

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 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:

(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:

(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.