

UNNUMBERED LETTERS ISSUED FOR THE NOVEMBER OF 2012

Dated	Subject	Distribution
11-06-12	Required Use of the Underwriting, Pre-Closing and Compliance Tool Single Family Housing Direct Program	S/D
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11-28-12	Interest Rate Changes for Housing Programs and Credit Sales (Nonprogram)	S/D, AD, AS

November 6, 2012

TO: State Directors
Rural Development

ATTN: Program Directors
Single Family Housing

FROM: Tammye Treviño (Signed by A. Cristina Chiappe) for
Administrator
Housing and Community Facilities

SUBJECT: Required Use of the Underwriting, Pre-Closing and Compliance Tool
Single Family Housing Direct Program

On March 15, 2012, state offices were notified via email of the posting of an Underwriting, Pre-Closing and Compliance Tool to the agency's SharePoint site. The tool was developed to strengthen the loan approval official's secondary review of the loan originator's file preparation, calculations and analysis. Use of the tool was noted to be at the discretion of the state housing program directors.

With a new loan delinquency rate that has been trending up to one percentage point higher than two years earlier and with recurring weaknesses being observed during internal audits, use of this tool *will now be required* for selected states with a loan delinquency rate above the national average. The selected states will be notified via an email from the Single Family Housing Direct Loan Division shortly after issuance of this memorandum.

States not selected for the required use of this tool should encourage loan approval officials to use it as a guide.

EXPIRATION DATE:
November 30, 2013

FILING INSTRUCTIONS
Housing Programs

The tool can be accessed using the following link:

<https://rd.sc.egov.usda.gov/teamrd/hcfc/sfh/Single%20Family%20Housing%20Information/Forms/Alphabetical%20Order.aspx?RootFolder=%2fteamrd%2fhcfc%2fsfh%2fSingle%20Family%20Housing%20Information%2fDirect%20Program%20Information%2fHB%2d1%2d3550%2fCHAPTER%2006&FolderCTID=0x012000FAEA09B3A193524AA6AAC002EF563C63&View=%7b15C212FD%2d9BC4%2d4940%2dBC42%2d6A6BF67A968F%7d>

If you have trouble using the above link, go to the SharePoint site at <https://rd.sc.egov.usda.gov/teamrd/default.aspx> and follow the path below:

Housing & Community Facilities Program > Single Family Housing Information > Direct Program Information > HB-1-3550 > Chapter 6 > Underwriting and Compliance Review Tool

Questions regarding this memorandum should be directed to Migdaliz Bernier or Brooke Baumann of the Single Family Housing Direct Loan Division at (202) 720-1474.

Sent by Electronic Mail on November 6, 2012 at 9:35 a.m. by Single Family Housing Direct Loan Division. The State Director should advise other personnel as appropriate.

November 20, 2012

TO: Agency Administrators
State Directors

ATTN: National Office Officials
Management Control Officers
Administrative Program Directors

FROM: Roger Glendenning (Signed by Roger Glendenning)
Acting Chief Financial Officer

SUBJECT: Rural Development Audit Program

The Rural Development Audit Program has been updated for Fiscal Year 2013 in order to provide audit-related guidance for selected Rural Development programs. The Audit Program is effective for audit periods ending on December 31, 2012, and thereafter. The Audit Program incorporates the Government Auditing Standards issued by the Government Accountability Office.

The following Rural Development programs are included in the Audit Program along with the appropriate Catalog of Federal Domestic Assistance (CFDA) numbers:

- CFDA No. 10.415 – Rural Rental Housing Loans
- CFDA No. 10.766 – Community Facilities Loans and Grants
- CFDA No. 10.768 – Business and Industry Guaranteed Loans
- CFDA No. 10.767 – Intermediary Relending Program
- CFDA No. 10.854 – Rural Economic Development Loans and Grants
- CFDA No. 10.870 – Rural Microentrepreneur Assistance Program

If requested, copies of the November 2012 Audit Program should be provided to Rural Development borrowers, their independent auditors, and Rural Development staff.

EXPIRATION DATE:
September 30, 2013

FILING INSTRUCTIONS:
Administrative/Other

Copies of the Rural Development Audit Program may be obtained via the Rural Development internet homepage at: <http://www.rurdev.usda.gov/SupportDocuments/auditprogram.pdf>. Please provide the internet address to all parties interested in obtaining copies of the Audit Program.

Questions concerning the Rural Development Audit Program may be directed to John Dunsmuir, Acting Director, Financial Management Division (FMD) at (202) 692-0082 or John.Dunsmuir@wdc.usda.gov.

Sent by Electronic Mail on 12/11/12 at 1:00 p.m. by FMD.
Agency Administrators and State Directors should notify other personnel as appropriate.

November 21, 2012

TO: State Directors
Rural Development

ATTN: Program Directors and Coordinators
Multi-Family Housing

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Programs

SUBJECT: Multi-Family Housing - Optional Smoke-Free Housing Policy

This Unnumbered Letter (UL) is reissued to provide continued guidance for Multi-Family Housing (MFH) borrowers should they choose to implement optional smoke-free housing policies. This guidance is similar to previous guidance provided by the U.S. Department of Housing and Urban Development, and replaces the Unnumbered Letter last issued on December 29, 2010.

It is MFH's opinion that exposure to smoke, whether direct or secondhand, causes adverse health outcomes such as asthma and other respiratory illnesses, cardiovascular disease, and cancer. In addition to the negative health effects of secondhand smoke, smoking can be a hazard to physical structures. The United States Fire Administration estimates an annual average of 7,600 smoking-related fires occurred in residential buildings in the United States between 2008 and 2010, resulting in over 1,200 deaths and injuries, and approximately \$326 million in property loss each year. Cigarettes are the leading type of smoking material involved in residential smoking fires and account for 86 percent of these fires. Pipes and cigars make up another two percent.

MFH borrowers who choose to implement a smoke-free housing policy must update their Management Plans and Occupancy Rules, as applicable, to incorporate the smoke-free housing requirements. MFH borrowers are encouraged to establish smoke-free policies that pertain specifically to their building and grounds including any common areas, entry ways, openings to the building (e.g. windows), and/or playground areas.

EXPIRATION DATE:
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FILING INSTRUCTIONS:
Housing Programs

In carrying out any smoke-free housing policy, MFH borrowers must comply with all applicable fair housing and civil rights requirements in 7 CFR 3560.2, including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

MFH borrowers who choose to establish smoke-free housing policies may establish policies that allow smoking in individual units but prohibit smoking in all common areas or policies to create a totally smoke-free property. In implementing a smoke-free policy, MFH borrowers should follow the following guidelines:

A. MFH borrower's policies:

- Must be in accordance with State and local laws.
- Should address smoking in a tenant's unit, common areas, playground areas, areas near any exterior window or door, and areas outside a tenant's unit.
- Should designate specific smoking areas and identify these areas with clear signage unless the MFH borrower establishes a totally smoke-free policy.

B. MFH borrower must **not** have policies that:

- Deny occupancy to any individual who smokes or to any individual who does not smoke who is otherwise eligible for admission.
- Allow the MFH borrower to ask at the time of application or move-in whether the applicant or any members of the applicant's household smoke. However, if the MFH borrower has established a smoke-free building as of a certain date, the MFH borrower must inform applicants after that date that the building is a totally smoke-free building. The MFH borrower must not maintain smoking or non-smoking specific waiting lists for the property.
- Allow the MFH borrower to ask at the time of recertification, whether the tenant or any members of the tenant's household smoke.
- Require existing tenants, as of the date of the implementation of the smoke-free housing policies, to move out of the property or to transfer from their unit to another unit.

C. Grandfathering

MFH borrowers have the option to grandfather current tenants living at their property. Such policies must be clearly defined (e.g. whether current tenants are allowed to smoke in their units) in the Occupancy Rules.

D. Non-smoking wings, buildings, floors, or units

MFH borrowers can establish smoke-free wings, buildings, floors, and/or units at their property. When a unit becomes available, regardless of where this unit is located, it must be offered to the first eligible household on the waiting list. Waiting lists must be maintained according to existing procedures found in 7 CFR 3560.154 (f).

MFH borrowers must implement any new smoking-related Occupancy Rules in accordance with 7 CFR §3560.157.

A. New admissions. MFH borrowers are required by to attach the Occupancy Rules to leases.

B. Existing tenants. MFH borrowers must notify existing tenants of the modifications to the Occupancy Rules at least 30 days in advance of implementation.

If a non-smoking policy is stated in the tenant's lease, repeated violations of the non-smoking policy may be considered material noncompliance and may result in termination of tenancy. When pursuing eviction due to material noncompliance with lease requirements, existing Agency procedures are found in 7 CFR §3560.159.

If you have any questions regarding this UL, please contact Laura L. Horn, Finance Loan Analyst, at (202) 720-5443, or via e-mail at laura.horn@wdc.usda.gov.

November 21, 2012

TO: State Directors
Rural Development

ATTN: Program Directors
Rural Housing

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Programs

SUBJECT: Section 514 Farm Labor Housing Citizenship Status Documentation

This purpose of this Unnumbered Letter (UL) is to advise State Directors, borrowers, and management agents in the Rural Development Multifamily Housing Program about acceptable citizenship or legal residency status documentation for the Section 514 Farm Labor Housing Program.

The program regulations at 7 CFR 3560.576 do not require that each member of the family be a citizen or lawful permanent resident, only that the farm laborer, retired farm laborer, or disabled farm labor applicant be a citizen or lawful permanent resident. §3560.11 defines a domestic farm laborer as meeting the income requirements established in the regulation and "...either is *a citizen of the United States* or resides in the United States, Puerto Rico or the Virgin Islands after being *legally admitted for permanent residence*. This definition may include the immediate family members residing with such a person." [emphasis added]

Section 514 program regulations require Borrowers to prepare a management plan that explains how the borrower will manage and operate the property. Application and tenant selection procedures are part of the management plan. The Agency has not previously issued guidance concerning appropriate documentation to confirm citizenship or legal residency status, and some United States legal requirements have changed since the regulation was first issued. The US Department of Homeland Security, US Citizenship and Immigration Services, publishes a list of acceptable documentation for employers that can also be utilized for property applicants to

EXPIRATION DATE:
October 31, 2013

FILING INSTRUCTIONS:
Housing Programs

demonstrate the status of citizenship, in compliance with program requirements. The website is located at:

[http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=01110952c80c1210VgnVCM1000004718190aRCRD&vgnnextchannel=a2ec6811264a3210VgnVCM100000b92ca60aRCRD=.](http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=01110952c80c1210VgnVCM1000004718190aRCRD&vgnnextchannel=a2ec6811264a3210VgnVCM100000b92ca60aRCRD=)

The expanded list appears below. Please encourage management companies to incorporate the entire list in their management plans/tenant selection plans for Farm Labor Housing properties. If a tenant applicant can produce one of the documents on this list, Borrowers should consider the citizenship or legal residency requirement to be satisfied. Please inform Borrowers that they should use this list in their management plan. The following documents can be used:

Acceptable Documents for US Citizenship

- Official Birth Certificate issued by a U.S. State, jurisdiction or territory (Puerto Rico, U.S. Virgin Islands, Northern Mariana Islands, American Samoa, Swain's Island, Guam) **IMPORTANT:** Puerto Rican birth certificates issued **before** July 1, 2010, will not be recognized as proof of Lawful U.S. Citizenship beginning **November 1, 2010**. The Government of Puerto Rico has provided [information for citizens to apply for new birth certificates](#).
- U.S. Government-issued Certified Birth Certificate
- U.S. Certificate of Birth Abroad (DS-1350 or FS-545)
- Report of Birth Abroad of a Citizen of the U.S. (FS-240)
- Valid, unexpired U.S. Passport
- Certificate of Citizenship (N560 or N561)
- Certificate of Naturalization (N550, N570 or N578)
- U.S. Citizen Identification Card (I-197, I-179)

Acceptable Documents for Lawful Permanent Residency Status

- Permanent Resident Alien Card (I-551)
- Foreign passport stamped by the U.S. Government indicating that the holder has been "Processed for I-551"
- Permanent resident Re-entry Permit (I-327)
- Arrival Departure Form I-94 with "Temporary I-551" stamp and holder's photograph affixed
- Travel Document issued to Permanent Residents (I-327)
- Travel Document issued to Refugees (I-571)
- Form I-94 stamped with one of the following statuses: Asylee, Parolee or Parole, Refugee, Asylum, HP-humanitarian parolee or PIP-public interest parolee

If you have any questions regarding this UL, please contact Stephanie White, Director of the Multi-Family Housing Portfolio Management Division at (202) 720-1615.

November 28, 2012

TO: State Directors
Rural Development

ATTN: Community Program Directors

FROM: Tammye Treviño (Signed by A. Cristina Chiappe) for
Administrator
Housing and Community Facilities Programs

SUBJECT: Guidance for Strengthening Oversight Procedures and Internal Controls
Affecting Community Facilities Direct Loan and Grant Programs

The purpose of this unnumbered letter is to emphasize some of the required Community Facilities (CF) policies and procedures that must be strengthened to ensure compliance with applicable Rural Development (RD) Instructions. The Office of Inspector General (OIG) conducted an audit of the Community Facilities Direct Loan and Grant Programs (CF) Recovery Act Activities- Phase 2. OIG issued audit number 04703-2-HY report, "Controls over Eligibility Determination for Rural Community Facilities Program, Direct Loan and Grant Recovery Act Activities –Phase 2 on September 28, 2012. This report identified three instances where the agency could enhance its controls over its loans and grants. OIG stated that they generally found that program participants and project purposes met eligibility requirements and that RD's internal controls were adequately designed and operating as prescribed.

The OIG audit report reflected recommendations that Rural Housing Service, CF develop and implement additional controls to ensure that approving officials receive all relevant information affecting the loan and strengthen its controls to verify that matching fund requirements have been met and recipients have appropriate insurance coverage before they close on grants or loans.

In the first instance, OIG stated that CF field staff had determined that the program participant and project purposes met eligibility requirements. However, the CF field staff did not ensure that prior to obligation of funds that all relevant information affecting the loan had been

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November 30, 2013

Filing Instructions:
Community/Business Programs

reviewed. In accordance with RD Instruction 1942-A, Section 1942.5 (d), the State Director or designee executes the “Request for Obligation of Funds”, thereby certifying that all of the evidence thereof is in the loan and/or grant docket. The approval official is certifying that all of the committee and administrative determinations and certifications required by regulations prerequisite to providing assistance of the type indicated on the form have been made and the evidence thereof is in the loan and/or grant docket. The approval official is certifying that all requirements of pertinent regulations have been complied with.

To strengthen this process the National Office is requiring that RD field offices incorporate another level of review to ensure that any relevant information affecting the loan has been reviewed. In particular circumstances, field offices should be aware of any eligibility requirements that changed before funds are obligated. States should incorporate into the loan/and or grant processing checklist the following certifications:

- This is to certify that I have reviewed relevant guidance (Administrative Notices and Unnumbered Letters) issued by the National Office applicable to this loan and/or/grant prior to obligation. I have met with the applicant/grantee and explained the Letter of Conditions (LOC). It has been verified that the entity is eligible and that funds will be used for eligible purposes.
- I certify that funds will be disbursed and monitored in accordance with RD Instruction 1942-A, Section 1942.17 (p) and sections 1942.123 and 1942.127 of RD Instruction 1942-C. The project will meet all applicable loan/grant requirements prior to closing.

The certifications must be executed by the Area Specialist and concurred by the Area Director. CF projects over \$3 million submitted to the National Office for review and concurrence must include the loan/grant processing checklist with the certifications executed and dated.

In the second instance, OIG determined that several states disbursed grant funds before the applicant had contributed the matching funds for the projects, as required by RD. The field offices must ensure that the appropriate language regarding applicant contributions are included in the LOC. The National Office requires that the field offices include in the LOC that funds will not be disbursed until the recipient is able to provide evidence that the matching fund requirements have been met. Any exceptions must be clearly noted in the LOC. The field offices must include in the processing checklist if borrower, Agency, or other funds have been expended.

In the third instance, OIG identified several projects that RD field staff did not verify that grantees had purchased the required insurance needed to protect the government’s interest. RD field staff must ensure that the borrower/grantee provides evidence of adequate insurance

ncluding fidelity bond coverage prior to loan closing or at the start of construction as required in RD Instruction 1942-A, Section 1942.17 (j) (3) (i). Compliance with RD's insurance and bond requirements is necessary to protect the government's interest in the facility financed. To strengthen oversight procedures, the National Office is requiring that RD field staff ensure that the following is included in the grant/loan processing checklist:

Evidence of Adequate Insurance

Date Received:

- Fidelity Bond
- Property Insurance
- Liability and Property Damage Insurance
- Malpractice Insurance
- Workman's Compensation Insurance
- Flood Insurance

Please also include the following certification:

This is to certify that I have reviewed the applicant's evidence of insurance prior to closing or at the start of construction and have confirmed that the coverage obtained is adequate. The certification must be executed by the Area Specialist and concurred by the Area Director.

The weaknesses identified by OIG were not considered material, however they should be addressed and states must ensure compliance with program requirements. Noncompliance with program requirements could result in fraud, waste, or abuse of Agency funds. Proper documentation of files will also help ensure that we are in compliance with applicable RD Instructions.

If you have any questions concerning this unnumbered letter, please contact Anita Outen at (202) 720-1497.

November 28, 2012

TO: State Directors
Area Directors
Area Specialist

ATTN: Rural Housing Program Directors

FROM: Tammye Treviño (Signed by A. Cristina Chiappe) for
Administrator
Housing and Community Facilities Programs

SUBJECT: Interest Rate Changes for Housing Programs
and Credit Sales (Nonprogram)

The following interest rates, effective December 1, 2012, are reported as follows:

<u>Loan Type</u>	<u>Existing Rate</u>	<u>New Rate</u>
ALL LOAN TYPES		
Treasury Judgment Rate	0.170%	0.190%

The new rate shown above is as of the week ending October 26, 2012. The actual judgment rate that will be used will be the rate for the calendar week preceding the date the defendant becomes liable for interest. This rate may be found by going to the Federal Reserve website for the weekly average 1-year Constant Maturity Treasury Yield (http://www.federalreserve.gov/releases/h15/data/Weekly_Friday_H15_TCMNOM_Y1.txt).

RURAL HOUSING LOANS

Rural Housing (RH) 502 Very-Low or Low	3.125	3.125
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EXPIRATION DATE:
December 31, 2012

FILING INSTRUCTIONS:
Administrative/Other Programs

Single Family Housing (SFH) Nonprogram	3.625	3.625
Rural Housing Site (RH-524), Non-Self-Help	3.125	3.125
Rural Rental Housing and Rural Cooperative Housing	3.125	3.125

Please notify appropriate personnel of these rates.

Sent by Electronic Mail on 11/29/12, at 11:00 am by Policy Analysis Branch. State Directors should advise other personnel as appropriate.