes provide general indemnification of employees and officers of governmental bodies for suits brought against them for acts performed within their official capacity. This means that the Housing Authority itself must pay any damages assessed against you, as a Commissioner, as well as legal fees.

Suits are less likely to be successful if you are acting in good faith. Good faith implies that the actions were free from fraud and collusion, and that the action was not arbitrary.

There are ways to minimize the possibility of successful suits against the Housing Authority or the Commissioners. These include, but are not limited to:

1. Establish policies and procedures that comply with federal and state legislation protecting the civil rights of tenants and staff. These policies should be established in written form, with resolutions adopted by the Board to approve these policies. They should be recorded in the meeting minutes.
2. Train all staff and commissioners in what these policies are and how they apply to their duties.
3. Make sure the policies are followed.
4. Seek legal counsel when in doubt. This demonstrates the intention to act in a reasonable and prudent manner.
5. Stay informed on issues confronting the Housing Authority. The defense of acting in good faith can be lost if you act or fail to act because of ignorance or lack of readily available knowledge.
6. If a suit seems likely, contact your legal counsel, liability carrier and the funding agency immediately.

## **The New Jersey Open Meeting Law**

The New Jersey Open Meeting Law provides that all meetings of governmental units, including Housing Authorities, shall be open to the public and held in places reasonably accessible to members of the public unless otherwise expressly provided by law.

In the context of the law, “meeting” means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or

vested in the body. If one-half or more of the members of a governmental body are present, it is presumed that a meeting is in session for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. Social or chance gatherings, however, which are not intended to avoid meeting this law, are not included.

The right of the public to attend a governmental meeting does not necessarily imply a right to participate or have input into the meeting. The Open Meeting Law deals solely with the public's right to be present. It is, however, complimented and supplemented by laws that afford the opportunity to speak by requiring public hearings as part of some legislative, quasi-judicial and administrative proceedings.

The Open Meeting Law deals with rights of the "general public" rather than special interests such as the press and other media. However, the law compliments other laws affording specific members of the public, such as parties in particular proceedings, rights to special notices of upcoming meetings affecting their interest.

Whenever a meeting is held in open session, they are required to make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This does not mean any person is allowed to record, film or photograph a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.

The Open Meeting Law also requires the following:

1. Notice must be given to the news media that have filed a written request for such notice and to the official newspaper of the area or the news media most likely to give notice to the area served.
2. Notice shall set forth the time, date, place and subject matter of the meeting, including items intended for consideration at closed session.
3. Notice shall be given prior to the meeting within the specified time period required by the Open Meeting Law.
4. Separate notices are to be given for each meeting of the Housing Authority.

### **Exemptions to the Open Meeting Law**

The Housing Authority may meet in closed session under one or more of the allowable exemptions set forth under the Open Meeting Law. The closed session must be carried by a majority vote. Prior to the motion, the Chairperson of the Board must announce the nature of the business to be considered at the closed session, and the specific exemption or exemptions under which the closed session is authorized. This announcement shall become a permanent part of the minutes of the meeting. No business shall be taken up at any closed session except that which relates to matters contained in the Chairperson's announcement of the closed session.

## **APPENDIX**

### **Glossary of Definitions**

#### **Adjusted Income**

The Annual Income less allowable deductions and expenses.

#### **Annual Contributions Contract (ACC)**

A federal contract entered into between HUD and local public housing authorities over a fixed period of time for annual debt service on project financing.

#### **Annual Income**

The anticipated total income to be received by an eligible family from all sources for a 12 month period following the date of determination of income.

#### **Budget Authority**

The total amount of yearly payments authorized for an assisted housing project/program. This represents the total long-term cost of project/program. It is the annual budget authority times the number of years in the contract.

#### **Capital Fund Program (CFP)**

This is the program that makes funds available for physical and management improvements to public housing authorities. Replaces Comprehensive Improvement Assistance Program (CIAP) and Comprehensive Grant Program (CGP).

#### **Community Development Block Grant (CDBG)**

The program which provides entitlement communities with direct grants that they can use to revitalize neighborhoods, expand affordable housing and economic opportunities, and/or improve community facilities and services, principally to benefit low to moderate income persons.

#### **Community Housing Assistance Strategy (CHAS)**

A document developed by a jurisdiction outlining housing needs approaches for the jurisdiction.

#### **Community and Housing Development Organization (CHDO)**

A federally- defined type of non-profit housing provider that must receive a minimum of 15% of all Federal HOME Investment Partnership funds. The primary difference between a CHDO and other non-profits is the level of low-income resident participation on the Board of Directors.



**Congregate Housing**

An assisted independent living environment that offers those who are elderly or socially deprived, but otherwise in good health, the residential accommodations and supporting services they need to maintain or return to a semi-independent lifestyle and to prevent premature or unnecessary institutionalization as they grow older.

**Contract Authority**

This is total dollar limit that HUD (or other federal agencies) can commit under contracts with developers (or other constituents) for a given program. (Established by congressional appropriations acts.

**Contract Rent**

The rent payable to the owner under the lease (contract), including the portion of rent payable by the family. In case of a cooperative, the term “ contract rent” means charges under the occupancy agreements between the members and the cooperative.

**Conventional Production**

This is the production method in which the PHA hires its own architect to prepare drawings and specifications and then advertises for contractors to build units. Contractors receive monthly payout during construction. The PHA retains title to land during construction.

**Cooperation Agreement – Public Housing**

This is a contract between a local housing authority and the governing body of the municipality in which the public housing project is located. It provides for the governing body to furnish municipal services and facilities to the housing authority and for the authority, in turn, to make stipend payments in lieu of taxes to the municipality.

**Davis-Bacon Act**

An act passed in 1931, and subsequently amended, requiring that all laborers and mechanics employed in certain programs of federal financial assistance involving construction activities be paid wage rates no less than those prevailing on similar construction in the locality as determined by the Secretary of Labor.

**Davis-Bacon Wage Rates**

These are Federal wage rates set up by the Department of Labor. The Contract of Sale or Construction Contract must contain the applicable Davis-Bacon rates.

**Drug-Related Criminal Activity**

This is the possession, possession with intent to sell, illegal use or manufacture of a controlled substance.

**Elderly Household**

A family whose head or spouse, or whose sole member, is at least 62 years of age or disabled. It may include two or more elderly/disabled persons living together or one or more such persons living with another person who is determined to be essential to his/her care and well being.

**Emergency Shelter Grant (ESG)**

A federal grant program designed to help improve the quality of existing emergency shelters for the homeless, to make additional shelters available, to assist in operational costs, to provide social services to the homeless and to prevent homelessness.

**Equal Housing Opportunity Plan (EHOP)**

This is a requirement for encouraging minority participation in Section 8 Programs.

**Equal Opportunities Commission (EOC)**

A body created to enforce the rights of minority participation in housing and employment.

**Fair Market Rents (FMR)**

Rent schedules published annually in the Federal Register that include utilities (except telephones), ranges and refrigerators, parking and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned, newly constructed or substantially rehabilitated rental housing of modesty design with suitable amenities.

**Family Self-Sufficiency (FSS)**

FSS is a program to promote economic and social self-sufficiency for public housing and Section 8 participants. It is intended to utilize existing community resources.

**Gross Rent**

This is the Contract Rent plus the utility allowance. If the tenant does not pay utilities, the Contract Rent is the Gross Rent.

**Housing Assistance Payment (HAP)**

The payment made to the owner of an assisted unit by HUD or the PHA as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the total housing expense and the total family contribution.

**Housing Assistance Payments Contract**

This is a written contract between the housing authority and the owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family. This contract defines the owner and PHA responsibilities.

**Housing Quality Standards (HQS)**

HQS is a federal minimum standard nationwide performance requirement for HUD-assisted housing.

**Low Income Family**

A family who's Annual Income does not exceed 80% of the median income for a locality as determined by HUD.

**Low Income Housing Tax Credits (LIHTC)**

LIHTC is a way of obtaining financing to develop low-income housing. Government programs provide dollar-for-dollar credit toward taxes owed by the housing owner. These tax credits can be sold, or used to back up bonds that are sold, to obtain financing to develop housing.

**Maintenance – Extraordinary**

Work that is recurrent, is substantial in scope, and is performed in connection with specific work programs. Whether performed by the owner or regularly employed staff, specific labor force or under contract, the expenditure involved would otherwise materially distort the level trend of ordinary maintenance.

**Maintenance – Ordinary**

Work that, regardless of scope, is a continuing function performed by the regularly employed staff, seasonal or part-time personnel, or under a maintenance contract, the expenditures for which allow a level trend year after year.

**Operating Subsidy**

Subsidy paid by the federal government to a local housing authority to compensate for the limitation on rent of 30% of a tenant's adjusted monthly income. This is a result of the Housing & Urban Development Act of 1970. The operating subsidy funds the amount of the deficit between rents and expenses up to the difference between the annual contributions paid to the authority by the federal government.

**Payment in Lieu of Taxes (PILOT)**

Payments of a sum of money by a tax-exempt or tax-excused property owner to a taxing authority in amounts presumably commensurate with the cost of public services provided to such owner.

**Payment Standard**

This term applies to the Section 8 Housing Choice Voucher Program. It is set at 90-110% of the Fair Market Rent as established by the PHA and approved by their Board. The payment standard determines the maximum housing assistance payment allowable by bedroom size of the unit.

**Performance Funding System (PFS)**

The formula used to calculate the amount of operating subsidies required by each PHA to operate public housing units.

**Public Housing Assessment System (PHAS)**

A nationwide rating system for public housing authorities that assigns scores for the management of public housing and the financial management of the authority.

**Section 8 Existing Management Assessment Program (SEMAP)**

A nationwide rating system for public housing authorities administering the Housing Choice Voucher Program, that assigns scores to various aspects of management of the program.

**Section 8 Housing Choice Voucher Program**

This is a rent subsidy program for low-income households under which HUD pays the difference between the local Payment standard (as established by the PHA) and a designated percentage of household income. The program utilizes existing housing units. The PHA certifies tenants, inspects units for compliance with HQS and Rent Reasonableness, and contracts with landlords for subsidy payments.

**Single Room Occupancy (SRO)**

The Section 221(d) program provides mortgage insurance for multifamily properties consisting of single-room occupancy apartments. SRO's must provide human services as well as shelter.

**Substandard Housing**

A dwelling unit that is either dilapidated or unsafe, thus endangering the health and safety of the occupant, or that does not have adequate plumbing or heating facilities. For purposes of HUD-assisted housing, homeless households are deemed to be living in substandard housing.

**Total Tenant Payment (TTP)**

The total amount required to be paid by the tenant toward rent and utilities.

**Utility Allowance**

An amount determined by the PHA as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the family. Where the family pays directly for one or more utilities or services, the amount of the allowance is deducted from the Gross Rent in determining the Contract Rent and is included in the Total Family Contribution.

**Very Low Income Family**

This is a low-income family whose annual income does not exceed 50% of the median income for the locality.

**Violent Criminal Activity**

Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.