

(C) *FmHA or its successor agency under Public Law 103-354 Audit Program.* For-profit organizations and other entities referred to this paragraph by paragraphs (b)(4)(ii)(A) and/or (B) of this section, audits will be performed under the guidance of the audit guide entitled "U.S. Department of Agriculture, Farmers Home Administration or its successor agency under Public Law 103-354-Audit Program" (available in any FmHA or its successor agency under Public Law 103-354 office).

(iii) *Due date.* (A) Annual audit reports and verifications of review, as appropriate, and Form FmHA or its successor agency under Public Law 103-354 1930-7 with 12 months of project operation actuals are due in the Servicing Office no later than 90 days following the close of the project fiscal year.

(B) If the audit or verification of review cannot be submitted by the due date, and the owner presents a request for extension supported by evidence that delay is at the request of the auditor, and the request has a reasonable explanation of why an extension of the due date is needed, the Servicing Officer may authorize up to a 30-day extension of the due date.

(C) If an explanation is not forthcoming from the auditor, or the explanation received is without good reason, or the Servicing Official otherwise suspects fiscal difficulty, the Servicing Official may request the borrower to submit to the Servicing Office for review, the project bank statements for the general operating, reserve, and investment accounts covering the most recent 60 day period.

(D) If the borrower fails to submit the requested bank statements by the date stipulated by the Servicing Official, the Servicing Official will immediately refer the matter to the OIG.

(iv) *FmHA or its successor agency under Public Law 103-354 review.* An audit report or verification of review will be reviewed by the Servicing Official within 60 days following receipt of the audit report or verification of review. From this annual audit review process, the Servicing Official will initiate action on findings and concerns needing immediate attention. Those findings and concerns not needing immediate action will be considered in

the next budget planning and annual review process at the end of the fiscal year for implementation in the following fiscal year of project operation.

(5) *Miscellaneous management reports.* These reports include, but are not limited to, the following items that provide additional or unique information that augment or otherwise support other management reports described in this section:

(i) *Documents and formats—(A) Minutes of annual meetings.* Written record of annual meeting of organizational borrowers who, by their organizational charter, are required to maintain such written records.

(B) *Energy audit.* Prepared according to the guidance of exhibit D of this subpart. Energy audits, including implementation plans for energy conservation, are prepared and submitted on 5-year cycles.

(C) *Miscellaneous items.* These include other written or electronically stored data or information such as financial or income/expense data, justification statements, or other technical or informative material that stands alone or supports other managements reports described in this section, whether volunteered by the borrower or requested by the Servicing Official.

(ii) *Due date.* Annual minutes and miscellaneous items are due along with the report they are attached to as supporting documentation. New energy audits are due with the next submission of Form FmHA or its successor agency under Public Law 103-354 1930-7 following expiration of the old energy audit.

(iii) *FmHA or its successor agency under Public Law 103-354 review.* FmHA or its successor agency under Public Law 103-354 review of miscellaneous management reports will coincide with review of the management report that each is attached to as documentation.

[58 FR 40868, July 30, 1993, as amended at 63 FR 2135, Jan. 14, 1998]

§ 1930.123 Annual review.

(a) *Objective.* The objective of the annual review is for the FmHA or its successor agency under Public Law 103-354 Servicing Official to determine the degree and adequacy of the borrower's achievement of operational compliance

with the applicable FmHA or its successor agency under Public Law 103-354 loan and/or grant agreements and to provide followup consultation or supervision to the borrower in meeting program objectives.

(b) *Annual review process.* During the annual review process, the Servicing Official will consider the overall project financial and operational activity. Project strengths and weaknesses will be identified, based on review of various documents, and resultant conclusions will be incorporated into the annual budget planning process that should happen concurrently with the annual review process.

(c) *Documents used in the review.* (1) Form FmHA or its successor agency under Public Law 103-354 1930-7.

(2) Exhibit A-6 of subpart E of part 1944 of this chapter.

(3) Prior fiscal year annual audit report as prepared by a CPA or LPA, or when applicable, Form FmHA or its successor agency under Public Law 103-354 1930-8 prepared by a review verifier accompanied by Form FmHA or its successor agency under Public Law 103-354 1930-7 with actual income and expense data.

(4) Exhibit A-1 of this subpart prepared in conjunction with the prior year annual audit report.

(5) Applicable attachments required as part of any of the above documents (or other information as volunteered by the borrower or specifically requested by the FmHA or its successor agency under Public Law 103-354 Servicing Officer for the review at hand).

(6) Minutes of annual meeting for association type borrowers.

(7) Current energy audit with energy conservation implementation plan (from FmHA or its successor agency under Public Law 103-354 borrower casefile except when new energy audit is due with Form FmHA or its successor agency under Public Law 103-354 1930-7).

(8) Latest supervisory visit and physical inspection of property reports (from FmHA or its successor agency under Public Law 103-354 borrower casefile).

(d) *Preparation for the annual review.* Some documents needed are available in the borrower's casefile and the bal-

ance needed will be submitted with the annual budget review request. Therefore, annual review should occur within 30 days of receipt of all necessary documents. This should result in annual reviews being completed in the last 2 months of a fiscal year or the first 2 months of the next fiscal year. When determined necessary, the Servicing Officer should:

(1) Notify the borrower of the required management reports and their due dates, and provide the borrower with necessary guides and forms for use in preparing the reports.

(2) With a new nonprofit borrower organization, determine that the borrower is properly planning for its annual meeting for the correct date according to its organizational documents. The Servicing Official should plan to attend the annual meeting unless the borrower has progressed as described in §1930.110(c) of this subpart.

(e) *Timing, conducting, and completing the review.* (1) The annual review process will be scheduled and performed concurrently with the budget planning process, normally in the last quarter of a project fiscal year (see illustration in paragraph (i) of this section). This process will occur separately from the annual audit review process (which will occur following close of a project fiscal year).

(2) The Servicing Official will use the applicable resource documents listed above when performing the review. The Servicing Official will conduct the annual review following the review and recording guidance of Form FmHA or its successor agency under Public Law 103-354 1930-10. The Form FmHA or its successor agency under Public Law 103-354 1930-10 will be completed during the prescribed last quarter review period.

(3) The Servicing Official may invite the borrower or its agent to participate in any part of the annual review.

(f) *Distribution of reviewed documents.* (1) A copy of the results of the annual review on Form FmHA or its successor agency under Public Law 103-354 1930-10 along with recommendations or compliance requirements will be sent to the borrower and/or its agent and to the State Director as soon as the review is completed.

(2) The individual items required to perform the annual review will be distributed according to appropriate FMI's as listed on exhibit B-7 of this subpart.

(g) *State Director's review of annual reviews.* Upon receipt of the items identified in this section, the State Director will:

(1) Review all submissions of Form FmHA or its successor agency under Public Law 103-354 1930-10 that are used by the Servicing Official to record summary results of an annual project review.

(2) Conduct a more detailed review of only those annual reviews that warrant further review. The State Director should provide summarized comment to Servicing Officials after completion of statewide review, otherwise the State Director will comment on any specific borrower and/or project annual review selected for further review.

(3) Will review Form 1930-7 and exhibit A-6 of subpart E of part 1944 for approval when the authority to approve budgets as part of the annual review is not delegated to the FmHA or its successor agency under Public Law 103-354 Servicing Official.

(4) Be prepared for a sample review of annual reviews by the National Office upon request during a combined assessment review or other specific need.

(h) *On-farm LH annual review.* For individual farm borrowers with on-farm LH unit(s), the objective of this section will be satisfied by completing the recordkeeping and reporting requirements of their farm and home planning with FmHA or its successor agency under Public Law 103-354 as outlined in subpart D of part 1944 of this chapter.

(i) *Illustration of MFH budget planning, annual review, and annual audit review cycles.*

| Items on hand during fiscal year | Last quarter of fiscal year | First quarter of next fiscal year | Second quarter | |
|--|---|--|--|--|
| Management Reports/ items in borrower casefile. —Previous fiscal year annual audit or Form FmHA or its successor agency under Public Law 103-354 1930-8. —Exhibit A-1 —Latest supervisory visit/inspection. | <i>Budget Planning Process</i> —Form FmHA or its successor agency under Public Law 103-354 1930-7 & util. allowance Review change or no change of rents or occupancy charges and/or utility allowance. FmHA or its successor agency under Public Law 103-354 starts annual review process. | Annual audit preparation by auditor or Form FmHA or its successor agency under Public Law 103-354 1930-8 by verifier. Form FmHA or its successor agency under Public Law 103-354 1930-7 showing 12 months of project operating actuals submitted by borrower. | FmHA or its successor agency under Public Law 103-354 review of annual audit or Form FmHA or its successor agency under Public Law 103-354 1930-8. 60-day review period ... FmHA or its successor agency under Public Law 103-354 completes annual review process. | File annual audit or Form FmHA or its successor agency under Public Law 103-354 1930-8 for next budget planning & annual review process. |
| —Energy audit & implementation plan. —Compliance review ... —Management Plan —Management Agreement. | —Form FmHA or its successor agency under Public Law 103-354 1930-7 —Review project financial and management reports. | | FmHA or its successor agency under Public Law 103-354 may pre-fill parts II C and D of Form FmHA or its successor agency under Public Law 103-354 1930-10. | |

§ 1930.124

7 CFR Ch. XVIII (1-1-05 Edition)

| Items on hand during fiscal year | Last quarter of fiscal year | First quarter of next fiscal year | Second quarter | |
|--|---|-----------------------------------|---|--|
| —Forms FmHA or its successor agency under Public Law 103-354 1944-30, Identity of Interest (IOI) Disclosure Certificate, and FmHA or its successor agency under Public Law 103-354 1944-31, Identity of Interest (IOI) Qualification Form. Other—as applicable. | FmHA or its successor agency under Public Law 103-354 completes Form FmHA or its successor agency under Public Law 103-354 1930-10. | | Take immediate action on significant items found in the Audit Review. | |

[58 FR 40868, July 30, 1993, as amended at 59 FR 6885, Feb. 14, 1994]

§ 1930.124 [Reserved]

§ 1930.125 Changing project designation.

Generally, RRH projects designated for families, elderly and persons with handicaps, including congregate housing, will be used for the original purpose throughout the life of the FmHA or its successor agency under Public Law 103-354 loan. However, if it becomes necessary to change the designation of a project due to housing market changes which inhibit the borrower's ability to maintain occupancy levels sufficient to sustain the project, the State Director may change the designation. Project design must meet the housing requirements of the target group when changing the designation. The State Director shall consider such requests on a case-by-case basis when all of the following information has been provided:

- (a) The complete borrower case files have been submitted together with the Servicing Official's specific recommendations and analysis of the present and long term situation.
- (b) A market needs survey which substantiates the rationale for the change has been provided by the borrower. (The market survey must clearly indicate the present long term marketability of the project is significantly changed from the original market, and include the appropriate demographic information which reflects the population trends in the area.)
- (c) A summary of all servicing actions taken by FmHA or its successor

agency under Public Law 103-354 to aid the borrower in maintaining the present designation.

(d) A summary of all actions taken by the borrower to effectively market the units to potential eligible tenants.

(e) A summary of the impact the change will have on any existing tenants, rent subsidy needs, and the community as a whole.

(f) A summary of any needed or required physical modifications and analysis of cost feasibility to complete the modifications.

§§ 1930.126-1930.127 [Reserved]

§ 1930.128 LH grants.

In addition to the supervision provided in connection with LH loans, recipients of LH grants will receive supervision to assure that the terms of the grant agreement and other objectives of the LH grant are carried out. This supervision will be continued to assure that the grant purposes will be accomplished. Comments on the following points will be included in appropriate reports, to assure that:

- (a) The rents are reasonable.
- (b) The project is operated as a community service for the benefit of the tenants.
- (c) Domestic farm laborers are given absolute priority in occupancy. (This requirement also applies to borrowers who have LH loans only.)
- (d) No public or private nonprofit organization borrower may require that an occupant work for a particular farm or for a particular owner or interest as a condition of occupancy of the housing.