

## § 1930.109

354 officials. A sample management agreement is provided in exhibit B-3 of this subpart.

### **§ 1930.109 Extent of FmHA or its successor agency under Public Law 103-354 supervision.**

The objective of FmHA or its successor agency under Public Law 103-354 supervision is to guide and advise borrowers and their designated representatives in their quest to meet MFH program objectives, goals, and obligations, not to direct the borrower's activity. Supervision does not relieve borrowers of their own responsibilities and obligations. Supervision starts with the first contact by the applicant and continues as long as any loan balance remains outstanding. In the case of a grant, supervision continues until the requirements of the grant agreement have been fulfilled. Supervision of borrowers is a primary responsibility of the Servicing Official; however, additional supervision and guidance will be given by the State Director and/or other appropriate members of the State Office staff. Security servicing actions will be handled according to subpart B of part 1965 of this chapter.

### **§ 1930.110 Methods of supervision.**

Supervisory methods used by FmHA or its successor agency under Public Law 103-354 employees include organizational and development planning; property management planning; affirmative marketing; construction conferences; long-term, annual, and other periodic planning and evaluation; accounts, budgets, and records inspections and guidance; project inspections; attendance at membership and governing body meetings; periodic group meetings with borrowers; analysis of accounting, budgets, and audit reports; guidance by memorandums; and similar activities. Supervision of cooperative borrowers will include coordination with the adviser to the board. Supervision of grant-only recipients will consist of at least the reviews and inspections outlined in § 1930.119 of this subpart.

(a) *Applicants.* Prior to loan or grant closing, supervision will largely be conducted during conferences and meetings with prospective borrowers and

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their various representatives such as applicant's attorney, architect, property manager, etc. Examples of supervision include:

(1) Organizational meetings to discuss needs, services available, owner obligations, and to establish organizational committees.

(2) Preapplication and application conferences.

(3) Preconstruction conferences to reach an understanding regarding responsibilities and the manner in which development will be performed. The applicant at this point should be made fully aware of the responsibilities detailed in § 1930.103 of this subpart.

(4) Preloan and/or grant closing conferences to review requirements of the loan resolution or agreement, closing requirements, and management plan and to establish responsibilities for the operation of the project. The applicant at this point should be made fully aware of the responsibilities entailed in § 1930.103 of this subpart.

(5) Preoccupancy conferences to review the management plan, marketing plan, and the general readiness of project facilities, recordkeeping systems, renting or occupancy procedures, and personnel assignments to begin project operation. This conference will be conducted according to § 1944.235(h) of subpart E of part 1944 of this chapter.

(b) *Borrowers who have yet to demonstrate their ability and borrowers with problems.* When the borrower is establishing its operations, or when borrowers are delinquent, or have other difficulties, supervisory guidance will include:

(1) Implementation and/or review for compliance with the management plan.

(2) Establishment and maintenance of a financial recordkeeping and reporting system.

(3) Compliance with the requirements of the loan agreement or loan resolution.

(4) Review of annual audit and budget requirements.

(5) Any other supervision that may be necessary to assure effective and successful operation of the project.

(6) A requirement that the borrower contract with a management firm with proven background and/or experience

in property management. In the case of cooperative housing, this stipulation will apply only when it has been determined that the cooperative is unable to manage itself.

(c) *Borrowers who have demonstrated ability.* Supervision will consist of at least an annual review of budgets and other management reports according to §1930.122, and a triennial supervisory visit according to §1930.119 of this subpart when the borrower is:

- (1) Successful in completing a first full fiscal year of operation.
- (2) Current with loan payments.
- (3) In compliance with other loan or grant requirements.
- (4) Maintaining the security in a satisfactory manner.
- (5) Otherwise progressing satisfactorily.

**§§ 1930.111–1930.112 [Reserved]**

**§ 1930.113 Borrower responsibilities.**

Borrower responsibilities are described in paragraph III of exhibit B of this subpart.

**§§ 1930.114–1930.116 [Reserved]**

**§ 1930.117 Agency responsibilities.**

Effective supervision requires FmHA or its successor agency under Public Law 103-354 employees to be familiar with the various types of borrowers and their management plan; to communicate effectively with borrowers and their management agent, when applicable; and to provide guidance in the operation and management of MFH projects.

(a) *Servicing Official.* Servicing Officials are responsible for effective borrower supervision. Servicing Officials will:

- (1) Organize their work and the work of their staffs in order that time is used effectively in providing borrower supervision and place emphasis on supervisory visits and review of borrower management reports.
- (2) Emphasize to the borrower and/or the borrower's management agent that they, not FmHA or its successor agency under Public Law 103-354, are responsible for managing the project, planning and following budgets within acceptable tolerance, collecting rents or occupancy charges, repaying the

loan on schedule, budgeting for adequate project operations and maintenance; and for compliance with any loan or grant agreement or resolution, State laws, and other FmHA or its successor agency under Public Law 103-354 requirements.

(3) Monitor all provisions or conditions of the FmHA or its successor agency under Public Law 103-354 approval documents to ensure that they are fully complied with throughout the life of the project.

(4) Monitor the borrowers' compliance with FmHA or its successor agency under Public Law 103-354 regulations concerning real property tax, insurance, bonding, security, budgeting, and reporting requirements.

(5) Systematically monitor response to OIG report findings at specific intervals and/or during routine supervisory visits, compliance reviews, and physical inspections.

(6) Assure that borrower financing statements are continued and not allowed to lapse.

(7) Have each borrower designate a representative to serve as its contact source for Agency communication on project related matters.

(8) Become familiar with the borrower's bylaws or other rules and regulations when necessary to assure compliance with FmHA or its successor agency under Public Law 103-354 program civil rights and Fair Housing Act requirements.

(9) Provide borrower governing bodies with suggestions for information distribution that may be helpful in keeping the membership in touch with activities to increase and maintain membership interest.

(10) Provide informed advice and guidance to borrowers as needed.

(11) Identify problem borrower accounts and initiate servicing plans including workout agreements with the borrower according to exhibit F of subpart B of part 1965 of this chapter.

(12) Gather, maintain, analyze, and distribute a database of actual MFH operation and maintenance expense for determination of expense reasonableness that reflects variables of project operation and characteristics.

(13) Avoid doing any of the following: