
TECHNICAL HANDBOOK FOR
ENVIRONMENTAL HEALTH AND ENGINEERING
VOLUME IV - REAL PROPERTY MANAGEMENT
PART 36 - QUARTERS MANAGEMENT

CHAPTER 36-1 OVERVIEW AND AUTHORITIES

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36-1.1 PURPOSE

The management of Government-controlled quarters administered by the Indian Health Service (IHS) shall be accomplished in accordance with the policies, principles, and procedures set forth in this Handbook.

36-1.2 AUTHORITIES

Title 5, United States Code (U.S.C.) 5911, authorizes Government agencies, i.e., Department of Health and Human Services (DHHS), to provide quarters and related facilities to their employees in certain specific circumstances (see section 1.3A). By a delegation of authority dated October 12, 1977, the Assistant Secretary for Management and Budget/Office of the Secretary (OS) vested in the Assistant Secretary for Health (ASH) the authority to manage Public Health Service (PHS)-controlled quarters. Delegations dated November 9, 1977, re delegated the authority from the ASH to the Executive Officer/PHS, and from the Executive Officer/PHS to the PHS Agency Heads.

That delegation of authority to manage PHS-controlled quarters states in part "...I hereby delegate to the PHS Agency Heads, with authority to redelegate, authority to manage, consistent with Department policy and procedures, PHS-controlled quarters within their respective jurisdictions, including:

- Determination that quarters are adequate;
- Designation of quarters;
- Determination of reasonable rental value of quarters; and
- Determination of those officers or employees who shall be required to occupy quarters."

The delegation of authority for management of PHS-controlled quarters was re delegated to the Office of Environmental Health and Engineering (OEHE) on July 13, 1990, from the Associate Director, Office of Administration and Management.

Also, the authority to assign quarters, establish rental rates, and collect rents and other charges at Government-owned or leased facilities rests solely with the Government agency and its delegated officials. This authority may not be contracted, granted, or transferred to a non-Federal entity. [5 U.S.C. 5911(c), (See Chapter 36-11 APPENDIX I);

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Office of Management and Budget (OMB) Circular A-45 (See Chapter 36-11 APPENDIX N); Public Law (P.L.)89-554, and 80 Statutory (STAT.) 508)

However, management functions associated with the above tasks may be performed by a contractor, provided the Contracting Officer responsible for that contract periodically (at least annually) reviews the contractor's compliance with all requirements and terms of the contract, the Technical Handbook for Environmental Health and Engineering, Volume IV, Real Property Management, Part 36 - Quarters Management; and Part V, Chapter 13 Indian Health Manual, Quarters Management Program, and any other amplifying IHS Agency guidelines.

For the purposes of Part 36 - Quarters Management, the Delegated Official (DO), shall be specifically responsible for the following:

- A. Assessment of Needs - Assessment of installation housing needs and development of a plan to meet those needs;
- B. Occupancy Requirements - Determination of those officers, employees, or other authorized persons who shall occupy Government-controlled quarters;
- C. Classification - Quarters classification, designation, identification, assignment, and inventory;
- D. OMB Circular A-45 - Implement rental rates, in accordance with OMB Circular A-45, and all its amendments;
- E. Rules & Regulations - Implement rules and regulations concerning quarters occupancy;
- F. Maintenance & Upkeep - Quarters and contiguous property maintenance and upkeep;
- G. Paperwork - Maintenance of necessary quarters records and preparation of required reports;
- H. Committees - Establishment of housing committees and appeals committees; and
- I. Housing Officer - Appointing one or more Housing Officer(s) (HO) who shall administer the quarters management program at those installations under his/her purview.

36-1.3 LEGISLATIVE POLICY AND REGULATORY REQUIREMENTS

- A. Federal Government Policy - It is the policy of the Government to provide quarters only where necessary to maintain continuity and efficiency of service or to protect Government property which cannot otherwise be protected. In such cases, it must be positively demonstrated that these objectives cannot be met if the personnel for whom quarters are to be provided are permitted to live away from the station.

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In compliance with United States Code (USC) Title VI of the Civil Rights Act, and USC Title VI, The Civil Rights Act of 1991, quarters assignments shall be made without regard to race, creed, sex, age, religion, national origin, physical and emotional handicap.

B. PHS Policy

(1) Justification - Policy requires that the assignment of employee housing be justified by one of the following circumstances:

- a. The presence of personnel at or near the installation concerned is necessary on a 24-hour basis to assure provision of essential services or to protect Government property which cannot otherwise be protected.
- b. A sufficient supply of satisfactory private housing, generally at remote, isolated IHS installations, is not available within one hour travel time (one way).

Housing insufficiency or unacceptability shall be demonstrated by showing that one or more of the following conditions exist and will probably continue to exist for an extended duration:

- attempts to locate housing for sale or rent through local realtors and advertisement have been unsuccessful;
- available housing is substandard by reason of design, construction, or environment;
- available housing is more costly than employees can afford; and/or
- employees subject to rotation cannot obtain leases at prevailing rental rates which permit them to vacate on 30 days notice.

The term "available housing" will usually encompass both sale and rental units. In determining the sufficiency of the available housing supply, consideration must be given to any additional private housing that can be reasonably expected to be constructed and ready for occupancy, or to otherwise become available, within 60 days of the assignment of new personnel to any installation.

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- c. Due to other circumstances, it is evident that provision of necessary services or protection of Government property cannot be assured unless housing is provided.
- (2) Designation - All quarters under the control and management of the Indian Health Service shall be specifically designated as belonging to one of the following categories (as defined in Chapter 36-10.16):
- Rental Quarters
 - Transient Quarters
- a. Designation of all quarters shall be made by the official having delegated authority to make such determinations and to designate quarters.
- b. All designations and the effective dates shall be recorded on the Form PHS-6070A in accordance with the instructions for the preparation of the form.
- c. Redesignations and changes in category will be made by the official having delegated authority to designate quarters and shall be reported within 10 days after such actions are taken to the office responsible for real property management at the headquarters of the IHS, along with a complete and detailed statement of the findings that support the conclusion and form the basis for such a determination and redesignation.
- d. The designation of quarters category may be made on a temporary basis for a period not to exceed one year in lieu of redesignation provided all such changes in designation or temporary use are properly documented of Form PHS-6070A.
- (3) Relocation - Employees living in private homes or housing administered by other agencies will not routinely be moved to IHS quarters as vacancies occur. Any decision concerning mandatory relocation to IHS administered quarters shall be based on "Occupancy Requirements." (See section 1.2B.)
- (4) Eligible Spouse - An employee will not be considered for assignment to IHS administered quarters if the spouse has been assigned housing by other local agencies, or if the employee lives reasonably close to place of employment.
- (5) Multiple Employees - When both husband/wife are IHS employees eligible for assignment to IHS quarters and one is a member of the commissioned corps, the available quarters will be assigned to the corps member. Rent for Quarters that are shared by employees will be prorated among the room mates.

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- (6) Residence Only - Quarters will not be used for any purpose other than as a residence, except when it is determined that the use of a portion of the quarters unit is required for official business.
- (7) Non-Government Occupants - On occasion, it may further the agency mission to have contractors (other than 638 Contractors) non-Government persons assigned to IHS quarters. All quarters made available to such persons shall be assigned according to Part 36 - Quarters Management Guidelines. A memorandum justifying the request for housing must be prepared at the installation level and approved by the IHS Area Director. Copies of the request and approval must be forwarded to the Director, Division of Facilities Management.
- (8) Immediate Family - Permanent occupancy are limited to the immediate family; exceptions to immediate family or "permanent basis" requirements must be applied for and approved by the housing committees in writing.
- (9) Excess - Quarters which are no longer needed and cannot continue to be justified as rental, or transient quarters shall promptly be reported as excess for proper disposal.
- C. Establishment of Housing Committees - For each office/installation administering Government quarters, a housing committee shall be established by the DO/HO. Neither the DO or HO shall serve on the Housing Committee. Additional personnel may be appointed by the DO/HO. The committee shall include one representative from each of the following staff specialties:
- program administration
 - professional services
 - equal employment opportunity
 - facilities management
 - financial management and/or real property management
- (1) The Committee shall:
- Recommend specific criteria (see section 1.4) for the operation of the housing program and submit as drafts to the HO for final approval with concurrence from the DO.
 - Serve as liaison between the DO/HO and the housing occupants in any matters of dispute and make recommendations for satisfactory solutions.
- (2) The Committee shall not:
- Establish rental rates.
 - Perform appraisals.
 - Determine adequacy of quarters.

36-1.4 RULES AND REGULATIONS CONCERNING OCCUPANCY

The responsibility for issuing specific rules and regulations related to occupancy of IHS quarters is the responsibility of the DO. A set of current rules and regulations shall be provided to the tenant at the time of occupancy or posted in the quarters unit.

A. Occupant Responsibilities - The occupant:

- (1) agrees to keep the premises in a clean, sightly, and safe condition, and upon vacating, to leave the quarters in a clean and orderly condition.
- (2) agrees to assist and cooperate with the agency in the care and maintenance of the premises and to promptly notify the housing officer of any damage or need for repairs to the premises.
- (3) agrees to make no repairs, alterations, improvements or additions to the premises unless authorized, in advance and in writing, by the Agency Head or delegated official. All alterations, improvements or additions so authorized and made shall become and remain the property of the United States.
- (4) agrees to repair at his/her expense, any damages to the premises resulting from the neglect of the occupant beyond reasonable wear and tear. These repairs may be made by the agency, at its option, and costs will be reimbursed by the occupant through a cash payment or payroll deduction.
- (5) agrees that no private business will be operated out of the premises unless authorized, in advance and in writing, by the Agency Head or delegated official.
- (6) agrees to maintain the premises as a private residence for himself/herself and his/her legal dependents. The occupant agrees to neither sublet any part or portion of the premises to any person, nor allow any other person or persons to reside on the premises without the prior written consent and approval of the delegated official.
- (7) agrees to conduct himself/herself and assures that family and guests conduct themselves in such a manner as not to interfere with agency operations at the installation.
- (8) agrees to permit the Agency Head, or delegated official, to enter the premises in order to inspect, make repairs, or take such other action as may be reasonable or necessary. The agency shall give notice of intent to enter the premises as it deems reasonable and practical under the circumstances.
- (9) agrees to pay normal rent for quarters during temporary periods of absence. The occupant is responsible for rent, furnishings, and utility charges until such time as the unit

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is completely vacated and cleaned. Charges will continue until a PHS Quarters Termination Record (PHS-6070B) and Quarters Deficiency Checklist (PHS-6068) have been executed, signed, and any discrepancies resolved. The occupant must receive the above quarters clearances prior to release from service and final payment of salary.

(10) agrees to notify the DO/HO in writing of:

- any change in eligibility for Government quarters;
- intent to vacate, including specific date of move, at least thirty days prior to release of Government quarters;
- births, deaths, marriages, divorces, and contagious diseases of occupants; and
- persons outside of immediate family domiciled in Government quarters.

B. Areas of Concern - At a minimum, rules and regulations shall be prepared to cover the areas listed below:

- (1) pre-occupancy inspections and close-out surveys;
- (2) garbage/trash storage and removal;
- (3) storage of boats, trailers, Recreational Vehicles, and similar items;
- (4) structural, electrical, heating, and plumbing alterations;
- (5) installation of allowable appurtenances (curtain rods, room dividers, shelves, TV/radio antennas, and similar items);
- (6) allowable types and numbers of pets;
- (7) pedestrian, bicycle, and vehicular traffic;
- (8) possession, transportation, and use of explosives, firearms, BB and/or air pellet guns;
- (9) storage of combustible items and other hazardous materials;
- (10) possession of Government property without permission;
- (11) civil defense, including actions during disaster emergencies;
- (12) behavior of occupants consistent with local laws and ordinances (including acts of children, guests, and pets);
- (13) possession, transportation, and use of alcoholic beverages, scheduled drugs, or illicit narcotics;
- (14) maintenance of dwellings and grounds;

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- (15) fire and police protection;
 - (16) possession and maintenance of renters insurance;
 - (17) subleasing; and
 - (18) payment of rent and utility charges when applicable.
- C. Miscellaneous - Other appropriate subjects may be added to the above list of concerns. Necessary actions concerning lost, damaged, or destroyed Government real and/or personal property; methods of recouping Government funds expended for repairs occasioned by the neglect of the occupant; billing procedures/payroll deductions; or Boards of Survey.
- D. Termination - Conditions under which rights to occupancy will be terminated.

36-1.5 RENTAL DEDUCTIONS FOR INCOME TAX PURPOSES

- A. Income Tax Deduction - The authority for income tax deduction by the individual employee exists in the Internal Revenue Code of 1986.
- B. Income Adjustments - Whenever the DO/HO determines that all the following conditions have been met, quarters rental payments (including charges for Government-furnished utilities) may be excluded from gross income by the employee for income tax purposes in accordance with Income Tax Regulations, 26 CFR 1.119-1 (b) (Treasury Decision 6745, 29 FR 9380, July 9, 1964, as amended by Treasury Decision 8006, 50 FR 2964, Jan. 23, 1985):
- (1) lodging is furnished on the business premises of the employer at the place of employment;
 - (2) lodging is furnished for the convenience of the employer. The primary consideration is that such lodging is necessary to permit the employee to do his/her job properly;
 - (3) the employee is required to accept such lodging as a condition of employment. The condition need not be contractual, but must be necessary for proper performance of the employee's job, (e.g., employee on 24-hour call, or Government quarters made available because of the remoteness of the Government facility and the lack of a commercial housing market).
- C. Certification to Employee Occupancy of Government Quarters - In order to assist affected Government employees claiming quarters rental deductions on their Federal Income Tax Returns, the DO/HO shall furnish each employee with written documentation of the determination, attesting to the satisfaction of all conditions listed in section 1.5B. The authority to sign for this certification can not be redelgated. This certification can not

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be used by the Commissioned Corps. A copy of the employee's position description must be attached to the certification. This determination may be provided in the manner indicated in the sample below:

This is to certify that (occupant name) is a required occupant of Government quarters at (installation name and address) which are on business premises of the Federal Government. Occupancy of the quarters began on (date) and was required as a convenience to the Government, because no other suitable facilities are available, and the employee could not otherwise satisfactorily perform the services required of him. The aforementioned employee was required to accept lodging as a condition of his employment.

Signature of Area Director

Signature of Housing Officer

rental/month

- D. Non-Government Occupants - Because non-Government occupants (contractors or contractors' employees) of Government-owned or leased quarters are not considered to be "required occupants," the Government will not issue a "Certification to Civilian Occupancy of Government Quarters" to those occupants.

36-1.6 APPEALS

- A. General - Any employee whose rental or utility rate is being adjusted has the right to appeal. An appeal should be filed in writing within 10 days following receipt of a notice of rate adjustment. The Agency DO should establish one or more appeals committees as appropriate. Each appeals committee shall consist of at least three, but not more than five, members. At least one member should have real property management background and at least one should be familiar with the quarters involved. In no case shall a committee member be an occupant, or subordinate of such occupant, of the quarters under consideration.
- B. Records - The quarters record file shall be made available to the appeals committee.
- C. Basis - The appeals committee will base all appeal considerations on the policies and principles stated in Part 36 - Quarters Management.
- D. Responsibilities - The appeals committee has the dual responsibility of protecting the Government's interest and insuring that inequities to quarters occupants do not exist.
- E. Personnel Manuals - Actions taken to apply housing policies and guidelines in a capricious or arbitrary manner are subject to appeal procedures. All normal channels of appeal should be exhausted before initiating actions in conformity with one of the following Personnel issuances:

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- (1) Commissioned Corps - For Commissioned Officer personnel - Commissioned Corps Personnel Manual, Subchapter CC 26.1, Instruction 5, "Grievances."
- (2) Civil Service - For Civil Service personnel - Instruction 771-3, "Employee Grievances," of the DHHS Personnel Manual.