

## Rural Housing Service, USDA

## § 3560.63

(2) The amount of the loan against the collateral does not exceed its estimated security value.

(3) The unexpired term of the lease on the date of loan closing is at least 50 percent longer than the term of the loan and rent charged for the lease does not exceed the rate being paid for similar leases in the area.

(4) The applicant's leasehold interest is not subject to summary foreclosure or cancellation.

(5) The lease permits:

(i) The Agency to foreclose the mortgage and to transfer the lease;

(ii) The Agency to bid at a foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure;

(iii) The Agency to occupy the property, sublet the property, or sell the leasehold for cash or credit if the leasehold is acquired through foreclosure, if the Agency accepts voluntary conveyance in lieu of foreclosure, or if the borrower abandons the property; and

(iv) The applicant, in the event of default or inability to continue with the lease and the loan, to transfer the leasehold subject to the mortgage to a transferee that will assume the property ownership obligations.

### § 3560.62 Technical, legal, insurance, and other services.

(a) *Legal services.* Applicants must have written contracts for any legal services that are to be paid out of Agency loan funds.

(b) *Title clearance.* Applicants must obtain title clearance in accordance with the provisions of 7 CFR part 1927, subpart B applicable to title clearance, which would include title insurance or title opinion, unless the loan applicant is leasing the property or is an organization or an individual with special title or loan closing problems, in which case title clearance and related legal services will be obtained in accordance with procedures approved by the Agency.

(c) *Architectural services.* Applicants must obtain a written contract for architectural services in accordance with the provisions of 7 CFR part 1924, subpart A.

(d) *Insurance.* Applicants must have property and liability coverage at loan

closing as well as flood insurance, if needed. Fidelity coverage must be in force as soon as there are assets within the organization and it must be obtained before any loan funds or interim financing funds are made available to the borrower. At a minimum, applicants must meet the property, liability, flood, and fidelity insurance requirements in § 3560.105.

(e) *Surety bonding.* Applicants must comply with the surety bonding provisions of 7 CFR part 1924, subpart A.

### § 3560.63 Loan limits.

(a) *Determining the security value.* The security value for an Agency loan is the lesser of the total development cost (exclusive of any developer's fee as provided by paragraph (d)(2) of this section) or the housing project's security value as determined by an appraisal conducted in accordance with subpart P of this part, minus any prior or parity liens on the housing project. For purposes of determining security value:

(1) Total development cost must be calculated excluding costs not considered allowable under § 3560.54(a), and excluding costs related to compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

(2) The appraisal, which will determine the market value, subject to restricted rents, will be obtained by the Agency and conducted in accordance with subpart P of this part.

(b) *Limitations on loan amounts.* The Agency will not make any loans without adequate security. The following limitations will be set on loan amounts:

(1) For all loan applicants who will receive benefits from the low-income housing tax credit program, the amount of Agency financing for the housing will not exceed 95 percent of the security value available for the Agency loan.

(2) For all loan applicants who will not receive low-income housing tax credit benefits and who are comprised solely of nonprofit organizations, consumer cooperatives, or state or local public agencies, the amount of the loan will be limited to the security value available for the Agency loan, plus the 2 percent initial operating capital and