

§ 1930.118

(i) Try to run the borrower's business.

(ii) Take charge of the borrower's meetings.

(iii) Attempt to supervise the borrower only through its attorney, architect, or management agent.

(iv) Presume that projects without adverse complaints do not require monitoring and/or supervision by FmHA or its successor agency under Public Law 103-354.

(b) *State Director.* State Directors will:

(1) Coordinate and direct supervisory activities related to borrowers and perform other functions as prescribed by this subpart.

(2) Provide guidance and leadership to assure that the State staff and Servicing staff thoroughly understand and carry out their responsibilities.

(3) Develop and conduct training programs necessary to assure that FmHA or its successor agency under Public Law 103-354 personnel are kept up-to-date regarding the most effective supervisory methods, that the proper time is allotted to supervision, and that borrowers receive adequate supervision and financial counseling.

(4) Establish and maintain a system to monitor followup to findings in OIG reports, supervisory visits, compliance reviews, physical inspections, or other factual sources.

(5) Maintain necessary liaison with the OGC.

(6) Maintain necessary liaison with State and local authorities, agencies, and other organizations. For example, in the case of projects benefiting the elderly, it is essential that liaison be maintained with the aging network such as State and Area Agencies on Aging to assure that available support services are offered to or accessible by the tenants.

(7) Maintain and update State Office records for effective program supervision and evaluation.

(8) Assist the Servicing Official in developing a realistic plan to resolve project operational problems.

(c) *State staff.* State staff members who are designated by the State Director as MFH Servicing Officials responsible for supervision of borrowers covered by this subpart will:

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(1) Continuously monitor supervisory and account servicing activities and borrower status to assure that each project is receiving timely and effective supervision.

(2) Train staff to effectively perform the required supervisory and account servicing activities, and to provide informed guidance in sound operation and management policies. The assistance of the aging network such as State and Area Agencies on Aging should be sought in connection with training which pertains to the management of services to the elderly.

(3) Post review closing of loans and grants to determine that they have been properly closed.

(4) Visit a sufficient number of projects to assure that proper supervision and account servicing is being provided.

(5) Assemble, analyze, and distribute a statewide database of actual MFH operation and maintenance costs for determination of cost reasonableness that reflects variable characteristics of project operation.

§ 1930.118 [Reserved]

§ 1930.119 Supervisory visits, compliance reviews, and inspections.

(a) *Purpose.* Servicing Officials and other FmHA or its successor agency under Public Law 103-354 authorized persons will visit the MFH project site, including the management office, as necessary to accomplish the objectives of the loan or grant. Following are the major purposes for which visits may be made:

(1) To assist with satisfactory development of the project.

(2) To evaluate the management program of the project pursuant to exhibit B of this subpart, such as:

(i) Adherence to the management plan.

(ii) Compliance with the management agreement when applicable.

(iii) To review compliance with the Affirmative Fair Housing Marketing Plan and/or the Equal Opportunity requirements of title VI of the Civil Rights Acts of 1964, the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988, section 504 of the Rehabilitation Act of

1973, and the Age Discrimination Act of 1975.

(3) To review borrower records and verify required compliance and information, such as:

- (i) Tenant or member eligibility.
- (ii) Tenant or member income.
- (iii) Tenant or member selection criteria.
- (iv) Waiting lists.
- (v) Rental or occupancy rates are in accordance with an FmHA or its successor agency under Public Law 103-354 approved budget.
- (vi) Other necessary items.

(4) To inspect and ascertain proper maintenance and assure protection of the security for the FmHA or its successor agency under Public Law 103-354 loan.

(5) To determine if the project is being operated according to the approved budget.

(6) To determine that borrower and/or borrower's management agent is fully complying with all provisions and conditions of the approval document regarding site development and use restrictions.

(7) In the case of all LH borrowers, including on-farm LH, to determine that the housing is serving domestic farm laborers, as defined by paragraph II of exhibit B of this subpart, and that the LH housing provided is decent, safe, and sanitary.

(b) *Frequency and standards.* Visits will be made as follows:

(1) Supervisory visits will be made as needed to assure compliance with FmHA or its successor agency under Public Law 103-354 policies and objectives. A Servicing staff person or other FmHA or its successor agency under Public Law 103-354 authorized person will perform a post rent-up or occupancy visit before the end of the first 90 days of operation; and a thorough supervisory visit no later than 12 months following the post occupancy visit, and at least every 36 months thereafter at each project.

(i) More frequent visits to delinquent or problem projects, irrespective of loan type, should be scheduled as needed.

(ii) In the case of borrowers with on-farm LH unit(s) or LH borrowers providing seasonal farm labor housing,

such visits should be made during the season of occupancy and preferably during an annual farm visit.

(iii) Planned visits will be included in the monthly work calendar.

(iv) The visit shall be conducted with the borrower and/or the borrower's designated representative.

(v) Exhibits F, F-1, F-2, G, G-1, and G-2 of this subpart should be used to assist in the preparation, completion, and followup of visits.

(vi) For small rental projects consisting of only a few units (usually 1 to 3), the degree of completion of exhibits F, G, G-1 and G-2 may be minimized. Supervisory visits to such projects are required only once every three years and should concentrate on tenant eligibility, income and adjustments to income verification, maintenance, insurance coverage, and status of loan payments.

(2) The Servicing Official or other FmHA or its successor agency under Public Law 103-354 authorized person will conduct an inspection of each project at least once every 36 months with the borrower, site manager, or designated representative present.

(i) This inspection may be made simultaneously with a supervisory visit scheduled in accordance with this section.

(ii) The results of the inspection will be documented on HUD Form 9822, "Report of Physical Condition and Estimate of Repair Costs," or a similar form for the same purpose may be used for this inspection.

(iii) Based on the Servicing person's knowledge, without further research, the estimated repair need and cost columns of the form will be completed during the inspection visit.

(c) *Preparation.* The person planning to make the visit and inspection will review the most recent quarterly or annual reports, the running records, correspondence, and other Servicing Office records to be fully aware of the supervisory needs of the project. This awareness should be developed into an informal visit plan and include, but not be limited to such things as; payment status, subsidy status, due dates of taxes and insurance, adequacy of fidelity coverage, and any known maintenance problems.

(d) *Notice of visit or inspection.* The management agent, or when applicable, the owner should receive a written notice of the scheduled visit or inspection from the Servicing Office 30 days before the event to insure that needed records and staff are available (see Guide Letter 1930–2 for borrower notification.)

(e) *Conducting visit or inspection.* The person making the visit or inspection should spend sufficient time at the project to accomplish the visit plan and any additional needs that are observed or brought out by the tenants, members, or management staff.

(f) *Recording, reporting and followup.* The preparation notes and results of each visit should be recorded on exhibits F, G, G–1 and G–2 of this subpart and filed in the borrower's servicing file. A letter highlighting any needed followup actions and a copy of the completed supervisory visit checklist will be directed to the management agent and/or the borrower within 30 days after the visit. Followup will continue through resolution of any problems. Any major problems with the project will be reported in writing to the State Director with recommendations for corrective action. Exhibit A to subpart A of part 1955 of this chapter or Form FmHA or its successor agency under Public Law 103–354 1955–2, "Report on Real Estate Problem Case," may be used as appropriate.

(g) *Compliance reviews.* As authorized State or Servicing staff member or other FmHA or its successor agency under Public Law 103–354 authorized person will complete the Civil Rights and Fair Housing review requirements according to subpart E of part 1901 of this chapter. If initial rent-up or occupancy has not occurred by the time of initial review, a subsequent review will be due one year following initial occupancy and then every 36 months thereafter or in accordance with subpart E of part 1901 of this chapter.

§§ 1930.120–1930.121 [Reserved]

§ 1930.122 Borrower accounting methods, management reporting and audits.

It is the objective of FmHA or its successor agency under Public Law 103–354 that borrowers will maintain ac-

counts and records necessary to conduct their operation successfully and from which they may accurately report operational results to FmHA or its successor agency under Public Law 103–354 for review, and otherwise comply with the terms of their loan agreements with the Agency. Borrower accounts and records will be kept or made available in a location within reasonable access for inspection, review, and copying by representatives of FmHA or its successor agency under Public Law 103–354 or other agencies of the U.S. Department of Agriculture authorized by the Department.

(a) *Accounting methods and records—*

(1) *Method of accounting and financial statements.* Borrowers may choose a cash or accrual method of accounting, bookkeeping, and budget preparation as described in their project management plan, unless otherwise specified in a work-out plan as part of a servicing action. Balance sheets or statements of financial condition may be prepared reflecting the same accounting method, except that the accrual method of reporting financial condition will be used where the borrower is required to submit an annual audit.

(2) *Approval requirement.* Before loan closing or start of construction, whichever is first, each borrower shall incorporate a description of its method of accounting, bookkeeping, budget preparation, and reporting of financial condition and, when applicable, plans for auditing, in the project management plan that must be approved by FmHA or its successor agency under Public Law 103–354.

(3) *Records.* Form FmHA or its successor agency under Public Law 103–354 1930–5, "Bookkeeping System—Small Borrower," may be used by small organizations as a method of recording and maintaining accounting transactions. Automated systems may be used if they meet the conditions of paragraph XVI of exhibit B of this subpart.

(4) *Record retention.* Each borrower shall retain all financial records, books, and supporting material for 3 years after the issuance of the audit reports and financial statements. Upon request, this material will be made available to FmHA or its successor agency under Public Law 103–354, the