



February 28, 2018

**Rural Development**

Curtis M. Anderson  
Acting Administrator  
Rural Housing Service

1400 Independence Ave., S.W.  
Room 5014-S  
Washington, D.C. 20250

Telephone: (202) 692-0268

TO: State Directors  
Rural Development

ATTN: Program Director  
Multi-Family Housing

FROM: Curtis M. Anderson /s/ *Curtis M. Anderson*  
Acting Administrator  
Rural Housing Service

SUBJECT: Mixed Occupancy in the Farm Labor Housing Pilot Program

**PURPOSE:**

The purpose of this Unnumbered Letter (UL) is to announce Rural Development's (RD) limited pilot program to evaluate the logistical feasibility of having mixed occupancy in a Farm Labor Housing (FLH) funded property.

**BACKGROUND:**

As the Farm Labor Housing program is currently implemented in 7 CFR 3560, subparts L and M, FLH projects financed with Multi-Family Housing (MFH) funds are limited to leasing units to retired or current domestic farm laborers and their families.

While mixed occupancy projects are currently part of the MFH portfolio, those properties have been able to operate under MFH's current regulatory structure because the farm labor units were physically and operationally separated from the non-FLH units. There is currently one property, funded partly with FLH funds, that also consists of tenants which are not farm laborers. While the accounting and management of the different units are maintained separately, the units are not physically separated. This operational structure appears to be becoming more prevalent in the low income housing area given owners' use of tax credits and other sources of funding. MFH is conducting a pilot program under its authority found in section 506(b) of the Housing Act of 1949, as amended, (42 U.S.C. §1476(b)) to evaluate mixed occupancy of existing FLH projects that are separated operationally but not physically.

EXPIRATION DATE:  
February 28, 2019

FILING INSTRUCTIONS:  
Housing Programs

**IMPLEMENTATION RESPONSIBILITIES**

The scope and implementation of the pilot program, as established in this UL, will be limited to FLH projects where the loans have been closed and disbursed and are fully operational not later than 30 days after the date of this UL. The pilot program begins with the mixed occupancy property that is already established, and MFH will consider up to three other FLH properties that were built with funding from different sources, including Low Income Housing Tax Credits (LIHTC) and State funds. The aforementioned projects may be accepted into this pilot program until six months from the publication date of this UL. Unlike the Agency's FLH tenant income requirement, LIHTC and State funds do not require that substantial portion of the tenant's income come from farm labor.

The State Office will draft an agreement between the Agency and borrower that will set forth the borrower's obligations in the pilot program and the Agency's monitoring and compliance activities throughout the pilot program.

The Agency will review the pilot program, after four (4) years from the effective date of this UL, to determine the programmatic and logistical advantages and disadvantages to the Government and tenants of operating a FLH project as mixed occupancy. The Agency will consider modifying its regulations to accommodate this structure, if at the end of the pilot program it determines this structure is in the best interest of the Government and the tenants it serves. The Agency's evaluation will be based on, but may not be limited to, the following:

1. Project's financial feasibility,
2. Property management issues;
3. Ability to meet the area's need for FLH units;
4. Compliance with the operational separation;
5. Compliance with the Agency's requests for information;
6. Compliance with the Agency's requests for project/unit access;
7. Costs of other funding sources vs Agency funding – compare the cost of incorporating this structure into its regulations and the management thereof to the cost of the Government as either the sole funding source or with other funding sources with similar tenancy requirements;
8. Tenant satisfaction.

The pilot program will be conducted subject to the following conditions:

1. FLH units will be operationally separated (including but not limited to financial, accounting and property management separation) from the non-FLH units to ensure that the Government's costs are proportional to costs to operate the FLH units in the project. At no time will the FLH project construction costs exceed their proportionate share of units or contribute to ineligible expenses; expense allocation will not exceed proportionate share of operating expenses plus debt service of the RD debt or contribute to ineligible project expenses. These proportionate shares shall remain unchanged from year to year.

2. The project must be monitored periodically for compliance with the operational separation. The State Office, your Regional Office of General Counsel (OGC); if needed, along with the National Office Portfolio Management Division (PMD), will develop those compliance monitoring requirements and include them in the agreement drafted by the State Office for the pilot program participant.
3. Since we are evaluating an operational structure not contemplated by RD guidance, the State Office may employ servicing actions/controls it deems appropriate to monitor and enforce compliance. The State Office, your Regional OGC; if needed, along with the National Office PMD, will develop requirements/controls deemed necessary to service this operational structure and include them in the agreement drafted by the State Office for the pilot program participant.
4. For the purpose of this pilot program, mixed occupancy is defined as allowing low-income tenants other than domestic farm labor as defined by the statute to lease units in a FLH project.

If there are any questions, please contact Janet Stouder, Deputy Director, Portfolio Management Division, at (202) 720-19728.