INDIGENOUS
& NORTHERN
HOUSING

On-Reserve Non Profit Housing Program (Section 95)

Operations Guide

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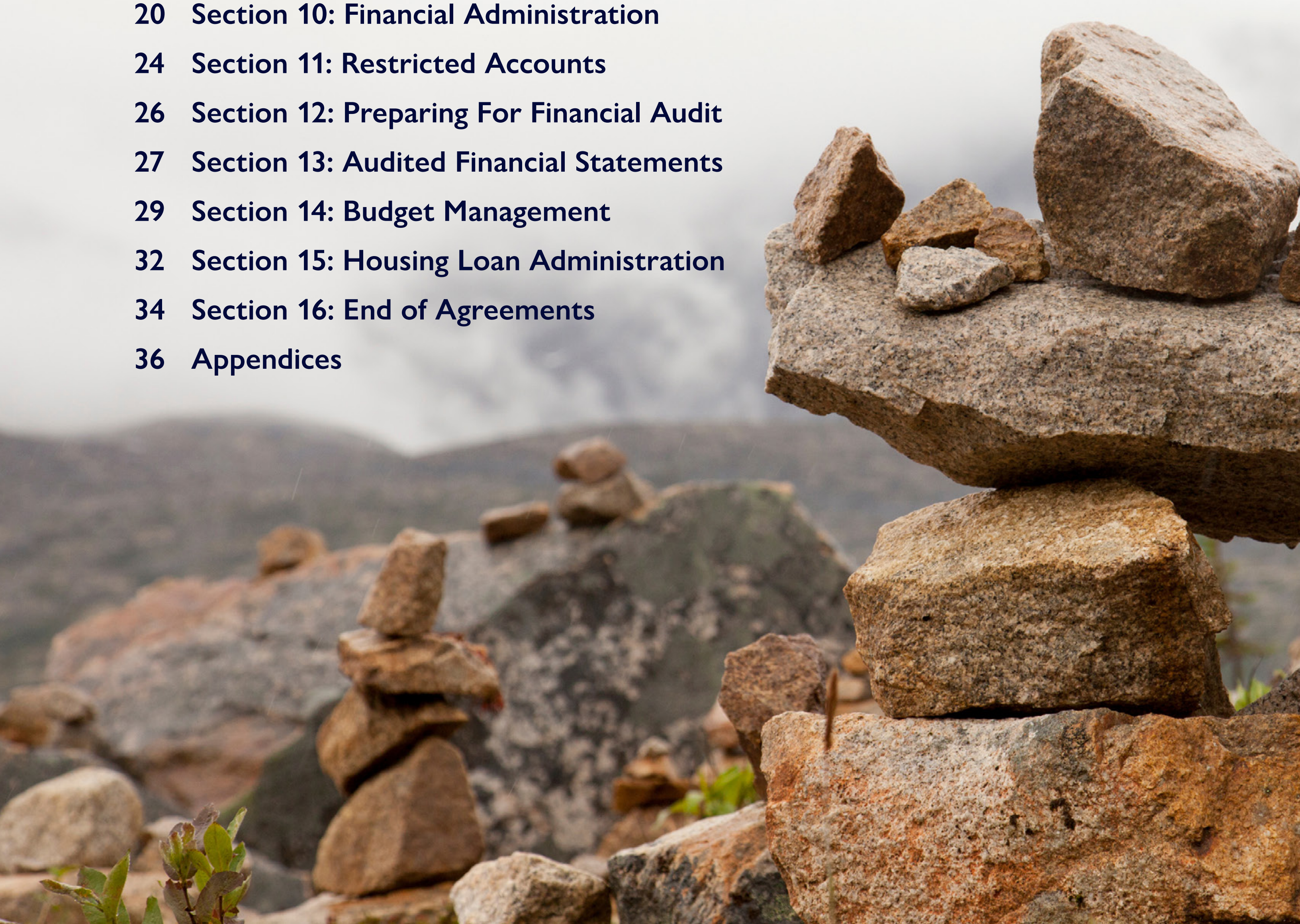


Introduction

This manual was created as a reference tool for Housing Managers as well as housing staff who are responsible for managing and administering housing units constructed under the On-Reserve Non Profit Housing Program (Section 95).

The manual addresses the key areas of the Section 95 program and is meant to be a guide in the day-to-day administration of the program. It is also meant to help clarify and explain program requirements and expectations.

While every effort has been made to be as accurate and as clear as possible, First Nations are still likely to have questions.

For further information on any of the areas covered in this manual or to discuss situations which may not be covered please contact replace with Agreement Management at AMonreserve-GEsurreserve@cmhc-schl.gc.ca.

Suggestions for additions or improvements to the manual may be forwarded to replace with Agreement Management at AMonreserve-GEsurreserve@cmhc-schl.gc.ca.

DISCLAIMER: The information in this Reference Manual – On-Reserve Non Profit Housing Program is solely intended to assist First Nations in understanding CMHC's requirements for the operation of the On-Reserve Non Profit Housing Program. The information is subject to change without notice. This document is not intended to be exhaustive and should be used in conjunction with the *National Housing Act*, the Section 95 Operating Agreement, the Loan Agreement, and any other policies and procedures that CMHC issues from time to time.

Section 1: Program Overview

The On-Reserve, Non Profit Housing Program (Section 95) assists First Nations in the construction, purchase and rehabilitation, and administration of suitable, adequate and affordable rental housing on-reserve.

CMHC delivers the program. It may provide direct loans, for up to 100% of the total eligible capital costs, to First Nations in order to construct, purchase and rehabilitate projects. The loans are secured by a Ministerial Loan Guarantee or an alternative form of security. More information can be found on the CMHC website.[1]

A subsidy is provided to the First Nation for a maximum of 25 years or the duration of the project loan amortization period, whichever is less. Subsidy assistance is to help offset operating costs associated with a housing project to assist the First Nation in providing modest housing for members.

Note that subsidy assistance is not intended to nor will it cover all the operating expenses of the housing project. The First Nation must establish a housing charge or contribute funds on behalf of tenants to ensure the project at least breaks even – revenues meet all expenses. The housing project must be viable for the duration of the operating agreement so it can continue to provide adequate and affordable housing to members.

First Nations may elect to pay housing charges on behalf of occupants; however, this must be carefully considered given the financial impacts it may have on other First Nation operations.

Usual operating expenses associated with the Section 95 program include insurance, loan payments, maintenance, professional fees and administration. Keep in mind housing expenses could vary over a given period, according to the physical condition and age of the structure. Section 10 “Financial Administration” of this manual provides more information and detail on the various financial management requirements.

A capital replacement allocation, also known as a replacement reserve fund, is also a requirement of the Section 95 program. This “restricted” fund is to help cover the cost of replacing capital items (roofs, furnaces, etc.) in future years. More information on replacement reserves and other restricted accounts are outlined in section 10.

The First Nation owns the Section 95 units. As such, it is responsible for the housing property and its daily management. Responsibilities of the First Nation and CMHC requirements specific to the Section 95 operating agreement will be covered later in the manual.

[1] https://www.cmhc-schl.gc.ca/en/professionals/project-funding-and-mortgage-financing/funding-programs/indigenous/alternative-types-of-security

Key Differences of the Pre-1997 and Post-1996 Programs

In 1997 changes were made to the Section 95 program which resulted in some communities having subsidized housing units under two differing Section 95 program guidelines – Pre-1997 and Post-1996 programs.

Here is a table outlining the key differences between the two programs:

Section 95: PRE-97	Section 95: POST-96
Interest rate has major impact on viability: • Subsidy calculated based on an interest rate writedown to 2% based on total capital costs of the project at commitment	**Interest rate has no impact on viability:** • Subsidy is calculated based on the following formula: Minimum Revenue Contribution - Operating Costs + Loan Payments = **Project Subsidy**
Revenue • Subsidy 2% writedown or subsidy fix • Maximum rent set by First Nation calculated in conjunction with annual CPI increase • Occupancy charges based on 25% rent-geared-to-income level • Break-even basis	**Revenue** • Project subsidy (above) • Minimum revenue contribution (MRC) set at project commitment • MRC set by CMHC, but First Nation can increase
Expenses • Bad debts – must be accompanied by adequate supporting documentation, which confirms amounts are deemed uncollectible	**Expenses** • Replacement reserve contribution set by First Nation • Use of replacement reserve without prior approval by CMHC • Bad debts – must be accompanied by adequate supporting documentation, which confirms amounts are deemed uncollectible • Operating costs provided at commitment establish subsidy for the term of the agreement
Surplus subsidy • Subsidy surplus fund max.: $500/unit placed in "subsidy surplus fund" • Surplus over $500/unit returned to CMHC	**Operating reserve** • No maximum amount • Surplus placed in "operating reserve" restricted fund • Operating reserve fund belongs entirely to the First Nation • Operating reserve to help offset future year deficits

Section 95 Subsidy

A change was made in June 2005 in the way subsidy payments are calculated for the Pre-1997 Section 95 program. First Nations can choose to have their subsidy adjusted in an amount equal to the change in the loan payment as a result of interest rate changes at time of loan renewals.

To have subsidy calculated this way, First Nations must sign an addendum to the existing operating agreement. This subsidy calculation adjustment applies only to the Pre-1997 portfolio. First Nations are encouraged to contact their CMHC Indigenous and Northern Housing Senior Officer for additional information.

In comparison, subsidy for the Post-1996 Section 95 program is based on the following formula.

Minimum Revenue Contribution - Operating Costs + Loan Payments = Project Subsidy

The minimum revenue contribution (MRC) and operating costs are set at project commitment. The First Nation must ensure the MRC is contributed to the project through collection of housing charges from occupants or via other First Nation funds or through a combination of both.

If there is a deficit in the housing budget, the First Nation must re-balance the budget by injecting funds from the community, which could have negative repercussions for other sectors. The First Nation may also choose to increase housing charges to ensure all expenses are covered by project revenues.

Whether Pre-1997 or Post-1996 Section 95 housing units, the Housing Department, along with the Chief and Council, must plan and control the costs related to housing programs, in accordance with the agreements signed with CMHC. The First Nation must ensure the project is able to at least break even on an annual basis.

Types of Agreements

There are two contracts signed between the First Nation and CMHC that govern Section 95 housing projects:

- The operating agreement
- The loan agreement

The Operating Agreement

The operating agreement is the contract between CMHC and a First Nation for each project. It outlines the administrative responsibilities of the First Nation and of CMHC with respect to the allocation of CMHC subsidies and the administration of the Section 95 program. The terms and conditions of the operating agreement end when the loans are paid in full.

The operating agreement:

- sets the terms and conditions of the CMHC financial contribution and clearly defines the non profit aspect of the housing project;
- specifies the responsibilities of each party;
- defines the guidelines for the potential sale of the project;
- creates the obligation to maintain financial reserves to preserve the viability of the projects;
- specifies the subsidies to be provided and the loan amount granted; and
- is signed by the official representatives of the First Nation and CMHC.

The Loan Agreement

In addition to the operating agreement, Section 95 units are also subject to the requirements of the loan agreement. The loan agreement states the responsibilities of the First Nation associated with managing the loan for the project. It includes requirements concerning payments to the lender as well as the consequences should loan default occur, including the process involved with a notice of default. The loan agreement also explains the requirements for providing adequate insurance as well as maintenance and use of the property.

The Lease/Housing Agreement

While not part of the formal agreement between CMHC and the First Nation, the lease or occupancy agreement is a contract entered into between the First Nation and a tenant. This contract is signed prior to the individual moving in and taking possession of a housing unit.

The lease/housing agreement outlines the rights and responsibilities of both the First Nation and the tenant during the term of the lease. It is important that leases are reviewed regularly (usually annually) to ensure the needs of the Housing Department or the tenant have not changed and that any discrepancies or questions concerning the lease can be identified and discussed.

Each lease agreement should include the following items, as applicable to the community housing policy:

- Term (not to exceed 12 months)
- Signatures of all adults living in the house
- Terms of subletting (where permitted)
- Occupancy restrictions (pets, noise, unauthorized use of the house)
- Specific services and/or utilities included
- Reporting maintenance requirements
- Responsibility for minor maintenance
- Lease/housing payment requirements (when, how much)
- Eviction process

Lease agreements should be tailored to fit the needs and requirements for each First Nation. Lease/housing agreements must coincide with the terms of the First Nation housing policy–each document should complement the other.

Section 2: Project Use

7 How the Subsidized Properties Can Be Used

Units receiving a Section 95 subsidy must be used for residential purposes only. First Nations must continue to operate the project as a social housing rental project and follow the terms and conditions of the project operating agreements for the full term of the agreement.

Important Note

The federal subsidy will be suspended if a breach of the program operating agreement occurs. This breach may include failing to adhere to the program's intent or operating Section 95 units outside of the intended purpose. Eligibility for future housing allocations may also be impacted.

Both the Pre-1997 and Post-1996 program operating agreements outline the fundamental purpose and obligations of the Section 95 program. This fundamental purpose being to provide federal assistance to help meet the costs of rental housing and reduce the rental amounts charged to occupants. Also, each operating agreement outlines restrictions on the sale or disposal of a housing unit whether under the Pre-1997 or Post-1996 program.

If the First Nation plans to sell any Section 95 housing unit, it must obtain the prior approval of CMHC. CMHC will determine appropriate adjustments in annual financial assistance (subsidy), debt repayment (loan payments) and the remaining loan amount associated with the remaining units.

CMHC may agree to the replacement of one or several housing units subject to the Section 95 agreement. However, these will be reviewed and assessed on a case-by-case basis. Questions concerning these situations should be discussed with the CMHC Indigenous and Northern Housing Senior Officer – Agreement Management working with the First Nation.

Section 3: Roles and Responsibilities

There are several groups involved with the Section 95 housing portfolio:

- First Nation
  - Chief and Council
  - Housing Department
  - Finance Department
- Occupant
- CMHC
- ISC

Here is a brief outline of the various roles and responsibilities:

First Nation

- Owns the housing units
- Is responsible for complying with applicable building codes and standards
- In some cases, is the developer of the housing units; in others the First Nation is responsible for contracting these services
- Is responsible for ensuring appropriate insurance is in place during the construction process
- Presents the financial statements to CMHC every year
- Maintains the restricted cash accounts (replacement reserve, subsidy surplus and operating reserve)
- Maintains adequate fire insurance for each unit
- Ensures dwellings are maintained in good condition
- Makes the loan payments
- Handles tenant selection and housing policies
- Calculates and collects the rents/MRC (Post-1996)
- Manages housing-related expenditures
- Ensures the proper operation of the accounting system
- Is responsible for the day-to-day management of the housing portfolio
- Selects occupants of housing units, develops and prepares lease/occupancy agreements
- Maintains lease/occupant agreements and related files
- Develops and implements consistent housing policies appropriate for their community

Occupants

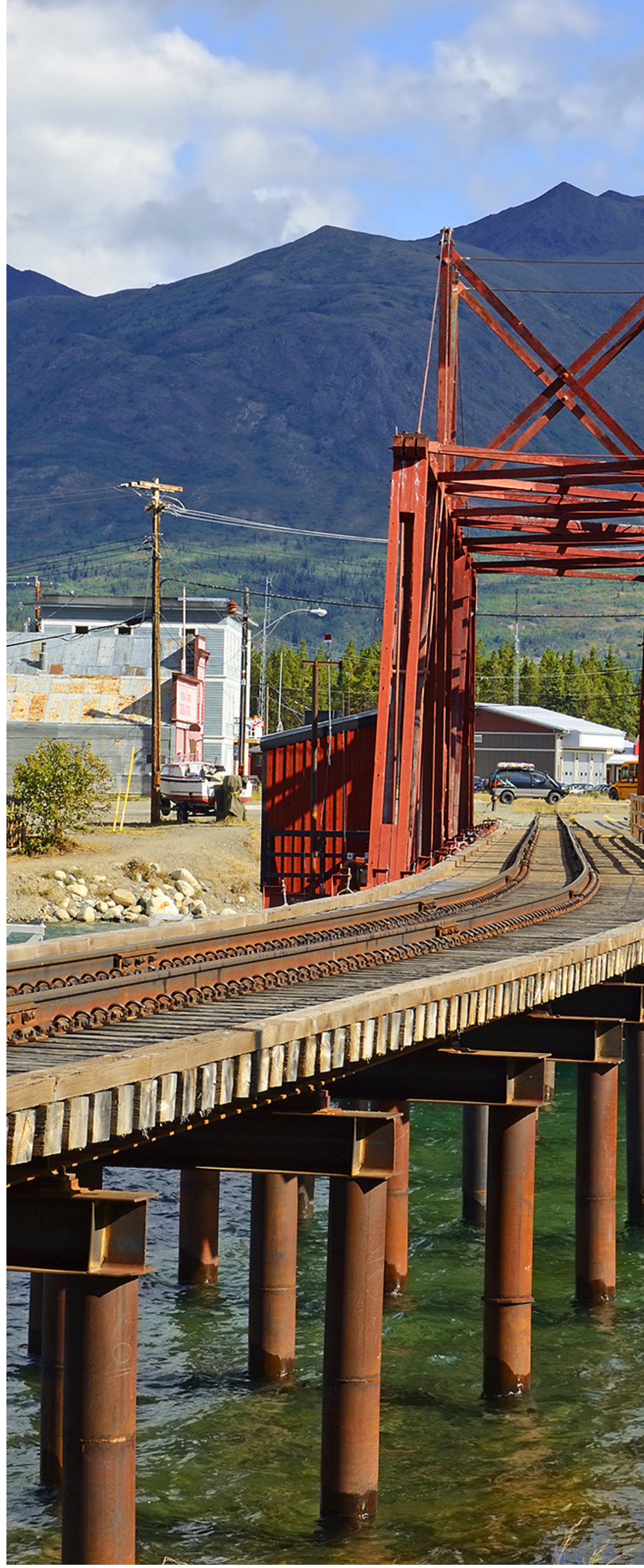
- Pay the agreed housing charge on the specified date
- Maintain the dwelling in good condition
- Perform minor repairs to the dwelling
- Inform the Housing Department of any major defects in the dwelling
- Allow the housing staff to access the dwelling, if necessary
- Sign lease agreement with the First Nation
- Follow the conditions of the lease agreement

The occupants play a critical role in the ongoing administration and long-term viability of the housing portfolio. Their support and understanding of the importance of housing management is essential to a housing program.

CMHC

- Determines the annual national and regional housing allocations
- Provides Section 95 subsidies monthly
- May provide loan (Direct Lending)
- Ensures compliance with the legal contract (operating agreement) signed between the First Nation and CMHC
- Signs a separate agreement for each housing project
- Liaises with the First Nation to help manage the CMHC programs in accordance with the agreements
- Reviews the First Nation's audited financial statements every year
- Ensures a physical condition review of the projects is performed every five years
- Helps coordinate training workshops for First Nation members (occupants, technical and administrative staff)
- Provides access to expert advice and support
- Helps develop training/development plans in line with expressed needs

CMHC will assign a representative (a CMHC employee) for each First Nation community that has a Section 95 housing project under administration. The CMHC Indigenous and Northern Housing Senior Officer – Agreement Management ensures adherence to the agreements which have been signed over the years, and works with communities to help them manage their housing challenges.



Section 4: Key CMHC Activities

There are three key activities associated with the Section 95 housing portfolio that are completed by CMHC:

- Review of audited financial statements
- Physical condition reviews
- Capacity development

Review of Audited Financial Statements

Preparing financial statements within the specified deadline is a requirement of the Section 95 program operating agreement. Financial statements must be sent to CMHC within four months following the end of the fiscal year. In most situations the fiscal year-end is March 31. As such audited financial statements for the Section 95 portfolio MUST be provided to CMHC no later than **July 31 of each year**.

Important Note

CMHC will follow up with the First Nation concerning submission of the financial statements; however, if information has not been received within 30 days of the due date, CMHC will automatically suspend the subsidy AND the First Nation may not be eligible for future housing allocations.

The financial statements are also the primary method in which Chief and Council or the Housing Committee/Authority can see how the housing program is running, as well as the adequacy of revenues, operating expenses and funding of required reserves.

The Chief and Council must review and sign the financial statements. This ensures they have had a chance to discuss any issues with the Housing Department staff, auditor or CMHC.

CMHC is responsible for analyzing the statements, and communicating the results to the First Nation. This analysis will highlight any financial practices which do not meet the requirements of the Section 95 operating agreement and will include suggestions on how to correct them. Some First Nations invite CMHC to present the financial analysis to the decision makers in the community. CMHC can also provide training (upon request) to First Nation housing staff members who wish to improve their management of the Section 95 program.

Physical Condition Reviews

Under the Section 95 operating agreement, a First Nation agrees to manage and maintain housing projects in good state of repair. A physical condition review is conducted by CMHC's Professional Services or an agent of CMHC to monitor the physical condition of the projects.

Not all units within a specific housing project will necessarily be inspected, only a sampling of units will be selected. Physical condition reviews are conducted on a percentage of units, in each project phase, every five years. CMHC will provide advance notice to First Nations concerning the project's physical condition review date.

The inspector, the First Nation and CMHC work together in scheduling these physical condition reviews.

During the review, the inspector will assess the condition of the sample unit(s) as well as note potential improvement opportunities relating to the maintenance and capital replacement practices. The First Nation must ensure any health and safety items are addressed immediately.

By completing the physical condition review, the First Nation and CMHC will have a better idea of the overall condition of the housing portfolio and any emerging issues/maintenance issues that need to be addressed. Information gathered from these reviews can also be used to help develop a maintenance plan for the portfolio.

Note that the physical condition review completed by CMHC does not replace the regular unit assessments the First Nation should be doing as part of the ongoing administration (see also section 9: Maintenance Management).

Capacity Development

CMHC works with communities to help identify training areas which will enable the First Nation to follow the requirements of the Section 95 Operating Agreement and loan agreements. These training areas would complement sound property management practices.

CMHC will work with the First Nation to identify areas where there are opportunities for development. This will require close input, involvement and commitment on the part of the First Nation to ensure a comprehensive and tailored plan is developed.

Section 5: Housing Policies

Adopting and implementing a housing policy is strongly recommended for all First Nations who wish to put into place a clearly defined process for all housing in their community. A housing policy sets out the instructions or rules for how decisions about housing are made within the First Nation.

Chief and Council, members of a housing committee, outside consultants or the entire community could play a role in writing a First Nation's housing policy. Seeking input and feedback from community members will often generate their interest in helping address housing challenges, and will increase their support for the housing policy that is eventually adopted.

Some First Nations organize an "Annual Housing Day" or hold meetings with their members to discuss the housing situation in their community. These meetings enable members to express themselves and to better understand the housing-related issues in their community. Housing Department staff will usually invite housing experts from outside the community to speak with community members, exchange information and increase awareness about housing matters.

Some First Nations will also form housing committees with representatives from all segments of the community (elders, youth, etc.) to examine a wider range of housing challenges and issues that resonate with them.

A written housing policy is important as it provides all First Nation members the opportunity to read and understand it. Once everyone understands the policy (and the rules and instructions it lays out), people will know how the housing portfolio works and how decisions are made. This transparency assures members that housing-related decisions are fair.

First Nations must have a community-based policy which keeps them in compliance with CMHC program requirements. Given this, CMHC may request a copy of the First Nation's housing policy.

New challenges, issues and opportunities might arise in a First Nation. If the housing policy is regularly updated, the First Nation will be better able to meet the changing needs of the community and its membership.

Section 6: Housing Records and Files

As per the program operating agreement, the First Nation is responsible for maintaining books and records associated with the Section 95 program. Files or records are kept to help track and monitor key activities associated with managing a housing portfolio.

Maintaining adequate books and proper financial records is an essential element of housing project management. This includes appropriate internal financial controls. These will help provide reasonable assurance that an unqualified audit report may be issued on the project's financial statements.

Adequate books and records also include tenant files, lease agreements and maintenance files.

There are essentially four key areas where files must be maintained:

- General Section 95 housing files
- Financial transactions (see section 10: Financial Administration)
- Unit/Tenant files (see section 7: Tenant Relations)
- Maintenance files (see section 9: Maintenance Management)

General Section 95 Housing Files

The General Section 95 housing files should contain general correspondence received from CMHC concerning the housing portfolio (financial statement reviews, statement of loan balances, etc.). General files may also include copies of insurance policies associated with the Section 95 units.

The First Nation may want to establish separate files for unit/tenant files, maintenance files, and financial statements reviews for ease of reference and finding information. Separate files may make it easier to find and monitor information quickly as the housing portfolio grows.

As housing portfolios grow in size, consideration should be given to establishing a separate "project" file, which will contain pertinent information (loan agreement, operating agreement, renewal information) for each phase of housing.

In some situations, maintaining a separate file to record and track replacement reserve expenses may be appropriate. Tracking and filing replacement reserve information will assist not only in day-to-day operations, but will also help in preparing annual audited financial statements.

Maintaining files and managing information in an effective and comprehensive manner does require an investment of time and diligence. However, not maintaining books and records will result in higher costs to manage the portfolio (audit costs, maintenance planning, insurance policies, etc.). Failure to maintain information will also negatively impact the First Nation's ability to make key portfolio decisions (budgeting, allocations, planning for future development).

Section 7: Tenant Relations

The First Nation must have a strong process in place to address and manage tenant-related activities and relations. As the ultimate end user of the housing units, the occupants play a critical role in the overall success of the housing portfolio.

There are three aspects to good tenant relations:

a) Selecting tenants

b) Preparing a lease and providing counselling to tenants

c) Maintaining proper tenant files

Selecting Tenants

The process begins with the First Nation adopting a Band Council Resolution that outlines the criteria for tenant selection. These criteria should be provided to the community members and CMHC. Each First Nation will define its own tenant selection criteria for Section 95 housing units, provided these ensure a fair and transparent process within the community.

Any subsequent modifications to the criteria must also be made through a Band Council Resolution. The First Nation must then inform all community members and CMHC of any changes.

Generally, communities establish criteria to manage the list of members who are waiting for these units. Some communities will develop an overall strategy to allocate Section 95 units, by making them available only to specific client groups, while promoting the emergence of a private housing market for those members who have greater financial means.

Many communities require individuals to submit housing applications, which provide information to help review and prioritize applications based on the tenant selection criteria.

Preparing the Lease/ Housing Agreement

As noted previously, the lease or housing agreement is a contract which may be entered into between the First Nation and a tenant prior to the individual moving in and taking possession of a housing unit. The lease/housing agreement is of a set duration and outlines the rights and responsibilities of both the First Nation and the tenant during the term of the lease.

Once tenants are selected, it is important to discuss the roles, responsibilities and expectations of the First Nation as well as those of the tenants when reviewing and signing a lease/housing agreement. Ensuring individuals understand what they are responsible for will help prevent issues in the future.

It is important that leases/housing agreements are reviewed regularly (usually annually). The goal of these reviews is to ensure the needs of the Housing Department or the tenant have not changed and that any discrepancies or questions concerning the lease/housing agreement can be identified and discussed.

If required, the First Nation sends tenants written notices to inform them of new rents, and also provides counsel on issues of arrears, vandalism or other concerns.

Some First Nations will systematically require tenants to sign a lease/housing agreement. This requirement involves a certain degree of monitoring, but is very beneficial with respect to maintaining good tenant relations. It facilitates a regular interaction with tenants and allows the First Nation to document the rental conditions.

In some communities, Band Councils include a clause in their tenants' lease/housing agreement which stipulates what will occur once the loan on the house is fully repaid (conditions for transfer of ownership, sale, changes in occupant charges, etc.). These types of clauses, if included in the lease agreement, should be consistent with the First Nation's housing policy.

Maintaining Tenant Files

Another aspect of tenant relations and sound property management is establishing individual tenant files. These are maintained by the First Nation and should include a number of items, such as a signed application for a housing unit, a lease, inspection reports (upon the tenant's entrance and exit), a record of rent payments, and all correspondence between the tenant and the Housing Department.

Maintaining complete tenant files allows the Housing Department to record the history of each housing unit, which helps manage tenant relations. It is a sound management practice which not only monitors the general condition of each unit, but also documents the specific payment record and occupancy of each tenant.

Once established, the tenant file will follow the individual tenant even if they move to another unit. All tenant files should be stored in a secure area and be accessible only to authorized individuals.

Section 8: Property Insurance

The First Nation housing portfolio is an important asset to the community and therefore must be adequately protected from loss and damage. Establishing and maintaining property insurance is one way of protecting the housing asset. The program operating agreement requires the First Nation to maintain insurance and provide CMHC with evidence that an adequate level of insurance is in place for all Section 95 housing units.

Important Note

Adequate insurance must be in place and maintained for all Section 95 housing units. If the insurance is not maintained or is inadequate, the subsidy will be suspended until appropriate coverage is provided. Eligibility for future housing allocations will also be impacted should the insurance not be maintained.

All Section 95 housing units must have fire insurance based on a replacement cost basis with the lender identified as the first-loss payee. Without adequate insurance there will not be sufficient funds to repair or replace a unit which is destroyed or damaged by fire. The First Nation will be responsible for all costs associated with the repair, replacement or possibly payout of the remaining loan balance for the said unit(s).

While the First Nation is responsible for maintaining insurance on the housing unit, occupants may also decide to get insurance for their belongings. This insurance; however, would be at their expense.

Insurance costs and coverage vary; therefore, First Nations need to research and obtain quotes from several insurance companies to find the best coverage at the best price.

The First Nations should also review the insurance policy on an annual basis with their insurance agent and understand what is included under the current insurance policy. This will ensure there is an adequate level of coverage and that all Section 95 units are identified and covered within the policy.

Some things to consider when reviewing the insurance policy:

1. Are all the Section 95 units identified in the policy (including unit with recent IADs)?
2. Are the locations of the said units correct?
3. What is the current deductible?
4. What is the insured value for the housing unit(s)?
5. Is replacement cost coverage identified?
6. Are there any limitations to the coverage currently in place?
7. Are there specific requirements for vacant units?
8. In the event of damage or loss, what costs will the First Nation be expected to cover and are these included in the policy?

As noted earlier, insurance protects property against damage or loss. In the case of First Nation housing, adequate insurance can protect the housing stock from being lost due to damage or destruction.

Insurance coverage is a requirement for the life of the loan; however, it's a good idea to maintain coverage after the operating agreements have expired. If a house were to burn down and there was no insurance on the unit—how would the house get replaced? Who would pay for the house if the loan hadn't been paid off?

With insurance in place, CMHC and the First Nation are sure the units will be replaced. The correct legal descriptions of subsidized units must be included under the insurance policy. This will prevent a claim from being denied on a technicality.

As noted above, the amount of deductible is one of the areas that must be considered when reviewing the housing insurance policy. A deductible is the amount of expenses that must be paid out of pocket before an insurer will cover further expenses.

If a deductible is too high, First Nations may not be able to pay the deductible and receive the insurance proceeds to cover the potential repair or replacement costs for the units. By knowing the deductible, CMHC and the First Nation can work together to correct those issues.

Insurance policies must also include replacement cost coverage. This refers to how much it would cost to repair or replace the property at current construction costs at the time of the loss. It is important to have a replacement cost clause in the insurance policy. For example, if a 10-year-old house were to burn down, it would cost much more to replace the house today than it did to build it 10 years earlier. Even with insurance, a First Nation might not be able to afford to replace the house unless there is a replacement cost clause.

It is important to keep a copy of the insurance policy and key contact numbers for the insurance agent readily available in case of an emergency. This information can be kept in a general information folder or a separate folder dedicated for insurance-related correspondence and information (see also section 6: Housing Records and Files).

Section 9: Maintenance Management

The First Nation is responsible for implementing a maintenance program because the housing stock must be maintained for the duration of the Section 95 Operating Agreement. Furthermore, a proper plan will allow the Band Council to respond quickly to urgent or pressing requests for maintenance.

Important Note

Maintaining the Section 95 housing units is a key requirement of the project operating agreement. The federal subsidy will be suspended if the identified units are not being maintained or there is significant evidence of deferred maintenance or serious threats to the health and safety of the occupants. It will remain so until actions have been taken to correct/resolve the issue.

There are a series of stages involved in planning for proper maintenance:

- Carrying out unit inspections
- Identifying the required repairs for each unit
- Estimating/prioritizing/categorizing
- Preparing a budget
- Obtaining authorization
- Implementing the plan
- Inspecting and implementing a follow-up plan (monitoring)

Having a maintenance plan in place is essential. It is a key component of a good strategy to conserve the residential assets of the community over the long term. A good plan will:

- protect the housing investment;
- help establish the annual budget and stagger expenses;
- prolong the use (life) of materials, equipment and buildings;
- respond to occupants' concerns;
- improve administrative efficiency;
- reduce operating costs; and
- strengthen control over expenses.

The First Nation needs to have several sources of information and documentation to ensure a proper plan can be developed:

- Property inspection reports (with estimated costs)
- Tenants' requests for repairs
- List of items requiring regular maintenance
- Contingency plan for unforeseen emergencies
- Maintenance guides provided by equipment manufacturers and suppliers
- An annual maintenance budget

Maintenance Priorities

It is important to set priorities about the most urgent maintenance needs.

High priority: Repairs required to correct deficiencies associated with the health and security of occupants, as well as with the housing structure, or essential equipment.

Medium priority: Non-urgent repairs required to maintain or improve the general condition of a housing unit.

Lower priority: Repairs related to long-term maintenance requirements.

Unit Condition Reviews

A maintenance plan is based on information gathered through many sources, one of which are unit condition reviews.

Conducting physical assessments is essential to a successful housing portfolio. They help ensure the long-term viability by preventing minor problems from becoming major and costly ones. Unit condition reviews provide:

- specific information about the condition of the home;
- information useful in planning budgets and estimating costs;
- essential information to assess the scope of repairs and/or renovation work;
- an opportunity to obtain feedback from the occupants;
- information needed to effectively plan for the use of replacement reserve funds; and
- information to establish the respective responsibilities of the Band Council and the tenants (breach of agreement, vandalism, eligible expenses, etc.).

There are various types of unit condition reviews, which need to be carried out by the First Nation to ensure the housing stock remain in good condition:

1. Annual reviews
2. Move-in and move-out reviews (change of tenants)
3. Unforeseen or emergency visits

The annual reviews are conducted to enable the First Nation to assess the condition of the housing unit and identify repairs which are required in the short, medium and long term. Annual reviews also help identify any urgent items that need to be addressed right away.

Move-in and move-out reviews are conducted when someone moves out of a unit to assess the condition before a new tenant moves in. The move-in or move-out review allows the First Nation to identify any necessary repairs and determine if repairs were tenant-related and if so to take action accordingly.

Situations will arise, with any housing portfolio, where unforeseen issues or emergencies occur. These will require the First Nation to act quickly to identify the issue and take appropriate actions to ensure the safety of the occupants and the preservation of the housing unit.

As outlined in section 4: Key CMHC Activities, CMHC and a representative from the First Nation will conduct physical condition reviews on a sample of housing units (usually 20% of the housing stock) every five years. It is important to note, these reviews do not replace the unit condition assessments noted above.

The objectives of the physical condition review are to:

- examine and monitor the overall state of the Section 95 housing stock;
- help determine if the replacement reserve fund is sufficient to pay for the necessary repairs; and
- help evaluate maintenance practices.

CMHC will advise the First Nation (in writing) at least two weeks before the site visit is scheduled to occur. The First Nation must take the necessary steps to ensure the unit visit will be possible on that date.

Following the visit, results of the physical condition review are communicated to the First Nation in writing. Any concerns pertaining to health and safety are highlighted in the correspondence to the First Nation.

Items identified as health or safety issues are considered urgent and must be addressed by the First Nation immediately. CMHC will require the community to advise what measures will be taken to address the items noted on the physical condition reviews.

Maintaining Maintenance Files

Another component of a strong and effective maintenance plan is creating maintenance files for each housing unit. Maintenance files will help track and monitor the repairs and maintenance that have been completed on an individual unit.

Maintenance files can also provide valuable information on major equipment and appliances (makes, models, serial numbers, servicing schedules, warranty requirements, etc.).

This information is invaluable when having to replace or repair key pieces of equipment or when addressing insurance claims.

Section 10: Financial Administration

Financial accounting and maintaining financial records are critical to the successful management and long-term viability of the housing portfolio. Keeping books and records in good order can greatly reduce the cost of audits and provide valuable and accurate information to the Housing Department on how well the project is doing financially.

In many communities, the Finance Department plays an integral role in the financial administration of the Section 95 housing portfolio. As such, it is important the Housing and Finance departments have clear processes and systems to ensure financial records are maintained.

CMHC promotes the use of sound accounting policies and procedures. The information below is meant to assist the First Nation in its financial management of the housing portfolio by explaining the various components of financial administration and their importance.

General Ledger

A general ledger (GL) keeps track of all financial transactions during an accounting period. In manual accounting systems, a general ledger was a book where the accounting information was documented. Today, most organizations use computerized general ledgers.

The GL keeps all the transactions organized and lets the First Nation produce reports at the end of each reporting period. It is important to post to the GL regularly to keep the records well organized and to help detect errors or problems.

Receipts

A receipt is a formal, written acknowledgment that funds have been received.

A receipt should always be issued when cash payments are received so there is a written record provided to the payer. The receipt can be used as proof of payment in case of dispute. A copy of the receipt kept on file becomes the written record or source document to explain the cash deposit in the operating account.

Receipts are also a good idea when payments by cheque are received (though the cancelled cheque can become the proof of payment for the payer).

Keeping close control over cash is important because once it leaves the control of the housing office there is no way to determine where it belongs.

Good accounting practices suggest that prenumbered receipts are used. Like cheques, receipts are prenumbered for ease in organizing auditing and ensuring that journals are posted with the appropriate information. Prenumbered receipts enable easy reference and accounting of cash which is received.

Cash Receipts Journal

A cash receipts journal records, in chronological order, all cash receipts and payments including bank deposits and withdrawals for posting to a general ledger.

It's important to keep track of who has paid, how much and when, so clear records can be maintained in case of disputes later. For it to be effective, cash and cheques must be recorded as they are received and stored securely until deposited.

The cash receipts journal must be posted to the general ledger. A cash receipts journal, along with the source documents (deposit receipts) are just paper records without being posted to the general ledger.

Rental Payments and Tenant Sub-Ledgers

It is important to record rental payments in tenant subledgers when they are received. Tenants maintain an account with the Housing Department. Every month, as their rent becomes due, the First Nation records an amount owing on each tenant subledger. Each month, as their payment is processed, the First Nation records their matching payment and their account is kept up to date. If payments are not recorded as they are made, the tenants will be shown to be in arrears. It's important, therefore, that rents are recorded in a timely and prescribed manner.

Disbursements

A disbursement is simply a payment (by cash, cheque or bank transfer) for goods or services. Payments by cheque are preferred since the cheque provides a written record of the activity.

The following information should be included on a disbursement:

- The date
- The amount
- The name of the person or organization who is receiving the disbursement
- A note on what the disbursement is for
- The signature(s) from persons authorized to make disbursements on behalf of the First Nation's Housing Department

* All disbursements must be authorized by individuals who have authority to spend money from the housing portfolio account(s). (see also Disbursement Approval in this section)

Cash Disbursements Journal

A cash disbursements journal records all payments from the operating account, such as invoices for supplies and services, utility bills, insurance and payments to the petty cash account. The disbursement journal will ensure payments are recorded in a chronological order.

Recording Disbursements

As noted above, disbursements are usually from the operating account. They should be recorded and posted to the GL promptly to ensure the First Nation always knows the financial standing of the housing portfolio. It is essential to know how much money is being spent and received.

Disbursement Approval

It is important to know if a specific person has the authority to approve disbursements and from where that authority comes. Depending upon the organization of the First Nation's Housing Department, the Chief, councillors, chief executive officers, Band managers and/or housing managers might approve disbursements.

The person who approves the disbursement cannot be the same individual who prepared the cheque or purchase order. Having multiple individuals who have appropriate signing authority, involved in transactions (preparing vs. reviewing vs. approving) helps ensure transparency in the financial process as well as eliminating errors.

Individuals must not authorize payments being made to themselves.

The Housing Department may set policies whereby cheques above a certain value require more than one signature. These requirements can be established with the bank as an extra control over unauthorized disbursements.

Signing Authorities

When it comes to housing matters on-reserve, signing authority is the legal or designated power of an individual delegated by the Chief and Council to commit the First Nation to a binding agreement or contract (that is, sale or purchase) and to authorize the disbursement of funds. Banks will often require a list of individuals who are authorized to sign cheques or approve withdrawals from specific accounts. In many cases, approved signers need to provide their signature to the bank for reference.

When there is a change in signing authorities, the Bank must be advised of the changes so they are aware of the most up-to-date list of approved signers. The Housing and Finance departments must also be made aware of any changes to signing authorities.

Who has signing authority within a housing department depends upon the organization and practices of the First Nation. In the First Nation's housing policy, the First Nation decides, defines, and documents who has signing authority. Consideration should be given to separation of duties to help establish strong, transparent and effective financial controls.

Separation of duties helps enhance internal controls to prevent errors occurring by having more than one person involved in all financial transactions. It is unacceptable and a conflict of interest when the same person prepares a payment and signs or approves that payment.

Bank Accounts

CMHC may want to review your bank records associated with the Section 95 housing portfolio to compare them to your cash disbursement, cash receipts and your general ledger.

Information will be requested for the following accounts:

- **Operations:** The general bank account for the Housing Department—where the bulk of transactions take place.
- **Security deposits:** This account is not mandatory; however, if security deposits are required, they should be maintained in a separate account. This account would be designated for security deposits from tenants (first and last month's rent, damage deposits). Having a separate account ensures these security deposits are not lost or spent through the First Nation's operations account.
- **Replacement reserve account: see section 11:** Restricted Accounts.
- **Subsidy surplus account (Pre-1997 program):** see section 11: Restricted Accounts.
- **Operating reserve account (Post-1996 program):** see section 11: Restricted Accounts.

Bank Deposits

Undeposited cash and cheques pose a risk since they may be stolen or otherwise go missing. This risk can be minimized by depositing the funds as soon as possible.

All cash or cheques must be held in a secure area if they are not able to be deposited the day they are received. Keeping undeposited funds in a secure area (that is a fireproof safe) reduces the chance of these funds being stolen or destroyed.

Reconciling Bank Statements

A bank statement reconciliation is a review between the cash balance shown on a bank statement, and the amount showing on the First Nation's records–the general ledger.

Bank statements should be reconciled to the general ledger regularly to ensure there are no unrecorded transactions and the amounts of each recorded transaction are correct. Bank reconciliations are a fundamental internal control.

This "matching process" involves making allowances for cheques issued but not yet presented, and for cheques deposited but not yet cleared or credited. If discrepancies exist, it is important to find the cause and bring the records into agreement.

Review Cancelled Cheques

Reviewing cancelled cheques from all Section 95 bank accounts will help verify that payments went to the intended recipients and the amounts were not altered. Cancelled cheques form part of the financial records and should be stored in a secure place.

All cancelled cheques should have two authorized signatures and evidence that the payee was the individual who endorsed the cheque.

Supporting Documentation

Supporting documentation serves as written evidence concerning the nature of, and sometimes the authorization for financial transactions. Supporting documentation applies to all transactions—receipts and disbursements.

For rents received, the supporting documentation would include not only the receipts issued for rental payments, but also the rental agreements (lease agreements) which are on file.

For disbursements, the supporting documentation would include the purchase orders or contracts, to verify authorization of the expense. It would also include the billing invoice from the provider with the payment approval verified by someone with authority. For example, an itemized invoice from a building supply store should be signed by someone who has verified that the supplies have been received.

Invoices should be marked "paid" once the payments are issued.

Disbursements should not be made based on account statements. Some suppliers send monthly statements for information purposes that show the balance of the account. Statements should not be confused with invoices. Invoices are requests for payment.

Accounts Receivable

Accounts receivable represent monies owed to the housing program. In the case of a First Nation's Housing Department, accounts receivable can include outstanding rent and services provided that have not been paid for by the customers. Rental arrears generally account for most accounts receivable for a housing department.

Accounts receivable are shown as current (short-term) assets in a balance sheet and are, in fact, unsecured promises by tenants to pay in the future. A provision is usually made in the accounts of the Housing Department to offset uncollectible accounts receivable (bad debts) as losses. An example of a bad debt would be rent owed by tenants who have left their units and where collection efforts (for example debts referred to a collection agency) have failed.

The First Nation must demonstrate all opportunities to collect the outstanding funds have been exhausted prior to reporting a bad debt.

CMHC reviews accounts receivable to make sure that practices and systems are in place to ensure timely receipt of late payments. Accounts receivable are integral to the financial operation of a First Nation's Housing Department.

Monies must come in to keep the housing portfolio viable. The Housing Department should have systems in place to follow up on late payments and have a policy and system in place to collect on bad debts.

Accounts Payable

Accounts payable are unpaid bills. Accounts payable are shown under current (short-term) liabilities in the balance sheet. CMHC reviews accounts payable to gain a better idea of the financial situation of a particular First Nation's Housing Department and to ensure that a system is in place to pay outstanding bills and expenses. It's important to avoid late payment charges on overdue accounts.

Section 11: Restricted Accounts

The First Nation must maintain “restricted” accounts for funds associated with the Section 95 housing portfolio. A replacement reserve fund as well as subsidy surplus (Pre-1997 program) and operating reserve funds (Post-1996 program) are considered restricted accounts and must be established as per the program operating agreements.

The term “restriction” means that funds in these accounts can only be used for specific purposes and need to be reported as such.

The above-mentioned accounts are essential to the long-term viability of the Section 95 housing portfolio. Failure to maintain these accounts can result in negative financial impacts on other First Nation resources (contributing funds to pay for associated capital items or future year deficits).

Suspension of federal subsidy and/or ineligibility for future Section 95 housing allocations can also occur if accounts are not fully funded.

Important Note

Replacement and operating reserve funds are critical to the ongoing viability and sustainability of the housing portfolio. Funding and maintaining these accounts are conditions of the operating agreement. Therefore, failure to do so will result in the suspension of the subsidy and may impact future Section 95 eligibility.

Replacement Reserve

Establishing and maintaining a replacement reserve fund is one of the requirements of the operating agreement signed by both CMHC and the First Nation for each Section 95 housing project. The operating agreement requires that replacement reserve funds be held in an interest-bearing account and identified for its intended purpose.

The replacement reserve account is established and maintained to cover the costs of repairs or replacement of major capital items in a housing project. Capital items include major building and property components, systems and project facilities and equipment.

The First Nation is required to set aside funds year after year for this specific purpose (also referred to as the replacement reserve allocation). The annual allocation to the replacement reserve is specified on the On-Reserve, Non Profit Housing Program (Section 95) application form as well as on the operating agreement (or on the commitment form for the Pre-1997 program). The First Nation can increase its annual contribution during the agreement where it is deemed appropriate.

Making contributions to the replacement reserve is one of the requirements outlined in the operating agreement. Ensuring the units are well maintained is the key to a healthier housing stock, which will benefit the First Nation community.

Replacement reserve expenditures do not require CMHC approval. However, funds must be utilized in accordance with the replacement reserve criteria as detailed in the project operating agreement.

The First Nation must maintain a separate file that tracks and monitors the replacement reserve fund for each of the two programs under Section 95 (Pre-1997and Post-1996). Each file must include copies of the investment contracts/agreements, the current financial balance sheet and monthly bank statements.

As mentioned above, separate funds must be maintained to ensure monies are available for their intended purposes when needed and are not spent through a housing department's operations account.

Subsidy Surplus

This is also considered a "restricted" account. A maximum of $500 per unit in operating surplus can be maintained in the account. Subsidy in excess of this is to be repaid to CMHC. Subsidy surplus funds can be used to offset future years' deficits associated with units under the Pre-1997 program. Subsidy surplus funds are to be held in an interest-bearing account.

Operating Reserve

This is the operating surplus for the Post-1996 portfolio after all expenses have been paid. As long as there are current year surpluses, the Operating Reserve account continues to accumulate and is used to help offset future years' deficits. The funds are held in a restricted interest-bearing bank account.

Section 12: Preparing For Financial Audit

As a requirement of the operating agreement, audited financial statements are to be provided to CMHC within four months of the fiscal year-end (March 31). The statements must be prepared by the auditing firm and reviewed with the Chief and Council. CMHC requires the balance sheet of the audited statements to be signed by the Chief and Council in order to consider the statements to have been officially received.

Important Note

CMHC will follow up with the First Nation concerning submission of the financial statements; however, if information has not been received within 30 days of the due date, CMHC will automatically suspend the subsidy AND the First Nation may not be eligible for future housing allocations.

In some cases, the First Nation provides a copy of the Band consolidated statement (all Band operations including the Section 95 housing portfolio). CMHC does not require, nor accepts, a statement of the entire Band operations. Only those activities specific to the Section 95 housing program are to be provided to CMHC.

The First Nation should be proactive and contact its auditor in January of each year to arrange a suitable schedule for completion of the upcoming audit. The auditor will require access to the tenant files and to the accounting records. All the required information should be kept up to date and readily available (see also section 6: Housing Records and Files). The auditor should also be provided with a copy of CMHC's financial statement review from the prior year.

The auditor selected by the First Nation must have a recognized accreditation. CMHC will only recognize chartered accountants (CA), certified general accountants (CGA) or certified management accountants (CMA) for performing audits.

The primary role of the auditor is to express an opinion on the fairness of presentation of the First Nation's financial statements. In many cases the auditor will draw up the financial statements from the First Nation's accounting records. A qualified opinion or a denial of opinion (which will occur when the record keeping is improper, incomplete, or not made available to the auditor) is not acceptable and will result in a suspension of the subsidy. Eligibility for future housing allocations will also be negatively impacted.

Where books and records are well maintained and information is readily available and easy to find for the auditor, the overall cost for the audited financial statement may be reduced.

CMHC has produced a reference document titled *Here's Help With Your Financial Statement* that mentions what information is to be reported in the audited financial statements.

Section 13: Audited Financial Statements

The main purpose of financial statements is to provide a clear picture of the financial results and status of a First Nation's Section 95 housing projects. They also show how much is being spent on routine maintenance and how much is being set aside for long-term repairs.

As a requirement of the Section 95 Operating Agreement, the First Nation is to submit annual audited financial statements to CMHC within four months of the fiscal year-end. In most cases communities have a March 31 fiscal year-end; therefore, audited financial statements for the Section 95 portfolio are to be submitted to CMHC no later than **July 31 of each year**.

Financial statements are submitted annually so both CMHC and the First Nation are kept up to date on the financial results of that First Nation's housing stock.

Financial statements include:

1. a balance sheet;
2. a statement of revenues and expenditures;
3. a statement of changes in financial position;
4. accompanying notes; and
5. a management letter (where applicable).

In addition, CMHC requires a statement relating to each project's replacement reserve and operating reserve.

Financial statements, required under the operating agreement, are to include only the housing projects where CMHC provides ongoing subsidy assistance to the First Nation.

Financial statements are important because they also provide evidence that other operating agreement requirements are being met: such as the funding of the operating and replacement reserves, revenue requirements (minimum revenue contribution), loan payments and insurance.

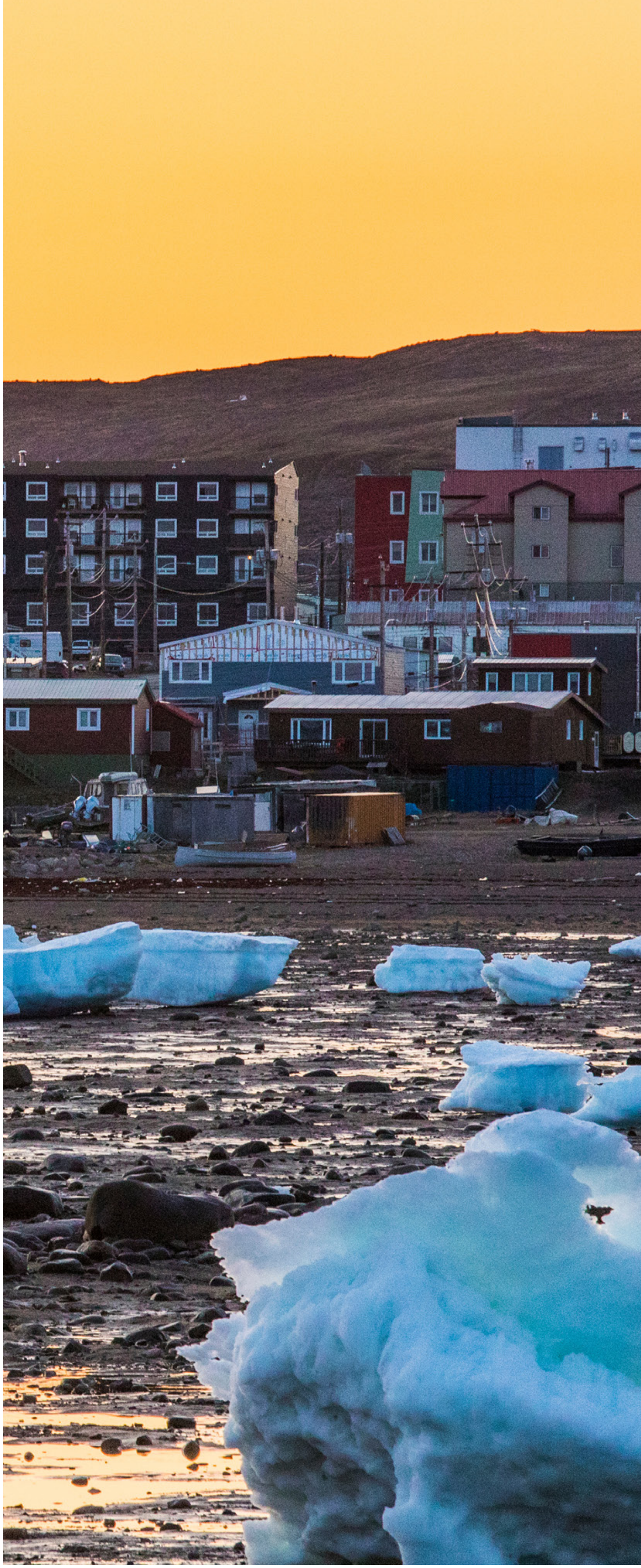
As subsidy calculations and other reporting formats differ between the Pre-1997 and Post-1996 Section 95 programs, projects committed under each program must be reported separately in the financial statements. See also CMHC's *Here's Help With Your Financial Statement* for additional explanation and detail.

Financial statements prepared for the Section 95 program (both Pre-1997 and Post-1996 programs) provide information related to:

- **Assets:** everything which is owned under the Section 95 housing projects of a First Nation (cash, prepaid expenses, amounts owed to the projects, inventories, buildings and equipment).
- **Liabilities:** everything the Section 95 housing projects owe to others and monies which must be set aside for special purposes (bills owing, loans and reserve funds).
- **Revenues:** all money collected/contributed through the Section 95 housing program such as rents, CMHC subsidies, and other Band contributions.
- **Expenses:** costs related to the operation of the housing projects (that is insurance, loan payments, maintenance and repairs, utilities, etc.).

- **Changes in financial position:**
  - operating activities: documents how money received from the operations of the housing projects is spent to pay for or maintain other required Section 95 activities; and
  - financing activities: documents how much money the Section 95 projects borrowed and repaid during the year.
- **Replacement reserve:** statements that document how much money has been set aside to repair and/or replace capital items (such as roofing, flooring, plumbing fixtures, etc.) and how much was spent on those kinds of items in the year.
- **Operating reserve:** (or the subsidy surplus fund in Pre-1997 projects) the amount of surplus that has accumulated over the course of a year as well as the surplus invested back into the First Nation's housing program.
- **Accounts receivable:** the amounts owing to the First Nation's housing projects. In the case of accounts receivable, these monies are usually outstanding rents that have yet to be paid by tenants.

A copy of the Section 95 audited financial statements should be kept on hand for reference as it will assist when preparing budgets, planning future projects and briefing the Chief and Council on the overall operations of the housing portfolio.



Section 14: Budget Management

Annual Operating Budget

It is strongly recommended the First Nation prepare an operating budget before the start of each financial operating year. While the budget does not need to be provided to CMHC, it is essential for the First Nation to have a financial "road map" for the upcoming year.

The operating budget is a financial plan that should be reviewed on a regular basis. It includes projected revenues and expenses, as well as the projected use of the funds from the replacement and/or operating reserves.

The annual operating budget is very important. It helps prevent deficits by prioritizing expenses and establishing an appropriate rent scale (Post-1996 program). Any problems concerning rent collection and maintenance can be quickly identified and reported to the Band Council and/or Housing Committee, where solutions can be developed and implemented.

A solid operating budget also helps the Band's Housing Department strengthen its working relationship with the Finance Department.

CMHC can provide training in the development of operating budgets should the First Nation ask for it.

There are three essential components to the operating budget:

- Operating revenues
- Housing revenues
- Operating costs

Operating Revenues

Revenue can be obtained from a number of sources, including occupancy charges (rent), CMHC subsidies, and services (such as garbage collection and snow removal) or from other Band funds (gaming, etc.).

The overall intent, however, is for the housing portfolio to be considered a "stand alone" entity. The housing portfolio should not have a negative financial impact on any other Band activity/operation.

The First Nation must establish an occupancy charge or contribute funds on behalf of tenants to ensure the projects at least break even—providing sufficient revenues to meet all expenses. It is important the housing project be viable for the duration of the operating agreement.

Pre-1997 Program

Section 2 of the Pre-1997 Section 95 Operating Agreement requires the First Nation to perform income verifications to determine the amount of rent occupants should pay. In the absence of income testing the First Nation is required to charge the lower end of market (LEM) rent, which was determined annually by CMHC. LEM rents are the maximum rent charges regardless of income.

Since January 1, 2013, CMHC no longer provides LEMs to First Nations. Instead First Nations must make sure that rents are increased on an annual basis by the consumer price index (CPI) to determine the maximum rent or an amount they deem sufficient to ensure all project operating expenses are covered, whichever is greater. First Nations will be required to make a financial contribution to the program that, when combined with program revenues, will offset all operating costs.

The agreement requires the First Nation conduct income verifications to determine rent levels or charge the maximum rent. Rent revenue can be a combination of rent geared to income (RGI), the established maximum rent and social assistance shelter allowances.

A First Nation that does not do income tests must charge the established maximum rent to all households. Alternatively, a First Nation may choose not to charge tenants any rent, and instead contribute an amount to the housing project that is equal to what would otherwise be charged to the tenant (RGI if the income information for the tenant is available or the established maximum rent, if it is not). The actual contribution must be made by the First Nation and cannot be reported as a receivable on the balance sheet.

The following are the steps in calculating rent geared to income (RGI):

- ADD together all the money that is made or received in any form other than social assistance by everyone in the house in a year.
- Then SUBTRACT the following:
  - All the money made by children attending school full time
  - The first $900 of a spouse's annual employment income
  - The first $900 of a single parent's annual employment income
  - A total of $900 if both parents work outside the home;
  - All earnings over $900 of everyone in the home other than the head of the household or spouse
- Once the above reductions are made the results is the annual **adjusted income**.
- If the household has some people working while others collect social assistance, that household's annual adjusted income is a combination of the shelter allowance and the adjusted income arrived at by applying the calculation above to those people who work.
- Once calculated, the annual adjusted income is divided by 12 to establish the monthly adjusted income. If occupants are responsible for paying their own utilities (heat, hot water, sewer/water) then an appropriate utility adjustment is made to the monthly adjusted income.
- A sliding scale is applied to monthly adjusted incomes up to $404 per month to establish the level of rent to be charged based on the calculated income. Rental amounts for monthly adjusted incomes over $404 are to be based on 25% of the income.

The following is a quick overview of the rental calculation process for the Pre-1997 program:

1. The tenant presents proof of annual income.
2. The annual household income is reviewed to determine the annual adjusted income.
3. The monthly adjusted income is determined.
4. If required, utility allowances are deducted from the monthly adjusted income.
5. Application of the rental sliding scale up to 25% of the adjusted income is calculated.
6. The rent will be the lesser of the maximum rent as determined by CMHC for Section 95 units, or the rent as a (25%) proportion of income.

Post-1996 Program

The First Nation must ensure an annual minimum revenue contribution, as required in Schedule B of the operating agreement, is made to the project. This contribution can take the form of a rental collection and/or funds from the First Nation (down payment, revenues from forestry operations, fishing industry, etc.).

The First Nation establishes the rental scale, collects rents and monitors rental payments, issues receipts and deposits monies received in a bank account specifically designated for housing.

Operating Costs (Pre-1997 and Post-1996)

The typical expenses that are part of the operating costs include the following:

- Loan repayment
- Property insurance
  - Some communities insure each housing unit individually, while others have fire insurance policies that cover all the buildings and assets collectively whether they are commercial or residential, publicly or privately owned. The Section 95 housing units must all be covered by a fire insurance policy to adhere to the requirements of the lender and to protect the investment by the First Nation.
- Administration
  - Generally, administration for the Pre-1997 program is 6% of all expenses (including loan repayment, salaries, operating expenses, bank charges, client counselling).
  - Administration expenses are included as part of the operating cost benchmark (OCB) for the Post-1996 program at project commitment.
- Maintenance (preventive maintenance, renovations, materials)
- Services (heating, hot water)
- Public services (garbage collection, sewers/aqueduct, snow removal)
- Audit/legal fees (audited financial statements, lawyers, etc.)
- Allocation to the replacement reserve

Section 15: Housing Loan Administration

Each Section 95 project that receives subsidy has a loan which is secured through a Ministerial Loan Guarantee from ISC or another form of loan security. Ensuring these loans are maintained and kept current is critical given the impacts on the subsidy (subsidy suspension) and Section 95 allocation eligibility should the loan fall in arrears.

It is important for the First Nation to have a list of all the Section 95 loans, the applicable lender and the loan details (amount, interest rate, monthly payment, remaining amortization and next renewal date).

In the majority of cases, housing loans will have been obtained through CMHC's Direct Lending program (in particular the Post-1996 program). There are, however, cases where the First Nation may have obtained a loan from an external lender. As loans are usually renewed, it is important to understand the process associated with the renewal. The following table gives a broad overview of the differences between the Pre-1997 program and the Post-1996 program in terms of loan renewals.

Loan Renewal Differences between the programs

	Section 95: PRE-1997	Section 95: POST-1996
Subsidy based on interest rate	YES – subsidy based on writedown to 2% or adjusted dollar for dollar where subsidy fix agreement addendum signed	YES – subsidy adjusted dollar for dollar with change in loan payment
Minimum interest rate	Interest rate must match median of market rate	Interest rate based on CMHC Direct Lending rate
Renewal term	Recommended: 5 years	Mandatory: 5 years
Amortization period	15 – 35 years	15 – 25 years

Pre-1997 Program Loan Renewals

CMHC will send a renewal notice to the First Nation one month before the renewal date. The First Nation may decide to use a direct loan from CMHC. If, however, it prefers to obtain a loan from a lender, it must request offers from three lenders (whenever possible) outlining the interest rate, remaining loan balance, loan term and remaining amortization. The lowest interest rate is to be selected.

Where the interest rate has decreased, CMHC will suggest an option whereby the First Nation can sign an amendment to the operating agreement that will enable CMHC to adjust the subsidy amount accordingly (see also Subsidy Fix (Pre-1997 program) in this section). It is important for the First Nation to keep track of any changes in CMHC subsidies.

In addition to making the loan repayments on the required dates, the First Nation should inform CMHC immediately about any changes to the terms or clauses in the loan renewal agreement.

The First Nation must ensure the duration of the loan renewal is precisely five years. To properly allocate the subsidies, CMHC must obtain the loan renewal information within 30 days of the renewal.

Note that the amortization period **cannot be lengthened or reduced**.

Post-1996 Program Loan Renewals

In addition to making the loan repayments on the required dates, the First Nation must inform CMHC immediately about any changes to the terms or clauses in the loan renewal agreement. Upon receiving the new conditions of the loan renewal, CMHC will adjust the subsidy amount accordingly.

The First Nation must ensure the duration of the loan renewal is five years. As with the Pre-1997 program, the amortization period cannot be lengthened or reduced for loans under the Post-1996 program.

In most cases, loans for Section 95 units under the Post-1996 program are through CMHC's Direct Lending program. There are situations, however, where the First Nation obtained financing through an external lender. In these cases, the subsidy for the units under the Post-1996 program with an external lender will be calculated based on the lower of the lender rate OR Direct Lending rate from CMHC.

EXAMPLE:

- Bank (lender): 6.5%
- Direct Lending rate from CMHC: 5.0%
- Rate used to calculate subsidy: 5.0%

Important Note

The monthly subsidies will be suspended if the First Nation fails to provide the loan renewal information within 30 days following the renewal date. This failure will also have a negative impact on the First Nation's eligibility for new housing units.

Subsidy Fix (Pre-97 program)

A change was made to the Pre-1997 Section 95 program regarding the way subsidy payments are calculated.

Announced in June 2005, the change allows First Nations to choose to have their subsidy adjusted in an amount equal (dollar for dollar) to the change in the loan payment resulting from interest rate changes at the time of loan renewals.

This option requires a signed addendum to the operating agreement, which will remain in effect for the duration of the loan's amortization period

Section 16: End of Agreements

When a housing agreement between the First Nation and CMHC comes to an end (usually after 25 years), the contract between the two parties also ends, which includes specific reporting requirements as well as federal subsidy payments.

Each community must develop its own local strategy to manage the issues that can arise once the agreements with CMHC come to an end.

Band Councils can have several options for the management of their housing units once the Section 95 Operating Agreement ends. Some options the First Nation may consider are:

a) transferring the housing unit to the occupant;

b) selling the housing unit to the occupant; or

c) maintaining the rental tenure of the housing unit (as Band housing).

Or any other innovative approaches adapted to the community's realities.

Transfer of Units

Transfer

Transferring the home to the tenant already in place or to another member of the community.

Implications

- This transfer may come with a certificate of possession.
- Transfers usually make the right of possession implicit and give the future owner the right to sell or bequeath the unit.
- This approach may make the new owner responsible for the expenses related to the unit, such as utilities, maintenance and insurance. This approach can be quite viable if the Band had initially promised a property transfer at the end of the loan.

Sale

Selling the home to the occupant already in place or to another member of the community.

Implications

- This sale may come with a certificate of possession.
- Sales usually make the right of possession implicit and give the future owner the right to sell or bequeath the unit.
- This approach may make the owner responsible for the expenses related to the unit, such as utilities, maintenance and insurance.

Maintaining as Rental Tenure

The Band Council continues to administer the home within its Band housing stock. In this case, the Band may decide to collect rent and ensure the maintenance of the unit.

Housing Needs

Notwithstanding the option(s) taken, there are a wide range of questions and issues the Band Council and Housing Department need to consider as their Section 95 agreements approach maturity. One of the primary questions relates to housing needs:

- Is social housing still needed in the community?
- What are the housing needs of the community's members?

There may be a wide range of housing needs within a community—new construction, expansion, conversion, renovation and decontamination.

New construction: There are several questions to consider when deciding on the number of new housing units your community may need.

- Is there a problem with overcrowding in the community? To help determine if overcrowding is an issue refer to the National Occupancy Standards.
- What is the rate of demographic growth in the community? A common way to determine growth is to calculate the number of people who will reach adulthood (age 18) over the next five years. In general, one additional housing unit is calculated for every two people who will reach age 18.

  It is also important to consider the different types of households that exist and that could be formed. For instance, a multigenerational household includes grandparents (elders) as well as parents and children, and can be a common living arrangement in some communities. Also, single-person households are also on the rise in some areas, as are the number of student households.
- What is the migration rate in the community? Is there an expectation that members will be returning to the community or, conversely, is there anticipation that residents will be leaving?
- How many housing units need to be replaced? In general, houses that are more than 25 years old and not up to the minimum health and safety standards need to be examined carefully to ensure that they can be repaired or renovated at reasonable costs. If a housing unit is in an advanced state of deterioration and is structurally precarious, it may not justify a renovation investment, and instead, will need to be replaced.

Expansion: There may be a need to expand existing dwellings/housing units, to increase the living space or better answer the needs of occupants.

Expansion can be undertaken in different ways:

- Creating one or more additional bedrooms (fitting out)
- Creating (fitting out) a washroom in the basement
- Expanding the size of the house
- Adding a level to the house

Conversion: The conversion of a single-family house to a two-family house answers a specific need.

In certain cases, it can be appropriate to create a second apartment in a single-family house to accommodate a second family. This can be done in the basement, or elsewhere in the structure of the house.

Renovation: Different considerations require renovation work, including the following:

- The quality of construction of the existing housing units
- The lack of maintenance over the years
- Rental arrears that have led to insufficient maintenance budgets
- Inappropriate use of the home by occupants

Appendices

Appendix A: Help With Your Financial Statement

Canada Mortgage and Housing Corporation, On-Reserve Non Profit Housing Program (Section 95): Help With Your Financial Statement, Pre-1997, Ottawa: Canada Mortgage and Housing Corporation, 2023, no. 67816.

Canada Mortgage and Housing Corporation, On-Reserve Non Profit Housing Program (Section 95): Help With Your Financial Statement, Post-1996, Ottawa: Canada Mortgage and Housing Corporation, 2023, no. 67814.

Appendix B: Sample Lease/Housing Agreement

Lease Agreement

DATE ___________________

_________________________ FIRST NATION hereinafter called "**the First Nation**" of the first part

And:

_________________________ hereinafter called "**the tenant**" of the second part

Whereas:

The First Nation has agreed that the tenant may occupy the premises on the terms and conditions hereinafter set out.

That for and in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties agree as follows:

1. Premises

The First Nation leases to the tenant for the use and occupation as a residential dwelling all those certain premises more particularly known and described as:

Lot Number ___________________ Reserve Number ___________________ House Number ___________________

2. Occupants

The tenant covenants that the following persons shall be the only permanent occupants during the term of this agreement unless the First Nation consents in writing to other persons becoming occupants, such consent will not be unreasonably withheld.

The tenant acknowledges and agrees that this covenant is a material covenant of this tenancy agreement and that its breach will provide grounds for termination.

Full names of all adult occupants (age 19 or older) to occupy the premises. Include given names for each one. Please print clearly.

Name	Age

Full names of all minor occupants (under age 19, including infants). Include the names of all minors to occupy the premises and their ages

Name	Age

3. Duration

This Lease Agreement shall be for a term of one (1) year commencing on the first (1st) day of ***DATE*** and ending on the ***xx*** day of ***DATE***. (hereinafter the "Term").

However, this Lease Agreement shall be automatically renewed from year to year unless the Tenant gives a written notice to the Landlord at least Ninety (90) days prior to the end of the Term.

4. Rent

a) The tenant shall pay the First Nation rent in the sum of ________ dollars per month payable on the first day of each month at the Housing Office. Payment will be made in cash, by preauthorized debit, money order or cheque made payable to ____________________ .

b) The rent may be adjusted annually for a period of no less than 12 months, by the First Nation.

5. Services and Equipment

No furnishings, equipment or utilities shall be supplied by the First Nation except those checked below, which the tenant agrees are in satisfactory condition and which the tenant and tenant's guests shall use carefully:

EQUIPMENT PROVIDED

- Fridge
- Stove
- Washer
- Dryer
- Other: ____________________

UTILITIES PROVIDED

- Heat
- Hot water
- Sewer
- Water
- Other: ____________________

6. Insurance

The First Nation, as owner, will bear the cost of fire insurance for the home and chattels as specified in clause 5. The cost of personal contents insurance shall be the responsibility of the tenant.

All the cost of the deductible will be charged to the tenant for claims resulting from deliberate or willful damage, for example, smoke damage, broken windows.

The First Nation will pay 100% of the deductible for accidental damage caused by uncommon occurrences, such as fallen trees, wind.

The tenant will not do or omit to do something which may render void or voidable any insurance policy on the premises.

The tenant will indemnify and save the First Nation harmless for all liabilities, fines, suits and claims of any kind for which the First Nation may be liable or suffer by reason of the tenant's occupancy of the premises.

7. Tenant's Covenants

a) To pay rent.

b) To be responsible for the following repairs and maintenance:

   (INSERT TENANT RESPONSIBILITIES IN ACCORDANCE WITH THE COMMUNITY'S HOUSING POLICY)

   and to maintain the house and area in a clean and sanitary condition, but will not make any alterations to the home without prior written consent of the First Nation.

c) To report all damages to the home to the First Nation.

d) To pay heating, lights, water, sewer, power, telephone and television cable charges.

e) Not to assign or sublet the premises without the written permission from the First Nation.

8. First Nation's Covenants

a) To grant the tenant quiet enjoyment of the premises.

b) To be responsible for the following repairs and maintenance:

(INSERT FIRST NATION RESPONSIBILITIES IN ACCORDANCE WITH THE COMMUNITY'S HOUSING POLICY)

9. Default

If the tenant fails to pay the rent on the first day of the month, due notice will be issued by the First Nation. A notice to evict will be given on the 5th day of the month if the rent is not paid by then. The First Nation may declare the tenancy ended if payment is not received within 30 days after the date upon which it is due.

10. Eviction

Eviction will result if:

a) rent is not paid as outlined

b) there is willful damage or abuse to the house

c) there is repeated disturbance of the peace

(INSERT CRITERIA OUTLINED IN COMMUNITY'S HOUSING POLICY)

11. Vacating the Home

a) Upon vacating, the dwelling must be left clean or the tenant will be charged for cleaning.

a) Clean shall mean the following:

- Rugs cleaned and vacuumed and all stains shampooed out
- Floors cleaned and washed
- Walls cleaned and washed
- All electrical light bulbs functioning and in place
- All fixtures whole and undamaged
- Refrigerator cleaned of all foods and stains and defrosted, no damage to racks, no debris under or behind the refrigerator
- Other appliances cleaned inside and out
- All garbage removed from cupboards, cabinets, etc.

The tenant hereby acknowledges having read this tenancy agreement and acknowledges receipt of a duplicate copy.

Dated at ____________________ , this __________ day of ____________________ , 20 __________ .

Agreed to and signed by the tenant (each adult occupant)

______________________________________ ______________________________________

______________________________________ ______________________________________

______________________________________ ______________________________________

Agreed to and signed at ______________________________________ First Nation

Per: ____

Appendix C: Sample Budget Template

Proposed Operating Budget

First Nation: ______________________________

Budget year beginging: Month __________ Year __________ CMHC Account Number: ______________

Total # of units for this budget: __________ Phases __________ through __________ reported in this budget.

Revenue:

Rental revenue/Minimum Revenue Contribution: ______________

Section 95 subsidy: ______________

Interest income: ______________

First Nation contribution: ______________

Other: ______________

Total revenues: ______________

Expenses:

Fire Insurance: ______________

Repairs/maintenance: ______________

Heat/hot Water: ______________

Water/sewer: ______________

Administration: ______________

Replacementr eserve: ______________

Loan payments: ______________

Snow pemoval/garbage collection: ______________

Audit/legal fees: ______________

Other: ______________

Total expenses: ______________

Projected Surplus/deficit: ______________

Completed by: ______________________________ Date: ______________

Approved by: ______________________________ Date: ______________

Sample Budget Worksheet

Phase	Rent/MRC (revenue)	Section 95 Subsidy (revenue)	Loan Payments (expense)	R/Reserve Contribution (expense)	Maintenance (expense)	Insurance (expense)	Admin (expense)	Utilities (expense)	Age Audit/ Legal (expense)
Total	$	$	$	$	$	$	$	$	$

Appendix D: Sample Maintenance Planning Template

					Classification (M/RR)	Priority				When
Unit	Phase	Program Pre/Post	Repair Item	Cost (est)	M = maintenance RR = r/reserve	Urgent (< 1 yr)	ST (1 yr)	MT (2-3 yr)	LT (3-5 yr)	Month Planned
			Total	$		$	$	$	$	

Appendix E: Sample Move-In/Move-Out Report

Move-In/Move-Out Checklist – Sample

Original to Tenant	Condition Code	Cleanliness Code
Copy to First Nation	C = Clean S = Scratched/Marked DT = Dry B = Broken	C = Clean ST = Stained DT = Dry

Unit No.:		Move-In Date:		Move-Out Date:	
Tenant		**Condition at beginning of tenancy**		**Condition at end of tenancy**	
Area	**Item**	**Comment**	**Code**	**Comment**	**Code**
Kitchen	Ceiling				
	Walls and trims				
	Floor				
	Countertop				
	Cabinet and doors				
	Stove				
	Oven				
	Stovetop				
	Boiler pan				
	Sink and stoppers				
	Refrigerator				
	Crisper				
	Ice trays				
	Freezer				
	Closets				
	Dishwasher				
	Lighting fixtures				
	Window Screens				
Living Room	Ceiling				
	Walls and trims				
	Floor				
	Air Conditioner				
	Air Conditioner cover				
	Air cleaner				
	TC cable				
	TC adapter				
	Closets				
	Light fixtures				
	Window Screens				
Dining Room	Ceiling				
	Walls and trims				
	Floor				
	Closets				

(continued)

	Light fixtures				
	Window Screens				
Stairwell & Hall	Treads and landing				
	Walls and trims				
	Ceiling				
	Closets				
	Light fixtures				
	Window Screens				
Bathroom	Ceiling				
	Walls and trims				
	Cabinets and mirrors				
	Tub, sink, toilet				
	Door				
	Light fixtures				
	Window Screens				
	Shower doors				
	Tub surround				
Exterior	Patio doors				
	Garbage container(s)				
	Glass and frames				
	Screens				
	Storm doors				
	Windows				
	Stucco or siding				
	Grounds				
	Walkways				
	Stairs and stairwell				
	Walls				
Basement	Floor				
	Furnace				
	Hot water heater				
	Plumbing				
	Electrical				
	Light fixtures				
	Washing machine				
	Dryer				
UtilityRoom	Water pump				
	Sump pump				
	Sewage pump				
Keys	# of keys =				

Repairs to be completed on initial occupancy

List Repairs

Appendix F: Sample Housing Application Form

Name of Applicants

Name: ______________________ D.O.B. ______________ Telephone: ______________
DD/MM/YYYY

Name: ______________________ D.O.B. ______________ Telephone: ______________
DD/MM/YYYY

Mailing address: ____

Marital status: ☐ Single ☐ Widowed ☐ Separated ☐ Common law

Number of Dependants

Name	Date of Birth	Age	Relationship

Present Living Conditions

House ownership: ☐ Certification of possession ☐ Band owned ☐ Renting

Previous RRAP Repairs: ☐ Yes, year: ________ ☐ No Age of house or years on housing list: ________

Health considerations: ____

Ramp accessibility required: ☐ Yes ☐ No

Specify any other considerations: ____

Reason for leaving present accommodation: ____

____

Type of Income

Employment: $ ______________________ Family benefits: $ ______________________

Pension (OAS/DISB/VET) $ ______________________ **Total annual income: $** ______________________

I UNDERSTAND THIS APPLICATION DOES NOT CONSTITUTE AN AGREEMENT ON THE PART OF ______________________ FIRST NATION TO PROVIDE ME WITH HOUSING ASSISTANCE.

Signature of applicant: ______________________ Witness: ______________________

Signature of joint applicant: ______________________ Witness: ______________________

Date: ______________________

CMHC helps Canadians meet their housing needs

Canada Mortgage and Housing Corporation (CMHC) has been helping Canadians meet their housing needs for more than 70 years. As Canada's authority on housing, we contribute to the stability of the housing market and financial system, provide support for Canadians in housing need, and offer unbiased housing research and advice to Canadian governments, consumers and the housing industry. Prudent risk management, strong corporate governance and transparency are cornerstones of our operations.

You can also reach us by phone at **1-800-668-2642** or by fax at **1-800-245-9274**.

Outside Canada call **613-748-2003** or fax to **613-748-2016**.

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