

DEPARTMENT OF AGRICULTURE
Rural Housing Service
7 CFR Part 3560
RIN 0575–AC98

Multi-Family Housing Program
Requirements to Reduce Financial
Reporting Requirements

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule. <https://www.gpo.gov/fdsys/pkg/FR-2017-10-25/pdf/2017-23082.pdf>

SUMMARY: The Rural Housing Service (RHS) is revising its existing regulations regarding financial reporting. This action is necessary to align RHS requirements with those of the United States Department of Housing and Urban Development (HUD) utilizing a risk-based threshold reporting which will reduce the burden on the borrower to produce multiple financial reports; focus on high-risk properties; and, reduce the financial cost of reporting on properties.

DATES: This rule is effective November 24, 2017.

FOR FURTHER INFORMATION CONTACT:

Janet Stouder, Deputy Director, Multi- Family Housing Portfolio Management Division, Rural Housing Service, Room 1237S—STOP 0782, 1400 Independence Avenue SW., Washington, DC 20250– 0782, Telephone: (202) 720–9728.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

This final rule has been determined to be non-significant and, therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Authority

The Multi-Family Housing program (MFH) is administered, subject to appropriations, by the U.S. Department of Agriculture (USDA) as authorized under Sections 514, 515, 516 and 521 of the Housing Act of 1949, as amended (42 U.S.C. 1484, 1485, 1486, and 1490).

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, “Environmental Program.” RHS has determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an

Environmental Impact Statement is not required.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. This rule does not impose substantial direct compliance costs on State and local Governments; therefore, consultation with the States is not required.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandate Reform Act (UMRA)

Title II of the UMRA, Public Law 104– 4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and Final Rules with “Federal mandates” that may result in expenditures to State, local, or tribal Governments, in the aggregate, or to the private sector, of \$100 million or more in any one-year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal Governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act of 1995

The information collection requirements contained in this regulation have been

approved by OMB and have been assigned OMB control number 0575–0189. This final rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

RHS is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes.

Programs Affected

The programs affected by this regulation are listed in the Catalog of Federal Domestic Assistance under number 10.405—Farm Labor Housing Loans and Grants (Sections 514 and 516); 10.415—Rural Rental Housing Loans (Section 515); and 10.427—Rural Rental Assistance Payments (Section 521).

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, the final rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this final rule, they are encouraged to contact USDA’s Office of Tribal Relations or Rural Development’s Native American Coordinator at (720) 544–2911 or AIAN@usda.gov to request such consultation.

Executive Order 12372, Intergovernmental Consultation

These loans are subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/ parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250-9410;

(2) *Fax*: (202) 690-7442; or

(3) *Email*: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

I. Background

Section 515(z)(1) of the Housing Act of 1949, as amended states that the Secretary shall require that borrowers in programs authorized by this section maintain accounting records in accordance with generally accepted accounting principles for all MFH projects that receive funds from loans made or guaranteed by the Secretary. Since RHS considers Sections 514 Farm Labor Housing loans to have similar risks as Section 515 Rural Rental Housing loans, the regulatory accounting requirements apply to both types of loans. See 7 CFR 3560.578.

RHS published the financial reporting proposed rule in the Federal Register on August 6, 2015, (80 FR 46853-46855). A 60-day comment period was provided that ended October 5, 2015. The Agency received twenty-two comments from ten stakeholders, including Certified Public Accountant (CPA) groups, USDA employees, and MFH owners/borrowers.

RHS proposed to remove engagement requirements, as well as unit-based requirements from 7 CFR [3560.11](#), [3560.301](#), [3560.302](#), [3560.303](#) and [3560.308](#) and replace it with risk-based requirements for audits utilizing a modified version of the HUD Office of Inspector General's (OIG) Consolidated Audit Guide standard. This proposed change was a result of RHS's participation in the White House's Domestic Policy Council's Rental Policy Working Group (RPWG) on an initiative to reduce duplication of requirements on customers, eliminate conflicting administrative requirements, and align program requirements in the affordable rental housing industry. RHS believes that high-risk properties should receive more stringent evaluation of financial performance and that it can be accomplished in a more cost-effective manner. Implementation of this rule will reduce cost to properties, eliminate duplicate reporting to federal agencies, and further alignment

objectives. HUD will accept the RHS audit in compliance with their requirements for Section 8 subsidized properties. High-risk properties are those with combined Federal financial assistance above \$750,000 for non-profit entities and \$500,000 involving for-profit entities.

Combined Federal financial assistance includes a combination of any or all of the sources identified below:

- The outstanding beginning principal balance of a USDA Mortgage, a mortgage insured by the Federal Housing Administration (FHA) or HUD-held mortgages or loans (including flexible subsidy loans);
- Any RHS Rental Assistance or Project-based Section 8 assistance received during the fiscal year;
- Interest reduction payments received during the year (interest subsidy) and/or;
- Federal grant funds received during the year.

The thresholds established in the proposed rule for non-profits are herein modified in order to conform to thresholds established by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR parts 200 and 400.

The threshold level for the non-profit ownership audit reporting requirement has been changed to \$750,000 from \$500,000. For non-profit borrowers that receive \$750,000 or more in Federal financial assistance, RHS will accept the audit required under 2 CFR part 200 as compliance with RHS financial reporting requirements; non-profit borrowers that receive less than \$750,000 in Federal financial assistance must submit owner certified prescribed forms on the accrual method of accounting in accordance with Statements for Account and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants.

There has been no change to the threshold requirement for for-profit ownership entities and it remains at \$500,000.

Through this rule change, the Agency has removed requirements for an engagement that examines records using agreed upon procedures established by the Agency as part of the annual financial reporting requirements. Although the Section 514 and Section 515 proposals for new development are still subject to the agreed upon cost certification procedures set-forth in 7 CFR 3560.72(b).

In addition to the changes in the annual reporting requirements outlined herein, the Agency is adding three additional certifications to the Performance Standards required under 7 CFR [3560.308](#)(c). The proposed rule included two certifications: The borrower would be required to certify there have been no changes in project ownership other than those approved by the Agency and identified in the certification; and that real estate taxes are paid in accordance with state and/or local requirements and are current. This rule adds a third certification that Replacement Reserve accounts were used only for authorized

purposes. This revision simply reflects what is required in the borrower's Loan Agreement and therefore does not constitute an additional burden on the borrower.

II. Summary of Comments

7 CFR [3560.302\(b\)\(1\) and \(2\)](#) and § [3560.308](#)

Two comments received indicated there is disparity and possible confusion in the citation as it relates to the establishment of a project's financial management procedures: i.e. “. . . various methods of accounting are allowed (accrual, cash, or modified accrual); however, § 3560.308 then requires that financial statements must be prepared in accordance with generally accepted accounting principles (GAAP). Why keep the accounting records on one bases of accounting, only to be forced to convert to generally-accepted accounting principles for annual reporting? It would be helpful if this section indicated what the annual financial reports must include.”

The Agency appreciates the comments received and to alleviate disparity and confusion at both § 3560.302(b)(1) and § 3560.308, RHS has revised § [3560.302\(b\)\(1\)](#) to indicate that the accrual accounting method is required. The Agency will revise § [3560.308\(a\)\(1\)](#) and [\(a\)\(2\)](#) to indicate the documentation required to provide a complete financial report under 2 CFR parts 200 and 400. Federal financial assistance is defined in accordance with 2 CFR 200.40.

Section [3560.303\(Q\)](#) Housing Project Budgets and § [3560.308\(a\)\(2\)](#) Annual Financial Reports

Five comments were received regarding the requirements of “owner-certified financial statements” and expressed concern about the impact this may have on smaller property owners and the potential of increased CPA fees on project operating budgets.

The Agency agrees with the commenters' concerns and has amended the requirements for those for-profit borrowers receiving less than \$500,000 in combined Federal financial assistance, and non-profit borrowers receiving less than \$750,000 in combined Federal financial assistance, to a compilation of prescribed forms. The compilation of prescribed forms will include Form [RD 3560-7](#), “MFH Project Budget/Utility Allowance” and Form [RD 3560-10](#), “MFH Borrower Balance Sheet”, and include supporting schedules for those forms within the report package. It is believed this will be more cost effective for smaller property owners that do not have other audit requirements. Language at § [3560.308\(a\)\(2\)](#) is revised as stated in the preceding comment.

Three comments were received regarding the Agency's modified version of the HUD OIG Consolidated Audit Guide. The comments expressed concern about when the “modified version” of the HUD OIG Consolidated Audit Guide would be released and that it had not been shared in the proposed rule. The commenters felt that it would be beneficial to release, as soon as possible, a draft version of the proposed HUD audit guide in order to better assess any possible changes in audit fees as well as the cost of preparing owner-certified statements.

The HUD OIG Consolidated Audit Guide is not being modified for the purpose of this rule. The Agency anticipates additional cost savings to MFH property owners as the Agency will not utilize the HUD Chart of Accounts, nor will the report require the CPA to review tenant files, as that compliance test is being conducted by MFH field staff during supervisory visits and annual improper payment auditing. HUD has agreed to accept the RHS audit in lieu of a HUD audit for those projects where RHS and HUD have financing in common (i.e. Section 8/Section 515 properties). No changes were made to the proposed rule regarding this comment.

One commenter questioned the requirement within the Audit Guide, wherein CPAs are tasked with assessing housing quality standards as “. . . this is not typically in their skillset.”

The Agency does not expect CPAs to have a skillset that qualifies them to determine whether physical standards are met. However, RHS anticipates that upon determining whether the owner (borrower) or management agent has responded to all Agency management review reports, physical inspections, and inquiries regarding financial statements or monthly accounting reports (reference § 3.5 M. 2. E of the Audit Guide), the auditor can make a reasonable determination that the housing meets physical standards. The auditor should be reviewing all known reports, inspections, management reviews, etc. from each Agency holding an interest in the housing, to include RHS, HUD, Housing Finance Agencies, and Investors/Syndicators. The auditor would rely on these organizations to point out deficiencies in the repair and condition of the housing. The auditor would report on any uncorrected deficiencies within the report on audit findings, on compliance, and/or with a major program report on compliance.

Three comments were received regarding the threshold standard. OMB has established a new reporting threshold for non-profit organizations that are required to file a single audit. The audit threshold is \$750,000, in accordance with Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, Subpart F Audit Requirements. Commenters believed HUD would likely make changes in guidance to follow that threshold.

The Agency recognizes the change in the reporting threshold. HUD and RHS jointly determined that they would establish similar audit thresholds for financial reporting of its financed or insured properties. Since issuance of the proposed rule, RHS and HUD agreed to modify the threshold to avoid potential conflicts in implementation. The preceding comments reflecting this change are in alignment between the two agencies.

One comment was received requesting clarification of the agreed-upon procedure (AUP) requirements for annual operating audits and that these will no longer be required.

This is correct. AUPs will no longer be required as part of the annual financial reporting requirements. It is noted, however, new construction projects for Section 514 and Section 515 are still subject to the agreed upon cost certification procedures as set-forth in 7 CFR 3560.72(b). As a result, no changes were made to the proposed rule regarding this comment.

One comment was received regarding “non-cash interest subsidy” and whether this should be included in addition to interest reduction payments as part of the combined Federal financial assistance?

The Agency interprets the ‘interest reduction payments’ to be the equivalent of the “non-cash” interest subsidy the borrower receives annually and is included in the calculation of Federal financial assistance. Since this comment was simply requesting a clarification, no changes have been made to the rule.

One comment was received asking if there was a “. . . minimum amount of combined Federal financial assistance that would not require financial statements presented in accordance with GAAP?”

From earlier comments received in response to the owner-certification requirements, the Agency has agreed to amend the requirements for those for-profit borrowers, and non-profit borrowers receiving less than \$750,000 in combined Federal assistance, and with no other audit requirements, to the receipt of a compilation of prescribed forms. As a result the Agency revised the proposed language at 7 CFR [3560.308\(a\)\(2\)](#). Please see preceding comments reflecting this change.

Section [3560.308\(b\)\(8\)](#) Performance Standards

One comment was received regarding the Performance Standards at 7 CFR [3560.308\(b\)\(8\)](#), which was proposed to read that no unauthorized change in ownership have taken place. The commenter requested the regulation set forth what is expected to be identified as a change (i.e. the Borrower entity; partners/managers within the entity; limited partnership with a large financial backing).

In accordance with 7 CFR 3560.405(b)(1) and (2), borrowers must notify the Agency prior to the implementation of any changes in a borrower entity’s organizational structure or to a change in a borrower entity’s controlling interest. The Agency has decided that no revision to the rule is needed.

Section [3560.308\(d\)\(3\)](#) Other Financial Reports

One commenter questioned “. . . in a situation where the USDA loan may be below the threshold and is subordinate to a large private mortgage or a Section 538 Guaranteed Rural Housing (GRRH) loan, other funding sources will likely still require an audit. Although not required by the Agency, will the Agency continue to require these same financial reports be provided for review?”

7 CFR [3560.308\(d\)\(3\)](#) states, “. . . any audits independently obtained by the borrower must also be submitted to the Agency.” As a note, the existence of the Section 538 GRRH loan constitutes “Federal financial assistance” and should be added to the total when calculating the threshold requirement.

General Comments

One commenter requested a general clarification of determining combined Federal financial assistance, “. . . should the beginning of the year or end of the year principal balance be used?”

Since the auditor reports on activity from the beginning of the reporting year to the end, it is appropriate that the combined Federal financial assistance shall be deemed the outstanding principal balances at the beginning of the borrower’s fiscal reporting period. No change to the rule is needed.

One commenter requested the anticipated implementation date for submission under the new financial reporting requirements.

The Agency anticipates the new rule will be effective for borrowers with fiscal years beginning January 1, 2018 and thereafter. No change is needed to the proposed rule.

One commenter asked whether financial reports would be electronically submitted through the Real Estate Assessment Center (REAC).

RHS reports are not submitted to REAC, which is owned by HUD. No change to the rule is needed.

List of Subjects in 7 CFR Part 3560

Aged loan programs-Agriculture, loan programs-Housing and Community Development, Low- and moderate-income housing, Public Housing, rent subsidies.

For the reasons set forth in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations will be amended as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

- 1. The authority citation for Part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart A—General Provisions and Definitions

§ 3560.11 [Amended]

- 2. Amend § 3560.11 by removing the definition of “Engagement”.

Subpart G—Financial Management

- 3. Section 3560.301 is revised to read as follows:

[§ 3560.301](#) **General.**

This subpart contains requirements for the financial management of Agency-financed multi-family housing (MFH) projects, including accounts, budgets, and reports. Financial management systems and procedures must cover all housing operations and provide adequate documentation to ensure that program objectives are met.

■ 4. Amend § [3560.302](#) by revising paragraphs (a), (b)(1) and (2), and (e)(1) to read as follows:

§ [3560.302](#) Accounting, bookkeeping, budgeting, and financial management systems.

(a) *General.* Borrowers must establish the accounting, bookkeeping, budgeting and financial management procedures necessary to conduct housing project operations in a financially safe and sound manner. Borrowers must maintain records in a manner suitable for an audit, and must be able to report accurate operational results to the Agency from these accounts and records.

(b) * * *

(1) Borrowers are required to use the accrual method of accounting in preparing annual financial reports, as identified in § 3560.308.

(2) Borrowers must describe their accounting, bookkeeping, budget preparation, and financial reporting procedures in their management plan.

* * * * *

(e) * * *

(1) Borrowers must retain all housing project financial records, books, and supporting material for at least three years after the issuance of their financial reports. Upon request, these materials will immediately be made available to the Agency, its representatives, the USDA Office of Inspector General (OIG), or the Government Accountability Office (GAO).

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■ 5. Amend § [3560.303](#) by revising paragraph (b)(1)(vi)(Q) to read as follows:

§ [3560.303](#) Housing project budgets.

* * * * *

(b) * * *

(1) * * *

(vi) * * *

(Q) Professional service contracts (audits, owner-certified submissions in accordance

with § 3560.308(a)(2), tax returns, energy audits, utility allowances, architectural, construction, rehabilitation and inspection contracts, etc.)

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- 6. Amend § [3560.308](#) by:
 - a. Revising paragraph (a).
 - b. Removing paragraph (b).
 - c. Redesignating paragraphs (c) and (d) as (b) and (c) respectively.
 - d. Revising the newly redesignated paragraph (b) introductory text.
 - e. Adding paragraphs (b)(8),(b)(9), and (b)(10).
 - f. Revising the newly redesignated paragraph (c)(1).

The revisions and additions read as follows:

§ [3560.308](#) **Annual financial reports.**

(a) *General.*

(1) For-profit borrowers that receive \$500,000 or more in combined Federal financial assistance must include an independent auditor’s report that includes, financial statements and notes to the financial statements, supplemental information containing Agency approved forms for project budgets and borrower balance sheets, a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements in accordance with Government Auditing Standards; a report on compliance for each major program and internal control over compliance (if applicable). Federal Financial Assistance is defined in accordance with 2 CFR 200.40.

(2) Non-profit borrowers that receive \$750,000 or more in combined Federal financial assistance must meet the audit requirements set forth by OMB, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, found at 2 CFR parts 200 and 400. Borrowers must provide a copy of this audit to RHS in compliance with these financial reporting requirements.

(3) Non-profit borrowers that receive less than \$750,000, and for-profit borrowers that receive less than \$500,000 in combined Federal financial assistance will submit annual owner certified prescribed forms on the accrual method of accounting in accordance with the Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants (AICPA). Borrowers may use a CPA to prepare this compilation report of the prescribed forms.

(b) Performance standards. All Borrowers must certify that the housing meets the

performance standards below:

* * * * *

(8) There have been no changes in project ownership other than those approved by the Agency and identified in the certification.

(9) Real estate taxes are paid in accordance with state and/or local requirements and are current.

(10) Replacement Reserve accounts have been used for only authorized purposes.

(c) * * *

(1) Non-profit and public borrower entities subject to OMB Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards, must submit audits in accordance with 2 CFR parts 200 and 400.

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Dated: September 28, 2017.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017-23082 Filed 10-24-17; 8:45 am]

CODE OF FEDERAL REGULATIONS

Title 7 – Agriculture

Revised as of January 1, 2017

7 CFR Ch XXXV (1-1-17 Edition)

<https://www.gpo.gov/fdsys/pkg/CFR-2017-title7-vol15/pdf/CFR-2017-title7-vol15.pdf>

[**AHACPA Comment:** Federal Register changes are indicated below. Additions. ~~Deletions.~~]

Subpart A—General Provisions and Definitions

§ 3560.11 [Amended]

2. Amend § 3560.11 by removing the definition of “Engagement”.

Subpart G—Financial Management

§ 3560.301 General.

This subpart contains requirements for the financial management of Agency-financed multi-family housing (MFH) projects, including accounts, budgets, and reports. ~~and engagements.~~ Financial management systems and procedures must cover all housing operations and provide adequate documentation to ensure that program objectives are met.

§ 3560.302 Accounting, bookkeeping, budgeting, and financial management systems.

(a) *General.* Borrowers must establish the accounting, bookkeeping, budgeting and financial management procedures necessary to conduct housing project operations in a financially safe and sound manner. Borrowers must maintain records in a manner suitable for an audit, engagement and must be able to report accurate operational results to the Agency from these accounts and records.

(b) *Acceptable methods of accounting.*

(1) Borrowers are required to use the ~~may use a cash, accrual, or modified~~ accrual method of accounting in preparing annual financial reports, bookkeeping, and budget preparations as long as the method is consistent with the statements required by the engagement in accordance with the standards as identified in § 3560.308.

(2) Borrowers must describe their accounting, bookkeeping, budget preparation, and financial reporting procedures, ~~including Agency approved engagements,~~ in their management plan.

(3) Borrowers must notify the Agency of any changes in their accounting, bookkeeping, budget preparation, and financial management reporting systems through a

revision of their management plan.

(c) *Account requirements.*

(1) As used in this paragraph, the term account is used interchangeably to mean a bookkeeping account (ledger) or a bank account.

(2) At a minimum, borrowers must maintain the accounts required by their loan agreement or resolution.

(3) The following list identifies the financial accounts that are required for each housing project. Additional accounts may be required by third-party lenders. Accounts are to be funded in the following priority order, except that paragraphs (c)(3)(iv), (v), and (vi) of this section are funded directly by tenant security deposits or patron capital receipts respectively:

(i) General operating account;

(ii) Real estate tax and insurance account (if not part of the general operating account);

(iii) Reserve account;

(iv) Tenant security deposit account;

(v) Membership fee account for cooperative housing; and

(vi) For cooperative housing only, a patron capital account.

(4) Amounts escrowed for taxes and insurance may be kept in the general operating account as long as the accounting system reflects the amount escrowed.

(5) Regardless of the number or types of accounts established, the borrower must meet the following requirements:

(i) All housing project funds must be held only in financial institution accounts insured by an agency of the Federal Government, backed by collateral provided by the bank, or held in securities meeting the conditions in this subpart.

(ii) Funds maintained in an institution may not exceed the limit established for Federal deposit insurance. If funds exceed the amount covered by Federal deposit insurance, borrowers must obtain a collateral pledge from the institution to cover all funds or must move funds to an institution that will insure the funds.

(iii) All funds and proceeds in any account must be used only for authorized purposes as described in Agency's regulations, loan or grant documents. Use of funds for non-program purposes constitutes non-monetary default as described in § 3560.452(c).

(iv) All funds received and held in any account, except the tenant security deposit, membership fee, and patron capital accounts, must be held in trust by the borrower for the loan obligation until used and serve as security for the Agency loan or grant.

(v) Borrowers must be able to account for housing project funds with accounting methods or practices that maintain the proprietary identity of the funds for each project. A borrower may operate one account for multiple projects as long as the funds for each project themselves are accounted for separately.

(vi) Each borrower must have access to at least one demand deposit or checking account.

(vii) Housing project funds may not be pledged as collateral for debts without Agency approval. If such a need arises for an eligible program purpose, the borrower must obtain prior Agency approval.

(6) Tenant security deposit accounts or membership fee accounts and patron capital accounts must be maintained in a separate account in trust for the tenants or members and handled in a manner consistent with state and local laws.

(d) *Documentation of separate accountability.* Housing project funds may be combined in one or more bank accounts for two or more housing projects as long as the borrower's accounting system segregates and tracks funds for each project separately.

(1) When borrowers request Agency approval of an accounting system that combines funds from two or more housing projects, they must demonstrate to the Agency that the accounting systems are structured to segregate and maintain separate accountability for each housing project. Such demonstration must include a statement issued by a Certified Public Accountant (CPA) stating that the accounting system is structured to meet this principle of separate accountability.

(2) The accounting system and management plan must document the method for prorating revenue and expenses that are not clearly identifiable as being associated with a particular housing project.

(3) Funds for housing projects managed by the same management company must not be co-mingled.

(e) *Records.*

(1) Borrowers must retain all housing project financial records, books, and supporting material for at least three years after the issuance of ~~the engagement and~~ their financial reports. Upon request, these materials will immediately be made available to the Agency, its representatives, the USDA Office of the Inspector General (OIG), or the General Accountability Office (GAO).

(2) Borrower accounts and records will be kept or made available in a location with reasonable access for inspection, review, and copying by the Agency, other authorized representatives of the USDA, OIG, or GAO.

(3) Automated records may be used if they meet the conditions of paragraph of this section.

(f) Forms generated by automated systems.

(1) The forms and formats approved for use by borrowers may be prepared on automated systems when they meet the requirements of this paragraph.

(2) Forms may be automated if they meet the following requirements:

(i) The identical wording and nomenclature of an official form must be included in the automated version of the form, including the Office of Management and Budget (OMB) approval number.

(ii) The logic or mathematical calculation of an official form must be the same in an automated version of the form.

(iii) The name or logo of the source of the automated form must be visible on each output of the automated form.

(iv) Output size must be 8 ½ x 11 inches.

(v) Nominal spacing adjustment and colored paper are allowed.

(g) Farm Labor Housing. Borrowers with on-farm labor housing units will be considered in compliance with this section by virtue of completing the record keeping and reporting requirements outlined in subpart M of this part.

§ 3560.303 Housing project budgets.

(a) General requirements.

(1) Using an Agency-approved format, borrowers must submit to the Agency for approval a proposed annual housing project budget prior to the start of the housing project's fiscal year. The capital budget section of the annual project budget must include anticipated expenditures on the project's long-term capital needs as specified in § 3560.103(c).

(2) Budget projections regarding income, expenses, vacancies, and contingencies must be realistic given the housing project's history, current circumstances, and market conditions.

(3) Borrowers must document that the operating expenses included in the budget

accurately reflect reasonable and necessary costs to operate the housing project in a manner consistent with the objectives of the loan and in accordance with the applicable Agency requirements.

(4) Borrower must submit supporting documentation to justify housing project utility allowances.

(5) Upon Agency request, borrowers must submit any additional documentation necessary to establish that applicable Agency requirements have been met.

(b) Allowable and unallowable project expenses. Expenses charged to project operations, whether for management agent services or other expenses, must be reasonable, typical, necessary and show a clear benefit to the residents of the property. Services and expenses charged to the property must show value added and be for authorized purposes.

(1) *Allowable expenses.* Allowable expenses include those expenses that are directly attributable to housing project operations and are necessary to carry out successful operations.

(i) Housing project expenses must not duplicate expenses included in the management fee as defined in § 3560.102(i).

(ii) Actual costs for direct personnel costs of permanent and part-time staff assigned directly to the project site. This includes managers, maintenance staff, and temporary help including their:

(A) Gross salary;

(B) Employer FICA contribution;

(C) Federal unemployment tax;

(D) State unemployment tax;

(E) Workers compensation insurance;

(F) Health insurance premiums;

(G) Cost of fidelity or comparable insurance;

(H) Leasing, performance incentive or annual bonuses;

(I) Direct costs of travel to off-site locations by on-site staff for property business or training; and/or

(J) Retirement benefits.

(iii) Legal fees directly related to the operation and management of the property including tenant lease enforcement actions, property tax appeals and suits, and the preparation of all legal documents.

(iv) All outside account and auditing fees, if required by the Agency, directly related to the preparation of the annual audit, partnership tax returns and 401-K's, as well as other outside reports and year-end reports to the Agency, or other governmental agency.

(v) All repair and maintenance costs for the project including:

(A) Maintenance staffing costs and related expenses.

(B) Maintenance supplies.

(C) Contract repairs to the projects (e.g., heating and air conditioning, painting, roofing).

(D) Make ready expenses including painting and repairs, flooring replacement and appliance replacement as well as drapery or mini-blind replacement. (Turnover maintenance).

(E) Preventive maintenance expenses including occupied unit repairs and maintenance as well as common area systems repairs and maintenance.

(F) Snow removal.

(G) Elevator repairs and maintenance contracts.

(H) Section 504 and other Fair Housing compliance modifications and maintenance.

(I) Landscaping maintenance, replacements, and seasonal plantings.

(J) Pest control services.

(K) Other related maintenance expenses.

(vi) All operational costs related to the project including:

(A) The costs of obtaining and receiving credit reports, police reports, and other checks related to tenant selection criteria for prospective residents.

(B) The cost 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.

(C) All bank charges related to the property including purchases of supplies (e.g., checks, deposit slips, returned check fees, service fees).

(D) Costs of site-based telephone including initial installation, basic services, directory listings, and long-distances charges.

(E) All advertising costs related specifically to the operations of that project. This can include advertising for applicants or employees in newspapers, newsletters, radio, cable TV, and telephone books.

(F) Postage and delivery costs from the site including expenses to the Agency or other governmental agencies, tenants, verifying third parties, central management offices, etc.

(G) Partnership or corporate business expenses including state taxes and other mandated state or local fees as well as other relevant expenses required for operation of the property by a third-party governmental unit. Costs of continuation financing statements and site license and permit costs.

(H) Expenses related to site utilities including actual costs and surcharges as well as deposits and expense of utility bonds in lieu of bonds.

(I) 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 the Agency).

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

(K) All costs of insurance including property liability and casualty as well as fidelity or crime and dishonesty coverage for on-site employees and the owners.

(L) Costs of collecting rents on-site including bookkeeping supplies and recordkeeping items.

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

(N) Public relations expense relative to maintaining positive relationships between the local community and the tenants with the management staff and the borrowers. Chamber of Commerce dues, contributions to local charity events, and sponsorship of tenant activities, are examples.

(O) Tax Credit Compliance Monitoring Fees imposed by HFAs.

(P) All insurance deductibles as well as adjuster expenses.

(Q) Professional service contracts (audits, owner-certified submissions in accordance with § 3560.308(a)(2) and compilations, tax returns, energy audits, utility allowances, architectural, construction, rehabilitation and inspection contracts, etc.)

- (R) On-site training pre-approved by the Agency provided by outside training vendors.
- (S) Site manager salary for additional hours associated with congregate housing.

(vii) With prior Agency approval, cooperatives and nonprofit organizations may use housing project funds to pay asset management expenses directly attributable to ownership responsibilities. Such expenses may include:

(A) Errors and omissions insurance policy for the Board of Directors.

(B) Board of Director review and approval of proposed Agency's annual operating budgets, including proposed repair and replacement outlays and accruals.

(C) Board of Director review and approval of capital expenditures, financial statements, and consideration of any management comments noted.

(D) Long-term asset management reviews.

(2) *Unallowable expenses*. Housing project funds may not be used for any of the following:

(i) Equity skimming as defined in 42 U.S.C. 543 (a).

(ii) Purposes unrelated to the housing project.

(iii) Reimbursement of inaccurate or false claims.

(iv) Settlement agreements, court ordered decrees, legal fees, or other costs that result from the filing of civil rights complaints or legal action alleging the borrower, or a representative of the borrower, has committed a civil rights violation.

(v) Fines, penalties, and legal fees where the borrower or a borrower's representative has been found guilty of violating laws, including, but not limited to, civil rights, and building codes.

(vi) Association dues to be paid by the project should be related to training for site managers or management agents. To the extent that association dues can document training for site managers or management agents related to project activities by actual cost or pro-ration, a reasonable expense may be billed to the project.

(vii) Pay for bonuses or monetary performance awards to site managers or management agents that are not clearly provided for by the site manager salary contract.

(viii) Billing for parties that are large or unreasonable, such as renting expensive party halls or hotel rooms and payment for alcoholic beverages or gifts to management agent staff.

(ix) Billing for practices that are inefficient such as routine use of collect calls from a site manager to a management agent office.

(c) *Priorities.* The priority order of planned and actual budget expenditures will be:

- (1) Senior position lienholder, if any;
- (2) Operating and maintenance expenses, including taxes and insurance;
- (3) Agency debt payments;
- (4) Reserve account requirements;
- (5) Other authorized expenditures; and
- (6) Return on owner investment.

(d) *Agency review and approval.*

(1) The Agency will only approve housing project budgets that meet the requirements of paragraphs (a), (b) and (c) of this section.

(2) If no rent change is requested, borrowers must submit budget documents for Agency approval 60 calendar days prior to the start of the housing project's fiscal year. The Agency will notify borrowers if the budget submission does not meet the requirements of paragraphs (a), (b), and (c) of this section. The borrower will have 10 days to submit the additional material.

(3) If a rent change is requested, the borrower must submit budget documents to the Agency and notify tenants of the requested rent change at least 90 calendar days prior to the start of the housing project's fiscal year.

(i) The Agency will notify borrowers if the budget submission does not meet the requirements of paragraphs (a), (b), and (c) of this section, or if the rent and utility allowance request has been denied in accordance with § 3560.205(f). The borrower will have 10 days to submit the additional material to address any issues raised by the Agency.

(ii) The rent change is not approved until the Agency issues a written approval. If there is no response from the Agency within the 30-day period, the rent change is considered automatic. The following budgets are not eligible for automatic approval:

- (A) Budgets with rent increases above \$25 per unit; and
- (B) Budgets that are submitted late or that miss other deadlines set by the Agency.

(4) If the Agency denies the budget approval, the Agency will notify the borrower in writing.

(5) If budget approval is denied, the borrower shall continue to operate the housing project on the basis of the most recently approved budget.

§ 3560.304 Initial operating capital.

(a) *Purpose.* To provide a source of capital for start-up costs, such as the purchase of equipment, and paying operating, maintenance, and debt service expenses. Borrowers are required to make an initial operating capital contribution to the general operating account as described in § 3560.64.

(b) *Authorized uses of initial operating capital.* Initial operating capital may be used only to pay for approved budgeted expenses.

(c) *Withdrawal of initial operating capital.* Initial operating capital funds may be withdrawn by a borrower if:

- (1) The initial operating capital was provided from the borrower's own funds;
- (2) The borrower requests the withdrawal after the second year of housing project operations and prior to the 7th year of operations;
- (3) The housing project has had a 90 percent occupancy rate for a period of 12 months prior to the withdrawal request;
- (4) The withdrawal will not affect the financial viability of the housing project;
- (5) Contributions to the reserve account are at authorized levels;
- (6) The withdrawal request will not result in rent increases; and
- (7) There are no outstanding deficiencies in management's physical maintenance of the housing project.

§ 3560.305 Return on investment.

(a) *Borrower's return on investment.* Borrowers may receive a return on their investment (ROI) in accordance with the terms of their loan agreement and the following:

- (1) If there is a positive net cash flow in housing project operations, the ROI may be taken by the borrower after the housing project's fiscal year, provided that the balance of the reserve account is equal to or greater than required deposits minus authorized withdrawals. If the annual financial reports indicate that an ROI should not have been taken, borrowers will be required to return any unauthorized ROI.
- (2) If there is negative cash flow in housing project operations, the Agency may authorize the borrower to take the ROI only after the Agency has reviewed the housing project's annual financial reports and determines:

(i) Surplus cash exists in either the general operating account as defined in § 3560.306(d)(1) or the reserve account, if the balance is greater than the required deposits minus authorized withdrawals.

(ii) The housing project has sufficient funds to address identified capital or operational needs.

(b) *Unpaid return on investment.* An earned, but unpaid ROI for the previous year only may be requested by the borrower and authorized by the Agency under the provisions of § 3560.305(a)(2) provided the current year's ROI has been paid first and a rent increase is not required to generate funds to pay the unpaid ROI.

§ 3560.306 Reserve account.

(a) *Purpose.* To meet the major capital expense needs of a housing project, borrowers must establish and maintain a reserve account.

(b) *Financial management of the reserve account.* Borrower management of the reserve account is subject to the requirements of 7 CFR part 1902, subpart A regarding supervised bank accounts.

(c) *Funding of the reserve account.* Borrowers must make payments to the reserve account in the amount established in loan documents, beginning with the first loan payment or a date specified in loan documents.

(d) *Transfer of surplus general operating account funds.*

(1) The general operating account will be deemed to contain surplus funds when the balance at the end of the housing project's fiscal year, after all payables, exceeds 20 percent of the operating and maintenance expenses. If the borrower is escrowing taxes and insurance premiums, include the amount that should be escrowed by year end and subtract such tax and insurance premiums from operating and maintenance expenses used to calculate 20 percent of the operating and maintenance expenses.

(2) If a housing project's general operating account has surplus funds at the end of the housing project's fiscal year, the Agency will require the borrower to use the surplus funds to address capital needs, make a deposit in the housing project's reserve account, reduce the debt service on the borrower's loan, or reduce rents in the following year. At the end of the borrower's fiscal year, if the borrower is required to transfer surplus funds from the general operating account to the reserve account, the transfer does not change the future required contributions to the reserve account.

(e) *Account requirements.* Borrowers must establish and maintain the reserve account according to § 3560.65, § 3560.302(c)(5), and the following requirements:

(1) Reserve accounts must be deposited in interest-bearing accounts or securities; and

(2) Reserve accounts must be supervised accounts that require the Agency to countersign on all withdrawals; except, this requirement is not applicable when loan funds guaranteed by the Section 538 GRRH program are used for the construction and/or rehabilitation of a direct MFH loan project. Direct MFH loan borrowers, who are exempted from the supervised account and countersigned requirement, as described above, must follow Section 538 GRRH program regulatory requirements pertaining to reserve accounts. In all cases, Section 538 lenders must get prior written approval from the Agency before reserve account funds involving a direct MFH loan project can be disbursed to the borrower.

(f) *Funds invested in securities.* In addition to the requirements specified in paragraph (e) of this section, the following requirements apply when reserve funds are invested in securities:

(1) The reserve account must be held either at a Federally insured domestic institution such as a bank, savings and loan association, credit union, or at a domestic institution authorized to sell securities.

(2) The borrower must record the price actually paid for the securities. When designated as a reserve deposit, the price paid must equal the required contribution to reserves.

(3) Borrowers must be knowledgeable about industry practices and consider the impact of typical fees and charges for purchases and sales and maintenance of an account when making investment decisions. Such fees may be paid for out of reserves, only with the consent of the Agency. Housing project funds may not be used to pay for a financial advisor.

(g) *Use of the reserve account.*

(1) Borrowers must request Agency approval of reserve account withdrawals prior to the withdrawal. Borrowers must inform the Agency of planned uses of reserve accounts in their annual capital budget if known at budget planning time. Any item on the approved capital budget does not require additional preapproval by the Agency.

(2) The Agency will indicate any conditions governing withdrawals from a reserve account at the time it approves the withdrawal.

(3) In emergency situations, the Agency may specify special procedures to provide an expedited approval process for the use of the reserve account.

(4) The Agency may approve the use of reserve funds for operating costs when circumstances that are determined by the Agency to be beyond the borrower's control have resulted in a shortfall in the housing project's general operating account.

(5) Funds from the replacement reserve account cannot be used to pay any fees

associated with the Section 538 GRRH loan guarantee, as determined by the Agency.

(h) *Allowable uses.* Allowable uses of reserve funds include the following:

(1) Major capital improvements and replacements.

(2) Housing project operating expenses provided the requirement of paragraph (g)(4) of this section has been met, including:

(i) Payments due on the loan, or

(ii) Payment of a return on investment at the end of the borrower's fiscal year if such payment comes from surplus operating funds in the reserve account.

(3) With Agency approval, borrowers operating on a for-profit or a limited profit basis may make an annual withdrawal from the reserve account, equal to no more than 25 percent of the interest earned on a reserve account during the prior year.

(4) For other purposes, which in the judgment of the Agency will promote the loan purposes, strengthen the security or facilitate, improve, or maintain the housing and the orderly collection of the loan without jeopardizing the loan or impairing the adequacy of the security.

(i) *Records.* Borrowers must maintain records documenting all expenses that were paid by withdrawals from the reserve account.

(j) *Changes to reserve requirements.*

(1) As projects age, the required reserve account level may be adjusted to meet anticipated "life-cycle" needs, including equipment and facility replacement costs, by amending the loan agreement/ resolution.

(2) The Agency may approve a change in the reserve account funding level based on the findings of an approved capital needs assessment. The approval to increase reserve account funding levels will take into consideration the housing project's approved budget and the housing project's ability to support increased reserve account deposits without causing basic rents to exceed conventional rents for comparable units in the area.

(k) *Excess reserves.* Amounts in the reserve account which exceed the total required by the loan or grant agreement must be used, at the direction of the Agency, for any of the following:

(1) Pay for expenses specified in a long-term capital plan;

(2) Make payments and reamortize the Agency loan;

(3) Reduce rents by a transfer to the general operating account;

(4) Fund preservation incentives authorized in subpart N of this part; or

(5) Cover other expenditures determined to be related to the purpose of the housing project and in the best interest of the Federal Government.

(l) *Procurement.* The requirements of § 3560.102(g), (j), and (k), and all other Agency requirements relating to procurement, bidding, identity-of-interest, cost-reasonableness, and construction management apply to any work or services paid out of reserve funds. Structural repairs and other significant work on major building systems such as heating or air conditioning must be done in accordance with the requirements of 7 CFR part 1924, sub part A.

[69 FR 69106, Nov. 26, 2004, as amended at 80 FR 34532, June 17, 2015]

§ 3560.307 Reports.

(a) *Required reports.* Borrowers must submit required reports using Agency approved formats.

(b) *Quarterly and monthly reports.* The Agency may require quarterly or monthly reports to monitor financial progress when closer supervision is warranted.

§ 3560.308 Annual financial reports.

(a) *General.* ~~Borrowers must submit annual financial reports that meet the requirements of this section. The annual financial reports to be submitted are the Multi-Family Housing (MFH) Project Budget with actual expenditures and the MFH Balance Sheet. Annual financial reports are due to the Agency within 90 days of the end of the borrower's fiscal year.~~

(1) For-profit borrowers that receive \$500,000 or more in combined Federal financial assistance must include an independent auditor's report that includes, financial statements and notes to the financial statements, supplemental information containing Agency approved forms for project budgets and borrower balance sheets, a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements in accordance with Government Auditing Standards; a report on compliance for each major program and internal control over compliance (if applicable). Federal Financial Assistance is defined in accordance with 2 CFR 200.40. ~~Borrowers with 16 or more units in their housing project must base their annual financial reports on an engagement report completed according to agreed-upon procedures established by the Agency as specified in paragraph of this section. Borrowers must include the engagement report with their annual financial reports submitted to the Agency.~~

(2) Non-profit borrowers that receive \$750,000 or more in combined Federal financial assistance must meet the audit requirements set forth by OMB, Uniform Administrative

Requirements, Cost Principles, and Audit Requirements for Federal Awards, found at 2 CFR parts 200 and 400. Borrowers must provide a copy of this audit to RHS in compliance with these financial reporting requirements. ~~Borrowers with less than 16 units in their housing project must submit annual financial reports using a limited scope engagement based on Agency approved procedures and certify that the housing meets the performance standards established in paragraph (c) of this section. Borrowers may use a CPA to prepare this report. For properties that prepare a limited scope engagement, the Agency may undertake random audits, once every two or three years.~~

~~(3) Non-profit borrowers that receive less than \$750,000, and for-profit borrowers that receive less than \$500,000 in combined Federal financial assistance will submit annual owner certified prescribed forms on the accrual method of accounting in accordance with the Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants (AICPA). Borrowers may use a CPA to prepare this compilation report of the prescribed forms. If a third party requires it, the borrower may have a CPA prepare an audit in accordance with generally accepted government auditing standards (GAGAS). Costs incurred to obtain this audit are an allowable project expense.~~

~~(b) Engagement requirements. Borrowers required to submit annual financial reports based on an engagement performed by a CPA must meet the following requirements:~~

~~(1) Borrowers must use an Agency approved engagement letter. Borrowers must submit the results of an engagement that examines specific records using agreed upon procedures established by the Agency and that describes the borrower's performance in meeting the standards described in paragraph (c) of this section.~~

~~(2) The engagement will be initiated by the borrower using the Agency's engagement letter, which will specify the engagement program and establish the reporting requirements for the engagement.~~

~~(3) The engagement must be conducted by a CPA in accordance with American Institute of Certified Public Accountant (AICPA) Standards and Agency requirements.~~

~~(4) All engagement reports must be prepared for use by the Agency.~~

(b) *Performance standards.* All Borrowers must certify that the housing meets the performance standards below: ~~Borrowers must ensure that:~~

- (1) Required accounts are properly maintained and tracked separately;
- (2) Payments from operating accounts are disclosed and accurately represented on financial reports;
- (3) The reserve amount is at the authorized level and there are no encumbrances;

(4) Tenant security deposit accounts are fully-funded and are maintained in separate accounts and meet state and local requirements;

(5) Amount of payment of owner return was consistent with the terms of the applicable loan agreement;

(6) The borrower has maintained proper insurance in accordance with the requirements of § 3560.105(b); and

(7) All financial records are adequate and suitable for examination.

(8) There have been no changes in project ownership other than those approved by the Agency and identified in the certification.

(9) Real estate taxes are paid in accordance with state and/or local requirements and are current.

(10) Replacement Reserve accounts have been used for only authorized purposes.

(c) *Other financial reports.*

(1) Nonprofit and public borrower entities subject to OMB Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards, must submit audits in accordance with 2 CFR parts 200 and 400. ~~7 CFR part 3052 that must also include the requirements set forth in the limited scope engagement.~~

(2) The Agency may require additional opinions of financial condition and compliance, such as audits, to assure the security of the asset, determine whether the housing project is being operated at a reasonable cost, or to detect fraud, waste, or abuse.

(3) Any audits independently obtained by the borrower also must be submitted to the Agency.

§ 3560.309 Advancement (loan) of funds to a RRH project by the owner, member of the organization, or agent of the owner.

(a) Prior written approval by the Servicing Office is required. Such advances may be authorized when justified by unusual short-term conditions. When conditions are not short-term in nature, a servicing plan may be developed and advances may be approved in accordance with the provisions set out in § 3560.453 of this part. Justification will be based on the following:

(1) A review of the documented circumstances and the project operating budget before any funds are advanced (loaned). The financial position of the project must not be jeopardized.

(2) Funds are not immediately available from any of the following sources:

- (i) Reserve funds;
 - (ii) Initial operating capital; and
 - (iii) An imminent rent increase.
- (b) The funds will be applied to ordinary project operating and maintenance expenses.
- (c) Interest may be charged or paid on the loan from project income; however, interest must be reasonable. The proposal may be denied if Rural Development financing can be provided to resolve the problem in a more cost-effective manner.
- (d) No lien in connection with the loan will be filed against the property securing the Rural Development loan or against project income. The advance may show as an unsecured project liability on financial statements prepared for year-end reports until such time as it is authorized to be repaid.
- (e) The payback of the advance (loan) may be permitted by the Servicing Official provided the terms and conditions were mutually agreed to by the borrower and Rural Development at the time of the advance and the financial position of the project will not be jeopardized. Payback should only be permitted on the advance when the Rural Development debt is current and the reserve requirements are being maintained at the authorized levels.

§ 3560.310–3560.349 [Reserved]

§ 3560.350 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575–0189. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 18 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.