

NEW MEXICO REAL ESTATE COMMISSION REAL ESTATE BROKERAGE INSPECTION PROGRAM

Real Estate Brokerage: _____

Location: _____

Date of Review: _____

PROGRAM CHECKLIST

<u>INSPECTION ITEM</u>	1 - GOOD 2 - NEEDS IMPROVEMENT 3 – NOT IN COMPLIANCE
A. GENERAL	
1. Trade Name. Look at the name on the brokerage and make sure it is consistent with the trade name in the Commission records and they are operating from the correct address.	
2. Signs. Look at the signage at the brokerage and make sure the signage is in compliance with the regulations, identifying the brokerage name and qualifying broker.	
3. Proof of E & O Insurance. Look for proof of insurance for each licensee. Coverage should include \$100,000 minimum to \$500,000 aggregate limit for each claim.	
4. Licenses. Verify that the associate licenses are properly displayed and consistent with Commission records. Do a quick review to insure that licenses have not expired.	

5. Trust Account. Request to see the sales trust account and note the account name. Be sure it has the company name followed by the words “trust account”. Review trust account reconciliation for 2 months.	
a. Current Laws and Rules manual. Verify the broker has a hard copy.	
6. Sales Persons/Associate Broker. Select one or two names and request to see a copy of their written “independent contractor” agreement. Verify they are signed by both parties.	
B. REVIEW OF SALES FILES	
1. Verify the qualifying broker maintains a detailed record of all funds received clearly indicating the following: a. Date received b. Date deposited c. From whom received d. Property/Transaction to which the funds pertain e. The purpose of the funds (i.e. Earnest, deposit, rent, security deposit or owner’s fund)	
2. Select files and review the documents in the file. Pay specific attention to the document dates to insure they are in proper sequence. For example a “brokerage agreement or a brokers duties disclosure” should not be dated subsequent to the date on the purchase agreement. Make sure the signatures of the parties to the transaction are on the documents. Determine the following documents are in the file and properly signed: a. Broker Duties and Disclosure b. Listing Agreement c. Brokerage Agreement , including Transaction Brokerage Agreement (Dual Agency to be signed by both) d. Purchase Agreement e. Settlement Statement (Closing Statement)	

3. Deposits. Select 2 of the sales files selected in step 1, trace the earnest money deposit to the trust account to ensure it was deposited in a timely manner. (This is not applicable if the brokerage deposits earnest money directly with the Title Company and does not have a Trust Account.	
4. Disbursements. Scan the Trust Account to see if the disbursements appear proper and are timely disbursed after closing or other qualifying transaction.	
5. Reconciliation. Review the trust account reconciliation and ensure the broker is performing a monthly reconciliation on a timely basis. Review for any earnest money deposits that should have been returned or any unlocated or unexplained differences. Note any exceptions.	
C. PROPERTY MANAGEMENT	
1. Trust Account. Check the trust account bank statements to ensure the account name has the trade name as registered with the Commission, followed by the words "Property Management Trust Account". If no property management trust account exists, verify the brokerage manages less than six (6) units.	
a. Review the trust account reconciliation and ensure the broker is performing a monthly reconciliation on a timely basis. Review the reconciliation for any unlocated or unexplained differences. Also review for old amounts that should have been sent back to the property owner. Note any exceptions.	
2. Property Management Agreement. Verify a written and signed agreement exists between the broker and the property owner. Determine who is to hold the security deposit? Check for Broker Duties Disclosure.	

3. Tenancy Agreement. Note a written lease agreement exists between the brokerage and the tenant, with information required in Part 24, Section 14 of the Commission Rules and Regulations. Broker Duties Disclosure.	
4. Owner's Statements. Note statements for each property are prepared for the owner on a monthly basis. The statements need to show beginning balance, funds deposited by category, and funds disbursed by category. If contract has terminated, verify that final property statements were prepared and sent to owner.	
5. Commingling Agreement. If a selected owner has more than one property and if the owner agrees to have funds commingled for all of the properties owned, then a written agreement must exist.	
6. Disbursements. Scan the file for copies of paid bills. Consider matching a specific disbursement on the owner's statement with a paid bill. Scan cash disbursement journal for unusual items.	
7. Determine if there are procedures established to ensure that funds received are deposited as soon as possible into the Property Management Trust Account (PMTA) and prior to disbursements. (Deficit balances are prohibited).	
8. Based on procedures performed above, review survey answers for consistency with inspection results. Follow up if warranted.	
PRINTED NAME & SIGNATURE OF INVESTGATOR	DATE