

## Rural Housing Service, USDA

## § 3560.54

515, or up to 4 percent of total development costs for off-farm labor housing, for costs that are reasonable and typical for the area, including:

(1) Development and packaging of a loan application and a MFH proposal; and

(2) Legal, technical, and professional fees incurred in the formation of the loan application and MFH proposal; or

(3) Technical assistance from another nonprofit organization to assist in the organization's formation and in the development and packaging of a loan application and MFH proposal.

(p) *Educational programs.* Funds may be used for educational programs related to owning and managing a cooperative housing project for the board of directors of a housing cooperative during the first year of the housing operation. Such funds will be available from the initial operating account. The amount of the funds disbursed will be subject to Agency approval and availability of financial resources from the project.

(q) *Interest and customary charges.* Funds may be used for interest accrued and customary charges necessary to obtain interim financing.

(r) *Purchase housing from an interim lender.* Funds may be used to purchase MFH from an interim lender that holds fee simple title to Agency-financed housing upon which construction commenced and a letter of commitment had been issued by the Agency but the original applicant for whom funds were obligated will not or cannot continue with construction of the housing. In order for the purchase to take place, there must be no outstanding unpaid obligations in connection with the housing.

(s) *Uniform Relocation Assistance and Real Property Acquisition Act of 1970.* Funds may be used for necessary costs incurred to comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

(t) *Demonstration programs.* With the RHS Administrator's approval, funds may be used to construct demonstration housing involving innovative units and systems which do not meet existing published standards, rules, regulations, or policies but meet the intent of providing affordable, decent, safe, and

sanitary rural housing, and are consistent with the requirements of Title V of the Housing Act of 1949.

(u) *Conversion of section 502 properties.* In accordance with § 3560.506, loan funds may be used to finance the conversion of real estate owned units originally financed under section 502 of the Housing Act of 1949, to MFH authorized by section 515 of the Housing Act of 1949.

### § 3560.54 Restrictions on the use of funds.

(a) *Ineligible uses of funds.* Funds may not be used for:

(1) Housing intended to serve temporary and transient residents, with the exception of housing to serve migrant farm workers in accordance with § 3560.554;

(2) Special care facilities or institutional-type homes;

(3) Facilities which are not in compliance with the design requirements specified in § 3560.60;

(4) Any costs associated with space in a housing project that is leased for commercial use or any commercial facilities except essential service-type facilities when otherwise not conveniently available;

(5) Specialized equipment for training and therapy;

(6) Operating capital for a central dining facility or any items which do not become affixed to the real estate security with the exception of household furnishings for farm labor housing units financed under sections 514 and 516;

(7) Compensation to a loan applicant for value of land contributed in excess of the equity contribution requirements in § 3560.63(c);

(8) Refinancing of an applicant's debt except when the debt involves interim financing or when refinancing is necessary to obtain a release of an existing lien on land owned by a nonprofit organization;

(9) Payment of any fee, charge, or commission to a broker or anyone else as a developer's fee or for referral of a prospective loan applicant or solicitation of a loan;

(10) Payment to any officer, director, trustee, stockholder, member, or agent of an applicant; or

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(11) Purchasing land for a site in excess of what is needed, except when:

- (i) The applicant cannot acquire an alternate site or cannot acquire the needed land as a separate parcel;
- (ii) The applicant agrees to sell the excess land as soon as practical and to apply the proceeds to the loan; and
- (iii) Program site density requirements are met in accordance with the site requirements established under §3560.58.

(b) *Obligations incurred before loan approval.* Funds may not be used for expenses incurred by an applicant prior to approval except when all the following conditions are met:

- (1) The debts were incurred for eligible purposes;
- (2) Contracts, materials, construction, and any land purchased meet Agency standards and requirements;
- (3) Payment of the debts will remove any attached liens and any basis for liens that may attach to the property on account of such debts; and
- (4) The appropriate level of environmental review in accordance with 7 CFR part 1940, subpart G has been completed.

**§ 3560.55 Applicant eligibility requirements.**

Applicants for off-farm labor housing loans and grants should also refer to §3560.555, and applicants for on-farm labor housing loans should refer to §3560.605.

(a) *General.* To be eligible for Agency assistance, applicants must meet the following requirements:

- (1) Be a U. S. citizen or qualified alien(s); a corporation; a state or local public Agency; an Indian tribe as defined in §3560.11; or a limited liability company (LLC), nonprofit organization, consumer cooperative, trust, partnership, or limited partnership in which the principals are U.S. citizens or qualified aliens;
- (2) Be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents;
- (3) Possess the legal and financial capacity to carry out the obligations required for the loan or grant;
- (4) Be able to maintain, manage, and operate the housing for its intended

purpose and in accordance with all Agency requirements;

(5) With the exception of applicants who are a nonprofit organization, housing cooperative or public body, be able to provide the borrower contribution from their own resources (this contribution must be in the form of cash, or land, or a combination thereof);

(6) Have or be able to obtain a minimum of 2 percent of the total development costs for use as initial operating capital (for nonprofit organizations, cooperatives, or public bodies, this amount may be financed through Agency funds); and

(7) Not be suspended, debarred, or excluded based on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs." The list is available to Federal agencies from the U.S. Government Printing Office. Non-federal parties should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

(8) Not delinquent on Federal debt or a Federal judgment debtor, with the exception of those debtors described in §3560.55 (b).

(b) *Additional requirement for applicants with prior debt.* If an applicant or the managing general partner of a borrower, as well as any affiliated entity having a 10 percent or more ownership interest, has a prior or existing Agency debt, the following additional requirements must be met.

(1) The applicant must be in compliance with any existing loan or grant agreements and with all legal and regulatory requirements or must have an Agency-approved workout agreement and be in compliance with the provisions of the workout agreement. The Agency may require that applicants with monetary or non-monetary deficiencies be in compliance with an Agency-approved workout agreement for a minimum of 6 consecutive months before becoming eligible for further assistance.

(2) The applicant must be in compliance with the Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and all other applicable civil rights laws.

(c) *Additional requirements for nonprofit organizations.* In addition to the