

APPENDIX 4

HANDBOOK LETTERS REFERENCED IN THIS HANDBOOK

Handbook Letter 101 (3560), Standardized Adverse Decision Letter

Handbook Letter 102 (3560), Letter of Conditions, Loan Approval, or Obligation of Funds

Handbook Letter 103 (3560), Cover Letter to the Initial Application Package

Handbook Letter 104 (3560), Letter To Interim Lender

Handbook Letter 105 (3560), Notice To Proceed

Handbook Letter 106 (3560), Notice of Pre-application Review Action

Handbook Letter 107 (3560), A Letter Informing the Applicant of the Lack of Funds

Handbook Letter 108 (3560), Letter Denying Funding due to Ineligibility

Handbook Letter 109 (3560), Letter Informing of National Office Review

REFERENCE: HB-1-3560 Chapter 1

PURPOSE: Standardized Adverse Decision Letter

RURAL DEVELOPMENT
[LOCATION]

[insert date]

Dear [insert name]:

After careful consideration, we [insert were unable to take favorable action on your application/request for Rural Development services *or* are canceling/reducing the assistance you are presently receiving]. The specific reasons for our decision are:

[Insert the adverse decision and all of the specific reasons for the adverse action]

If you have any questions concerning the decision or the facts used in making our decision and desire further explanation you may call or write to our office at the above address and telephone number within 15 calendar days of the date of this letter. You should present any new information or evidence along with possible alternatives for our consideration. You may also have the right to appeal this decision to a hearing officer in lieu of, or in addition to, a meeting with this office.

If you do not wish a meeting, and as outlined above wish to appeal, a request for a hearing must be sent to the National Appeals Division, USDA, *[Include appropriate NAD address]*, postmarked no later than 30 days from the date of this letter.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, religion, sex, age, handicap, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms and conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin. If an applicant or borrower believes he or she has been discriminated against for any of these reasons, that person can write the Secretary of Agriculture, Washington,

D.C. 20250. Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her rights under the Consumer Credit Protection Act. If an applicant believes he or she was denied a loan for this reason, the applicant should contact the Federal Trade Commission, Washington, D.C. 20580.

Sincerely,

(Decision Maker)

(Title)

Attachment – Appeal Rights

ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF AN ADVERSE DECISION THAT IS APPEALABLE

The decision described in the attached letter did not grant you the assistance you requested or will terminate or reduce the assistance you are currently receiving. If you believe this decision or the facts used in this case are in error, you may pursue any or all of the following three options.

Option 1 - Informal Review

If you have questions concerning this decision or the facts used making it and desire further explanation, you may write this office to request an informal review. **There is no cost for an informal review.** This written request must be received no later than 15 calendar days from the date of the attached letter. You must present any new information, evidence, and possible alternatives along with your request. You may also have a representative or legal counsel participate in the process, at your cost. The informal review may be conducted by telephone or in person, at the discretion of the Agency. Please include a daytime phone number in your request to arrange for the review. You may skip this step in the informal process and select one of the following two options. If you do, you will automatically waive your right to an informal review.

Option 2 - Mediation or Alternative Dispute Resolution (ADR)

You have the right to request mediation or other forms of alternative dispute resolution (ADR) for the issues that are available for mediation. **You will have to pay for at least 50 percent of the cost of mediation or ADR.** Rural Development will pay for the other 50 percent of the cost, provided the Agency has sufficient resources from its appropriated funds. If the Agency does not have sufficient resources, you will be advised how much, if any, the Agency can contribute to the cost of mediation or ADR. If you need the information to assist you in deciding whether to seek mediation or ADR, you may contact the Rural Development State Director listed below.

If you elect to seek mediation or ADR, your written request for this service must be sent to the Rural Development State Director listed below and must be postmarked no later than 30 days from the date of the attached letter. The Rural Development State Director will advise you of the estimated cost of mediation or ADR, the extent to which the Agency can contribute to the cost, and the process and procedures for this service. In States with a USDA-sponsored mediation program, you will generally be referred to such service. In States without a USDA-sponsored mediation program, you will be provided with the name or names of mediators. You will be advised directly by the mediation or ADR source if they can mediate your case. Once you request mediation or ADR, it stops the running of the 30-day period in which you may request an appeal (described in Option 3). If mediation or ADR does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth in Option 3.

When mediation or ADR is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. If you request mediation or ADR prior to filing for an appeal, the number of days you will have to request an appeal will be 30 days from the adverse decision minus the number of days you took to request mediation. Mediation or ADR does not take the place of, or limit your rights to, an appeal to the National Appeals Division (NAD); however, a NAD appeal hearing would take place after mediation or ADR. You may skip mediation or ADR and request an appeal hearing. However, in doing so, you will automatically waive your rights to an informal meeting, mediation, or ADR.

[Insert Rural Development State Director address]

Option 3 - Request an Appeal

You may request an appeal hearing by the National Appeals Division (NAD) rather than an informal review, mediation, or ADR. **There is no cost for an appeal.** Your request for an appeal must be made no later than 30 days from the date you receive the attached letter. You must write the Assistant Director, NAD, for your region at the following address:

[Insert NAD Assistant Director address]

The request for a NAD hearing must state the reasons why you believe the decision is wrong, be personally signed by you, and must include a copy of the attached letter. A copy of your request must also be sent to the Rural Development State Director at the address specified above.

You have the right to an appeal hearing within 45 days of the receipt of your request. You or your representative or counsel may contact this office anytime during regular office hours in the 10 days following the receipt of your request for a hearing to examine or copy relevant non-confidential material in your file. Photocopies will be provided to you. Your representative or counsel should have your written authorization to represent you and review your file.

The NAD Hearing Officer will contact you regarding a time and place for the hearing. You may also request a teleconference hearing in lieu of the face-to-face hearing. At any time before the scheduled hearing you may also request that the Hearing Officer make a decision without a hearing. If you do, the Hearing Officer's decision will be based on the Rural Development file, any written statements or evidence you may provide and any additional information the Hearing Officer thinks necessary.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants based on race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit

Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580

The Fair Housing act prohibits discrimination in real estate related transactions, or in the terms and conditions of such a transaction because of race, color, religion, sex, disability, familiar status, or national origin. The federal agency that is responsible for enforcing this law is the U.S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U.S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Handbook Letter 102 (3560)

REFERENCE: HB-1-3560 Chapters 3, 4, 5 and 8

PURPOSE: Letter of Conditions, Loan Approval, or Obligation of Funds

RURAL DEVELOPMENT
[LOCATION]

Date: [insert today's date]

SUBJECT: Loan Approval Conditions for [insert name of applicant]
[insert name of project]
[insert number of units - Type (E or F) - number of RA units]
[insert location of project]

TO: [insert Owner/Managing General Partner]
[insert Address]

Dear [insert name of applicant]:

This letter establishes conditions under which USDA – Rural Development will approve a Rural Rental Housing loan for the subject applicant in the amount of \$[insert amount], in participation with funds provided by [insert source of leveraged funds, such as State HFA], subject to the following:

The conditions indicated in Part I must be met before the start of construction or closing of the interim loan, whichever occurs first. The conditions indicated in Part II must be met as indicated in the condition itself prior to project completion and closing of the USDA-Rural Development loan. In all cases, “the applicant” means [insert name of applicant].

PART I - APPROVAL:

- (1) The applicant must contribute 5 percent towards the project as initial equity. The amount of the required contribution is \$[insert amount] and must be in the form of cash and/or land.

The above contribution must be made at or before closing of the interim financing loan. This amount represents the applicant's initial investment on which the 8 percent return to owner will be allowed.

- (2) This project will be funded utilizing interim financing for construction in accordance with 7 CFR 3560.71(b). The applicant will be advised of the procedure and furnished with the appropriate forms. No loan funds will be disbursed until the applicant's full required contribution has been expended.
- (3) The applicant will provide a detailed list of all materials and equipment needed to be funded by the initial operating capital in accordance with 7 CFR 3560.64. The initial 2 percent operating capital of \$[insert amount] plus any additional amount needed for the items above, must be provided in cash. Evidence of deposit to the general operating account must be furnished to the State Office prior to the start of construction.
- (4) Organizational documents, including any amendments, must meet USDA–Rural Development requirements and be approved by the Office of General Counsel before the loan is closed.
- (5) Competitive bidding for this project is waived in accordance with RD Instruction 1924-A, § 1924.13 (e) (1) (vii) (A).
- (6) Authorization is hereby granted to pay debts for items of expense incurred after the application was filed pursuant to 7 CFR 3560.53.
- (7) The applicant's final plans and specifications must be reviewed by the State Architect before final acceptance is made by the State Office. No work shall be authorized before final acceptance is made.
- (8) The State Office will arrange a pre-construction conference before any work starts on the project.
- (9) A 100 percent Performance Bond and 100 percent Payment Bond is required for this project, unless waived in writing by the interim lender. The applicant will submit either a copy of the bond or the waiver by the interim lender with each copy of the Construction Contract submitted for approval.
- (10) Prior to the start of construction, the applicant, contractor and any subcontractor, material supplier or equipment lessor sharing an identity of interest must submit the accounting system that the applicant, contractor, subcontractor, material supplier or equipment lessor and/or the CPA or LPA proposes to set up and use in maintaining a running record of the actual cost. In order to be acceptable, it must allow for a trade-item basis comparison of the actual cost as compared to the estimated cost submitted in accordance with § 1924.13 (e) (1) (iv) of RD Instruction 1924-A, i.e., the accounting system trade-item basis must be consistent with *Form RD 1924-13, Estimate and Certificate of Actual Costs*.
- (11) The Construction Contract with appropriate attachments (including the bonds or waiver) between the borrower and the contractor for development of a Rural

Rental Housing project must be approved by USDA-Rural Development before the start of construction. Four copies with original signatures must be submitted to the State Office for review.

- (12) Construction Contracts of more than \$10,000 will be subject to the provisions of RD Instruction 1901-E, § 1901.205, Nondiscrimination in Construction Financed with RD Loan. This will be discussed at the pre-construction conference. Contractors with 100 or more employees, and those with 50 or more employees should complete *Forms SF-100, Equal Employment Opportunity Employer Information Report EEO-1 or AD-425, Contractor's Affirmative Action Plan for Equal Employment Opportunity*, respectively, and attach same to the Construction Contract.
- (13) A USDA- Rural Development official will sign *Form RD 400-3, Notice to Contractors and Applicants*, and provide copies at the pre-construction conference. USDA-Rural Development Officials will also make sure that the "Equal Employment Opportunity is the Law" sign is posted at the project site.
- (14) The applicant's architect must mail a copy of the project inspection report to the USDA-Rural Development State Office immediately after each inspection.
- (15) All construction will be in accordance with the conditions set forth in RD Instruction 1924-A.
- (16) The applicant must provide USDA-Rural Development with evidence that they have met the Historic Preservation requirements. Favorable comments of the State Historic Preservation Officer must be obtained.

NOTE: If cultural resources are encountered during construction, construction will temporarily cease and the USDA-Rural Development State Office and the Division of Historic Preservation & Archeology will be notified.

- (17) *Form RD 3560-34, Loan Agreement*, will be executed by the applicant. Three copies are enclosed with this memorandum. All three copies are to be dated and signed by the applicant as soon as possible. The original and one copy are to be returned to the USDA-Rural Development State Office after signing. These must be returned prior to the start of construction. **This loan is subject to restrictive-use provisions for the life of the loan. The restrictive-use provisions and prepayment restriction will be included in the Promissory Note and/or Deed of Trust at the time of the USDA-Rural Development loan closing.**
- (18) The applicant will execute *Form RD 400-1, Equal Opportunity Agreement*, and *Form RD 400-4, Assurance Agreement*, as part of the pre-construction conference.

- (19) The applicant and any Identity of Interest (IOI) entity principals must complete the IOI *Form RD 3560-30 and Form RD 3560-31* and submit to the USDA-Rural Development State Office.
- (20) *Form SF 424.2, Application for Federal Assistance*, must be revised and initialed by the applicant to reflect the proper funding and development cost for the project (if necessary).
- (21) *Form RD 1924-13, Estimate and Certificate of Actual Cost*, must be revised to reflect the proper development cost for the project (if necessary).
- (22) *Form RD 3560-7, Multiple Family Housing Project Budget/Utility Allowance*, must be revised to reflect the correct debt repayment, interest rate, reserve requirement, and return to owner (if necessary).
- (23) Applicant to provide USDA-Rural Development with a current financial statement, including a separate statement for any general partner and certificate of appropriate net worth for limited partners in accordance with 7 CFR 3560.55 and Chapter 4 of the Loan Origination Handbook.
- (24) *Form HUD 935.2, Affirmative Fair Housing Marketing Plan*, must be completed in its entirety by the applicant and then, along with necessary attachments, be submitted to the USDA-Rural Development State Office for approval. When approved, the “Plan” must be posted in any and all rental offices serving the project. The participant must maintain records reflecting their efforts in fulfilling the requirements and objectives of the “Plan” and such records will be made available to USDA-Rural Development for review.
- (25) Both the applicant and the general contractor must execute a “Certification for Contract, Grant and Loans” (separate certificates) per RD Instruction 1940-Q.

PART II - CLOSING CONDITIONS

- (1) An updated American Land Title Association (ALTA) Preliminary Title Report must be provided by the applicant to the USDA-Rural Development State Office, prior to submission to OGC for closing instructions.
- (2) Public liability and property damage insurance in a minimum amount recommended, in writing, by the applicant's attorney must be approved by the USDA-Rural Development State Office, prior to loan closing, and letter and evidence of coverage must be provided.
- (3) Worker's Compensation: The applicant will be required to carry workers compensation insurance for all its employees in accordance with the applicable state laws.
- (4) Fidelity Coverage: Any personnel entrusted with the receipt, custody, and disbursement of any project monies, securities, or property will be covered. The type of coverage policy and minimum amount of coverage will be in accordance with 7 CFR 3560.62(d) and 7 CFR 3560.105. Fidelity coverage must be obtained before any interim financing funds or loan funds are made available.
- (5) Fire insurance, including extended coverage, on buildings included as security for the loan will be required in an amount not less than the "Total Estimated Reproduction Cost New of Improvements" on page 5 of *RD Form 1922-7, Appraisal Report for Multi-Unit Housing*. Evidence of the first year paid premium must be provided to USDA-Rural Development prior to or at closing.
- (6) The loan is to be closed in accordance with RD Instruction 1927-B and supplemental instructions issued by the Regional Attorney. An ALTA Loan Policy of Title Insurance will be required.
- (7) A Mortgage or Deed of Trust will be taken on the security property. Exceptions to the Preliminary Title Report will be handled in accordance with RD Instruction 1927-B.
- (8) A Financing Statement and Security Agreement will also be taken as security for the loan in accordance with 7 CFR 3560.61. OGC will provide necessary forms and instructions as part of their issuance of loan closing instructions.
- (9) When it has been determined that loan closing conditions can be met, the following actions will be taken:
 - a. The State Office will prepare *Form RD 1927-15, Loan Closing Instructions and Statement*, and *Form RD 3560-52, Promissory Note*, for this loan prior to submission to OGC for closing instructions, if needed.

To facilitate review by the Regional Attorney, the following items should be filed at the top of their respective positions:

Position 2: *Forms RD 3560-51, Multi-Family Housing Obligation and Fund Analysis, and RD 3560-52, Promissory Note* (A separate Promissory Note is required for the initial and each subsequent loan.)

Position 5: Current Preliminary Title Report, Executed *RD Form 3560-33 or 3560-34, Loan Agreement*, and the organizational documents. Any changes previously required in the organizational documents by USDA-Rural Development must be completed. Certified copies of the amendments must be provided by the applicant.

- b. The State Office will proceed to order a loan check so that it is available when the loan is ready for closing.
 - c. Before closing, USDA-Rural Development will be provided with *Form RD 1924-9, Certificate of Contractor's Release, and Form 1924-10, Release by Claimants*, executed by all persons who furnished materials or labor in connection with the contract. If such statements cannot be obtained, the loan may be closed in accordance with § 1924.6(a) (12) (vi) (C) of RD Instruction 1924-A.
- (10) The USDA-Rural Development State Office will schedule a pre-occupancy conference with the applicant to discuss advertisement of available units, affirmative marketing practices, management and tenancy documents and requirements after occupancy, in accordance with 7 CFR part 3560, subpart C. The steps necessary to close the USDA-Rural Development loan (pre-closing conference) will also be discussed at the time of the pre-occupancy conference.
 - (11) The following materials will be given to and discussed with the borrower and management agent (if applicable) at the pre-occupancy conference:
 - (a) Asset Management Handbook.
 - (b) Booklets entitled, *Audit Program* and *Audit Program Addendum No. 1*.
 - (c) Forms and FMI's: 3560-7, 3560-10, 3560-29, 3560-8.
 - (d) Fair Housing and "...and Justice for All" Posters
 - (12) The applicant will provide USDA-Rural Development with an initial operating budget indicating the interim year of operation and first full year of operation prior to occupancy. The budget must show enough income to pay all expenses and deposit the required amount in reserve, and must be approved by the State Office.
 - (13) Initial rents cannot exceed those shown in the approved budget required in preceding paragraph.

- (14) *Form RD 3560-7, Multiple Family Housing Project Budget/Utility Allowance* must be completed and executed in duplicate by the applicant, or agent, and submitted to the USDA-Rural Development State Office for approval. This should be done at least 60-90 days prior to occupancy and must include the required backup data.
- (15) The applicant's tenant lease, application for admission, management agreement, if applicable, and statement of policy regarding occupancy and tenant selection must be acceptable to USDA-Rural Development prior to rent-up. The Management Plan is required prior to the start of construction or loan closing, whichever first occurs. Written approval by the USDA-Rural Development Servicing Official is required. These documents must fully meet the requirements of 7 CFR part 3560, subparts C and D, and be approved by the State Office prior to any rent-up activity.
- (16) When the project is nearing completion, the applicant will provide the State Office with the original certification of actual cost of construction prepared by a Licensed Public Accountant or Certified Public Accountant. Forms and instructions may be obtained from the USDA-Rural Development State Office. These should be requested in time for the pre-occupancy conference.
- (17) The applicant's architect shall certify that the contractor has completed the work in accordance with USDA-Rural Development approved plans, specifications, and special or general conditions. This certification shall be issued at time of final inspection.
- (18) The *Form RD 1924-19, Builder's Warranty*, must be executed by the contractor and owner at time of final inspection. Occupancy is not permitted prior to the USDA-Rural Development final inspection.
- (19) *Form RD 3560-9, Interest Credit and Rental Assistance Agreement*, will be prepared and executed at loan closing. Interest Credit Plan II will be used for this project. When the closing information is input into the AMAS system, the M4Z, "Daily Interest Subsidy" will also be entered.
- (20) *Form RD 3560-27, Rental Assistance Agreement*, must be completed, dated and executed in triplicate at the same time as *Form RD 3560-9*.
- (21) It is recommended that the site manager be duly certified by an acceptable certification program. A copy of the site manager's certificate may be provided for inclusion in the USDA-Rural Development servicing file.
- (22) Evidence of Affirmative Fair Housing Marketing activity must be provided to and found acceptable by the MFH Loan Specialist.

- (23) A satisfactory laundry lease, if applicable, is to be provided to the State Office.
- (24) Applicant must certify as to the availability or non-availability of other government assistance immediately prior to loan closing. If other government assistance becomes available prior to loan closing, the loan amount will be decreased.
- (25) At loan closing, the USDA-Rural Development State Office will send the final terms of funding to the state housing finance agency or other tax credit allocating agency, and request a copy of *Form(s) IRS 8609, Low-Income Housing Credit Allocation Certification*.
- (26) Prior to closing, each loan approval and closing condition will be initialed and dated upon completion. Under no circumstances will USDA-Rural Development close this loan if any approval or closing condition is not fully satisfied or you have not received a written waiver of that requirement from the State Office. Immediately after closing, we will conduct a post-closing review to verify that the loan has been properly closed in accordance with the escrow instructions given the title company. This includes the proper completion, recordation and disbursement of forms.

[insert name of MFH Specialist]
MFH Specialist

Loan Closing Certification
Date Closed: *[insert date closed]*

Name and Address of Title Company

Signature of MFH Specialist

Handbook Letter 103 (3560)

REFERENCE: HB-1-3560 Chapter 4

PURPOSE: Cover Letter to the Initial Application Package

RURAL RENTAL HOUSING INITIAL LOAN APPLICATION PACKAGE

Date: *[insert today's date]*

TO: RURAL DEVELOPMENT
[INSERT ADDRESS]

RE: *[insert name of applicant]*
[insert name of project]
[insert location]

The following checked items, assembled in the order shown, are submitted for *[insert name of applicant]* for the purpose of obtaining a rural housing loan for the purpose of *[insert constructing or rehabilitating/repairing]* multi-family rental housing located at *[insert location/address]*.

Forms to be Included

- Form SF 424, Application for Federal Assistance*, (include for construction) provides summary information about the project and the applicant, when completed.
- Form RD 1924-13, Estimate and Certificate of Actual Costs*, provides detailed cost estimates that the Loan Originator will review to judge reasonableness.
- Form RD 1940-20, Request for Environmental Information*, requests the applicant to provide specific environmental information about the proposed project. Instructions to the applicant are part of the form. The form will be used by the Agency to complete an environmental review of the proposed project.

- *Form RD 3560-7, Multiple Family Housing Project Budget/Utility Allowance*, provides a schedule of proposed rents and utilities and anticipated operating and maintenance costs. The form will be used by the Loan Originator to conduct the project feasibility analysis and to determine whether the utility allowance is accurate.
- *Form RD 3560-25, Initial Request for Rental Assistance or Operating Assistance*, must be completed by the applicant if rental assistance is required for the project.
- *Form RD 1944-37, Previous Participation Certification*, describes an applicant's prior involvement with Federal assistance.
- *Form RD 410-9, Statement Required by the Privacy Act*, (for individuals only), and *Form RD 410-7, Notification to Applicant on Use of Financial Information from Financial Institution* (for individuals only), will allow the Agency to verify information provided by the loan Applicant.

Required Applicant/Project Information

- I. To establish applicant eligibility:
 - A. Current (within 6 months) financial statements with the following paragraph certified by someone with the legal authority to do so:

“I/we certify the above is a true and accurate reflection of my/our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part.”
 - B. Check for \$28 from individual applicants and \$40 from organizational applicants made out to United States Department of Agriculture. This will be used to pay for credit reports obtained by the Agency.
 - C. Statements signed by applicants that they will pay any cost overruns.
 - D. Proposed limited partnership agreement and certificates of limited partners, if applicable. (Agency requirements should be contained in one section of the agreement and their location identified by the applicants or their attorney in a cover sheet.)
 - E. If a nonprofit organization:
 1. Tax-exempt ruling from the IRS designating them as a 501(c)(3) or 501(c)(4) organization. If the designation is pending, a copy of the designation request must be submitted.

2. Purpose statement, including the provision of low income housing.
 3. Evidence of organization under state and local law, or copies of pending applications.
 4. List of Board of Directors.
- F. If a limited liability company, proposed operating agreement and the authorized agent who has the authority to complete the loan application and loan closing documents.
- G. If a trust, organizational documents and attorney opinion letter that the trust is validly formed and identifying the authorized representative to act on the trust's behalf.
- II. To establish project feasibility:
- A. Market feasibility documentation: Either a market study or a market survey, as appropriate.
 - B. Type of project and structures proposed (total number of units by bedroom size, size of each unit type, size and type of other facilities).
 - C. Schematic drawings:
 1. Site plan, including contour lines;
 2. Floor plan of each living unit type and other spaces, such as laundry facilities, community rooms, stairwells, etc.;
 3. Building exterior elevations;
 4. Typical building exterior wall section; and
 5. Plot plan.
 - D. Description and justification of related facilities, schedule of separate charges for related facilities.
 - E. Type and method of construction (owner builder, negotiated bid, or contractor method).
 - F. Estimated costs (loan applicant completes *Form 1924-13*).
 - G. Statement of proposed management.

- H. Congregate services package/plan (if applicable).
- I. Statement of support from other Government services providers to the project (congregate only).
- J. Response to the Uniform Relocation Assistance Act (if applicable).

III. To establish project financing:

- A. Statement of budget and cash flow (applicant completes *Form RD 3560-7*), including type of utilities and utility allowance, if applicable and contribution to reserves.
- B. Life cycle cost analysis.
- C. Congregate services charges (if applicable).
- D. Status of efforts to obtain leveraged funds.
- E. Proposed construction financing (interim or multiple advance; if interim financing, letter of interest from intended lender).

IV. To understand environmental and site information:

- A. Environmental information (applicant completes *Form RD 1940-20*).
- B. Evidence of compliance with Executive Order 12372 (if applicable) *Form SF 424* is sent to a clearinghouse for intergovernmental review.
- C. Phase I due diligence (Environmental Site Assessment; see Chapter 3).
- D. Map showing location of support services.
- E. Evidence of submission of project description to SHPO with request for comments.

Comments regarding relevant offsite conditions:

[insert any pertinent comments]

Handbook Letter 104 (3560)

REFERENCE: HB-1-3560 Chapter 5

PURPOSE: Letter To Interim Lender

RURAL DEVELOPMENT
[LOCATION]

[insert name of interim lender]
[insert address of interim lender]

Dear [insert name of interim lender]:

[use this paragraph for organizations]

Reference is made to a request from the [insert applicant name] through [insert name of general partner or principal, and title] for interim financing from your firm to construct a housing facility at the interest rate, terms, and conditions agreed upon as reflected in the attached letter.

[use this paragraph for individuals]

Reference is made to a request from [insert name of individual] for interim financing from your firm to construct a rental housing facility at the interest rate, terms, and conditions agreed upon as reflected in the attached letter.

This letter will confirm certain understandings on behalf of the Rural Development.

Final drawings, specifications, and all other contract documents have been prepared and approved, and the applicant is prepared to start construction. The applicant and Rural Development have determined that the conditions of loan closing can be met. Rural Development funds have been obligated for the project.

Rural Development has required the applicant to deposit \$[insert amount] with your firm to be used before any interim loan funds or other loan or grant funds. You may first advance the applicant funds on deposit, and then advance the proceeds of the interim loan or other loan and grant funds in accordance with the terms and conditions stated in your attached letter, to pay for construction and other authorized and legally eligible expenses incurred by the applicant. It is understood, however, that advances of both the applicant's funds and the interim loan funds will be made only upon presentation of proper

statements and partial payment estimates proposed by the builder and approved for payment by the consulting architect, applicant, and Rural Development official.

We have scheduled the Rural Development loan to be closed when construction is substantially complete in accordance with the Rural Development-approved contract documents, drawings, and specifications, and the applicant provides evidence and a signed certification indicating that there are no unpaid obligations outstanding in connection with the project. At that time, funds not exceeding the Rural Development loan amount will be available to pay off the loan advances your lending institution has made for authorized approved purposes, including accrued interest on the Rural Development loan to the date of closing.

Rural Development cannot provide you with an unconditional letter of commitment guaranteeing Rural Development loan closing. Factors such as noncompletion, default, unacceptable workmanship, and marked deviation from approved drawings and specifications could prevent the Rural Development loan from being closed.

These problems can be minimized by making a thorough review of the contract documents and drawings and specifications, evaluating the qualifications and past performance of the builder, and obtaining an adequate corporate surety bond guaranteeing both payment and performance. If the builder is unable to provide a surety bond, we suggest that you consider making advances for partial payments to the builder based upon no less than 60 percent and no more than 90 percent of the value of acceptable work in place, less the aggregate of previous payments.

The following are additional safeguards to help ensure Rural Development loan closing:

1. We invite you or your representatives to accompany Rural Development personnel during construction inspections so that at least three or four joint inspections can be made at critical points during construction, including the final inspection, to help ensure that construction is proceeding in accordance with the Rural Development-approved drawings and specifications.
2. Rural Development will maintain its commitment in the amount of the obligated loan funds for a reasonable period of time after the expiration of any specified completion dates, provided work on the project is progressing satisfactorily and any identified problems have been resolved.
3. Rural Development will not arbitrarily abandon your lending institution in the event of default. If the contractor defaults, Rural Development will attempt to provide financial assistance to the applicant in accordance with our administrative procedures and lending requirements if a new contractor can complete the project for a total cost within the security value of the project. If this is not possible, or if the Rural Development loan applicant becomes unable or unwilling to continue with the project, Rural Development will attempt to provide financial assistance to any eligible applicant to purchase the completed project from your lending institution (subject to the availability of funds, our administrative procedures, and our lending requirements).

4. Rural Development is aware that circumstances such as subsurface ground conditions and change orders necessitated by required changes in the work to be performed may cause cost increases after Rural Development loan approval and the obligation of Rural Development loan funds. When justified, Rural Development may make subsequent loans to help cover the eligible costs, provided additional loan funds are available, the change orders were approved by Rural Development, the increased costs are legitimate and are for authorized loan purposes, and the total cost of the project is within its security value.

Your assistance to the applicant is appreciated.

Sincerely,

State Director

REFERENCE: HB-1-3560 Chapter 7

PURPOSE: Notice To Proceed

[insert date]

[insert name of borrower]
[insert address of borrower]

RE: [insert name of project]
[insert location of project]

Dear [insert name of borrower]:

Pursuant to the terms of the Contract Documents and Loan Commitment dated [insert date], you are hereby authorized to commence work necessary to complete the project. Accordingly, this letter will serve as your formal "Notice to Proceed."

It is expected that construction shall be completed within [insert the number of days] consecutive calendar days. The construction period shall commence on [insert start date] and will conclude on [insert finish date]. It is the responsibility of the Contractor to meet the schedule as set forth and in accordance with the terms and conditions of the Contract.

[Insert name of agency official] will serve as the Agency's Contract Representative for this project. Please return this "Notice to Proceed" signed and dated where indicated, by an authorized official of your organization.

If clarification is required, do not hesitate to contact [name of contact] by phone at [insert phone number].

Sincerely,

[insert name of Agency Official]

RECEIPT IS ACKNOWLEDGED:

By Borrower: _____
[signature of authorized official] [date]

By Contractor: _____
[signature of authorized official] [date]

Handbook Letter 106 (3560)

REFERENCE: HB-1-3560 Chapters 4 and 12

PURPOSE: Notice of Pre-application Review Action

RURAL DEVELOPMENT
[LOCATION]

Date: [insert today's date]

[Insert Applicant's Name]
[Insert Applicant's Address]

SUBJECT: Notice of Pre-application Review Action [Proposal Name, Location]

We reviewed your pre-application for Section 515 Rural Rental Housing assistance and determined that your proposal is eligible for funding by this agency. Your proposal received [insert number of priority points] priority points and was selected for further processing under the National NOFA.

Therefore, a formal application, meeting the requirements of Chapter 5 of the HB-1-3560, must be filed with our office by [insert date 30 days from date of this notice]. A "Rural Rental Housing Application Package" is enclosed to assist you in this effort. The loan request may not exceed \$[insert request limit] and [insert limit of number of units] Rental Assistance units.

Please see the attachment to this notice for conditions under which further processing will continue.

Within one week of receiving this notice, you are instructed to contact [the individual named below] to set up a meeting. At this meeting, you will be given additional guidance and copies of appropriate exhibits and forms that are needed in order to complete the final application process. Any outstanding issues will also be addressed at this time. The Agency may, at its discretion, choose to hold a telephone conference for this purpose as a substitute for an in-person meeting.

You may contact me by telephone at [insert telephone number] with any questions concerning this notice or the application process.

[insert name of MFH Loan Specialist]
Attachment

ATTACHMENT TO NOTICE OF PRE-APPLICATION REVIEW
INVITING A FORMAL APPLICATION

- 1) The action taken herein is based upon representations made in your pre-application. Any changes therein, including but not limited to changes in complex cost, size, or scope of complex, rental rates or subsidy costs to USDA-Rural Development, affect this decision and must be reported to and approved by Rural Development in writing. Any changes not approved by Rural Development will be cause for Rural Development to discontinue processing your request for services. All applicants requesting changes will be required to give full justification for each change and, if Rural Development approval is not given, written reasons will be given with a 30-day negotiation period to resolve the differences.
- 2) This action should not be misconstrued as a reservation of funds, the availability of those funds, or loan approval.
- 3) Loan processing will continue based upon a loan not to exceed the amount specified in this notice.
- 4) If a complete application has not been submitted to Rural Development by the date specified in this notice, we reserve the right to discontinue processing your loan request with 30 days written notice. If a longer timeframe to develop your application is necessary, you should submit a request in writing with specific reasons why a longer timeframe is required with a projected date to accomplish such action. Failure to submit a complete application, or request a longer timeframe, will be considered a lack of interest on your part and a request to withdraw the pre-application.
- 5) You are advised against taking any actions or incurring any obligations that would either limit the range of alternatives to be considered or have an adverse affect on the environment. Satisfactory completion of the environmental review process must occur prior to loan approval. The issuance of this review action does not constitute site approval.

Handbook Letter 107 (3560)

REFERENCE: HB-1-3560 Chapters 4 and 12

PURPOSE: A Letter Informing the Applicant of the Lack of Funds

RURAL DEVELOPMENT
[LOCATION]

Date: [insert today's date]

[Insert Applicant's Name]
[Insert Applicant's Address]

Your application for Rural Development services as been favorably considered by the [insert office location] Loan Committee. This favorable consideration does not necessarily mean a loan will be made to you. You are cautioned not to make purchases, option real estate, or make commitments in anticipation of receiving a loan because of this favorable action.

Funds for making [insert type of loan] are temporarily exhausted. Your application will be held for consideration until funds are available. You will be notified by letter at that time.

Please advise us promptly if there are sufficient changes that would affect your eligibility or if you are no longer interested in obtaining the assistance for which you originally applied.

Sincerely,

[Name of decision maker]
[Title]

REFERENCE: HB-1-3560 Chapters 4 and 12

PURPOSE: Letter Denying Funding due to Ineligibility

[insert date]

[insert name of applicant]
[insert address of applicant]

Dear [insert name of applicant]:

Thank you for your interest in the Rural Rental Housing Loan program. After a thorough review of your [insert either initial or final] application, it has been determined that your proposal does not meet the criteria of the National NOFA and therefore, is ineligible for the Rural Development Housing loan for which you have applied. Our determination is based on the following:

[insert list of specific reason(s) for the ineligibility]

Should you have any questions or wish to further discuss this matter, you may contact [insert name of Specialist] by phone at [insert phone number of Specialist].

Sincerely,

[insert name of MFH Program Director]

Handbook Letter 109 (3560)

REFERENCE: HB-1-3560 Chapter 4

PURPOSE: Letter Informing of National Office Review

[insert date]

[insert name of applicant]
[insert address of applicant]

SUBJECT: Notice of National Office Review
[insert proposal name and location]

Dear [insert name of applicant]:

This letter is to inform you that your initial application has been submitted to the National Office for comprehensive review due to special circumstances involving your project type. We are currently awaiting a response from the National Office. Once the National Office has completed its review, you will be advised of the results.

You may contact me at [insert phone number of Specialist] with any questions concerning this notice or the application process.

Sincerely,

[insert name of MFH Loan Specialist]