

## Rural Housing Service, USDA

## § 3560.10

manner that protects, enhances, and restores environmental quality. Loan and grant processing and servicing actions taken by RHS under this part are subject to an environmental review conducted in accordance with 7 CFR part 1940, subpart G or any successor regulation.

### § 3560.4 Compliance with other Federal requirements.

RHS is responsible for ensuring that the application is in compliance with all applicable Federal requirements, including the following specific requirements:

(a) *Intergovernmental review.* 7 CFR part 3015, subpart V, or any successor regulation, including the Agency supplemental administrative instruction, RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's Web site.

(b) *National flood insurance.* The National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973; the National Flood Insurance Reform Act of 1994; and 7 CFR part 1806, subpart B, or any successor regulation.

(c) *Clean Air Act and Water Pollution Control Act Requirements.* For any contract, all applicable standards, orders or requirements issued under section 306 of the Clean Air Act; section 508 of the Clean Water Act, Executive Order 11738, and 40 CFR part 32.

(d) *Historic preservation requirements.* The provisions of 7 CFR part 1901, subpart F or any successor regulation.

(e) *Lead-based paint requirements.* The applicable provisions of 24 CFR part 35, subparts A through D, J, and R, as published by the U.S. Department of Housing and Urban Development.

[69 FR 69106, Nov. 26, 2004, as amended at 76 FR 80731, Dec. 27, 2011]

### § 3560.5 State, local or tribal laws.

Borrowers must comply with all applicable state and local laws, and laws of Federally-recognized Indian tribes to the extent they are not inconsistent with this part.

### § 3560.6 Borrower responsibility and requirements.

(a) Borrower responsibilities and requirements specified in this part may

be carried out by an individual or entity designated by the borrower to act on behalf of the borrower such as a resident manager or management agent. Ultimate accountability to the Agency, however, is with the borrower whether or not the borrower designated another person or entity to act on the borrower's behalf.

(b) Borrowers who have not executed a loan agreement, and who were not required to execute a loan agreement by the regulations in effect at the time of their loan closing are exempt from the requirements of subparts D through G of this part, as long as the borrower is not in default of any applicable requirement, security instrument, payment, or any other agreement with the Agency. Such borrowers must provide evidence of tenant income eligibility in accordance with § 3560.152(a), except in Farm Labor Housing where the tenant is not paying shelter cost.

### § 3560.7 Delegation of responsibility.

The RHS Administrator may delegate, on an individual or other basis, any decision-making responsibility for Agency programs, unless otherwise noted.

### § 3560.8 Administrator's exception authority.

The RHS Administrator may make an exception to any provision of this part or address any omissions provided that the exception is consistent with the applicable statute, does not adversely affect the interest of the Federal Government, and does not adversely affect the accomplishment of the purposes of the MFH programs or application of the requirement would result in undue hardship on the tenants. Exception requests presented to the RHS Administrator must have the concurrence of a Rural Development State Director or a Deputy Administrator for MFH.

### § 3560.9 Reviews and appeals.

Rural Housing Service decisions may be appealed pursuant to 7 CFR part 11.

### § 3560.10 Conflict of interest.

To reduce the potential for employee conflict of interest, all RHS activities

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will be conducted in accordance with 7 CFR part 1900, subpart D.

### § 3560.11 Definitions.

Unless otherwise noted, terms listed in this part shall be defined as follows:

*Administrator.* The head of the Rural Housing Service who reports directly to the Under Secretary for Rural Development in the U.S. Department of Agriculture.

*Agency.* The Rural Housing Service within the Rural Development mission area of the U.S. Department of Agriculture.

*Amortization.* Payment of debt in regular, periodic installments of principal and interest, as opposed to interest only payments.

*Applicant.* An individual, partnership or limited partnership, consumer cooperative, trust, state or local public agency, corporation, limited liability company, nonprofit organization, Indian tribe, association, or other entity that will be the owner of the project for which an application for funding from the Agency is submitted.

*Appraisal.* As used by the Agency, a written report developed by a qualified appraiser as established in subpart P that concludes an opinion of value(s) for a specific real property.

*Assistance.* Financial assistance in the form of a loan, grant, interest credit, or rental assistance.

*Association of farmers.* Two or more farmers acting as a single legal entity. Association members may include the individual members of farming partnerships or corporations.

*Borrower.* An individual, partnership or limited partnership, consumer cooperative, trust, state or local public agency, corporation, limited liability company, nonprofit organization, Indian tribe, association, or other entity that has received a loan from the Agency.

*Capital Needs Assessment.* A Capital Needs Assessment is designed to capture and report on the immediate and the long-range capital needs of an individual property. It includes attention to site features, mechanical and electrical systems, building exterior and common area systems, and dwelling unit interiors.

*Caretaker.* An individual employed by a borrower or a management agent to handle routine interior and exterior maintenance and upkeep of a MFHMFH project.

*Congregate housing.* A housing program authorized by section 515 of the Housing Act of 1949 which provides housing for elderly persons, individuals with disabilities, and families who require some supervision and central services but are otherwise able to care for themselves. Such housing does not include any licensed healthcare facility.

*Consumer cooperative.* A corporation organized under the cooperative laws of a state or Federally recognized Indian tribe that will own and operate the housing on a cooperative basis solely for the benefit of its members.

*Conventional rents for comparable units (CRCU).* Market rents for comparable rental units in conventional housing located in the same geographic area as a particular Section 514, 515, or 516 project.

*Current appraisal.* An appraisal with a report date that is no more than 1 year old.

*Daily Interest Accrual System (DIAS).* A system where interest is charged daily on outstanding principal. Level loan payments are made by the borrower. The amount of interest due on any date is equal to the unpaid daily interest that has accrued.

*Default.* Failure by a borrower to meet significant monetary or non-monetary obligations or terms of a loan, grant, or other agreement with the Agency which remain unpaid or unperformed for more than 30 days after the date such obligation is due or required to be paid or performed, or within time periods specified in notices of compliance violations.

*Disability.* The term disability is considered equivalent to the term handicap. Eligibility requirements for fully accessible units are contained in §§ 3560.154(g)(1)(i) and 3560.155(b). A person is considered to have a disability if either of the following two situations occur:

(1) As defined in section 501(b) of the Housing Act of 1949. The person is the head of household (or his or her spouse)