

**USDA RURAL DEVELOPMENT MFH PROGRAM  
HIGHLIGHTS OF CHANGES WITH SIGNIFICANT IMPACT  
(Updated 8-23-06)**

**Federal Register Vol. 69, No. 227 / Friday, November 26, 2004 / Rules and Regulations**

- 3560 Interim Final Rule published
- Effective February 24, 2005

**Federal Register Vol. 70, No. 34 / Tuesday, February 22, 2005 / Rules and Regulations**

- "U.S. citizen or qualified alien" requirements delayed indefinitely

**Special Procedure Notice (SPN) dated February 24, 2005**

- Agency implementation of consolidated 3560
- Distribution of Handbooks and 3560 series of forms

**Procedure Notice (PN) 388 dated July 27, 2005**

- Partial revision to HB-2-3560 to simplify the tenant occupancy priorities for Off-farm Labor Housing

**Procedure Notice (PN) 389 dated August 17, 2005**

- Partial revision to HB-2-3560 Chapter 3 Section 3 to incorporate the method for determining management fees, establish maximum state base fees, and provide types and amount for add-on fees

**Unnumbered Letter (UL) dated October 5, 2005**

- Delay of 3560 Financial Engagement requirements

**Unnumbered Letter (UL) dated October 21, 2005**

- Capital Needs Assessment (CNA) guidance

**Procedure Notice (PN) 395 dated March 1, 2006**

- Partial revision to HB-3-3560 to clarify that RD no longer finances "mixed" projects and to correct requirement that projects with eight or more units must provide tenant certifications electronically through MINC

**Procedure Notice (PN) 396 dated March 15, 2006**

- Partial revision to HB-2-3560 to correct and update Handbook Letters

**Special Procedure Notice (SPN) dated April 5, 2006**

- Partial revision to HB-2-3560 to correct inconsistencies and provide clarification
- New asset and income calculation rules per 24 CFR effective this date

**Procedure Notice (PN) 397 dated April 26, 2006**

- Revised Form 3560-8, Tenant Certification
- For borrowers submitting through MINC, revised form will be required beginning October 1, 2006
- For borrowers submitting a paper copy, revised form will be required beginning June 1, 2006

**Special Procedure Notice (SPN) dated April 26, 2006**

- New income limits effective this date

**Procedure Notice (PN) 398 dated May 3, 2006**

- Revised Form 3560-7, MFH Project Budget/Utility Allowance
- Revised form will be required for FY 2007 budget submittals for operating period beginning January 1, 2007

**Procedure Notice (PN) 399 dated June 21, 2006**

- Partial revision to HB-2-3560 to correct inconsistencies and provide clarification
- Established FY 2007 management fees – base fees were increased using the Operating Cost Adjustment Factor (OCAF)
- Updated Rental Assistance guidance and revised unused RA quarterly report format

**Procedure Notice (PN) 401 dated August 23, 2006**

- Partial revision to HB-2-3560 to provide guidance on the annual financial statements, agreed upon engagement procedures, and performance standards
- Added HB Letter 209 “Letter of Engagement”

## **ELECTRONIC TRANSMISSION OF DATA (7 CFR 3560.102 (I))**

HB-2-3560 Chapter 4 Sections 4 and 5, HB-2-3560 Chapter 6 Section 7, HB-3-3560 Chapter 3 Paragraph 3.2, and HB-3-3560 Chapter 4 Section 2

- Management Interactive Network Connection (MINC)
- Borrowers are required to transmit tenant and financial data and process payments electronically for projects with eight (8) units or more
- Transition deadline for Tenant Certifications was February 24, 2006

## **PROJECT MANAGEMENT (7 CFR 3560.102)**

HB-2-3560 Chapter 3 Sections 1 and 2

- Borrower and management entity must execute Form RD 3560-13, Management Certification
- Management Plan and Identity of Interest (IOI) forms must be attached to Certification

HB-2-3560 Chapter 3 Sections 1 and 2 and Attachment 3-A

- A Management Plan is required for all projects
- Form RD 1944-37, Previous Participation Certification, must be attached to Plan
- The Management Plan is reviewed by the Agency for compliance with requirements

HB-2-3560 Chapter 3 Section 2

- Borrower must submit written request for prior Agency approval of proposed self-management or management agent
- Borrowers contracting with a management agent must execute a Management Agreement
- Agency does not approve the Management Agreement
- Agency has authority to terminate management for failure to perform or deliberate fraud

HB-2-3560 Chapter 3 Section 3

- Management Fee paid only to a pre-approved management entity
- Fees consist of a base fee per occupied revenue-producing unit and add-ons for specific project characteristics
- Base fee is paid for a standard bundle of services
- Management is eligible to receive the full PUPM fee for any month or part of month that the unit is occupied
- FY 2006 maximum allowable base fee for Minnesota is \$42
- **FY 2007 maximum allowable base fee for Minnesota increased to \$43.76**

## **TENANT ELIGIBILITY AND OCCUPANCY (7 CFR 3560.151 – 160)**

### HB-2-3560 Chapter 6 Section 1

- Tenants must meet the definition of an elderly household to be eligible for occupancy in an elderly designated project
- Age restrictions can not be waived
- Borrower may request a change in project designation or ineligible tenants will be required to move

### HB-2-3560 Chapter 6 Section 4

- Social Security Number required for all members of the household

### HB-2-3560 Chapter 6 Section 6

- Borrower is responsible for development of the tenant lease that will be used at the property
- Borrower's attorney must certify that lease is in compliance with requirements
- Agency must review and approve prior to use

### HB-2-3560 Chapter 6 Section 7

- Tenant re-certifications required at least annually or when a change in household status or a change in household income of \$100 or more per month (or \$50 per month if tenant requests the change)

### HB-2-3560 Chapter 6 Section 7 and Chapter 7 Sections 1 and 3

- Initial tenant certifications and re-certifications must be received by Agency no later than the 10<sup>th</sup> of the effective month
- Overage will be charged for all late tenant certifications

### HB-2-3560 Chapter 6 Section 2 Paragraph 6.9 and Attachment 6-B

- New "Zero Income Policy" established

### HB-2-3560 Chapter 6 Section 2 and Attachments 6-A and 6-C

- Annual income and adjusted income is now calculated in accordance with 24 CFR to be consistent with HUD programs

### HB-2-3560 Chapter 6 Sections 3, 5 and 7

- Borrowers must establish occupancy policies for each project
- Agency must review and concur prior to implementation
- Tenants living in a unit with more bedrooms than persons in the household will be considered over-housed
- Tenants who fail to meet the occupancy requirements for the unit become ineligible
- Ineligible tenants must be re-located or vacate within 30 days or at the end of their lease, whichever is longer

## **TRANSFER OF UNUSED RENTAL ASSISTANCE (7 CFR 3560.259)**

HB-2-3560 Chapter 8 Section 1 Paragraph 8.8 and Chapter 9 Section 5 Paragraph 9.16

- Agency authority to transfer when RA units have not been used for a 6-month period
- Agency will send borrower letter of intent to transfer with appeal rights
- Available unused units will be re-distributed based on National Office policy

## **PROJECT BUDGETS (7 CFR 3560.303)**

HB-2-3560 Chapter 4 Section 4

- Budgets with rent increases due October 1 – Agency review time is 60 days
- Budgets without rent increases due November 1 – Agency review time is 30 days
- Tenant notification – HB Letter 203
- Budget Narrative (Exhibit 4-3) must accompany budget form
- Priorities established for budget reviews
- Reasonable vacancy allowance based on 3-year history and capped at 10 or 15 percent

## **INITIAL OPERATING CAPITAL (7 CFR 3560.304)**

HB-2-3560 Chapter 4 Section 2 Paragraphs 4.5 – 4.10

- Extended timeframe during which initial 2 percent operating capital may be withdrawn from the general operating account
- Requests must be made and conditions met for withdrawal after the second (2<sup>nd</sup>) and prior to the seventh (7<sup>th</sup>) full year of operation
- May be withdrawn in multiple annual installments or a single installment

## **RESERVE ACCOUNTS (7 CFR 3560.306)**

HB-2-3560 Chapter 4 Section 3

- Increased investment options
- Form 3560-12 Request for Authorization to Withdraw Reserve Funds
- Expenditures which exceed \$3500 require minimum of two bids (plus IOI bid) – bids and invoices if expenditures exceed \$5000
- Allows for withdrawal by owner of up to 25 percent of annual interest income

## **ANNUAL FINANCIAL REPORTS (7 CFR 3560.308) – Delayed for FY 05**

### **HB-2-3560 Chapter 4 Section 5 – Revised for implementation 8-23-06**

- Due to Agency within 90 days of project's fiscal year end
- All borrowers must submit Form RD 3560-7 Project Budget with actual expenditures and Form RD 3560-10 Balance Sheet (3560.308 (a))
- All borrowers must provide a signed Certification of Performance Standards (3560.308 (c) and Exhibit 4-7)
- In addition, borrowers with projects of 16 or more units must submit an engagement report in accordance with Agreed-Upon Procedures established by the Agency – initiate engagement using HB Letter 209 – engagement must be conducted by a CPA and prepared for use by the Agency (3560.308 (b) and Exhibit 4-6)
- Nonprofits not subject to A-133 will comply with above requirements according to project size
- Organizations subject to OMB A-133 audit requirements must submit the A-133 single audit, Budget, Balance Sheet, and Certification of Performance Standards, regardless of project size (3560.308 (d))

## **PHYSICAL CONDITION AND INSPECTIONS (7 CFR 3560.103 and Subpart H)**

### **HB-2-3560 Chapter 5 Section 1**

- Property must meet established standards for acceptable physical condition
- Physical maintenance standards apply to the site, exterior and interior of buildings, and all common areas

### **HB-2-3560 Chapter 9 Section 2**

- Agency is required to conduct an annual physical inspection
- Inspection includes the grounds, exteriors, common areas, 5 percent of the occupied units (or at least 2) and all vacant units
- Agency also required to conduct a physical inspection as part of the triennial Supervisory Visit
- Inspection includes the grounds, exteriors, common areas, and 20 percent of the total units (or at least 6)

## **CAPITAL NEEDS ASSESSMENT (CNA) (7 CFR 3560.11)**

### HB-2-3560 Chapter 5 Section 2

- A CNA identifies the immediate and future capital needs of a project based on a physical inspection and a life-cycle analysis of the major building components, systems, equipment, and exterior amenities
- The CNA will include a replacement schedule and estimated cost
- The assessment time period should be between 10 and 20 years

A CNA may be required by the Agency in the following circumstances:

- Loan Origination – initial and subsequent loans (3560.60 and HB-1-3560 Chapter 3 Section 4 and Chapter 4 Sections 1 and 3)
- Borrower requests an increase in the required transfer to the reserve account as part of their capital planning (3560.103 and HB-2-3560 Chapter 4 Sections 3 and 4)
- Transfers of Ownership (3560.406 and HB-3-3560 Chapter 7 Attachment 7-A)
- Loan Reamortizations (HB-3-3560 Chapter 11 Section 3 and Chapter 7 Attachment 7-A)
- Loan Write Down (HB-3-3560 Chapter 11 Section 4 and Chapter 7 Attachment 7-A)
- Prepayment Incentive Offers (3560.656 and HB-3-3560 Chapter 15 Section 2)

## **CONVENTIONAL RENTS FOR COMPARABLE UNITS (CRCU) (7 CFR 3560.11)**

- RD basic rents should not exceed CRCU in the community where the housing is located
- CRCU is a component of the appraisal or market study

CRCU standards will be applied in the following circumstances:

- Loan Origination (3560.60 and HB-1-3560 Chapter 3 Section 4 and Chapter 4 Section 3)
- Subsequent Loans
- Junior Liens (3560.409 and HB-3-3560 Chapter 8 Section 1)
- Transfers of Ownership (3560.406 and HB-3-3560 Chapter 7 Section 5 and Attachment 7-A)
- Loan Reamortizations (HB-3-3560 Chapter 11 Section 3 and HB-2-3560 Chapter 4 Section 4 Paragraph 4.28 B and C and)
- Prepayment Incentive Offers (3560.656 and HB-3-3560 Chapter 15 Section 2)

Note: CRCU does not apply to annual budget reviews and requests for rent increases (HB-2-3560 Chapter 4 Section 4 Paragraph 4.28 B)

## **DETERMINATION OF PROJECT SUITABILITY**

(Program vs. Non-Program Property)

HB-3-3560 Chapter 6

- Key steps of suitability review include an analysis of ownership, a determination of need (including impact on tenants and economic viability), and a determination of site or building obsolescence
- To remain a suitable project, there must be a need for the project and the physical property can not be obsolete

A determination of project suitability must be completed by the Agency in the following circumstances:

- When there are loan repayment or compliance problems and Agency is considering special servicing actions
- Prior to making a subsequent loan

## **TRANSFER OF OWNERSHIP (7 CFR 3560.406)**

HB-3-3560 Chapter 7

- 2-step process: preliminary and formal application
- Assess transferee eligibility and project suitability and feasibility
- Same rates and terms or new rates and terms
- Allows for equity loan at time of transfer

Basic revitalization principles:

- There is a need for the property in the community
- When the transaction is complete the property will be in the hands of eligible owners
- The transaction will address the physical needs of the property
- Existing tenants will not be displaced because of increased post transaction rents
- Post transaction rents will not exceed comparable market rents
- Any equity loan amount will be supported by a market value appraisal

## **HOUSING PRESERVATION / PREPAYMENT (7 CFR 3560.651 – 663)**

HB-3-3560 Chapter 15

- Requirements for a complete prepayment application reduced to seven (7) items
- Tenant notifications clarified and more frequent throughout the process
- Borrowers on incentive waiting list are provided alternative options if funding for incentives is not available within 15 months

- **Preservation Information Exchange (PIX) website now operational** – automatic electronic notification to nonprofits and other interested parties when borrower applies for prepayment or required to offer for sale to a NP

## **ENFORCEMENT ACTIONS** (7 CFR 3560.460 – 463)

HB-3-3560 Chapter 9 Section 8

- Double Damages
- Equity Skimming – criminal penalty and/or civil sanctions
- Civil Monetary Penalties