CHAPTER 2: MULTI-FAMILY HOUSING PROGRAMS AND ASSET MANAGEMENT

2.1 INTRODUCTION

This chapter introduces key aspects of the Section 515 Multi-Family Housing and Section 514/516 Farm Labor Housing programs. Under these programs, the Agency provides direct loans and grants to support the development of affordable rental housing that serves rural areas. The Section 538 Multi-Family Housing Guarantee program—the Agency's third Multi-Family Housing Program that guarantees loans made by private lenders—is covered in a separate regulation, *[7 CFR Part 3565]* and handbook (HB-1-3565).

This chapter also presents the asset management framework that the Agency uses to oversee borrower performance in meeting their responsibilities under the program. The framework provides Loan Servicers with a consistent basis for ensuring that borrowers' operation of projects meets the objectives of the program and complies with applicable program requirements.

Section 1 introduces the types of loans and other forms of assistance available through the Section 515 program and the Agency's objectives in providing this assistance. Section 2 describes the loans, grants, and other assistance available to increase the supply of affordable housing specifically targeted toward farm labor. The chapter concludes with Section 3, which outlines the Agency's asset management framework, as well as the key parties involved.

SECTION 1: SECTION 515 PROGRAM

2.2 OVERVIEW

The Section 515 program offers direct loans to eligible borrowers to provide economically designed and constructed housing and related facilities for very low-, low-, and moderate-income households; elderly households; and persons with disabilities living in rural areas. This section of the chapter describes:

- The types of projects allowed;
- The types of loans available;
- Rental assistance available from the Agency; and
- The Agency's preference for leveraged projects.

2.3 TYPES OF PROJECTS

There are five types of rental projects that can be developed using Section 515 loans:

- Family projects;

- Elderly projects;
- Congregate projects;
- Group homes; and
- Rural cooperative housing.

The housing must be economical and must not include elaborate features, but must be adequate to meet tenants' needs. The project should be of average quality and cost. With the exception of off-farm labor housing, all projects must be developed in locations that qualify as rural areas.

A. Family Projects

A family housing project is a rental property developed for occupancy by eligible very low-, low-, and moderate-income households. Nonelderly and elderly households may occupy the housing. Household income is the only tenant characteristic, except under extraordinary circumstances such as tenant displacement, which is given preference in selecting among eligible applicants for occupancy. Priority is also given to those needing features of an accessible unit if one becomes available. Occupancy may not be restricted to particular groups of eligible households and may include elderly households.

B. Elderly Projects

An elderly project is a rental property that is developed for occupancy solely by eligible elderly households, which include a tenant or cotenant who is disabled or age 62 years or older. Persons with disabilities and their families are permitted to live in elderly housing.

C. Congregate Projects

Congregate projects are rental properties developed for occupancy by eligible very low-, low-, or moderate-income elderly households, individuals with disabilities and families who require some supervision and central services but are otherwise able to care for themselves. Congregate projects consist of private apartments and central dining facilities in which a number of allowable preestablished services are provided to tenants. These projects are not designed to be nursing homes and, therefore, are not allowed to pay for the cost of medical- or healthcare-related services. When leasing units, priority may be given to eligible elderly households who qualify for the services provided by the facility.

D. Group Homes

A group home is housing that is occupied by eligible very low-, low-, and moderate-income elderly persons or individuals with disabilities who share living space within a rental unit and in which a resident assistant may be required.

E. Rural Cooperative Housing

Section 515 loans may be used to finance rural cooperative housing projects operated by nonprofit consumer cooperatives for the benefit of eligible very low-, low-, and moderate-income members, who will own and manage the project.

2.4 TYPES OF LOANS

The rules governing the origination of Section 515 loans differ slightly, depending upon the type of loan being made. The types of loans available under Section 515 include:

- Initial loans;
- Subsequent loans; and
- Assumed loans.

Loans are only made to projects that further the program's objectives and comply with applicable Agency requirements.

A. Initial Loans

Initial loans are made to projects with no existing Agency loan. Most initial loans are made to build new properties. However, the Agency does make initial loans for rehabilitation of existing properties when it is in the Agency's best interest.

The interest rate for these loans is set at the note rate established in RD Instruction 440.1. The Agency then provides interest credit assistance, which reduces the effective interest rate to 1 percent[1]. Interest credit is only provided for units occupied by eligible tenants paying at least 30 percent of their income for rent. The administration of interest credit is covered in Chapter 7 and also in HB-3-3560.

The Agency establishes the term of these loans to correspond to the expected useful life of the property. The maximum term is 30 years with a 50-year amortization period. .

[1] Some existing projects do not receive interest credit, while others receive interest credit that reduces the interest rate to three percent. However, all initial loans made by the Agency following the publication of this handbook will receive interest credit as described here.

B. Subsequent Loans

Subsequent loans can be issued during the term of an Agency loan to help an existing borrower pay for repairs or improvements to the property or in conjunction with the transfer of a property where the purchaser is assuming the initial Agency loan. The key differences between processing requirements for subsequent and initial Section 515 loans are discussed in Chapter 11 of HB-1-3560. Guidance regarding the requirements and procedures for processing project transfers is covered in the HB-3-3560. Subsequent loans may also be used to finance equity to avert prepayment of the project.

C. Assumed Loans

Section 515 loans may be assumed in conjunction with the transfer of ownership of the property. The terms and conditions of the assumption depend upon the needs of the project at the time of the transfer.

1. New Rates and Terms Assumption

Most assumptions of Section 515 loans are new rates and terms assumptions—that is, the purchaser assumes responsibility for all or a portion of the remaining debt. To conserve the Agency’s budgetary resources, the transaction does not involve paying off the old loan and issuing a new initial loan. Instead, the purchaser assumes the outstanding debt, which is reamortized at new rates and terms. New rates and terms assumptions are used when the purchaser will experience financial difficulties under the terms of the initial loan or when a change in rates and terms is necessary to facilitate the transfer. Purchasers may apply for subsequent loans to make up the difference between the amount of debt assumed and the purchase price or to address physical needs at the project.

2. Same Rates and Terms Assumption

Transfers may also take place in conjunction with a same rates and terms assumption. Under this type of assumption, the existing note terms, including the interest rate and the remaining repayment period, do not change.

2.5 PREFERENCE FOR PROJECTS THAT LEVERAGE OTHER FUNDS

To maximize the number of units produced with Section 515 loan funds, the Agency gives preference to project applications for new loans that leverage other funds, thereby reducing the amount of Section 515 loan funds needed to develop the project. The greater the leveraging proposed in a project application, the greater the preference for funding. Examples of funds that count as leveraged funds include borrower resources beyond the minimum required amount, equity generated by the sale of low-income housing tax credits (LIHTCs), a second loan from another lender, or a grant from a state or local public agency or other source.

SECTION 2: Section 514/516 Program

2.6 TYPES OF PROJECTS

The Section 514/516 Farm Labor Housing program provides funds to support the development of housing for farm labor. Section 514/516 assistance differs from the Section 515 loans in the following ways:

- The objective of the program is to provide housing for farmworkers;
- There are no rural restrictions; and
- Agency grants are available to support the development of these projects.

Section 514/516 assistance may be used for Off-Farm Labor Housing projects. On-Farm Labor Housing projects may receive only 514 assistance. They are not eligible for grants (Section 516). Section 514 assistance may be used in conjunction with Federal LIHTCs.

A. Off-Farm Labor Housing

The Agency is authorized to make loans and grants for financing off-farm labor housing to broad-based nonprofit organizations; nonprofit organizations of farmworkers; Federally-recognized Indian tribes, agencies or political subdivisions of state or local government; and public agencies (such as local housing authorities). Section 514 loans can be made to limited partnerships in which the general partner is a nonprofit entity.

B. On-Farm Labor Housing

On-farm labor housing is designed to provide adequate housing for farmworkers involved in a specific farming operation. Individual farmers, family farm corporations or partnerships, or associations of farmers may develop these projects but must operate them on a nonprofit basis. To qualify for occupancy, an individual or a household must simply be employed as part of the farming operation. There is no income restriction governing occupancy. However, immediate family members of individuals with an ownership interest in the farm are prohibited from living in this housing on the property.

2.7 LOANS AND GRANTS

A. Farm Labor Housing Loans

Section 514 loans for Farm Labor Housing projects are very similar to Section 515 loans. However, they differ in two important ways:

- These loans carry a 1 percent effective interest rate (i.e., there is no interest credit); and
- The maximum term for these loans is 33 years.

These loans can be used to finance either Off-Farm or On-Farm Labor Housing projects.

At one time, loans for both types of projects were processed on a first-come, first-served basis. Today, lending decisions regarding loans for Off-Farm Labor Housing projects are handled through a competitive NOFA process, while loans for On-Farm Labor Housing projects are still processed in the order that they are received. Chapter 12 of HB-1-3560 provides more detailed information about the origination process for Farm Labor Housing loans.

B. Farm Labor Housing Grants

Section 516 grants may only be used to support the development of Off-Farm Labor Housing projects. These grants may be used for the same purposes as Section 514 loans when there is reasonable doubt that the housing would not be provided without the grant. Chapter 12 of HB-1-3560 provides more information about the origination process for these grants.

2.8 PREFERENCE FOR PROJECTS THAT LEVERAGE OTHER FUNDS

Like the Section 515 program, the Agency gives preference to applications for Off-Farm Labor Housing projects that leverage other sources of funds. There is no leveraging preference for On-Farm Labor Housing applications.

SECTION 3: SECTION 521 PROGRAM

2.9 OVERVIEW

The Section 521 Rental Assistance program provides assistance to individual residents of Agency financed multi-family projects. Rent subsidies under the Rental Assistance Program ensure that elderly, disabled, and low-income residents of multi-family housing projects financed by RHS are able to afford rent payments. With the help of the Rental Assistance Program, a qualified applicant/tenant pays no more than 30 percent of his or her income for housing.

Residents of multi-family housing projects built under both the Rural Rental Housing Program (Section 515) and the Farm Labor Housing Program (Section 514) are eligible to apply for the Rental Assistance Program. Not all residents of RHS-financed housing developments receive rental assistance.

The Agency and the project owner execute a contract in which the Agency commits payments on behalf of tenants in a designated number of the units. Both the Agency and the project owner agree to be bound by all applicable Agency regulations. The contract becomes effective on the first day of the month in which it is executed (additional units may be covered if funds are available and an additional contract is executed). The agreement may be renewed as many times as funds are made available. State Directors may transfer unused and unneeded contracts or portions of contracts to other projects.

2.10 SECTION 515 & 514/516 PROGRAM

A. Section 515

Owners of Section 515 projects located in areas where prospective applicants are likely to be overburdened by rent or where existing tenants are already overburdened can apply for rental assistance administered by the Agency.

B. Section 514/516

Off-Farm Labor Housing projects may also apply for rental assistance administered by the Agency. The requirements for obtaining rental assistance are the same as for Section 515 projects. Operating assistance may be used in lieu of tenant-specific rental assistance in off-farm labor housing projects financed under Section 514 or Section 516 that serve migrant farm workers. On-Farm Labor Housing projects are not eligible for rental assistance.

SECTION 4: ASSET MANAGEMENT FRAMEWORK

2.11 ASSET MANAGEMENT

The goal of the Agency's asset management procedures is to ensure that projects receiving Agency financing operate in a manner consistent with the program's objectives and comply with applicable requirements. Accordingly, this handbook covers the following aspects of project operation and oversight:

- Project Management;
- Financial Management;
- Physical Condition of the Project;
- Project Occupancy;
- Project Rents; and
- Rental Subsidies.

It presents the program requirements in each of these areas and describes the Agency's procedures for monitoring properties to ensure that borrowers, their agents, and tenants are fulfilling their responsibilities.

In addressing each topic area, the handbook first presents the requirements and procedures for Section 515 rental projects and then discusses differences or additional requirements for other types of projects (e.g., congregate housing, Farm Labor housing, cooperatives).

2.12 KEY ASSET MANAGEMENT ACTIVITIES AND DOCUMENTS

A. Key Agency Activities

The Agency uses the same basic procedures to oversee the performance of all types of multi-family housing projects that it directly finances. While the Agency's oversight activities are essentially the same for all types of projects, the aspects of borrower performance examined during these activities will vary by type of project due to differences in requirements.

Asset Management

Asset management refers to Agency oversight of project performance to ensure that operation of the property furthers the program's objectives and complies with applicable Agency requirements.

Agency oversight activities fall into three major categories:

- Oversight of new projects or borrowers;
- Annual oversight activities; and
- Periodic oversight activities.

The specific activities in each category are summarized in Exhibit 2-1.

Exhibit 2-1

Key Asset Management Activities

Agency Actions for New Projects:

- Conduct pre-occupancy meeting;
- Conduct post occupancy review;
- Review project worksheets; and
- Review of quarterly/monthly reports.

Annual Agency Actions:

- Review project worksheets;
- Review of project annual financial report;
- Annual review of project reserve account (new);
- Annual physical review;
- Review and approval of project budget for the coming year;
- Respond to evidence of potential compliance concerns (e.g., substantiated tenant complaints, reports by other Agency staff or offices, information provided by public or other agency); and
- Respond to servicing requests from borrowers.

Periodic Agency Actions:

- Perform physical inspection of project;
- Perform occupancy review of project;
- Perform supervisory visit; and
- Conduct compliance reviews.

All of the above require follow-up to address deficiencies.

B. Key Documents

Borrowers' responsibilities under the program and evidence that they are complying with program requirements are established through program loan and grant documents. The key program documents used in Agency asset management activities are listed in Exhibit 2-2.

Exhibit 2-2

Key Program Documents

- Mortgage or deed of trust;
- Promissory Note;
- Loan agreement/resolution;
- Grant agreement;
- Interest credit and rental assistance agreement;
- Rental assistance agreement;
- Management plan;
- Management certification;
- Management agreement;
- Affirmative Fair Housing Marketing Plan;
- Project worksheet;
- Utility allowance documentation;
- Tenant certification;
- Dwelling lease;
- Project budget;
- Annual financial report for project; and
- Agency Monitoring Forms.

2.13 ASSET MANAGEMENT PROCEDURES FOR MULTI-FAMILY HOUSING PROJECTS

Chapters 3 through 9 describe the program requirements for Section 515 and 514/516 projects.

A. Property Management (Chapter 3)

Borrowers must comply with a number of program requirements regarding general project management functions. The borrower's plans for project management are documented in management documents (the management plan and management entity profile). The Agency must also approve the project's management agent and review management fees for reasonableness.

B. Financial Management (Chapter 4)

Borrowers must establish project financial management systems and procedures that reflect the complexity of project operations and provide adequate supervision to ensure that program objectives are met. The Agency has specific requirements regarding project accounting, budgeting, financial reporting, and project annual financial reports. The borrower's accounting system identified in the management plan must comply with the Agency's chart of accounts. The Agency will monitor project accounts through project reports and monitoring visits to the site. The Agency approves the budget on an annual basis and reviews financial reports on an ongoing basis.

C. Project Physical Conditions (Chapter 5)

Borrowers are responsible for maintaining their projects' physical conditions to meet program standards for decent, safe, and sanitary housing. Loan Servicers will monitor the quality of the housing through regular physical inspections of the property as well as through the budget process. The Agency will review the borrower's capital budget planning and approve reserve withdrawals for capital improvements. In the event that a borrower fails to meet program standards, Loan Servicers are responsible for ensuring that the borrower takes appropriate actions to correct physical deficiencies.

D. Project Occupancy (Chapter 6)

Loan Servicers will monitor borrowers' compliance with program occupancy rules, ensuring that tenant eligibility requirements are observed and occupancy policies are consistently followed. The borrower must market the project to all eligible applicants and process applications, select tenants, and assign units in a fair and consistent manner. Borrower must also observe Agency rules regarding dwelling leases, tenant recertification, termination of occupancy, and tenant grievance procedures. Loan Servicers will check compliance with these requirements through regular reports and monitoring visits to the site.

E. Rents, Shelter Cost, and Utility Allowances (Chapter 7)

Loan Servicers will review projects to ensure that the borrower establishes appropriate rents, occupancy charges, and utility allowances for individual units and, on an annual basis, review budgets to approve or deny requests for rent changes. Loan Servicers will also ensure that the borrower meets all requirements in handling the following:

- Tenant rent payments during evictions;
- Tenant security deposits; and
- Cases of tenant fraud.

F. Rental Subsidies (Chapter 8)

A multi-family housing project may have one or more types of rental subsidy including Agency rental assistance (RA), HUD Section 8, or other local forms of rental subsidy. Loan Servicers must ensure that borrowers comply with requirements to use RA appropriately. Only eligible projects, units, and tenants may receive rental subsidies. The borrower must enter into a rental subsidy agreement with the appropriate agency. Agency staff has administrative responsibilities for RA including suspending or transferring RA, replacing expiring RA agreements, and processing borrower requests for additional RA, modifying RA agreements and agency oversight of borrower performance.

G. Agency Monitoring (Chapter 9)

Loan Servicers must perform regular reviews of multi-family housing projects to monitor project performance and ensure compliance with program regulations and civil rights laws. Loan Servicers will make efforts to plan and prioritize monitoring activities to focus on the projects that need the most Agency attention. Borrowers will submit reports on an ongoing basis (either monthly or quarterly, as needed) to provide the Agency with much of the information needed to monitor project performance. However, Field Office Staff will also perform site visits as part of annual reviews, physical inspections, and supervisory visit.