CHAPTER 3: PROPERTY MANAGEMENT

3.1 INTRODUCTION

This chapter provides an overview of the essential responsibilities for property management. In general, the borrower is responsible for providing management acceptable to the Agency both in terms of staff qualifications and management practices. The borrower must ensure that property operations comply with the terms of all loan or grant documents; Agency requirements; and applicable local, state, and Federal laws and ordinances. For many project management responsibilities, the Agency must approve or concur in the management decisions and policies of the borrower. This chapter is designed to identify those actions that require Agency reaction to the borrower's decision.

Section 1 of this chapter deals specifically with property management, including Agency approval of the proposed management agent and management certification. It also describes the Agency's requirements regarding items that must be addressed in the borrower's management plan; and civil rights and accessibility requirements, self-evaluations, and transition plans.

Section 2 discusses the requirements for acceptable management entities and the Agency's procedures for reviewing and approving new management entities. It also outlines the Agency's procedures for removing unacceptable management entities.

Section 3 describes the program requirements regarding allowable management fees to be paid out of project income and Agency procedures for assessing the reasonableness of the fees.

Section 4 addresses the required insurance coverage and real estate taxes for projects.

Section 5 discusses the project management requirements and procedures that differ for Farm Labor Housing projects.

SECTION 1: PROJECT MANAGEMENT *[7 CFR 3560.102]*

3.2 OVERVIEW OF PROJECT MANAGEMENT RESPONSIBILITIES

Borrowers must provide management acceptable to the Agency as a condition of loan or grant approval. The borrower requirements listed in this chapter may be complied with by the borrower or a person designated in writing by the borrower. Acceptable management will be documented in the management plan and management certification.

3.3 THE MANAGEMENT PLAN *[7 CFR 3560.102(b)]*

For each multi-family housing project, borrowers must develop and maintain a management plan that establishes the systems and procedures that will be employed at the project to ensure that project operations comply with Agency requirements. This plan is used by the Agency to guide its oversight of project operations and its monitoring of project compliance. The management plan should provide the Agency with information regarding site operations only, not about management agent central office functions.

A management plan is initially submitted as part of the borrower's application for funding. It remains in effect until such time as the Agency requires modification of the plan, the plan needs to be updated to reflect changes occurring in project operations, or the project is transferred from one borrower to another.

A. New Projects

1. Requirements for Submitting a Management Plan

For new projects, borrowers must submit a management plan that addresses the required items identified in Attachment 3-A in sufficient detail to enable the Agency to effectively monitor project performance.

If the Agency determines that a proposed management plan does not adequately address the required items, Loan Processing Staff will provide written notice to the borrower indicating the deficiencies and specifying a time period for submission of an acceptable plan.

No Agency loan will be closed, construction started, or transfer approved before the Agency has an acceptable management plan from the borrower.

2. Contents of a Management Plan

At a minimum, management plans for multi-family housing projects must address the items presented in Attachment 3-A.

3. Agency Review of a Proposed Management Plan

In reviewing a proposed management plan, the Agency must ensure that it does not contain policies that violate Agency regulations and that it provides adequate details regarding the items in Attachment 3-A for the Agency to effectively monitor project compliance with program requirements.

B. Existing Projects

1. General Requirements for Maintaining and Modifying a Management Plan

In accordance with the requirements of this chapter, the borrower must develop and maintain a management plan acceptable to the Agency. A borrower's failure to maintain an acceptable plan is grounds for Agency termination of the management agent. This management plan will remain the guiding management document, as long as it accurately reflects project operations and the borrower remains in compliance with Agency rules and regulations.

Borrowers must submit an updated management plan to the Agency if project operations change and are no longer consistent with the current management plan on file with the Agency. The Agency should expect to see a modified management plan when:

- Project operations change to meet the needs of a changing tenant population;

- Program requirements change; or

- Changes in subsidy levels or types occur (e.g., HUD Section 8 is converted to Rental Assistance and/or units are reduced) or the property is converted to another allowable use (e.g., changed from a family property to an elderly property).

When a housing project is transferred from one borrower to another, the transferee must submit a new management plan that addresses the items listed in Attachment 3-A.

2. Agency Request for and Review of a Modified Management Plan

If the Agency determines that project operations are in compliance with Agency requirements; loan or grant agreements; or applicable local, state, and Federal laws but are not consistent with the management plan, the Agency will notify the borrower of the discrepancy in writing and indicate that the existing plan is no longer acceptable. Upon receiving notice that project operations are not consistent with the current management plan, borrowers must take one of the following actions within 60 days from the date of the Agency's letter:

- Revise the management plan to accurately reflect housing operations;

- Take actions to ensure that the management plan is followed; or

- Advise the Agency in writing of the action taken.

If the borrower submits a modified management plan, the Agency will review the plan for the necessary changes and ensure that the plan adequately addresses the requirements of the discrepancy. The Agency may visit the project or management agent's office to ensure that documented changes have occurred.

C. Three-Year Borrower Certification of Adequacy of Plan

When there have been no changes in a project's operations, borrowers must submit a certification to the Agency every 3 years stating that the project operations are consistent with the current management plan and that the plan is adequate to ensure project compliance with the loan documents and the applicable requirements of this part (see **Attachment 3-B**).

D. Projects with Compliance Violations

1. Agency Notification to the Borrower

If the Agency determines that there are compliance violations at a project, the borrower must respond to the Agency notification and update the management plan in accordance with the requirements below. If the borrower does not fulfill the requirements of this section, the Agency will deem the management plan for the project unacceptable, and the borrower/agent may be subject to termination of their management agreement.

2. Borrower Response to Agency Notification

Upon receiving notice of compliance violations at a project, borrowers must address the violations in accordance with 7 CFR 3560.102(d) and update the management plan as follows:

- Borrowers must submit to the Agency, within 60 days, revisions to the management plan that establish the changes in project operation that will restore project compliance; and

- If the borrower determines that changes to the management plan are not needed because the compliance violations were due to a failure to follow the current management plan, the borrower must certify to the Agency that the management plan is adequate to ensure project compliance with the applicable requirements of this part. Borrowers must submit a written description of the actions that will be taken, including timeframes for restoring compliance with the current management plan and Agency rules and regulations.

E. Continued Management Discrepancies

If the Agency discovers continued discrepancies between a project's management plan and project operations, the Agency retains the authority to terminate the current management agreement and require the borrower to install a new management entity acceptable to the Agency.

3.4 THE MANAGEMENT CERTIFICATION

As a condition of Agency approval of the management agent and the management fee, the borrower and the management entity must execute a *Form RD 3560-13, Management Certification*, and submit this to the Agency each time the borrower proposes a management agent and a management agreement is executed. The borrower and the management agent must jointly submit the certification to the Agency to attest that:

- The borrower and management agent agree to operate the housing project in accordance with the management plan;

- The borrower and management entity will comply with Agency requirements and contract obligations, agree that no payments have been made to anyone in return for awarding the management contract to the management agent, and ensure that such payments will not be made in the future;

- The borrower and the management agent will comply with Agency handbooks, notices, and other policy directives that relate to the management of the housing project;

- The management agreement between the borrower and the management entity complies with the requirements described in this chapter;

- The borrower and the management agent will refrain from purchasing goods and services from entities that have identity-of-interest (IOI) relationships with the borrower or the management agent until the IOI relationship has been disclosed to the Agency and not denied by the Agency; and

- The borrower, management agent, and supplier of goods and services agree that all records relating to the housing project are the property of the project, the Agency, and the Agency's representatives.

The management certification also requires that the borrower and the management agent identify any and all IOI relationships that would involve project funds. *Form RD 3560-13* must be submitted to the Agency.

For management agents proposing IOI firms to provide goods and services to Agency properties, a fee schedule of these goods and services must be attached to *Form RD 3560-31, Identity of Interest Disclosure/Qualification Certificate*. The Agency must approve the borrower's use of such firms prior to the borrower entering into any contractual relationships that involve Agency funds with such entities.

After the borrower or management agent discloses an IOI relationship in *Form RD 3560-31*, the Agency will:

- Require the borrower, management entity, and supplier of goods and services to provide documentation proving that use of IOI firms is in the best interest of the housing project;

- Require that all suppliers of goods and services agree to certify in writing to the Agency that the individual or organization proposed is qualified and licensed, if appropriate;

- Require the borrower, management entity, and supplier of goods and services to agree in writing to make available all records relating to the housing project to the Agency or the Agency's representative; and

- Deny the use of an IOI firm when the Agency determines that using the firm is not in the best interest of the Federal Government or the tenants.

A. The Role of the Management Agreement

While the management certification replaces the need for the Agency to approve the management agreement, it does not eliminate the need for the borrower and the agent to execute a management agreement. By executing the management certification, the borrower and the agent are assuring Agency staff that an acceptable agreement has been executed. Agency staff may review this agreement during the supervisory visit. Borrowers operating owner-managed projects are not required to execute a management agreement.

B. Agency Approval of the Management Certification

A certification must be submitted for Agency approval prior to the initial approval of the management agent. Subsequent certifications must be submitted for Agency approval when any of the following occurs:

- An increase in the management fee is requested, if the increased management fee is not in accordance with Attachment 3-F;
- A new management agent is proposed; or
- A management agreement expires and a new agreement is executed or renewed.

The borrower must submit a new certification to the Agency for approval at least 45 days prior to the date of the proposed change. The Agency will return the approved or denied certification within 60 days of receipt.

3.5 SELF-EVALUATIONS AND TRANSITION PLANS

On June 11, 1982, USDA issued 7 CFR 15b, which required all borrowers to conduct self-evaluations of their facilities, policies and procedures for compliance with Section 504 of the Rehabilitation Act of 1973 and the Uniform Federal Accessibility Standards (UFAS), within 1 year of the USDA regulation. Information related to these compliance issues as they affect Section 514, 515, 516, and 521 housing may be found in answers to frequently asked questions in **Appendix 5**. In the event that structural changes were necessary, recipients were required to develop transition plans that set forth the steps necessary to complete such changes.

Borrowers may become liable for fines and penalties imposed by enforcement agencies, loss of tax credits, or legal actions if found in noncompliance with civil rights laws. The Agency does not impose these fines and penalties, but will follow regulatory, supervisory, servicing procedures and loan eligibility requirements when noncompliance is found.

A. Borrowers Required to Conduct Self-Evaluations and Develop Transition Plans

The following borrowers must conduct self-evaluations and develop transition plans:

- Borrowers of projects ready for occupancy on or before June 10, 1982.
- Borrowers of projects ready for occupancy after June 10, 1982, who have been found in noncompliance with Civil Rights law (as a remedial action).
- Borrowers who have had complaints filed against them, when the Agency determines it necessary.
- Borrowers transferring ownership.
- Borrowers of projects receiving rehabilitation or equity loans, when the Agency determines it necessary.

- Borrowers receiving loans for new construction after August 20, 2002. The Agency will review the self-evaluation and any transition plan during the preoccupancy conference.

- All state and local government borrower entities. The Department of Justice issued a regulation on July 26, 1991, which requires all state and local governments to conduct self-evaluations, unless they had already done so to meet the requirements of Section 504.

- Borrowers receiving loans after January 1, 2001, if a self-evaluation has not been conducted within the last 3 years.

B. Standards Borrowers Must Meet

Regardless of when a project was ready for occupancy, all borrowers are required to have policies and practices that do not discriminate against persons with disabilities. The architectural accessibility standards borrowers must meet will depend on when the project was ready for occupancy and what modifications are planned. In addition, many state and local governments have their own accessibility standards that must be met. The Agency does not have the authority to waive any accessibility requirements.

C. Self-Evaluation and Transition Plan Requirements

1. Self-Evaluations

In accordance with 7 CFR 15b, self-evaluations must:

- With the assistance of interested persons, including persons with disabilities or organizations representing disabled persons, evaluate their current policies and practices and the effects thereof;

- After consultation with interested persons, including disabled persons or organizations representing disabled persons, modify any policies and practices that do not meet the requirements of this part;

- After consultation with interested persons, including disabled persons or organizations representing disabled persons, take appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices that do not meet the requirements of this part; and

- Maintain a record of the self-evaluation for at least 3 years. The record must be made available for public inspection and be provided to the Agency upon request. The self-evaluation record must contain:

  ◊ A list of the interested persons consulted;

  ◊ A description of areas examined and any problems identified; and

◊ A description of any modifications made and any remedial steps taken.

2. Transition Plans

At a minimum, transition plans must:

- Identify physical obstacles in the borrower's facilities that limit the accessibility of their property to disabled persons;
- Describe in detail the methods that would be used to make the facilities accessible;
- Specify the schedule for taking the steps necessary to achieve full program accessibility and if the time period of the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and
- Identify the person responsible for implementation of the plan.

When structural changes are necessary, such changes must be made as expeditiously as possible within 3 years.

SECTION 2: APPROVING, REMOVING, AND REVIEWING THE MANAGEMENT AGENT *[7 CFR 3560.102]*

3.6 THE MANAGEMENT AGENT

A. Acceptable Types of Management Entities

Exhibit 3-1 shows the three types of management entities.

Exhibit 3-1

Three Types of Management Entities

A. Borrower/manager
B. IOI management agent
C. Independent fee management agent

In this Handbook, the term "management agent" applies to all three forms of management entities, unless a specific distinction is made because of policy or procedural differences.

1. Borrower/Manager

In the borrower/manager relationship, the borrower and the management agent are the same business entity. This is often referred to as "self-management or owner-managed"." A project is not self-managed if some or all of the same individuals are involved in both the borrower entity and the management agent but the organizations are legally different business entities.

For example, if the borrower is a limited partnership and the general partner of the borrower entity serves as the management agent, the management agent is not a borrower/manager because the management agent and the borrower are different business entities. Instead, the management agent is an identity-of-interest management agent.

2. Identity-of-Interest Management Agent

An IOI relationship exists when an individual or entity that provides goods, management, or other services to the project has a relationship with the project borrower that is such that selection of the management agent and determination of the management fee will not be determined through an arms-length transaction. Exhibit 3-2 further describes this relationship.

Failure to disclose such IOI relationships may subject the borrower, the management agent, and other firms or employees among whom the IOI relationship exists to suspension, debarment, or other remedies available to the Agency.

Exhibit 3-2

Identity-of-Interest Relationships

An IOI relationship exists when:

- The borrower entity, any principal of, or a general partner of the borrower entity; or
- Any officer or director of the borrower entity; or
- Any person who directly or indirectly controls 10 percent or more of the voting rights, or owns 10 percent or more of the borrower entity

is also

- A borrower, general partner, officer, or director of the management agent company or its subcontractor; or
- A person who directly or indirectly controls 10 percent or more of the voting rights, or owns 10 percent or more of the management company or its subcontractor.

As used above, "person" refers to any individual, partnership, corporation, or other business entity. Any borrowership, control, or interest held or possessed by a person's spouse, parent, child, grandchild, or sibling or other relation by blood or marriage is attributed to that person for this determination.

As used above, "subcontractor" refers to any individual or company that contracts with the management agent to provide management services to the project.

3. Independent Fee Management Agent

An independent fee management agent is a management company or individual that has no IOI relationship with the borrower and no financial interest or involvement in the project, other than earning a fee for providing management services.

B. Approval of the Proposed Management Entity

A management entity will be deemed acceptable by the Agency provided that the agent or staff member has a minimum of 2 years of experience and satisfactory performance in directing and overseeing the management of similar Federally assisted multi-family housing. Management services are a lower-tier transaction and subject to debarment and suspension check by the Agency in accordance with 7 CFR 3017 and RD Instruction 1940-M. Management entities found to have been disbarred are not eligible for approval by the Agency.

In addition, the Agency may issue approval to a management agent if the agent's *Form RD 1944-37* shows that a small percentage of the properties it has managed are either in default or have a mortgage delinquency and either one of the following can be documented:

- The default or delinquency was due to circumstances beyond its control; or

- The agent is making satisfactory progress toward improving the problem property's operations.

The Agency reserves the right to deny approval of any proposed management entity that does not meet such requirements. The Agency may issue a denial of a proposed management agent if:

- The agent and/or its staff does not have 2 years of experience successfully managing Section 514, 515, or 516 properties as relevant or other assisted housing;

- If the agent's *Form RD 1944-37,* shows that a substantial percentage of the properties it has managed are either in default or have a mortgage delinquency; or

- If the agent's *Form RD 1944-37,* shows that a small percentage of the properties it has managed are either in default or have a mortgage delinquency and the management agent is not addressing the property's or properties' deficiencies.

To request approval of the management entity, the borrower/agent must submit the following information to the project's Field Office at least 45 days before the date the borrower wishes the new agent to assume responsibility. In the case of emergency replacements of management agents, the borrower/agent must submit the information needed for the Agency to review and approve the new management agent as soon as the new agent is identified. Borrowers must submit the following documents when requesting Agency approval of an agent:

- **Management plan.** The management plan establishes the systems and procedures that will be employed onsite to ensure that project operations comply with Agency requirements. *Form RD 1944-37,* must be included as an attachment to the management plan.

- **Management certification.** Using *Form RD-3560-13*, the borrower and management agent together certify that they will comply with Agency requirements and contract obligations and will execute an acceptable management agent agreement, and that no payments have been made to the borrower in return for awarding the management contract to the agent nor will such payments be made in the future.

- **RD Forms 3560-30 Certification of No Identity of Interest or 3560-31 Disclosure and Qualification of Identity of Interest, as applicable**.

- **Additional information required by the Field Office.** Agency staff may require borrowers to submit additional information to clarify materials already submitted. Materials requested may address:

  ◊ Determining the management agent's acceptability;

  ◊ Monitoring the agent's compliance with Agency requirements;

◊ Resolving project operating problems; and

◊ Justification of contractual relationship with IOI or third-party contractors.

The Agency must review all items listed above within 30 days of receipt. The review will consist of the following:

- **Review of Previous Participation Certification.** If the management agent is new to the Agency and manages properties assisted by HUD, local public housing agencies, and State housing finance agencies, the servicing jurisdiction must obtain references from the appropriate jurisdiction on the management agent's past performance. For instance, if the management agent has managed HUD properties, then the Agency is required to contact the appropriate HUD Field Office and obtain a reference or request that HUD provide a copy of the most recent *Form RD 1944-37*.

- **Review of the proposed management plan.** This review ensures compliance with the Agency's submission requirements and determines if the proposed systems and procedures:

  ◊ Are in compliance with Agency requirements;

  ◊ Can reasonably be implemented at the project; and

  ◊ Are reasonably tailored to the particulars of the project.

Within 30 days of receipt of information from the borrower/management agent, the Agency will inform the borrower of its decision in writing.

If the Agency grants approval, the borrower may enter into a contract with the management agent to begin no sooner than 45 days from the date of submission of the approval package.

If the Agency issues a denial, the borrower will be provided with appeal rights. The borrower may not enter into a formal agreement with the management agent being reviewed by the Agency. If a borrower enters into an agreement with a management agent or begins to self-manage prior to receiving Agency approval, the Agency will place the borrower in nonmonetary default status. The Agency will ask the borrower, if not in a self-management arrangement, to immediately terminate the contract with the management entity. Under emergency circumstances, with Agency consent, the borrower may enter into a temporary agreement with a different management entity for 30 days.

C. Use of Management Entities without Agency Approval

If a borrower enters into an agreement or contract with a management entity that has not been approved by the Agency, the Agency is authorized to immediately terminate the borrower's agreement or contract with that entity. This action is not appealable.

3.7 REMOVAL OF A MANAGEMENT AGENT

As permitted in the management certification, the Agency reserves the right to remove the management agent for lack of performance or deliberate fraud against the project or the Government. Some specific reasons for requiring removal of a management agent are listed in Exhibit 3-3. Other reasons also may apply.

Exhibit 3-3
Specific Reasons for Requiring Removal of a Management Agent

A. Lack of performance:

- Failure to adhere to the provisions of the management certification;
- Repeated failure to adhere to the management plan; and
- Noncompliance with applicable state and local laws.

B. Fraud against the project and/or Government:

- Misappropriation of project funds;
- Paying kickbacks to contractors, subcontractors, or service providers; and
- Deliberately requesting more Rental Assistance than that to which the project is entitled.

If the Agency determines that the management agent is in violation of the management certification, the Agency will:

- Send a servicing letter, *Handbook Letter 301 (3560), Servicing Letter #1*, notifying the borrower of the violation;

- State that the management agent must prove that there was no violation or that there were mitigating circumstances, and the borrower must respond to the Agency within 30 days of the receipt of the servicing letter;

- If the borrower does not respond satisfactory within the prescribed time period with either (1) documentation that the violation did not take place, or (2) a plan to address the violation within a certain period of time that is acceptable to the Agency, the Agency will send the borrower a second servicing letter, *Handbook Letter 302 (3560), Servicing Letter #2*; and

- If the borrower does not respond within the prescribed time period in the second servicing letter, the Agency will send a third servicing letter, *Handbook Letter 303 (3560), Servicing Letter #3* indicating that the management certification will be terminated by a certain date. As of that date, no management fees may be paid to the agent from project funds. If the information reveals that management fees were paid to the agent subsequent to termination of the management certification, the borrower will be required to reimburse the funds to the project operating account.

If the borrower is required by the Agency to remove the management agent, they must do so under the timeframe required by the Agency or file an official appeal, as described in Chapter 1, stating why they believe the agent should not be removed. Failure on the part of the borrower to comply with Agency demands to remove the agent may result in acceleration of the loan and debarment from further participation in Agency programs.

SECTION 3: SETTING THE MANAGEMENT FEE *[7 CFR 3560.102]*

3.8 THE MANAGEMENT FEE

A. The Purpose of the Management Fee

The purpose of the management fee, which is an allowable expense paid from the housing project's general operating account, is to compensate the management agent for services provided to the project. These services are described in **Attachment 3-D**.

B. Types of Management Fees

There are two major types of fees that, when added together, make up the overall management fee for a project:

- Occupied unit fee; and
- Add-on fees.

The occupied unit fee is the largest component of the management fee. It must be quoted and calculated as a per-unit, per-month (pupm) fee for revenue producing units occupied during a given month. This requirement gives the agent an incentive to maximize occupancy.

Add-on fees are quoted as dollar-per-unit amounts because they relate to project conditions that are not a function of project occupancy.

1. Occupied Unit Fee

In order to establish the base fee, States survey and collect management fee data from other assisted housing sources such as local Housing and Urban Development field offices, State Housing Finance Agencies, Housing Authorities, local housing organizations, and nonprofits. To provide consistency, the States are divided into Regions. In order to accommodate the travel requirements for servicing properties within Alaska and Hawaii, a separate region has been created. Each Region identifies a Coordinating State. This State is responsible for the coordination between the States, the dissemination of information to the States and all submissions to the National Office. The Regions are identified as follows:

REGION I: CT, MA, ME, NH, RI, VT

REGION II: NJ, NY

REGION III: DE, MD, PA, VA, WV

REGION IV: AL, FL, GA, KY, MS, NC, PR, SC, TN, VI

REGION V: IL, IN, MI, MN, OH, WI

REGION VI: AR, LA, NM, OK, TX

REGION VII: IA, KS, MO, NE

REGION VIII: CO, MT, ND, SD, UT, WY

REGION IX: AZ, CA, NV **REGION X:** ID, OR, WA

REGION XI: AK, HI

Each Region as defined above collaborates to derive a median pupm fee known as the Regional Median. A range of $5 higher or lower than the Regional Median is the Regional Range. Ex: Regional Median = $25 pupm; Regional Range = $20 pupm to $30 pupm.

Each State derives a single pupm fee within the established Median Range (of the region) to be used by all management companies within that State. Please note that the Regional Median fees are to assist States in determining a maximum pupm fee in their State. Borrowers and management agents may negotiate fees less than the State pupm fee.

> For example: The Regional Median is $30 pupm. The Regional Range is $25 to $35 pupm. The State has derived a fee of $33 pupm. The borrower and the management agent have agreed on a fee of $29 pupm. The agreed upon fee is acceptable.

Each Region provides information about the organizations within its States, documents contacts and provides a description of the fee structure used by the source organizations. The description should include the amount of the management fee, how the management fee was established, and a 'bundle of services' comparability synopsis.

The State Directors within the Region review the State documentation and provide a signature of approval for the State pupm fee. The Coordinating State submits the completed worksheets and any additional information to the National Office.

If States within a Region are unable to negotiate a Regional Median, the National Office will determine the Regional Median. If a single state within a Region is unable to negotiate with the other states in the Region, the National Office will determine the state maximum fee for that state.

2. Add-On Fees

Add-on fees are a flat pupm fee paid to agents managing projects with long-term project characteristics and conditions that require additional management effort beyond the activities covered by the standard management fee. The add-on fee is applicable to all revenue producing units regardless of occupancy status. See exhibit 3-4 for types of add-on fees.

- The National Office has established a standard list of add-on fees that is applicable to all states.
- Exhibit 3-4 project characteristics or conditions that warrant the use of add-on fees.

Add-on fees should not cover project characteristics or conditions that are already covered in the base fee. Agents may not take add-on fees for management of properties with workout agreements except under limited circumstances, and solely at the Agency's discretion. If it is demonstrated that conditions at the property are beyond the management agent's control, the Agency may agree to allow the management agent to take add-ons fees for the circumstances listed in Exhibit 3-4.

Exhibit 3-4

National Office Approved Add-On Fees

Type of Add-on Fees	PUPM
Management of properties with 15 units or less	$2.00
One project that has buildings located on different noncontiguous parcels of land (i.e. across town or in another town).	$2.00
Management of properties in a *remote location	$2.00
Troubled properties with workout plans **and** new management only.	$2.00

* "Remote location" is defined as areas that are sparsely populated with no services and few contractors.

The established fees available on Attachment 3-F must be reflected in the proposed budgets for the fiscal year 2009 (for borrowers with operating budgets beginning January 1st). Borrowers are required to convert to the new fees upon expiration of the current Management Agreement or its renewal.

The Agency's decision regarding the amount of management fees set by the region and the state is unappealable.

C. Services Paid from the Management Fee

The purpose of the management fee is to compensate the Agent for providing oversight to the project including:

- Overseeing compliance with National, state, and local laws and regulations;
- Establishing strong project management policies and procedures; and
- Overseeing the implementation laws, regulations, policies, and procedures through the supervision of onsite staff.

A breakdown of items that are to be paid from the management fee can be found in **Attachment 3-D.**

D. Services Paid from Project Income

In general, project income is used to pay for project-related items. Examples include the salary, benefits, and office expenses of onsite office staff and maintenance expenses for the property and costs for processing project-specific transactions (e.g., tenant certifications). A specific breakdown of items that are to be paid from project income as opposed to the management fee can be found in **Attachment 3-E**.

The borrower and management agent must obtain materials, supplies, utilities, and services at a reasonable cost and seek the most advantageous terms for the project. The borrower or management agent must credit any rebates, fees, proceeds, or commissions generated by transactions using project funds to the project.

SECTION 4: INSURANCE, BONDING, AND TAXES *[7 CFR 3560.105]*

3.9 OVERVIEW

Insurance protects the asset against loss or damage. Borrowers without adequate insurance coverage are financially responsible for:

- Property damage;
- Losses due to employee dishonesty or error; and
- Personal injuries that occur on the property.

Borrowers are responsible for acquiring and maintaining insurance on all dwellings and buildings that are necessary for the operation of the project in accordance with their loan or grant documents. Insurance must be in place at loan closing and must remain in place until the loan is paid in full. Reevaluation of insurance coverage is necessary when new buildings are constructed or values increase or decrease materially. Any refund or rebate from the insurance company must be credited to the project's account.

The Servicing Office is responsible for counseling the borrower regarding the Agency's insurance requirements. Through MFIS, Loan Servicers will monitor insurance policy expiration and ensure borrower compliance. The Agency will obtain insurance for the secured property if the borrower is unable or unwilling to do so. If a borrower refuses to pay the insurance premium with their own funds or fails to arrange with the agent for subsequent payment by premium note or otherwise, the Agency will pay the amount of the insurance premium and charge the premium payment amount and all costs associated with procurement of the required insurance to the borrower's Agency account. The Agency considers a borrower's failure to maintain adequate insurance coverage or to pay taxes as nonmonetary default. Borrowers who fail to furnish property and hazard insurance coverage of any kind are responsible for the debt in the event of loss.

3.10 PROPERTY INSURANCE

Property or "all-risk" insurance protects the physical asset against loss due to damage. Types of property insurance are described below.

A. Hazard Insurance

1. Loss or Damage Covered

Hazard insurance protects the property against fire and weather-related damage, as well as damage from civil commotion, aircraft, or other vehicles. These policies may also be known as fire and extended coverage, homeowners, all physical loss, or broad form policies.

2. Coverage Requirements

The minimum property insurance coverage per building is 100 percent of the insurable value as reflected in the appraisal report, as referenced in Chapter 7 of HB-1-3560. If no appraisal report is required, the Agency will perform the necessary evaluations and determine and document the minimum insurance coverage requirements in the file.

3. Deductible

If a property's insurance policy has a deductible, the deductible must be accounted for in the reserve account, unless the deductible does not exceed:

- $1,000 on any project with an insurable value under $200,000; or
- One-half of 1 percent of the insurable value, up to $10,000 on a project with an insurable value over $200,000.

B. Flood Insurance

1. Loss or Damage Covered

Flood insurance protects the property against flooding caused by natural disasters such as hurricanes. This coverage is required only for those properties located in areas identified as flood hazard areas.

2. Coverage Requirements

Flood insurance is required for any property located in a Special Flood Hazard Area (SFHA), as identified by the Federal Emergency Management Agency (FEMA). *FEMA Form 81-93, Standard Flood Hazard Determination* is used to determine if a property is in a SFHA and whether flood insurance is available under FEMA's National Flood Insurance Program. If the property is in a SFHA, the Agency will notify the borrower using *Form RD 3550-6, Notice of Special Flood Hazards, Flood Insurance Purchase Requirements, and Availability of Federal Disaster Relief Assistance*. The borrower must sign and return *Form RD 3550-6* prior to loan closing. If the borrower cannot secure flood insurance through FEMA's National Flood Insurance Program in a SFHA, the property is not eligible for Federal financial assistance.

3. Deductible

The Agency allows a maximum deductible of $5,000 per building.

C. Earthquake Insurance

1. Loss or Damage Covered

Earthquake insurance covers property losses in the event of an earthquake. Earthquake coverage is recommended in areas where earthquakes are prevalent; however, it is very expensive and generally has a high deductible.

2. Coverage Requirements

Although the Agency does not specifically require a project to be covered by earthquake insurance, it recommends a Probable Maximum Loss (PML) seismic study for all projects located in certain regions of the country where earthquakes are prevalent. The coverage amount should be for 100 percent of the replacement cost of the project.

3. Deductible

In the event that the borrower obtains earthquake coverage, the Agency is to be named as a loss payee. The deductible should be no more than 10 percent of the coverage amount.

D. Windstorm Insurance

1. Required Coverage

The windstorm policy should include extended coverage for rental loss for at least 12 months, except for coverage provided by State insurance programs.

2. Deductible

When windstorm coverage is excluded from the “all risk” policy, the deductible must not exceed 5 percent of the total insured value.

E. Builder’s Risk Insurance

Builder’s risk insurance protects the property against loss or damage during construction or reconstruction after an insured loss.

F. Elevator, Boiler, and Machinery Insurance

1. Loss or Damage Covered

Elevator, boiler, and machinery coverage may be required for any property that operates elevators, steam boilers, turbines, engines, or other pressure vessels.

2. Coverage Requirements

The Agency requires boiler and machinery insurance in any property that has centralized Heating, Ventilating, and Air-Conditioning (HVAC) equipment in operation.

G. Sinkhole Insurance or Mine Subsidence Insurance

1. Loss or Damage Covered

Sinkhole insurance or mine subsidence insurance is recommended for projects located in areas prone to these geological phenomena.

2. Coverage Requirements

The amount of coverage that the Agency recommends for properties located in areas prone to these geological phenomena is 100 percent of the replacement cost of the structure affected.

3. Deductible

The deductible for sinkhole insurance or mine subsidence insurance should be similar to what would be required for earthquake insurance.

H. Business Income or Rent Loss Insurance

1. Loss or Damage Covered

Business income or rent loss coverage provides coverage for the loss of rental income incurred due to a property loss during a 12-month period.

2. Coverage Requirements

The Agency does not require but recommends that the project be insured against loss of business income or rent in the event of a property loss that causes one or more units to be uninhabitable for a period of time. Business income coverage may be obtained in one of two forms:

- Actual loss sustained; or
- A fixed amount equal to the annualized amount of monthly gross potential rents.

I. Acceptable Exclusions

Acceptable exclusions from “all risk” insurance policies include:

- War or military action;
- Nuclear hazard;
- Volcanic eruptions;
- Fraudulent or dishonest acts committed by the insured;

Dispersal, release, or escape of contaminants or pollution (biological or chemical agents); and

- Terrorism.

J. Property Insurance Exemptions

Property insurance is not required if:

- The building is in such a state of disrepair that the cost of insurance would be prohibitive;
- The building has a depreciated replacement value of $2,500 or less

K. Property Insurance Policy Requirements

The project's property insurance policy must include the following:

- **Name and location.** The policy should contain the names of the borrowers who are owners of the property being insured. The exact location of the property should be described in the policy.
- **Loss or damage covered.** The policy must indicate that the buildings are insured against loss or damage by fire, smoke, lightning, windstorms, hail, earthquake, explosion, riot, civil commotion, aircraft, and vehicles.
- **Effective date of insurance.** If there are insurable buildings located on the property, the policy's effective date will be on or before loan closing or assumption, or before the credit sale is closed, so that the policy will properly insure the borrower and the mortgagees. When new buildings are erected or major improvements made to existing buildings, such insurance will be made effective as of the date materials are delivered to the property. The Agency will not advance loan funds for labor or materials until the borrower has furnished adequate insurance to protect the interest of the Agency.
- **Term.** The borrower must furnish insurance for a term of at least 1 year, with evidence that a full year's premium is paid. If the policy is the type that imposes an assessment only after a loss has occurred, the borrower must provide documentation from the insurance company that no assessment is owed. If the insurance policy is automatically renewable, the renewal clause must meet Agency requirements.
- **Loss payee.** The Agency must be named loss copayee on all properties where it holds first lien position, which means if there is a damage or loss, the insurance draft will be made payable to the Agency. Further, the Agency must be named as an additional insured if its lien position is other than first.

- **Mortgage clause.** The standard mortgage clause adopted by the State or the Agency *Form RD 426-2, "Property Insurance Mortgage Clause (Without Contribution)"* must be attached to or printed in the insurance policy. Whenever a new mortgage clause highlighting the Agency's interest is issued after the policy has been in force, the new mortgage clause must be signed by an authorized agent or officer of the company that issued the policy.

  The mortgage clause is not required if:

  ◊ An authorized official of an insurance company provides a statement that all insurance policies the company issues in the state, and in which Rural Development has a mortgage interest, incorporate all of the provisions of *Form RD 426-2*. This statement may be accepted in lieu of attaching the form to each policy. If such a blanket letter is used, Rural Development must be named in the loss payable clause and a state instruction will be issued authorizing the use of this method after prior approval is obtained from the Agency.

  ◊ For all hazard and flood insurance policies the Agency will be named as copayee.

  ◊ For builder's risk policies the borrower must be named as the insured party, and the policy must convert to full coverage when the project is completed.

3.11 FIDELITY COVERAGE

A. Loss or Damage Covered

Fidelity insurance protects the property against loss due to employee dishonesty. The policy will provide coverage on all persons with access to project assets. Fidelity coverage may also be known as Blanket Crime Coverage or Fidelity Bond.

B. Coverage Requirements

The fidelity insurance policy, at a minimum, must include an insuring agreement that covers employee dishonesty. The minimum amount of fidelity coverage will be the amount calculated by multiplying an exposure index by a coverage factor. When the calculated amount is less than $10,000, minimum coverage of $10,000 must be provided. This calculation is made as follows:

- Determine exposure index: Exposure index = 25 percent of the SUM of annual cash receipts (rents, cash subsidy, security deposits and interest, etc.) and cash (cash carryover, reserves, CDs, tax and insurance escrows, etc.). Round to next higher $1,000.

- Determine coverage: Coverage = exposure index X coverage factor taken from the coverage chart shown in Exhibit 3-5. Round to next higher $1,000.

Exhibit 3-5

Fidelity Coverage

Exposure Index	Coverage Factor
$100,000 or less	0.30
$100,000 to $200,000	0.28
$200,000 to $300,000	0.26
$300,000 to $400,000	0.24
$400,000 to $500,000	0.22
$500,000 to $600,000	0.20
$600,000 to $700,000	0.18
$700,000 to $800,000	0.16
$800,000 to $900,000	0.14
$900,000 to $1,000,000	0.12
$1,000,000 or more	0.10

C. Deductible

A deductible is designed to allow flexibility in balancing what the project can prudently pay from its own assets, at a time of loss, against the economy of annual premiums in its annual budget. The deductible levels shown in Exhibit 3-6 will meet Agency requirements. Each year borrowers must review and adjust, if necessary, their fidelity coverage.

Exhibit 3-6

Fidelity Coverage Deductible Levels

Fidelity Coverage	Deductible Level
Under $50,000	$1,000
Up to and including $100,000	$2,500
Up to and including $250,000	$5,000
Up to and including $500,000	$10,000
Up to and including $1,000,000	$15,000

D. Exemptions

Fidelity insurance is not required under the following circumstances:

- When a loan is made to an individual or a general partnership, and that individual or general partner will be responsible for the project's financial activities. Individuals cannot bond against their own actions. For land trusts where the beneficiary is responsible for project management, the beneficiary is treated as an individual.

- For the general partners of a limited partnership, unless one or more of its general partners perform financial acts coming within the scope of the usual duties.

E. Policy Requirements

Fidelity coverage must be documented on a bond form acceptable to the Agency. Fidelity coverage policies must state that the insurance company will provide protection to the insured against the loss of money, securities, and property through any criminal or dishonest acts by any employee acting alone or in collusion with others. The amount of indemnity will not exceed the amount stated in the declaration of coverage.

The portion of the insurance premium to cover project site employees and general partners is an eligible project expense. The premium paid by the management agent is part of the agent's management expense and cannot be claimed as a project expense. When a project site employee is covered under the management agent's fidelity policy, the pro rata portion of the premium covering the employee should be reflected in the management plan.

3.12 ERRORS AND OMISSIONS INSURANCE

Errors and omissions (E&O) coverage protects the borrower against loss resulting from negligence, errors, or omissions committed by those persons covered under the borrower's fidelity insurance policy. Obtaining E&O insurance does not diminish or limit the borrower's documentary obligations and responsibilities.

3.13 LIABILITY INSURANCE

A. Loss or Damage Covered

This coverage insures against any personal injury that might occur in or on the project's common areas, common elements, commercial space, and public areas.

B. Coverage Requirements

The coverage must meet the requirements established below.

1. Commercial General Liability

The insurer's limit of liability per occurrence for personal injury, bodily injury, or property damage under the terms of coverage must be at least $1,000,000. Coverage may also include borrower exposure to risks such as E&O and environmental damage, or protection against discrimination claims.

2. Umbrella Liability Insurance

The Agency recommends, but does not require, the borrower to obtain umbrella liability insurance to provide coverage over and above the $1,000,000 provided for in the commercial general liability policy. The Agency recommends that umbrella liability insurance policies provide coverage as follows:

- For projects with buildings of 1 to 3 stories, $1,000,000;
- For projects with buildings of 4 to 10 stories, $5,000,000; and
- For projects with buildings of 11 to 20 stories, $10,000,000.

3. Commercial Automobile Liability Insurance

The Agency recommends that the borrower purchase commercial automobile liability insurance to cover all automobiles used for business purposes related to the project. The recommended amount of coverage is $1,000,000 per occurrence.

C. Deductible

The Agency allows a deductible not to exceed $5,000 per occurrence.

3.14 WORKERS' COMPENSATION

This insurance coverage, which is also known as employer's liability coverage, is required by the Agency.

3.15 POLICY RENEWALS

When renewing insurance policies, if the best policy the borrower can obtain contains a deductible clause with amounts greater than those stated above, the borrower must submit to the Loan Servicer:

- The insurance policy; and
- An explanation and documentation that more adequate insurance coverage was not available.

3.16 BLANKET POLICIES

Blanket insurance policies for several buildings or properties located on noncontiguous sites are acceptable if the insurer provides proof that the secured property is as fully protected as if a separate policy were issued.

Blanket crime insurance coverage or fidelity bonds are acceptable types of fidelity coverage. At a minimum, a borrower must provide the Agency with an endorsement listing all Agency properties and their locations covered under the policy or bond as evidence of required fidelity insurance. The policy or bond may also include properties or operations other than Agency-financed properties on separate endorsement listings.

Individuals or organizational borrowers must have fidelity coverage when they have employees with access to Multi-Family Housing complex assets. A borrower who uses a

management agent with exclusive access to housing assets must require the agent to have fidelity coverage on all principals and employees with access to the project. If project management reverts to the borrower, the borrower must immediately obtain fidelity coverage.

3.17 AUTHORIZED INSURANCE PROVIDERS

Borrowers are responsible for selecting an insurance provider that meets Agency requirements. The insurance provider must be licensed or authorized to do business in the state or jurisdiction where the project is located. In making the determination that an insurance company is reputable and financially sound, the Agency uses all relevant available information, including financial statements, Best's Insurance Reports, and information from state insurance authorities.

The borrower and management agent are required to disclose any IOI relationships with the insurance company.

3.18 BORROWER FAILURE TO MEET INSURANCE REQUIREMENTS

The Servicing Office is responsible for taking all actions in connection with insurance that are necessary to protect the security interest of the Agency. Any unusual situation that may arise with respect to borrower procuring or maintaining insurance should be referred to the State Director. The State Director may refer questions to the Office of General Counsel (OGC).

A. Unacceptable Insurance Policy

When the borrower submits a policy or binder that does not meet Agency requirements, the Field Office Staff will return the policy/binder to the borrower with a form letter that provides the reasons for the policy's unacceptability and requires an acceptable policy within 30 days of the date of the letter.

If acceptable coverage still is not obtained from an authorized provider and the determination has been made to continue with the borrower, the Loan Servicer will temporarily accept from the borrower the available insurance policy the Agency determines most nearly conforms to established requirements. Whenever adequate insurance becomes available, the State Director will require the borrower to deliver to the Servicing Office an acceptable insurance policy.

B. Expired Policies

When an expired insurance policy is not renewed, the Loan Servicer will require the borrower to provide a new policy. The Agency will be shown in the loss payable clause and in the mortgage clause in the proper order of priority. Insurance coverage on each building usually will be the same as shown on the expired policy if it meets or exceeds Agency requirements. If the coverage shown on the expired policy does not meet Agency requirements, the borrower will obtain the proper coverage. If the insurance agency or broker who issued the expired policy refuses to issue a new policy, the Loan Servicer will have the borrower designate in writing another insurance agency or broker from whom the insurance can be obtained.

C. Force-Placed Insurance

If the borrower does not furnish acceptable insurance within the required timeframe the Loan Servicer will begin the process of procuring the required insurance. The costs of procuring the insurance and the premium amount will be added to the borrower's Agency account.

3.19 PROPERTY DAMAGE OR LOSS

Borrowers must notify the Agency and their insurance company agents of any loss or damage to the insured property.

A. When Loss or Damage is Discovered

Upon being notified of loss or damage, the Loan Servicer will:

- If the Agency is listed as mortgagee in the insurance policy, collect the amount of the loss and may also consent to the borrower using the funds to repair or replace damaged or destroyed property or to apply the loss proceeds to their loan account or to any prior liens that might exist in the order of their priority;

- If the Agency is not listed as mortgagee in the insurance policy, contact the borrower to determine whether they have received the loss proceeds. If the borrower has received the loss proceeds but has not yet paid for improvements to repair or replace the property, or has not received the loss proceeds, the Loan Servicer will:

  ◊ Inform the borrower of their responsibility for repairing or replacing the damaged or destroyed property or for authorized disposition of the loss proceeds; and

  ◊ Notify the insurance company in writing of the Agency's interest in the security property and request that the loss proceeds be made payable jointly to the Agency and the borrower.

B. Loss Drafts

A loss draft is payment from the insurance provider for property loss or damage. Loss drafts for loans secured by a first mortgage, which in the opinion of the Agency represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in a supervised bank account to be used in repairing or replacing the damaged building, except when:

- The amount of the loss is $5,000 or less and the borrower will use the funds for repairing or replacing an essential building. The loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made.

- The essential buildings are not to be repaired or replaced and other suitable buildings are not to be erected.

- A balance remains after all repairs, replacements, and other authorized disbursements have been made, insurance funds can be applied as follows:
  - ◊ To prior liens;
  - ◊ As an extra payment to the borrower's loan account; or
  - ◊ To the borrower's reserve account.
  - ◊ Make other capital improvements to the property as approved by the Loan Servicer.
- The indebtedness secured by the insured property has been paid in full or the draft is in payment for loss of property on which the Agency has no claim. A loss draft that includes the Agency as a joint payee may be endorsed without recourse and delivered to the borrower.

Loss drafts for a loan that is not secured by an Agency first mortgage will be released by the Agency only if the primary mortgagee agrees to the provisions set forth in the previous part.

3.20 REAL ESTATE TAXES

Borrowers are responsible for paying real estate taxes each year. The annual financial statements must include a certification that the property's real estate taxes have been paid. Failure to pay taxes and assessments by the due date will be considered a nonmonetary default.

When the Agency discovers that a borrower has failed to pay property taxes or local assessments, the Loan Servicer will notify the borrower in writing to pay the property's taxes and that paying taxes are the borrower's responsibility. The notification letter will request proof of payment of taxes within 30 days. If the borrower fails to submit proof of payment, the Loan Servicer will:

- Determine if taxes have been paid;
- Pay delinquent taxes and any penalties;
- Charge the cost of bringing the taxes current to the borrower's Agency account; and
- Require the borrower to establish an account to ensure that funds are available for payment of taxes.

The Loan Servicer will begin servicing actions.

SECTION 5: PROJECT MANAGEMENT FOR LABOR HOUSING

3.21 PROJECT MANAGEMENT AND FEES

A. Off-Farm Labor Housing

Project management for off-farm labor housing will be in accordance with the procedures established in this chapter for the Section 515 program. Borrowers are required to submit a management plan and a management certification, and to receive Agency approval on the proposed management agent and the management fee prior to paying a management fee from project income. For off-farm labor housing operated on a seasonal basis, the management plan must establish specific opening and closing dates.

B. On-Farm Labor Housing

Project management for On-Farm Labor Housing projects should follow the same basic procedures as outlined in this chapter for the Section 515 program with the following exceptions:

- On-Farm Labor Housing borrowers are expected to manage their own properties and should not need to charge a fee for this service; and

- On-Farm Labor Housing borrowers are required to maintain a lease or employment contract with each tenant specifying employment with the borrower as a condition for continued occupancy.

3.22 INSURANCE REQUIREMENTS

A. Off-Farm Labor Housing

Off-farm labor housing must comply with the same insurance requirements as specified for the Section 515 program in this chapter.

B. On-Farm Labor Housing

On-Farm Labor Housing borrowers must ensure that they provide hazard insurance adequate to cover replacement of the property in case of loss. On-Farm Labor Housing borrowers must comply with the same flood insurance requirements as specified earlier in this chapter.

3.23 SPECIAL SERVICING REQUIREMENTS FOR SECTION 514 ON-FARM LABOR HOUSING

A. Background.

Prior to January 17, 1993, owners of on-farm type LH were not allowed to charge rent or utilities to eligible tenants residing in the housing if the requirement that the owner execute a loan agreement had been waived. If there had been no waiver of the loan agreement requirement, owners of on-farm type LH were allowed to charge rent and utilities for the unit.

Effective January 17, 1993, regulations required all owners of section 514 on-farm type LH to sign a loan agreement. By signing this agreement, the owners of on-farm LH reaffirmed their obligation not to charge rent or utilities to eligible tenants. Owners who sign the agreement must obtain the Government's prior approval for charging rent, utilities, refundable deposit charges or cleaning fees. Charges must be reasonable and approved in accordance with the procedure. Borrowers not meeting these requirements will be requested to comply with these requirements. Borrowers unwilling or unable to do so may be subject to the RHS initiating appropriate servicing action to seek compliance.

B. Policy.

Field office employees are to ensure that owners of on-farm type LH financed under section 514 are not charging for rent, utilities, refundable damage deposit charges, or cleaning fees to residents, unless the rent, charges, and fees are approved by authorized officials.

Where violations are evident, the owner will be asked, in writing, to come into compliance. Tenants must receive proper notification and an opportunity to comment on proposed rent changes. Borrowers should arrange to request rent changes during periods when migrant residents can be readily contacted. Making requests during the off farm season when tenants are not occupying the units does not excuse the borrower from the responsibility to make effective notification to tenants. Tenants must also receive notice of any approved charges authorized by the Agency prior to imposing charges. Borrowers imposing unauthorized charges must be notified, in writing by the Agency, that they must roll back rates retroactively to the last authorized level. The borrower must give tenants a rebate or credit for the unauthorized charges.

Borrowers with known violations must be brought into compliance or subjected to servicing actions which may include, but not be limited to, added Agency supervisory visits, inspections, and reviews; acceleration; suspension; debarment; and referral to local, state, or Federal officials for investigation and prosecution of violations of civil or criminal law.

C. Definition of Rent:

For administering the section 514 on-farm program, the term "rent" means any charge made by a landlord to an eligible tenant household for the use and occupancy of the housing and includes utilities (i.e., electricity, heat, water, waste disposal, etc.) or the requirement that the tenant pay the utilities directly to the utility provider.

The term "rent" is also clarified to include any deductions or off-sets made to a tenant's wages for the use of a LH dwelling. Rent does not include bona-fide wage changes or reductions unrelated to retaining rent-free housing benefits. Agency officials should seek to obtain and document the following:

- A meeting with the tenants residing in the labor housing should be convened, preferably without the borrower being in attendance in order to ensure objectivity. Solicit the information set out in the Supervisory Visit On-Farm form in MFIS. Letters to tenants in advance of the visit may also be used to solicit this information.

- If the borrower is unable to provide utility bills, contacting the utility company to determine in whose name the utilities are registered. Compare the information solicited by tenant interviews on utilities paid with the utility company data, where possible.

- A review of the borrower's farm and home plan and other financial records to determine whether the borrower is deriving any income from the farm labor housing units. Compare the information solicited by tenant interviews on rent and utility payments with that disclosed by the borrower.

D. Servicing Actions.

- Normal servicing letter and initial follow-up: If the borrower is not complying with Agency regulations (including improperly charging rent, permitting unlicensed occupancy or occupancy during a period for which the housing was not designed) the borrower should be sent the first servicing letter identifying the compliance deficiencies. The letter should normally be sent within 15 days of identification of the compliance deficiencies. Borrowers should normally be requested to issue a response within 15 days of the date of such a letter. When rent change violations are identified, the extent of the violations should be documented, including an estimate of the amount of the improper charges involved and the documentation relied upon to derive these estimates. Borrowers in violation should be requested to show evidence of any reimbursement or crediting of improper charges to those residents affected. This includes documentation of attempts to contact and reimburse former tenants for unauthorized charges. Where documentation shows former tenants cannot be reached for reimbursement of unauthorized charges, the borrower may remit the unauthorized charges to the Government for processing as a miscellaneous payment for crediting to the Rural Housing Insurance Fund.

  Within 30 days of sending any letter to the borrower citing unapproved rent charges, officials should verify whether the borrower has stopped unapproved charging for the use and occupancy of the housing, and if the borrower has refunded tenants any improper charges previously collected. This may be accomplished by a follow-up visit, written communication to tenants, or other effective means. During any follow-up visit, RHS staff should attempt to meet with the tenants to determine if a borrower's improper practice of charging for the use of the housing has ceased. The meeting between RHS staff and the tenants should not be in the presence of the borrower.

- Workout plan to achieve compliance: When a workout plan is being considered to bring a borrower into compliance with Agency regulations. Borrowers that are not in compliance may be eligible for a supplementary payment agreement calling for less than a full loan installment for use in refunding improper charges to residents or former residents. Upon the end of such workout arrangements, including deferred or reduced debt service payments, reamortization of the account should be considered.

Upon compliance with the rent change approval by Agency servicing officials, the borrower may consider waiving the authorized collections and credit residents for payment of the approved charges until such time as the improperly assessed charges are fully offset. Such arrangements should normally not exceed 2 years. Borrowers may not reduce resident wages to finance any reductions in shelter cost charges.

If the housing is not suitable for year-round occupancy, a rent charge approved by RHS may only be assessed for the period of occupancy for which the housing is suitable. The housing may not be occupied and no rent may be charged for the period for which the housing is not suitable for occupancy. If the borrower wishes to make the housing suitable for year-round occupancy, RHS may approve any rent change request for the entire year only after the borrower makes the necessary modifications and obtains all necessary permits and licenses to operate the housing on a year-round basis.

- Secondary request letters: Borrowers failing to respond to letters requesting compliance with Agency regulations, or failing to arrange a meeting to resolve compliance concerns, or failing to arrange to develop an acceptable workout plan, must be notified of the Agency's continued concerns and requested to comply. Borrowers will be advised that the servicing options available to resolve compliance concerns.

- Last notice to avoid more serious servicing actions: Borrowers who continue to be in non-compliance will be requested to comply with Agency regulations and requirements or face the prospects of adverse servicing actions. The timeframe for reply to such a letter should normally be 15 days of the date of such letter. Field office servicing officials will forward a problem case report for borrowers in violation of Agency requirements to the State Director along with recommended servicing actions. The time frame for this action should normally be within 30 days of concluding that efforts to achieve compliance have been unsuccessful.

- Processing problem case reports: The State Director should take appropriate action on problem case reports and request any needed guidance or action from other Governmental officials when warranted. This may include seeking to initiate foreclosure, seeking appointment of a receiver, or to initiate other appropriate legal remedies to enforce compliance. This may also include initiating a request for an audit or investigation from the Office of Inspector General (OIG) in accordance with the provisions of 7 CFR 2012, subpart A or 2012, subpart B.

E. Documentation accompanying problem case reports and required action:

If the borrower has not complied with the requirements set-out in earlier servicing attempts, a complete report of the initial visit and follow-up action should accompany any problem case report forwarded to the State Director for further action.

If, after sending appropriate servicing notices and the borrower does not stop cha HB-2-3560
unauthorized rents and does not provide refunds or credits of any improperly cha
to tenants, a problem case report is to be prepared and forwarded to the State Director. State Directors, with the assistance of the Office of the General Counsel, should take appropriate actions to enforce the owner's agreement not to charge rent and to refund or credit any improperly charged rent. Borrowers, who are not able or willing to comply, or enter into an acceptable workout plan to achieve compliance, should:

- Consider initiating acceleration of the account.

- Be considered for a suspension or debarment in accordance with the provisions of 7 CFR 3560, Subpart M.

F. Compliance concerns warranting attention and corrective action:

- Shelter cost changes: If shelter cost changes warrant correction, such as the reimbursement of inappropriate charges to residents through rebates or credits. Borrowers must make efforts to contact and rebate unauthorized charges to former residents. Should the borrower be unable to rebate or credit improper shelter cost charges to affected residents because they cannot be located, the improper charges should be forwarded for processing as a miscellaneous payment for crediting to the revolving fund. Borrowers should not receive indirect benefit from such improper actions such as having any improper collections "credited" to the Government for application as a voluntary additional payment on loans owed the Government. Alteration of *Form 3560-8*, to reflect that rents are being charged, does not constitute appropriate evidence of rent change approval.

- Tenant Notification: If tenant notifications are not supported, a rent change violation is apparent. Corrective action such as reimbursement or credits should be taken.

- Utility allowance documentation: Corrective action should include gathering the required information prior to any approval actions.

- Loan agreement: Corrective action should include a written demand to execute the agreement. Failure to comply with such request warrants forwarding a problem case report to the State Director. This type of non-compliance may require more aggressive servicing actions including additional supervisory visits. Failure to execute the loan agreement may be a sign that other compliance deficiencies exist. Scheduling a supervisory visit as soon as possible but usually not later than 3 months after the failure is warranted to verify whether other compliance deficiencies exist.

- Record keeping and reports: Borrowers are expected to keep appropriate records and reports. This includes the following:

  ◊ Financial records. When residents are not charged for residing in the housing unit, *Form 3560-7A* should be provided for the annual reporting requirements. When residents are charged for residing in the housing unit, adequate financial disclosure is required. Budget reviews should be evaluated to ensure the labor housing is operated in a nonprofit manner (i.e., cash LH expenses for operations, loan installments, taxes, insurance, and upkeep are less than or equal to cash receipts from LH revenue from authorized rents, utilities, security deposits and fees).

  ◊ Documents needed to verify eligibility to reside in labor housing dwelling units. Where rent is being charged, a copy of *Form RD 3560-8, "Tenant Certification"* is appropriate. This documentation should show that a substantial portion of income is derived from farm labor or is considered so earned if the housing was initially provided on a non-rental basis as part of employment compensation for farm labor.

  ◊ Documents showing compliance that tenants are being charged for rent, utilities, refundable security deposits, or cleaning fees. This includes evidence of tenant notification and reporting disclosure requirements, and current utility allowance documentation if residents are being charged for utilities.

- ◊ Evidence that taxes and insurance are paid.
- ◊ Evidence that the property is decent, safe, sanitary, and free from health and safety hazards.
- ◊ Evidence of a management plan, when appropriate.

G. LH Compliance Concerns Detected After Promissory Notes are Paid in Full:

Compliance concerns uncovered after payment in full may warrant servicing letters to borrowers. This is especially appropriate under circumstances where unapproved shelter cost charges are detected. However, when such evidence is over 6 years from the date the borrower's account matured, no notification is required. Where a serious violation is discovered, the Agency may consider taking appropriate actions even though the account matured. The guidance of OGC may be sought in determining what corrective measures can be brought to bear under such circumstances. Such actions may include referral to OIG recommending initiation of an audit or investigation and suspension or debarment from participation in Federal programs under the provisions of 7 CFR 3560, Subpart M.

ATTACHMENT 3-A

MANAGEMENT PLAN REQUIREMENTS

1. The role and responsibility of the owner and the relationship and delegations of authority to the management agent. A management agreement must be provided where a management agent is to be used. If there is no management agent, the management plan should supply the equivalent information concerning the management staff assigned to day-to-day operation of the project even when the owner provides direct management.

   a) Describe and fully justify any identity of interest as described in 7 CFR 3560.

   b) Identify the supervisory relationships, and to whom the incumbent of the position responsible for the day-to-day operation of the project is accountable.

   c) Describe the conditions when the management agent must consult the owner before taking any action.

   d) Identify the person or position in the owner's organization that is the key contact for the management agent.

   e) Describe the type of decisions to be made by this contact person.

   f) Describe the fundamental responsibilities and duties of the owner and the managing agent. Identify any areas of overlap and describe how the overlap will be handled.

   g) Describe any pro rata divisions of singularly incurred operating expense that is common to the management agent and the owner (project) (i.e., fidelity coverage that may be divided between both).

2. Personnel policy and staffing arrangements.

   a) Describe hiring practices of management and their conformance with equal employment opportunity requirements.

   b) Include a staffing plan for the project.

   c) Describe the lines of authority, responsibility, and accountability (internal controls) within the management entity.

   d) Describe the standards and plans for training and familiarizing employees with their job related responsibilities and applicable Rural Development program requirements. Describe how such training will generally be achieved.

3. Plans and procedures for marketing units, achieving and maintaining full occupancy, and meeting *HUD Form 935.2, "Affirmative Fair Housing Marketing Plan,"* requirements.

a) Describe how affirmative marketing practices will be used. Describe the outreach and marketing efforts that will be used to reach those low-income and minority persons who are least likely to apply for such housing without special outreach efforts.

b) Describe the methods that will be used to achieve and maintain the highest possible level of occupancy. When applicable, indicate any additional compensation or incentives that may be allowed management agents for early initial rent-up. (If this area is not covered in the management plan, it will not be allowed at a later date.)

c) Describe how the units will be advertised. Indicate minimum levels planned regardless of occupancy levels.

d) Describe the appropriate communication system, auxiliary aids, or other assistance that will be used to ensure effective communication with applicants, tenants or members, and members of the public that have sight or hearing impairments.

e) Describe the kinds of reasonable accommodation the project can readily provide such as changing water faucets, kitchen equipment, doorknobs, assigning handicap parking spaces, etc.

f) Describe the process management will follow in reviewing and determining whether structural modification of an apartment unit is practical and feasible to reasonably accommodate a tenant or household member who has a disability.

g) Provide a sample waiting list.

h) Attach copies of sample forms that will be used to record unit condition, and indicate who will receive copies of the inspection forms.

i) Describe any orientation services to be provided tenants or members to acquaint them with the project and care of the units. Indicate what printed project information will be given to applicants.

j) Identify the person or staff position responsible for determining tenant or member eligibility and their location on the waiting list.

k) In projects receiving tax credits, explain if special waiting lists will be required when eligible tenants with incomes higher than tax credit limits will be considered for occupancy and how this waiting list will be maintained.

4. Procedures for determining eligibility and for certifying and recertifying incomes.

a) Describe how applications and other records relevant to this function will be kept. If application fees are used, describe them.

b) Describe the level of knowledge, skill, and ability that management official(s) will be expected to possess BEFORE assuming rental related duties such as application processing, eligibility determination, selection, unit assignment, certification, recertification, rent or occupancy charge collection, and record keeping. This discussion should mention training and testing to be provided or obtained to achieve and maintain the level expected.

5. Leasing and occupancy policies.

a) Describe the occupancy standards for the project. (This could be shown as an annex to the management plan.)

b) Describe the project admissions and leasing/occupancy policies and procedures, and criteria for selecting tenants/members for occupancy. (This could be shown as an annex to the management plan.)

c) Describe the level of knowledge, skill, and ability that management official(s) will be expected to understand and apply regarding project lease provisions and prohibitions, occupancy standards, and admissions policies.

d) Describe special procedures that will be used where the marketing area includes non-English speaking or reading persons to assure that such persons will understand leases or occupancy agreements and established rules.

6. Rent and occupancy charge collection policies and procedures.

a) Describe the project rent/occupancy charge collection policy and procedure, covering such matters as where the collection point is, which staff position handles the collection, provisions for collection after normal office hours, recording, and safeguarding of collections.

b) Describe the project security deposit/ membership fee policy and procedure covering matters similar to the preceding item. Include discussion on handling of any interest earned on such deposits.

7. Procedures for requesting and implementing a rent or occupancy charge change.

a) Describe the process to be followed for preparation and request of a change of rents/occupancy charges and/or utility allowances, and to notify tenants of such change, to meet Rural Development requirements.

b) Identify which staff position or person will process change requests.

c) Describe when such change requests will normally be made in terms of economic need and timing within a fiscal year of operation.

8. Plans and procedures for carrying out an effective maintenance, repair, and replacement program.

a) Describe the project objective and general plan for preventive maintenance.

b) Describe where the project's as-built plans and specifications will be located and identify the staff position responsible for updating it as modifications occur.

c) Describe the general maintenance procedures and schedules or cycles to: (this list could be attached as an addendum)

(1) Check and service appliances and mechanical equipment.

(2) Perform safety checks of smoke/fire alarms, fire extinguishers, outside lighting, and ice removal, etc.

(3) Inspect and perform maintenance and redecoration incident to tenant/member move-out and move-in.

(4) Perform major interior and exterior painting and redecorating.

(5) Perform major repairs and grounds maintenance.

(6) Remove garbage and trash.

(7) Perform common areas clean up (parking lot, entryways, hallways, community room, etc.)

d) Describe the project policy and procedure for tenants/members to prepare and submit maintenance requests.

e) Describe the general timing for handling purchase orders and payments.

f) Describe the project policy for budgeting for and/or requesting use of reserve funds for funding major maintenance or replacement items.

g) In migrant or seasonally occupied labor housing (LH), describe the above items in terms of season opening and closing dates.

9. Plans and procedures for providing supplemental services.

a) Describe the types of supplemental services such as laundry and vending machines that will be provided to benefit occupants.

b) Explain whether this equipment will be owned and operated by the owner or a consignee (vendor).

c) Describe the safekeeping and recording practices (internal control) of any cash collections from use of the equipment.

d) Describe who will be responsible for maintaining the equipment and stocking any vending machines.

e) When a consignee will operate the equipment, describe the general terms of the consignment contract.

10. Plans for accounting, record keeping, and meeting Rural Development reporting requirements.

a) Briefly describe the type of project accounting methods (i.e., cash or accrual) and records that will be used, how will they be maintained, and which staff position will prepare and maintain them.

b) Describe how interest earned on project reserve funds will be prorated and accounted "separately" if such funds are deposited jointly with funds of another project owned by the same borrower.

c) Describe whether the project bookkeeping chart of accounts and bank accounts is compatible with *Form RD 3560-7, "Multiple Family Housing Project Budget,"* requirements, and if not, what adjustments will be made when reporting actuals on the form.

d) Identify which staff member or position will be responsible for the preparation and submission of the quarterly and annual reports required by Rural Development.

e) Provide assurance or explanation that the person or firm who will perform and prepare the annual audit, or verification of review, is not associated with the project, other than to perform the audit or review.

f) Discuss the proposed tenant or member record maintenance system including retention of records and identify which person/position will handle and maintain the records.

g) Identify where records subject to Rural Development review will be kept and which person/position Rural Development will contact to review the records.

11. Energy conservation measures and practices.

a) Describe the plan to inform and encourage tenants/members in use of energy conservation practices they can use in their unit to save utility expense (and thus minimize utility allowances and conserve rental assistance).

b) Describe the plan to utilize energy conservation practices in the common areas of the project (to conserve operating expense and help minimize rent/occupancy charge levels).

c) Describe the project objective in implementing energy conservation measures.

12. Plans for tenant participation in rural rental housing (RRH) project operations and tenant's relationship with management.

a) Describe any plans for a tenant organization and how management and staff will work with the organization.

b) Describe where the Tenant Grievance and Appeals Procedure will be posted in the project and otherwise made available to tenants. Identify which person or staff position will be responsible for responses to and consideration of a tenant/member grievance.

13. Plans for member participation in rural cooperative housing (RCH) project operations.

a) Describe who will explain to the members the types of committees the cooperative will be using.

b) Describe what the cooperative will do to attract member participation on committees.

c) Describe how the board members will participate with the committee.

d) Describe where the cooperative will post, and otherwise make available to members, the Tenant Grievance and Appeals Procedure. Identify which person or staff position will be responsible for response to and consideration of a member grievance.

14. Plan for carrying out management training programs.

a) Describe the standards of training and proficiency that management or board members will be expected to attain and maintain to perform their duties and responsibilities in carrying out project objectives, including compliance with applicable Federal, State, and local laws.

b) Describe the plan to conduct internal training and to otherwise use external training sources to maintain levels of attained proficiency.

c) For RCH, describe the actions the board will take if a board member(s) does not participate in training.

d) For RCH, describe the role the board will assume in making sure the RCH membership as a whole understands its role and functions in the cooperative.

15. Termination of leases or occupancy agreements and eviction.

a) Identify which person or staff position is responsible for knowing and administering State and local laws and Rural Development's requirements regarding termination of leases or occupancy agreements and evictions.

b) Identify which person or staff position is responsible for knowing and administering State and local laws and Rural Development's requirements regarding the notification that must be given to a tenant or member when termination of lease or occupancy agreement is proposed and subsequent eviction procedures through the State or local judicial process.

16. Insurance.

a) Identify which person or staff position is responsible for knowing and complying with Rural Development requirements for fidelity coverage and acquiring such coverage.

b) Identify which person or staff position is responsible for knowing and complying with Rural Development's insurance coverage requirements and acquiring such coverage.

17. Management agreement. Attach a copy of the management agreement, when applicable. (If an initial loan, attach a copy of the proposed management agreement, when applicable.)

18. RCH board of director/adviser relationship. Discuss the relationship of the adviser and its effect on decisions made by the board.

19. Management compensation.

a) If management is provided directly by the owner, describe the amount of management fee, how it will be determined, and how it will be paid.

b) In the case of a cooperative, describe the amount of compensation to be paid to the adviser by the board.

20. On-site management.

a) Describe who (owner, site manager, caretaker, board) will perform on-site management duties and responsibilities.

b) Describe the duties and responsibilities of the on-site management staff.

c) Identify whether the site manager will live in the project in a rent-free unit, pay rent, or live off-site.

d) Describe established office hours and indicate where they will be posted.

21. Validity of the management plan. The plan must provide space at the end for the date, title, and signature of borrower or borrower's authorized representative.

ATTACHMENT 3-B

BORROWER CERTIFICATION THAT NO CHANGES ARE REQUIRED TO THE MANAGEMENT PLAN

(To be submitted once every 3 years if no changes are needed to the management plan during that period)

I, _____, certify that there have been no changes in the project's operations during the last 3 years, that the project operations are consistent with the current management plan, and that the plan is adequate to ensure project compliance with the loan documents and the applicable Agency requirements.

_____
(Borrower)

ATTACHMENT 3-C

FREQUENTLY ASKED QUESTIONS (FAQ)

NONDISCRIMINATION POLICIES AND PRACTICES BORROWERS MUST ADDRESS

- How will applicants and tenants be made aware that the owner will provide reasonable accommodations?
- How will requests for reasonable accommodations be handled and who is authorized to approve or deny any such requests?
- Does the project have a Telecommunication Device for the Deaf (TDD) or an *equally effective communication system*? (Note: If the complex has Section 8 assistance from HUD, the complex is required to have a TDD)
- If the project has a TDD, is the public made aware that there is a TDD? For example, is the TDD telephone number given each time the project's telephone number is given?
- If the project relies on a relay service as an *equally effective communication system* (rather than having a TDD), who operates the relay service? Is the relay service available 24 hours a day and without any added cost to the disabled person?
- Have procedures been established to accommodate hearing- and sight-impaired applicants and tenants? Examples of methods the borrower might use include readers, sign language interpreters, Braille, etc.
- Does management give priority for fully accessible units to persons <u>who are in need of the special design features</u> of an accessible unit? Is priority given first to those living in the complex and then to persons on the waiting list?
- Before accessible units are temporarily rented to people who do not need the special design features, have there been diligent marketing efforts to <u>market the units as accessible units</u>? Have those efforts been documented? Are lease clauses used? Do marketing efforts continue after renting the unit to someone who does not need the special design features?
- Is management's policy for verifying a person's disability limited to only that which is needed to establish eligibility and is verification required only <u>after</u> a tenant or applicant has asked that their disability be considered by management?
- Does management provide their employees with civil rights training?
- When marketing an elderly project, has there been an effort to reach all eligible people? Persons with disabilities (of any age) are every bit as eligible as persons who are 62 or older. Marketing efforts should be designed to reach both population groups.

- Does the borrower/management agent notify the public that they do not discriminate on the basis of disability? Do materials published by the borrower contain such a notice? Use of the Equal Housing Opportunity logo is one means of doing so (the logo is the house with the equal sign and the words Equal Housing Opportunity underneath the house).

- Does management have a policy that permits persons with disabilities to have service and/or companion animals?

- Does management give persons with disabilities the same choices other applicants are given? For example, the choice to pick either first or second floor apartments.

ATTACHMENT 3-D

COSTS AND SERVICES TO BE PAID FROM THE MANAGEMENT FEE

The following items and services are provided in return for the management fee:

A. Supervision by the management agent and staff (time, knowledge, and expertise) of overall operations and capital improvements of the site.

B. Hiring, supervision, and termination of onsite staff.

C. General maintenance of project books and records (general ledger, accounts payable and receivable, payroll, etc.). Preparation and distribution of payroll for all onsite employees including the costs of preparing and submitting all appropriate tax reports and deposits, unemployment and Workers' Compensation reports, and other IRS or state-required reports.

D. Preparation and submission of proposed annual budgets and negotiations for approval with RHS, HUD, or other governmental agencies and the borrowers.

E. Preparation and distribution of RHS, HUD, Housing Finance Authority (HFA), or other governmental agency and normal financial reports to borrowers, RHS, HUD, HFA, or other governmental agency.

F. Preparation and distribution of required year-end reports to RHS, HUD, HFA, or other governmental agency and borrowers.

G. Preparation of requests for reserve withdrawals, rent increases, or other required adjustments.

H. Arrangement of preparation by outside contractors of Energy Audits and Utility Allowance analysis. Implementation of appropriate changes.

I. Preparation and implementation of Affirmative Fair Housing Marketing Plans (AFHMPs) as well as general marketing plans and efforts.

J. Reviews of tenant certifications and submission of monthly Rental Assistance requests, overage, and monies collected for occupancy surcharge. Submission of payments where required.

K. Preparation, approval, and distribution of operating disbursements and oversight of project receipts and reconciliation of deposits.

L. Overhead of management agent including:

- Establishment, maintenance, and control of an accounting system adequate to carry out accounting supervision responsibilities.

- Maintenance of agent office arrangements, staff, equipment, furniture, and services necessary to communicate effectively with the properties, RHS, HUD, HFA, or other governmental agency and with the borrowers and the main office.

- Postage expenses related to the normal responsibility for mailings to the properties, RHS, HUD, HFA, or other governmental agency, the tenants, the vendors and the borrowers.

- Expense of telephone and facsimile communication to the properties, tenants, RHS, HUD, HFA, or other governmental agency and the borrowers.

- Direct costs of insurance (fidelity bonds covering central office staff, computer and data coverage, general liability, etc.), directly related to protection of the funds and records of the borrower.

- Central office staff training and ongoing certifications.

- Maintenance of all required profession and business licenses and permits. (This does not include site office permits or licenses.)

- Insurance coverage for Agents office and operations (Property, Auto, Liability, Errors and Omissions (E&O), Casualty, Workers' Compensation, etc.).

- Travel of Agent staff to the properties for onsite inspection, training, or supervision activities.

- Agent bookkeeping for their own business.

M. Attendance at meetings (including travel) with tenants, borrowers, investors, and/or RHS, HUD, HFA, or other governmental agency.

N. Development, preparation, and revision of management plans and/or agreements.

O. Coordination of HUD vouchers with tenants including reporting to all pertinent agencies and borrowers.

P. Direct the investment of project funds into required accounts.

Q. Maintenance of bank accounts and monthly reconciliations.

R. Preparation, request for, and disbursement of borrower’s initial operating capital (for new projects), as well as administration of annual return to borrower.

S. Account maintenance, settlement, and disbursement of security deposits.

T. Work with auditors for initial setup of audits and annually thereafter for audit preparation and review. Assistance with supplemental letters and preparation of *Form RD 3560-10, Borrower Balance Sheet*, as well as other RHS, HUD, HFA, or other governmental agency reports.

U. Storage of records and adherence to records retention requirements.

V. Assistance to onsite staff with tenant relations and problems. Assistance in severe actions (eviction, death, insurance loss, etc.).

W. Oversight of general and preventive maintenance procedures and policies.

X. Development and oversight of asset replacement plans.

Y. Oversight of preparation of Section 504 reviews, development of plans, and implementation of improvements necessary to comply with plans and Section 504 requirements.

Z. Reporting to general and limited partners and State Agencies for LIHTC compliance purposes.

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ATTACHMENT 3-E

COSTS AND SERVICES TO BE PAID FROM PROJECT INCOME

There are some generally accepted project expenses that may be paid out of the project operating account. These expenses are listed below.

A. Actual costs for direct personnel costs of permanent and part-time staff assigned directly to the project site. These will include managers, maintenance staff, and temporary help and can include the following specific items:

- Gross salary;
- Employer Federal Insurance Contributions Act (FICA) contribution;
- Federal unemployment tax;
- State unemployment tax;
- Workers' compensation insurance;
- Health insurance premiums;
- Cost of fidelity or comparable insurance;
- Leasing, performance incentive, or annual bonuses;
- Direct costs of travel to offsite locations by onsite staff for property business or training; and
- Retirement benefits.

B. Legal fees directly related to the operation and management of the property including tenant lease enforcement actions, property tax appeals and suits, and other project-related matters.

C. All outside account and auditing fees, if required by RHS, directly related to the preparation of the annual audit, partnership tax returns, and Schedule K-1, as well as other outside reports and year-end reports to RHS, HUD, FHA, or other governmental agency.

D. All repair and maintenance costs for the project, including:

- Maintenance staffing costs and related expenses;
- Maintenance supplies;
- Contract repairs to the projects (heating and air conditioning, painting, roofing, etc.);

- Make-ready expenses, including painting and repairs, flooring replacement, and appliance replacement, as well as drapery/mini-blind replacement (turnover maintenance);
- Preventive maintenance expenses, including occupied units repairs and maintenance, as well as common area systems repairs and maintenance;
- Costs of snow removal;
- Costs of elevator repairs and maintenance contracts;
- Costs of Section 504 compliance;
- Costs of landscaping maintenance, replacements, and seasonal plantings;
- Costs of pest control services; and
- Other related maintenance expenses.

E. Specific costs that may be charged to the project include:

- The costs of obtaining and receiving credit reports, police reports, and other checks related to tenant selection criteria for prospective residents.
- The costs of duplicating forms for those properties not owning a copier. This will include the costs of producing or purchasing forms and mailing or delivering those forms to the project site.
- All bank charges related to the property including purchases of supplies (stamps, checks, deposit slips, returned check fees, service fees, etc.).
- Costs of site-based telephone, including initial installation, basic services, directory listings, and long distances charges.
- All advertising costs related specifically to the operations of that project. These can include advertising for applicants or employees in newspapers, newsletters, radio, cable TV, and telephone books.
- Postage and delivery costs from the site, including expenses to RHS, HUD, or other governmental agencies; tenants; verifying third parties; central management offices; etc.
- Partnership filing expenses, including state taxes and other mandated state or local fees. Costs of continuation financing statements and site license and permit costs.
- Expenses related to site utilities, including actual costs and surcharges, as well as deposits and expense of utility bonds in lieu of bonds.

- Site office furniture and equipment including site-based computer and copiers. Service agreements and warranties for copiers, telephone systems, and computers are also included (if approved by RHS and make good business sense).

- Real estate taxes (personal/tangible property and real property taxes) and expenses related to controlling or reducing taxes.

- All costs of insurance, including property liability and casualty, as well as fidelity or crime and dishonesty coverage for onsite employees and the general partners.

- Costs of collecting rents onsite, including bookkeeping supplies and record keeping items.

- Costs of preparing and maintaining tenant files and processing tenant certifications including all office supplies, copies, and other associated expenses.

- Public relations expenses related to maintaining positive relationships between the local community and the tenants with the management staff and the borrowers. For example, Chamber of Commerce duties, contributions to local charity events, sponsorship of tenant activities, etc.

- Tax Credit Compliance Monitoring Fees imposed by HFAs.

- All insurance deductibles, as well as adjuster expenses.

- Professional service contracts (audits and compilations, tax returns, energy audits, utility allowances, architectural, construction, rehabilitation, and inspection contracts, etc.).

- Site manager salary for additional hours associated with congregate housing.

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Fiscal Year 2013
Per Occupied Unit Per Month State Maximum Management Fee

State	FY 2012	FY 2013
Alabama	48.50	48.50
Alaska*	54/64	54/64
Arizona	51.00	51.00
Arkansas	55.00	55.00
California	58.00	58.00
Colorado	54.00	54.00
Connecticut	61.00	61.00
Delaware	54.00	54.00
Florida	50.00	50.00
Georgia	44.50	44.50
Hawaii	64.00	64.00
Idaho	48.50	48.50
Illinois	44.50	44.50
Indiana	44.50	44.50
Iowa	44.00	44.00
Kansas	47.00	47.00
Kentucky	44.00	44.00
Louisiana	55.00	55.00
Maine	60.00	60.00
Maryland	54.00	54.00
Massachusetts	61.00	61.00
Michigan	44.50	44.50
Minnesota	49.50	49.50
Mississippi	52.00	52.00
Missouri	45.00	45.00
Montana	55.00	55.00
Nebraska	47.00	47.00
Nevada	54.00	54.00
New Hampshire	60.00	60.00
New Jersey	54.00	54.00
New Mexico	46.00	46.00
New York	54.00	54.00
North Carolina	53.00	53.00
North Dakota	53.50	53.50
Ohio	45.50	45.50
Oklahoma	55.00	55.00
Oregon	53.50	53.50

* Higher maximum fee applies to properties not accessible by the standard road system.

Fiscal Year 2013
Per Occupied Unit Per Month State Maximum Management Fee

State	FY 2012	FY 2013
Pennsylvania	53.00	53.00
Puerto Rico	46.00	46.00
Rhode Island	60.00	60.00
South Carolina	53.00	53.00
South Dakota	54.00	54.00
Tennessee	45.00	45.00
Texas	55.00	55.00
Utah	45.00	45.00
Vermont	59.00	59.00
Virgin Islands	53.00	53.00
Virginia	54.00	54.00
Washington	53.50	53.50
West Virginia	47.00	47.00
Wisconsin	46.50	46.50
Wyoming	47.00	47.00