

## APPENDIX 4

### HANDBOOK LETTERS REFERENCED IN THIS HANDBOOK

*Handbook Letter 301 (3560), Servicing Letter #1*  
*Handbook Letter 302 (3560), Servicing Letter #2*  
*Handbook Letter 303 (3560), Servicing Letter #3*  
*Handbook Letter 303-A (3560), Servicing Letter #3 for CMP*  
*Handbook Letter 304 (3560), Preliminary Determination Notice*  
*Handbook Letter 304-A (3560), Borrower Preliminary Determination Notice*  
*Handbook Letter 305 (3560), Final Determination Notice/Demand Letter*  
*Handbook Letter 305-A (3560), Borrower Sent Final Determination  
Notice/Demand Letter*

REFERENCE: HB-3-3560 Chapter 9

PURPOSE: Servicing Letter #1

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ROUTINE NOTICE OF SERVICING RESULTS/CONCERNS

[insert date]

Dear [insert name of borrower]:

We are writing to inform you of the results of a recent review of certain selected aspects of your operations. A copy of the results of our review is attached [*Attach copy of supervisory visit report, physical inspection report, compliance review, reserve records, notice of payment due, etc.*].

Please review the attached material and note the areas of concern listed. [*if necessary, insert “We want to especially bring to your attention the following items:”*]

We are asking that you contact this office within 15 days of the date of this letter to inform us of the corrective actions you have taken, or plan to take, to correct the concerns listed. Our office address and telephone number are: [*insert address and telephone number*]

Sincerely,

[*Signature and title of Official*]

Attachment

Handbook Letter 302 (3560)

REFERENCE: HB-3-3560 Chapter 9

PURPOSE: Servicing Letter #2

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NOTIFICATION OF SERIOUS SERVICING CONCERNS

[insert date]

Dear [insert name of borrower]:

We are writing to inform you that certain aspects of your project operations are of serious concern to the Agency.

A brief description of the items of concern which warrant attention is [insert either: "provided below:" or "attached."]

We would like to arrange a meeting to discuss these concerns. [insert either: "Please contact our office to confirm if you can make the tentatively scheduled meeting at the following time, date, and location:" or "Please contact our office within 15 days of the date of this letter to make the necessary arrangements"]. Our address and telephone number are [insert address and telephone number].

Please be prepared to discuss the matters of concern identified. [insert: "In particular, you may want to bring the following information to the meeting:"]

We look forward to hearing from you.

Sincerely,

\_\_\_\_\_  
[Signature and title of Official]

Attachment

REFERENCE: HB-3-3560 Chapter 9

PURPOSE: Servicing Letter #3

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NOTIFICATION OF INTENT TO PURSUE MORE FORCEFUL  
SERVICING ACTIONS

[insert date]

Dear [insert name of borrower]:

We regret that earlier attempts to resolve [state the problems] have not been successful. We are writing to inform you that Rural Development intends to take further action unless alternative arrangements are promptly made with this office. If you have not contacted us within 15 days, we intend to pursue the [insert either: "following actions:" or "attached actions."]

[List actions, e.g., Forward a problem case report to the State Director, recommend an investigation by the Office of the Inspector General, demand a change in project management, place a recoverable cost charge on the account, forward a recommendation to the State Director to issue a Notice of Acceleration, etc.]

We are hopeful we can avoid the necessity of taking the steps outlined above. Unfortunately, we will be forced to do so unless we hear from you within 15 days from the date of this letter.

Please contact our office immediately if you wish to avoid the actions described above.

Sincerely,

\_\_\_\_\_  
[Signature and title of Official]

Attachment

REFERENCE: HB-3-3560 Chapter 9

PURPOSE: Servicing Letter #3-A

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NOTIFICATION OF INTENT TO PURSUE CIVIL MONETARY PENALTY ACTION

[insert date]

Dear [insert name of borrower]:

We regret that earlier attempts to resolve [state the problems] have not been successful. We are writing to inform you that Rural Development will be taking further action unless alternative arrangements are promptly made with this office. If you have not contacted us within 15 days, we intend to forward a recommendation to the Administrator to pursue Civil Monetary Penalty action in an effort to bring about program compliance. The open violations resulting in this action as of the date of this letter are:

1. [list the violations]
- 2.
- 3.

The maximum civil money penalty that may be imposed per violation, in accordance with 7 CFR 3.91(b)(8) and 543 (b)(3)(A) of the Housing Act, is \$70,881.00.

Upon receipt of this letter, you should become familiar with the rules governing the Agency's adjudicatory hearing proceedings set forth in 7 CFR part 1, subpart H. You will be given the opportunity to settle with the State Director prior to the hearing. Failure to respond adequately to the Agency within the 15-day period may result in issuance of a complaint under 7 CFR 3560.461 without consideration of information that you may wish to provide.

We are hopeful we can avoid the necessity of taking the steps outlined above.

Please contact our office immediately if you wish to avoid the actions described above.

Sincerely,

\_\_\_\_\_  
[Signature and title of Official]

REFERENCE: HB-3-3560, Chapter 9

PURPOSE: Preliminary Determination Notice for Initial Letter to Recipients of  
Unauthorized Assistance

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PRELIMINARY DETERMINATION NOTICE

[insert date]

Dear [insert name of borrower or tenant]:

Rural Development has determined that (you)(name of tenant) (have, has) received unauthorized financial assistance in the form of a (loan, grant, subsidy) amounting to \$ \_\_\_\_\_ which must be repaid.

(Insert a paragraph briefly describing the circumstances under which the unauthorized assistance was extended, including the reason(s) as provided in 7 CFR part 3560 (Subpart O).

**\*If unauthorized assistance due from tenant:**

*You must notify the tenant in writing that a determination has been made that \$ in unauthorized assistance was received. Please provide a copy of this notice to our office within seven (7) business days.*

*The unauthorized assistance determination notice is a preliminary notice, not a demand letter. The unauthorized assistance determination will:*

- (1) Specify the reasons the assistance was determined to be unauthorized;*
- (2) State the amount of unauthorized assistance to be repaid and specify the parties responsible for repayment of the unauthorized assistance;*
- (3) Establish a place and time when the persons receiving the unauthorized assistance determination notice may meet with you to discuss issues related to the unauthorized assistance notice such as the establishment of a repayment schedule; and,*
- (4) Advise the tenants they may present facts, figures, written records, or other information within a specified period of time which might alter the determination that the assistance received was unauthorized.*

*Upon request by the tenants, you will grant additional time for discussions related to an unauthorized assistance determination notice. You must notify this office of schedule revisions when additional time is granted to the tenants in this unauthorized assistance claim.*

*After you have met with the tenants please provide a written explanation as to your findings and what, if any, corrective arrangements (e.g., recovery of improper benefit agreements, evictions, legal proceedings, etc.) you are making. Complete Form RD 3560-65 and have the tenant sign the form as their agreement to repay. **Please provide this office the explanation within 10 days of the date of the meeting with the tenant, along with the signed Form RD 3560-65.***

*Should recovery of improper payments be required, Agency regulations require collection be made by lump sum cash payment, or payment over a reasonable period of time.*

*If the tenant fails to respond to the unauthorized assistance determination notice or fails to agree to a repayment schedule, please send Handbook Letter 305, Final Determination/Demand Letter to the tenant and a copy to this office. If you receive no response to this letter, please return the Form RD 3560-65 to this office, unsigned.*

**\*If unauthorized assistance due from borrower:**

*We have scheduled an appointment at \_\_\_\_\_ (a.m.;p.m.) on \_\_\_\_\_ date \_\_\_\_\_ for you to come into this office to discuss the basis for the Agency's claim. You may provide facts, figures, written records, or other information you have which might alter the Agency's determination that the assistance you have received was unauthorized. Necessary servicing actions will also be discussed.*

*If you are unable to keep this appointment, please telephone this office at (telephone number) to change the appointment. It is urgent that you respond to this request.*

*Failure to do so within 15 days may result in the Agency initiating appropriate action to effect collection. If you agree with our claim of unauthorized assistance, Agency regulations require collection be made by lump sum cash payment, or payment over a reasonable period of time.*

If you have any questions concerning the subject matter, please contact this office.

Sincerely,

\_\_\_\_\_  
[Signature and title of Official]

Attachment – Form RD 3560-65 (if needed)  
Handbook Letter 305, Final Determination/Demand Letter (if needed)

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REFERENCE: HB-3-3560, Chapter 9

PURPOSE: Preliminary Determination Notice for Borrower or Management Agent Initial Letter to Recipients of Unauthorized Assistance

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PRELIMINARY DETERMINATION NOTICE

[insert date]

Dear [insert name of borrower or tenant]:

[Borrower and/or Management Agent name] has determined that (you)(name of tenant) (have, has) received unauthorized financial assistance in the form of a (loan, grant, subsidy) amounting to \$\_\_\_\_\_ which must be repaid.

(Insert a paragraph briefly describing the circumstances under which the unauthorized assistance was extended, including the reason(s) as provided in 7 CFR part 3560 (Subpart O).

*You must notify the tenant in writing that a determination has been made that \$ in unauthorized assistance was received. Please provide a copy of this notice to the Rural Development office within seven (7) business days.*

*The unauthorized assistance determination notice is a preliminary notice, not a demand letter. The unauthorized assistance determination will:*

- (1) Specify the reasons the assistance was determined to be unauthorized;*
- (2) State the amount of unauthorized assistance to be repaid and specify the parties responsible for repayment of the unauthorized assistance;*
- (3) Establish a place and time when the persons receiving the unauthorized assistance determination notice may meet with you to discuss issues related to the unauthorized assistance notice such as the establishment of a repayment schedule; and,*
- (4) Advise the tenants they may present facts, figures, written records, or other information within a specified period of time which might alter the determination that the assistance received was unauthorized.*



*Upon request by the tenants, you will grant additional time for discussions related to an unauthorized assistance determination notice. You must notify the Rural Development office of schedule revisions when additional time is granted to the tenants in this unauthorized assistance claim.*

*After you have met with the tenants please provide a written explanation as to your findings and what, if any, corrective arrangements (e.g., recovery of improper benefit agreements, evictions, legal proceedings, etc.) you are making. Complete Form RD 3560-65 and have the tenant sign the form as their agreement to repay. **Please provide the Rural Development office the explanation within 10 days of the date of the meeting with the tenant, along with the signed Form RD 3560-65.***

*Should recovery of improper payments be required, Agency regulations require collection be made by lump sum cash payment, or payment over a reasonable period of time.*

*If the tenant fails to respond to the unauthorized assistance determination notice or fails to agree to a repayment schedule, please send Handbook Letter 305-A, Final Determination/Demand Letter to the tenant and a copy to the Rural Development Servicing office. If you receive no response to this letter, please return the Form RD 3560-65 to the Rural Development office, unsigned.*

If you disagree with the decision or facts used in making the decision, you may file a Tenant Grievance under the provisions of 7 CFR 356.160. To initiate the Tenant Grievance procedures, you will need to write to this office within 10 calendar days of the receipt of this letter and explain why the decision was wrong or to request a meeting with us. You can present any new information or evidence with the letter or at the meeting.

\*See attachment Tenant Grievance Procedures, 7 CFR 3560.160.

If you have any questions concerning the subject matter, please contact [Borrower and/or Management Agent name].

Sincerely,

\_\_\_\_\_  
[Signature and title of Official]

Attachment – Form RD 3560-65 (if needed)  
Handbook Letter 305-A, Final Determination/Demand Letter (if needed)

REFERENCE: HB-3-3560 Chapter 9

PURPOSE: Final Determination Notice/Demand Letter to recipient of unauthorized assistance to state final determination. Send if borrower or tenant fails to respond to an unauthorized assistance determination notice or fails to agree to a repayment schedule.

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FINAL DETERMINATION NOTICE/DEMAND LETTER

[insert date]

Dear [insert name of borrower or tenant]:

After careful consideration of all information available, Rural Development has determined that you have received unauthorized financial assistance as outlined below.

[Insert a paragraph to:

- (a) Describe the unauthorized assistance;
- (b) State the amount of unauthorized assistance which must be repaid (same as the amount stated in Handbook Letter 304 unless subsequent information provided by the recipient caused this amount to be changed); and
- (c) State what further action is to be taken by the Agency. (See 7 CFR 3560, 3560.709, including termination of tenancy if applicable.)
- (d) Attach Form RD 3560-65 to this letter which describes the amount owed and payment agreement. This form should be signed and returned to our office.]

If you disagree with the decision or facts used in making the decision, you may file a Tenant Grievance under the provisions of 7 CFR 356.160. To initiate the Tenant Grievance procedures, you will need to write to this office within 10 calendar days of the receipt of this letter and explain why the decision was wrong or to request a meeting with us. You can present any new information or evidence with the letter or at the meeting.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit recipients on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the recipient has the capacity to enter into a binding contract), because all or part of the recipient'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.

\*See attachment Tenant Grievance Procedures, 7 CFR 3560.160.

If you do not cooperate in effecting the necessary adjustments to your account, we will have no alternative but to initiate appropriate action to collect the unauthorized amount.

Sincerely,

\_\_\_\_\_  
[Signature and title of Official]

Attachment

REFERENCE: HB-3-3560 Chapter 9

PURPOSE: Final Determination Notice/Demand Letter to recipient of unauthorized assistance to state final determination. Borrower or Management Agent to send if borrower identified unauthorized assistance, when tenant fails to respond to an unauthorized assistance determination notice or fails to agree to a repayment schedule.

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FINAL DETERMINATION NOTICE/DEMAND LETTER

[insert date]

Dear [insert name of tenant]:

After careful consideration of all information available, [Borrower and/or Management Agent name] has determined that you have received unauthorized financial assistance as outlined below. [Insert a paragraph to:

- (a) Describe the unauthorized assistance;
- (b) State the amount of unauthorized assistance which must be repaid (same as the amount stated in Handbook Letter 304 unless subsequent information provided by the recipient caused this amount to be changed); and
- (c) Attach Form RD 3560-65 to this letter which describes the amount owed and payment agreement. This form should be signed by the Agency and returned to our Rural Development.]

If you disagree with the decision or facts used in making the decision, you may file a Tenant Grievance under the provisions of 7 CFR 356.160. To initiate the Tenant Grievance procedures, you will need to write to this office within 10 calendar days of the receipt of this letter and explain why the decision was wrong or to request a meeting with us. You can present any new information or evidence with the letter or at the meeting.

\*See attachment Tenant Grievance Procedures, 7 CFR 3560.160.

If you do not cooperate in effecting the necessary adjustments to your account, we will have no alternative but to initiate appropriate action to collect the unauthorized amount.

Sincerely,

\_\_\_\_\_  
[Signature and title of Official]

Attachment

