

## 2024 SUPPORTING STATEMENT

### 7 CFR Part 3560, “Rural Rental Housing Program”

OMB No. 0575-0189

**This request is for OMB review and approval for a revision of an existing information collection which includes two new forms and an updated form.**

**Terms of Clearance:** In accordance with 5 CFR 1320, the information collection is approved for three years. The Agency is reminded to create and submit instructions for the forms included in this collection as part of its next collection request.

The Agency has made the instructions to the forms available on the USDA eForms website at <https://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>.

#### **A. Justification**

##### **1. Explain the circumstances that make the collection of information necessary.**

**This request is for OMB review and approval for a revision of an existing information collection which includes two new forms and an updated form. The new forms are (1) Form RD 3560-XX “Replacement Reserve Intercreditor Agreement” and (2) Form RD 3560-8(a) “Tenant Certification, and annual recertification.” The revised form is Form RD 3560-8 “Tenant Certification, and annual recertification.”**

#### **New Forms**

**The Rural Housing Service (RHS) is adding the new Form RD 3560-XX “Replacement Reserve Intercreditor Agreement.” This form creates an additional 24 responses and 4 burden hours to the burden total of this collection, which has been accounted for in this revision.**

**Form RD 3560-8(a) “Tenant Certification, and annual recertification” is a new form that does not create any new burden in this collection. The burden associated with this new form has been transferred from the existing Form RD 3560-8 in the amount of 5,000 responses and 2,500 burden hours.**

#### **Updated Form**

**Form RD 3560-8 “Tenant Certification, and annual recertification” has been updated to satisfy requirements implemented by the Housing Opportunity Through Modernization Act of 2016 (HOTMA.) No new burden has been created or removed due to the updates. Rather, 5,000 responses and 2,500 burden hours have been transferred to the new Form RD 3560-8(a.)**

The purpose of the Rural Rental Housing Program is to provide adequate, affordable, decent, safe, and sanitary rental units for very low-, low-, and moderate-income households in rural areas. In providing this service, the Agency strives to meet several goals.

- **Customer service.** The Agency is committed to providing customer-friendly, streamlined service. The Agency will administer its programs fairly and in accordance with both the letter and the spirit of all equal opportunity and fair housing legislation and applicable Executive Orders.
- **Partnerships.** Working with its partners, such as borrowers, property management agents, tenants, other lenders, nonprofit organizations, and State and local agencies, can enhance the Agency's ability to better serve eligible households.
- **Effective use of resources.** As publicly funded initiatives, the Multi-Family Housing programs must use tax dollars efficiently. The Agency aims to minimize administrative costs, underwrite loans responsibly, and leverage funding with private sources of credit to the extent possible.

The programs covered by this part are authorized by title V of the Housing Act of 1949 and are: (1) *Section 515 Rural Rental Housing, which includes congregate housing, group homes, and Rural Cooperative Housing.* The Section 515 direct loan program provides financing to support the development of rental units in rural areas that need housing affordable to very low-, low-, and moderate-income households, and where this housing is unlikely to be provided through other means. (2) *Sections 514 and 516 Farm Labor Housing loans and grants.* Section 514/516 direct loan and grant programs provide funds to support the development of adequate, affordable housing for farm workers that is unlikely to be provided through other means. (3) *Section 521 Rental Assistance.* A project-based tenant rent subsidy which may be provided to Rural Rental Housing and Farm Labor Housing facilities.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the Agency has made of the information received from the current collection.**

Information is completed by developers and potential borrowers seeking approval of rural rental housing loans with the assistance of professionals such as attorneys, architects, and contractors and the operation and management of the MFH properties in an affordable decent, safe and sanitary manner. The forms and information provide the basis for making determinations of eligibility and the need and feasibility of the proposed housing. The information provides the basis for determining that rents charged are appropriate, the housing is well-maintained, and proper priority is given to those tenants eligible for occupancy. Information is collected to assure compliance with the terms and conditions of loan, grant and/or subsidy agreements.

The collection of the following information will ensure that these federally funded loans are made to eligible applicants for authorized purposes. They will enable the Agency to provide

the necessary guidance and supervision to new and indebted borrowers to ensure the economical operation of their projects, and to assure Congress and the public that all projects financed with Agency housing funds will be operated as economically as possible for the purposes for which they are intended and the benefit of those they are mandated to serve.

Specifically, the burden to be cleared with this regulation is as follows:

## **REPORTING REQUIREMENTS NON-FORMS**

Discrimination Complaints. Any tenant/member or prospective tenant/member may file a complaint if he/she believes they have been discriminated against because of race, color, religion, sex, familial status, national origin, age, or disability.

Compliance with Other Federal Requirements. For contracts exceeding \$100,000, contractors must comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations. Applicants must comply with the provisions of the National Historic Preservation Act of 1966, the Archeological and Historical Preservation Act of 1974 (Public Law 93-291), and Executive Order 11593 dated May 13, 1971.

Exception Requests. The Agency Administrator may make an exception to any provision of the regulation provided that the exception is supported by the applicable statute and is in the best interest of the government. The request must be submitted in writing to the State Director for concurrence before the State Office forwards it to the Administrator.

NOFA Response. The availability of Rural Rental Housing Program authority and interest credit funds, and the criteria for allocating this assistance will be made public through a Notice of Funding Availability (NOFA). Once a NOFA has been published, interested parties may submit a summary of proposed projects for scoring and ranking. All responses will be reviewed and ranked, in accordance with selection criteria included in the NOFA. Applicants selected will be issued a “*Notice to Proceed*” and be requested to submit an application for further processing. The NOFA process reduces the burden of submitting a complete loan application to only those responses that receive a notice to proceed with processing. Pertinent information collected with the loan application is detailed below.

Market Feasibility. Market studies are used by the Agency to examine the general market conditions of supply, demand, and pricing of rents or the demand for housing in a specific area. A market feasibility study would be a necessary component of a conventional loan package made by a commercial lender.

Notification of Other Assistance. The applicant must provide amount, type, rate, and terms for other sources of funding. This requirement is necessary in order to assure the government is not providing excess assistance.

Written Contract for Legal Services. Loan applicants must have written contracts for any legal services that are to be paid out of loan funds. A model legal services agreement is

available for use by cooperative or other nonprofit organizations that specifies the required legal services necessary to the organization.

CONSTRUCTION REQUIREMENTS (contained in 7 CFR 1924-A):

Agreement Between Borrower and Architect. This is an executed written agreement between an applicant/borrower and architect, which contains responsibilities for each party to meet regarding the design and construction of a multi-family housing proposal. The information in the agreement is used by the Agency to determine that sufficient architectural services will be provided to an applicant/borrower and that compensation for these services are fair and reasonable. This agreement is a normal business practice.

Agreement Between Borrower and Builder. This is an executed written agreement between an applicant/borrower and builder that sets forth specific conditions and terms of a construction contract. The information in the agreement is used by the Agency to determine if the terms and conditions are in compliance with Agency regulations and policies to protect the Government's interest in the proposed development work. This agreement is a normal business practice.

Application for Payment. These documents are prepared by a contractor to request payments for work performed on financed construction. The documents provide the applicant/borrower and the Agency information on the quantity and value of work completed. An architect indicating his/her concurrence with the request signs the documents. The preparation of the documents is a normal business practice.

Certification of Drawings and Specifications. These certifications are prepared by an architect, engineer, or other professional qualified to determine compliance of drawings and specifications with applicable development standards. This information is used by the Agency to make final determination of the acceptability of the proposed development.

Complaints of Construction Defects. A written document is prepared by a borrower to notify the Agency that his/her complaints to a builder regarding construction deficiencies have not been satisfied. The information is used by the Agency to determine what action should be taken to resolve the dispute and to protect the Government's interest in the development work involved.

Construction Accounting System. A builder of a multi-family housing project that involves an identity of interest is required to develop a construction accounting system to maintain a running record of actual construction costs.

Construction Contract Bidding Documents. These documents are prepared by an applicant/borrower or architect to invite builders to submit bids for constructing service buildings and residential facilities by the contract method. The collection of information and preparation of these documents is a normal business practice for contracts that are competitively bid.

Contract Change Order. This document is prepared by an applicant/borrower, contractor, architect, or engineer to record any changes in the development work performed by the contract method. An applicant/borrower, contractor, architect/engineer, and the Agency indicating mutual approval of the change sign the document. This document is used in the normal business practice.

Cost Estimate. Written cost estimates are prepared by an applicant/borrower, builder, or architect to provide the Agency with sufficient information to determine the economic feasibility of a proposal for development work. The information is also used to compare with other similar proposals and determine availability of funds to complete the proposed development. The collection of information for this written estimate is a normal business practice.

Documents for Exception to Competitive Bidding. These documents are prepared by an applicant/borrower to request an exception to the Agency requirement for competitive bidding. The information provided in the documents is used to determine if an applicant/borrower is legally authorized to negotiate a construction contract and if the proposed negotiated contract is sufficient to protect the Government's interest in the project.

Documents for Exception to Contract Method. These documents are prepared by a public body applicant/borrower who wants to construct a multi-family project without a construction contract. The information on the documents is used by the Agency to determine the capability of an applicant/borrower to construct the project in accordance with the Agency's regulations and policies.

Documents for Exception to Surety Requirements. These documents are prepared by an applicant/borrower to request an exception to the Agency requirement that contractors provide surety bonds with their construction contracts. The information in the documents is used by the Agency to determine if the Government's interest in the project will remain protected with construction contracts not secured with payment and performance bonds.

Drawings and Specifications. These documents are prepared by an applicant/borrower, builder, architect, engineer, or other designer to fully describe the proposed development work. The information on the documents is used to assist the builder in providing information on the types of materials to be used in the construction process and is also used by the Agency to determine compliance with Agency design and construction requirements and other applicable regulations. The preparation of these documents is a normal business practice.

Letter of Credit. This is prepared by a lending institution at the request of a contractor to satisfy contract surety requirements. This unconditional and irrevocable document may be used in lieu of surety bonds, when determined acceptable by the Agency, protect the Government's interest by guaranteeing adequate funds to complete the development work and cover the risk involved.

Builder's Certification. A modular/panelized manufacturer and a builder of any on-site development work associated with the housing unit prepare this certification.

Narrative Description of Work Items. These documents are prepared by an applicant/borrower, builder, or designer to describe items of development work that are too minor to justify preparing drawings and specifications. The information is used to assist builders in performing the work, preparing cost estimates, and to determine compliance with applicable Agency requirements and regulations. The preparation of these documents is a normal business practice.

Notification for an Inspection. A contractor makes this verbal notification to the Agency when he/she is ready for a construction inspection. This notification allows the Agency sufficient time to plan and prepare for the inspection.

Notification of Delays in Construction. This written document is prepared by a contractor to notify an applicant/borrower and the Agency that construction is delayed or interrupted due to an unforeseen event or circumstance. The information is used by the Agency to determine if the builder should be entitled to an extension of time in the construction contract.

Owner-Builder Construction Proposal. This proposal is prepared by an applicant/borrower who wishes to also be the builder for a multi-family housing project. The information provided in the proposal is used by the Agency to determine if an applicant/borrower is qualified to construct the proposed development work and if the method of construction is sufficient to protect the Government's interest in the project.

Payment Bond. This surety bond is prepared by a corporate or non-corporate bonding company to guarantee the payments made by a contractor for a specific contract or project. The bond protects the interest of the applicant/borrower and the Agency from any default of the contractor.

Performance Bond. This surety bond is prepared by a corporate or non-corporate bonding company to guarantee the full performance of a contractor for a specific contract or project. The bond protects the interest of the applicant/borrower and the Agency from any default of the contractor.

Request for Surety Bond. This request is prepared by an applicant/borrower to require a construction contractor to furnish surety bonds that guaranteed payment and performance on a contract. When this request is received, the Agency will approve the construction contract only when the appropriate bonds are furnished and will assist the applicant/borrower in the execution of the contract terms and conditions.

Retain Copy of Approved Drawings and Specifications. An applicant/borrower retains one copy of the approved drawings and specifications after the loan is closed to keep for his/her records. The information on the documents may be used by the applicant/borrower to monitor construction and reference for determining compliance with contract conditions.

Property, Liability, and Fidelity Insurance, Surety Bonding. Evidence of insurance is usually in the form of a policy. A written binder is acceptable for a specified period of time. The government's interest in the secured property must be protected and the government must be shown on the policy as loss payee. Evidence that premium has been paid, such as a receipt of the policy or bill stamped "paid," must be included.

Cost Overruns. This is a statement by the applicant to pay construction or development costs in excess of those approved by the Agency. Exceptions may be granted for increases caused by factors beyond the applicant's control.

Adequacy of Initial Operating Capital. The borrower is required to deposit cash equal to 2 percent of the loan amount in an operation account. This account is used to pay project operating costs before and after operating cash flow starts.

List of Materials and Equipment to Be Funded from General Operating Account Over First 2 Years. Borrowers must provide a list of materials and equipment that will be needed at the time of project startup. Borrowers are responsible for providing 2 percent of the total development cost of the project in the form of cash or a combination of cash and a letter of credit to cover operational and maintenance expenses needed to get the project started. The same or similar list can be used for other projects.

General contractor or dealer warranty. A warranty must be supplied by all contractors or dealers under contract or conditional commitments in connection with new construction or rehabilitation of projects funded by RHS. This document ensures that construction proceeds in accordance with plans and specifications.

Establish Reserve Account. To meet major capital expenses of a project, borrower must establish and fund a reserve account. The borrower must make monthly contributions at a minimum in amounts that will equal an annual contribution of 1 percent of the total development cost.

Submit Plan for Services to Congregate Residents. Proposals for congregate housing must include a plan for providing required support services such as meals, transportation, personal services, housekeeping, and social/recreational services. This plan, including the proposed cost to the tenant, is critical to the Agency's review and evaluation of congregate proposals.

Evidence of Adequate Construction Financing Arrangements/Documentation That Interim Financing Costs or Multiple Advances Have Been or Will Be Paid. Applicants who are using interim financing during construction must provide evidence indicating the terms and final arrangements for the financing. This is necessary to protect the government's interest and this practice would be required by a commercial lender if this loan was being made conventionally.

Evidence That Funds from Other Sources Are Available. Applicants must provide evidence that financing arrangements from other sources as proposed in the loan application are

available and have not changed. This information would be required of a commercial lender before a loan was closed and is considered a prudent lending practice.

Architect's Statement Certifying Substantial Completion. In cases of interim financing, before an Agency loan is closed, a dated and signed statement from the owner's architect certifying to substantial completion of the housing project must be provided.

Written Contract for Architectural Services. Loan applicants must obtain a written contract for architectural services in accordance with the provisions of 7 CFR part 1924, subpart A.

Evidence That Agency-Approved Accounting System Is in Place. This is generally a letter from the borrower's accountant outlining the accounting system to be used. This is a loan closing requirement and is a good lending practice.

Evidence of title to security. Applicants must provide evidence of ownership of property to be secured. This information would be required of a commercial lender before a loan was closed and is considered a prudent lending practice.

Subsequent Loan Requirements. The Agency may make a subsequent loan to a borrower to complete or develop additional units, improve, repair, or make modifications to multi-family housing initially financed by the Agency or for equity or other authorized purposes. The borrower will have already submitted much of the required information in the initial loan application package; therefore, much of the information will just have to be updated for the subsequent loan requirements.

Management Plan. The management plan establishes responsibility for the operation of the project, sets procedures to rent units to eligible tenants, and ensures that the requirements of the loan and/or grant are met, and the property is maintained. Updated or revised management plans must be submitted to the Agency. If there are no changes to the management plan, borrowers must submit a certification every 3 years stating that operations are consistent with the management plan.

Revisions to Management Plan. When deficiencies in management are noted by the Agency, the borrower will revise the management plan or provide a description of corrective actions to ensure that the management plan is followed.

Written Request for Agency Approval of Management Entity. If there is a change in the management entity for a project, the borrower must seek Agency approval for the change. This ensures that management is carried out in accordance with program objectives.

Management Agreement. This agreement is the contract between the borrower and the management agent hired to manage operation of the security property. It is essential to the clear understanding between the owner, management agent, and the Agency, the division of responsibilities and compensation for service provided. This agreement impacts directly on the borrower's ability to fulfill its loan agreement and obligations. This agreement is

prepared when the agent is initially hired and is reviewed and modified as needed or required to achieve loan objectives.

Capital Needs Assessment. The long-term capital plan will be developed as part of the budget process. This plan ensures that long-range needs of the project will be met and that tenants will continue to reside in safe, decent, sanitary housing conditions.

Eviction of Tenants Who Do Not Recertify. If a tenant refuses to cooperate in verifying income and other information, he may be evicted. This ensures that ineligible tenants are not occupying the units.

Request To Rent To Ineligible: The Agency may authorize the borrower in writing, upon receiving the borrower's written request with the necessary documentation, to rent vacant units to ineligible persons for temporary periods to protect the financial interest of the Government.

Tenant Application Forms. Borrowers must use tenant application forms that collect sufficient information to properly determine household eligibility and to monitor compliance with the Fair Housing Act. These files enable the Agency to ensure eligibility of tenants and civil rights compliance.

Authorization for Information Verification. Authorization must be signed by borrowers/applicants, tenants, etc., so that we can verify such things as employment, other income, account balances. These verifications ensure that the Agency is providing assistance to eligible persons.

Waiting Lists. This list is required by the Agency to assure that eligible tenant applicants are afforded fairness of selection according to Agency requirements. Information on the place and times for tenant application submission must be documented in the housing project's management plan and Affirmative Fair Housing Marketing Plan.

Notification to Ineligible Applicants/Rejections. The borrower, using his own written format, must inform a tenant applicant of his eligibility or rejections for occupancy in a rental housing project. This requirement ensures that an applicant's rights are protected, and a rejected applicant is given appeal rights.

Lease/Lease Modifications. The tenant lease is the basic written confirmation of agreement to the terms and conditions of tenant occupancy and the responsibility between a tenant and landlord (borrower). It is entered into initially and then subsequently with each new 1-year lease term. The Agency requires use of a written tenant lease for consistency in program conformity. Although leases are usual and customary, the Agency requires specific language clauses dealing with specific program requirements.

Occupancy Rules. The purpose of a borrower's occupancy rules is to outline the basis for the tenant and management relationship. Prior to Agency approval of occupancy rules, borrowers must provide written certification from their attorney that the housing project's

occupancy rules are consistent with applicable federal, state, and local laws, as well as Agency requirements and the requirements of other programs participating in the project.

Notice of Lease Violation. The borrower or agent issues this notice to inform a tenant of violation of one or more terms of the lease agreement. The notice advises the tenant that failure to correct the violation, or further violation, can result in termination of occupancy benefits. The notice must be mailed to the tenant as well as hand delivered at the tenant's apartment unit.

Occupancy Termination Notice. The notice follows the notice of lease violation when a tenant has failed to correct previously noted lease violations. It is the tenant's notice that the borrower expects the tenant to cease occupancy by a prescribed date, and that failure to do so will result in the borrower seeking eviction through judicial proceedings.

Tenant Protection and Grievance Procedures. The Agency will provide borrowers/management agents with a booklet outlining tenant protection and grievance procedures to distribute to tenants.

Notification to Tenant of Adverse Action. The borrower must notify a tenant before they proceed with any adverse action. This requirement provides due notice to tenant.

Grievance or Response to Adverse Action. The tenant must communicate to the borrower any grievance or response within 10 calendar days after occurrence of adverse action or receipt of a notice of adverse action.

Summary and Submission of Problem. If a tenant's grievance is not resolved during an informal meeting, the borrower must prepare a summary of the problem and submit the summary to the tenant and the Agency. This requirement makes the Agency aware of problems and enables the Agency to help resolve the problem.

Escrow for Tenant Payments. When there is a dispute between the tenant and management, the tenant's rent payments must be held in escrow. This protects the tenant's rights while still ensuring that the payment(s) will be available if the dispute is not resolved in the tenant's favor.

Certification That Funds from Other Sources to Reduce Rents Will Not Be Paid from Agency Funds. When funds contributed from sources other than the Agency are used for housing project expenses, the borrower must certify in writing that these funds will not need to be repaid with Agency funds. Such funds could include state or local grants, or private contributions to reduce general operating and management expenses. Housing project rents must be reduced to reflect the funding being used to offset project expenses.

Request for Rent Changes. If it becomes necessary to modify a shelter cost, the borrower must seek Agency approval. These requests are included as part of the budget process. Rents must be reviewed and approved by the Agency to maintain affordability for tenants and sufficient cash flow for borrowers.

Summary of Tenant Comments. Upon receiving notice of a pending rent change, a tenant is given the opportunity to make written comments or objections to the proposed rent change. It is a tenant's opportunity for response, not a requirement. The tenant submits the written comments or objections to the Agency servicing official.

Documentation That There Are No Very Low-Income Households or That Occupancy by Low-Income Households Is Limited. The Housing and Urban-Rural Renewal Recovery Act of 1983 (HURRA 83) requires that in projects initially occupied prior to November 30, 1983, no more than 25 percent of all units receiving rental assistance may be occupied by low-income tenants other than very low-income tenants. For projects initially occupied on or after November 30, 1983, it is no more than 5 percent. There can be up to 25 percent and 5 percent of RA units respectively used by low-income tenants. The balance must be used by very low-income tenants. When local market conditions do not allow a project to meet these requirements, the borrower may request in writing a variance from this rule.

Rental Subsidies from Non-Agency Sources. Loan applicants using non-Agency rental subsidy must provide market documentation and the rental subsidy agreement.

CPA Certification of Separate Accountability. Housing project funds may be combined in one or more bank accounts for two or more housing projects as long as the borrower's accounting system separately tracks funds for each project. When the borrower requests Agency approval for such an accounting system, they must include a statement from a CPA stating that the accounting system is structured to segregate and maintain separate accountability for each housing project. This requirement ensures that program objectives are met for each housing project.

Withdrawal of Initial 2 Percent. Between the end of the second and seventh year of operation, the Agency provides the borrower the opportunity to withdraw the initial two percent, provided certain fiscal conditions exist. The borrower must request the withdrawal in writing. The Agency will review the borrower's request and supporting justification before withdrawal is permitted.

Maintain Reserve Funds Accounts. The Borrower is required to annually fund the reserve account based upon the terms of their loan agreement or resolution. Funds may be withdrawn from the account typically for capital needs. Borrowers must receive Agency approval prior to withdrawing any funds. Borrower management of the reserve account is subject to the requirements of 7 CFR part 1902, subpart A regarding supervised bank accounts. When reserve funds are invested in securities, the borrower must record the price actually paid for the securities. When designated as a reserve deposit, the price paid must equal the required contribution to reserves.

Request for Approval of Advancement of Owners Funds. Prior written approval by the Servicing Office is required. Such advances may be authorized when justified by unusual short-term conditions.

Reports. The Agency may require quarterly or monthly reports to monitor financial progress when closer supervision is warranted. The reports must be submitted using an Agency approved format. Also see Forms RD 3560-7 or 3560-7A.

Response to Agency Notification of Deficiencies or Violations. Borrowers will be notified in writing of any deficiencies or violations noted by the Agency. There will be a specified time period by which the borrower must respond to the Agency and/or remedy the deficiencies or compliance violations. These actions are necessary to ensure program compliance.

Request for Payoff. At the borrower's request, the Agency will prepare a payoff statement.

Documentation of Organization Structure/Changes in Ownership Entity/Agency Approval for Ownership Changes or Sales. Changes in organization structure or ownership require Agency approval to ensure the continued eligibility of the borrower organization/entity. Information to be submitted includes a list of members, financial statements from general partners and stockholders with more than a 10 percent interest (or a statement of net worth), statements of net worth for limited partners, statements identifying identity of interest and experience, statements evidencing lack of other available credit, evidence of assumption of original or withdrawing partner's obligations, and amendments to organizational documents.

Signed Agreement Listing All Known Repairs. An agreement must be signed by the borrower and transferee or buyer listing all known repairs necessary to bring project into compliance. The agreement must specify whether each repair will be completed by the borrower prior to transfer, or by the transferee or buyer. This requirement ensures that the project will be in compliance with Agency requirements for decent, safe, and sanitary housing.

Financial Reports for Transferee/Buyer. The underwriting requirement for financial reports applies to transfers.

No Liens, Judgments. A transferee or buyer must establish that there are no liens, judgments or claims against the project other than those by the Agency and those to which the Agency had previously agreed. This requirement ensures that the Agency's security position is maintained.

Certification That Equity Payments to Borrower Will Not Be Paid from Project Funds (Identify Sources). If a full equity payment to the transferor is not paid at the time of transfer or sale, or has not been paid through an Agency equity loan to the borrower, the transferee or buyer must certify that equity payments due to the borrower will not be paid from project funds. The source of such payments must be identified. This requirement ensures proper use of project funds.

Applicable Restrictive Use Agreement to Be Executed by Transferee/Borrower. A restrictive use agreement must be executed by transferee at loan closing. This is to ensure property retains use as affordable housing as required by law.

Written Consent for Subordination and Junior Liens. Borrowers must obtain Agency consent prior to entering into any financial transaction that will require a subordination of the Agency security interest in the property. The subordination must not adversely impact the Agency's ability to service the loan.

Prior Agency Approval for Lien. A borrower must request approval from the Agency before taking any action, which will result in a lien on the security by a third party. The Agency's security position must not be adversely affected.

Filing of Financing Statement, Loan Document or Contract and Security Agreement. In cases where other liens against property with Agency consent, borrowers must complete and file with the Agency a copy of the financing statement, loan document, or contract, as applicable, as well as a security agreement acceptable to the Agency. This requirement enables the Agency to protect the government's security interest.

Workout Agreements/Revised Agreements. Borrowers must submit a workout agreement in order for the Agency to assist the borrower in overcoming a default or problem.

Special Servicing Rent. Special servicing note rents are a means of lowering a project's maximum rental rate to encourage occupancy of vacant units or to prevent vacant units in a poor local economic market. To justify the special "market" rental rate, the borrower is expected to document the hardship on the project and demonstrate that it is due to poor rental market conditions rather than on poor management practices.

Termination of Management Agreement. If the Agency determines that a compliance violation or loan default was caused by the actions or inactions of the Projects Management Agent, the Agency may require that the borrower terminate the management agreement with that agent.

Bill of Sale Itemizing Chattel Property. If the Agency decides to accept an offer of voluntary conveyance of chattel property, the borrower must provide an itemized listing of each item being conveyed and provide title to vehicles or other equipment, where applicable.

Letters of Credit for Additional Security. In problem account situations, the Agency may require borrowers to provide additional security in the form of real estate, cash reserves, letters of credit, or other security to improve the chances that the Agency will not suffer a loss.

Special Borrower Circumstances. In order for the Agency to make servicing decisions in cases such as deceased borrower, bankruptcy, insolvency, and divorce actions, the borrower or his representative will provide the Agency with information such as the status of the borrower organization, the financial status of the borrower, the status of the security property, and the impact of the identified actions on the operation of the project.

Certification That Farm Workers Are Involved in Applicant's Agricultural Operations. Borrowers applying for a farm labor housing loan must certify that farm workers are involved in the applicant's agricultural operations.

Certification That Operations Will Be Conducted in A Nonprofit Manner. Farm labor housing applicants must certify that housing operations will be conducted in such a manner that income from the housing does not exceed eligible expenses associated with the housing. Eligible expenditures include, but are not limited to, housing repairs, payment of loan installments, taxes, insurance, and reserves.

Additional Security for Loans. If necessary, to provide adequate security for an on-farm labor housing loan, personal liability and recourse will be required of all borrowers and the Agency may require that any household furnishings purchased with loan funds also be secured.

Prepayment Request. For Rural Development to determine the borrower's ability to prepay and to determine the need for the rental housing to remain in the low-income program, the borrower must submit documentation on the local housing market and (borrower's) ability to prepay. Upon borrower request and Agency concurrence, the Agency may grant exceptions to the request submission notice of loan prepayment. Borrowers seeking to prepay an Agency loan must submit a written prepayment request to the Agency at least 180 days in advance of the anticipated prepayment date and must obtain Agency approval before the Agency will accept prepayment deadline. The prepayment request will contain the following:

- Copy of waiting list
- Copy of lease language
- Ability to prepay
- Federal, state, or local law compliance
- Financial assistance certification
- Fair Housing Act Certification
- Proposed use after prepayment
- Prepayment market study
- Description of the loan to be prepaid

Posting Prepayment Notices. Borrowers must post the Agency's prepayment request notice, prepayment acceptance notice, or notice of proposed sale to a nonprofit in public areas throughout the housing project.

Tenants May Request LOPE. Rural Development must immediately notify each tenant that a request for prepayment has been received and advise the tenant that all displaced tenants and those experiencing rent overburden due to the proposed prepayment will be eligible for a LOPE that will place them at the top of all occupancy waiting lists for any Rural Development project in any location for which they qualify.

Borrower Must Accept or Reject Incentive Offer. The borrower must accept or reject the incentive offer within 30 days. If no answer to the offer is received within 30 days, the Agency may void the prepayment request. Incentive offers are not subject to appeal.

Appraisal Reports (Prepayment Only). The Agency will use appraisals to determine whether the security offered is adequate to secure a loan or to determine appropriate servicing or preservation decisions. Appraisal form format may be a form appraisal or a narrative appraisal and must meet the requirements of Uniform Standard Appraisal Procedures, commonly known as USPAP.

Borrower May Offer to Sell to Nonprofit. If no incentive agreement is reached between Rural Development and a borrower requesting prepayment, and a need remains for the housing, the borrower must offer to sell the project to a nonprofit organization or public agency. The borrower must first advertise the housing for sale to qualified local nonprofit organizations and public agencies.

Provide Interested Entities with Information Regarding Project and Provide Additional Materials Requested by Interested Parties. If no local nonprofit organization or public agency submits an offer to purchase, the borrower is expected to contact each organization or agency on the regional or nationwide potential buyer list with an offer to sell and with enough information about the project to allow the prospective purchaser to make an informed decision.

Document Compliance with Restrictive Use Provisions. A borrower who has prepaid a loan with restrictive-use provisions as a condition of prepayment must document compliance and make the documentation and the project site available for Agency inspection upon request.

Notification of Unauthorized Assistance. A notice must be sent to a tenant when the borrower determines a tenant's failure to fully report income. The borrower is required to notify the tenant that overpaid rental assistance is due and must be collected. This results in preservation of rental assistance for eligible tenants.

Corrective Actions by Tenants or Borrowers. When a borrower or tenant was responsible for the circumstances causing the unauthorized assistance, they must take appropriate action to correct the problem within 90 days of the unauthorized assistance determination notice date unless an alternative date is agreed to by the Agency.

Submit Proposed Tenant Repayment Arrangements. Borrower must submit documentation of arrangements borrower has made with tenant for repayment of unauthorized assistance.

Recapture of Unauthorized Assistance. If a borrower or tenant agrees to repay unauthorized assistance, the borrower or tenant proposed repayment schedule must be approved by Agency prior to implementation. The borrower must retain copies of all correspondence and a record of all conversations between the borrower and a tenant, regarding unauthorized assistance received by a tenant with the tenants file records.

Copy of waiting list. A prepayment request must include a copy of the housing project's waiting list and a current signed multi-family housing balance sheet.

Copy of lease language. A prepayment request must include a copy of lease language to be used during the period between the submission date and the final resolution of the prepayment request notifying tenant applicants that the housing project has submitted a prepayment request to the Agency and explaining the potential effect of the request on the lease.

Ability to prepay. A prepayment request must include a statement documenting the borrower's ability to prepay under the terms specified.

Federal, state, or local law compliance. A prepayment request must include a certification that the borrower will comply with any federal, state, or local laws which may be related to the prepayment request and a statement of actions needed to assure such compliance.

Financial assistance certification. A prepayment request must include a copy of lease language to be used during the period between the submission date and the final resolution of the prepayment request notifying tenant applicants that the housing project has submitted a prepayment request to the Agency and explaining the potential effect of the request on the lease. The prepayment request must include a certification that the borrower has notified all governmental entities and all nonprofit and public bodies other than the Agency involved in providing affordable housing and financial assistance to tenants in the area, of the prepayment request and a statement specifying how long financial assistance from such parties will be provided to tenants after prepayment.

Fair Housing Act Certification. A prepayment request must include a certification that the housing project covered by the loan being prepaid will continue to be administered in accordance with the Fair Housing Act.

Proposed use after prepayment. A prepayment request must include a description of the proposed use of the property after prepayment with documentation supporting the feasibility of the proposed use and a budget showing anticipated costs and resources available to cover costs of transition to and operation of the property as proposed for 3 years.

Prepayment market study. A prepayment request must include a market study that addresses assisted and conventional housing, community demographics, and economic activity in the market area where the housing project covered by the loan being prepaid is located and the feasibility of the proposed use of the housing project in the market.

Agency approval for subsequent transfer. A nonprofit organization or public body purchasing a housing project must agree that no subsequent transfer will be permitted for the remaining useful life of the project unless the Agency determines that the transfer will further the provision of housing for low-income households or there is no longer a need for the housing.

Description of the loan to be prepaid. A prepayment request must include a clear description of the loan to be prepaid, the housing project covered by the loan being prepaid, and the requested date of prepayment.

Agency approval for rent changes. If it becomes necessary to modify a shelter cost, the borrower must seek Agency approval. These requests are included as part of the budget process. Rents must be reviewed and approved by the Agency to maintain affordability for tenants and sufficient cash flow for borrowers.

Debt settlement. Borrowers requesting debt settlement must submit complete and accurate information from which the Agency can make a decision. Offers that are rejected will be returned to the borrower with comments on potential points of negotiation. The borrower may resubmit his/her offer at any time.

Lease of security property. Borrowers must obtain Agency approval prior to entering into a lease agreement related to property serving as security for Agency loans.

Junior creditor agreement. Creditors with liens subordinate to the Agency lien must agree in writing to forestall foreclosure until a discussion with the Agency is held. They must give reasonable notice of any proposed servicing action. The agreement must specify any operating plans they may have in conjunction with their servicing action. This agreement permits the Agency the opportunity to verify its position and ensure the objectives of the loan will not be precluded by the impending liquidation by a junior creditor.

Prior agency approval for lien. A borrower must request approval from the Agency before taking any action which will result in a lien on the security by a third party. The Agency's security position must not be adversely affected.

Report proceeds from sale/disposition of property secured by Agency loan. Any sale or other disposition of property secured by Agency funding must be reported to the Agency.

Borrower/transferee to disclose all terms, conditions of transfer/sale. When a project is transferred or sold and transferees or buyers are assuming Agency loans, the parties must disclose to the Agency all terms, conditions, and other considerations related to the ownership transfer or sale. All sources and uses of funds related to the transfer or sale must be disclosed. These requirements are necessary for the Agency to determine if the transfer/sale is in the best interests of the government.

Self-Certification of financial condition. Borrowers may use the services of a CPA to submit annual financial reports using Agency-approved formats and must certify that the housing meets the performance standards prescribed by regulation

Audits & Engagement requirements. Borrowers that receive \$500,000 or more in combined federal financial assistance are required to submit independent auditors report prepared by a Certified Public Accountant. Non-profit and public borrower entities must submit audits in accordance with the requirements established by OMB. In addition, the Agency may require

additional opinions of financial condition and compliance to assure the security of the asset, determine whether the housing project is being operated at a reasonable cost, or to detect fraud, waste, or abuse.

Securities. When reserve funds are invested in securities, the borrower must record the price actually paid for the securities. When designated as a reserve deposit, the price paid must equal the required contribution to reserves.

Inform Agency of planned uses of reserve account. To assure the steady buildup of the reserve fund, its use is restricted by requiring approval of the Agency prior to use of any portion of the reserve. In cases of extreme emergency, the Agency can post-approve such withdrawals.

Documentation of expenses paid by withdrawal from reserve account. For post-approval of emergency withdrawals from the reserve account, the emergency must be fully documented.

Memorandum of Understanding (MOU). A model memorandum of understanding (MOU) is provided for use by the Rural Development State Director in the negotiation, completion, and implementation of this process. The MOU will be established in each State for the purpose of creating a process for the sharing of information between Rural Development and the State Agency administering the Tax Credit Program. In addition to sharing information, a set of evaluation criteria will be established to enable Rural Development to determine the sources and uses of fund balances and to provide only the necessary assistance to make the project financially feasible.

Accounting and bookkeeping procedures/financial records. The establishment and maintenance of financial records is a standard practice in the conduct of business. Such accounts organize financial information into meaningful groupings of income and expenditures. Records are the physical or electronic storage of financial data within the established accounts. Borrowers maintain financial accounts and records out of necessity to chart their own financial status to aid them in financial decision making. They further maintain them to have the documentation they need to prepare various financial reports or applications for credit required by creditors, including RHS. This item is included as public burden only to the extent that RHS may have to require some borrowers to establish and maintain financial accounts and records as part of a servicing plan to remedy a problem. As explained elsewhere in this document, there are no instances where RHS requires respondents to retain records for more than 3 years.

Annual adjustment for Section 8 units. Borrowers will set note and basic rents for housing receiving HUD Project Based Section 8 assistance and they will notify the Agency of any HUD rent changes as part of the Agency's annual review.

Security deposits. Separate accounts must be maintained for security deposits received from tenants. This is standard practice in the industry.

Evidence that conditions of interim financing have been met. This letter from the interim lender stating that the conditions of the financing have been met enables the Agency to release Agency funds to pay off the interim lender.

Documentation that construction has been or will be in accordance with plans and specs approved by Agency. This is usually a letter signed by contractor, architect, and borrower stating that construction is in accordance with approved plans. This ensures that secured property is properly built and reduces the Agency's risk of loss.

Environment Report. Project-specific financial, technical, and environmental information gathered and submitted by applicants is used by RD officials in its underwriting and technical evaluation process to determine a project proposal's eligibility for financial assistance. Included in the applicant's applications are preliminary designs and environmental data and information that: describes the purpose and need for the proposal and potential environmental impacts if it were to be built; analyzes reasonable alternatives to avoid or minimize any adverse environmental impacts; and outlines construction cost and operation and maintenance estimates, and other financial information crucial to the underwriting process.

## **REPORTING REQUIREMENTS - FORMS APPROVED IN THIS DOCKET**

Form RD 440-34, Option to Purchase Real Estate, (Cleared under OMB No. 0575-0189). This form is used by the borrower to obtain an option on real estate to be purchased. A standard contract may be used in lieu of this form.

Form RD 3560-1, Application for Partial Release, Subordination or Consent, (Cleared under OMB No. 0575-0189). This form is used by borrowers to obtain consent from the Agency to permit Junior liens or request partial release from terms of real estate security instruments.

Form RD 3560-7-, Multi-Family Housing Project Budget/Utility Allowance, (Cleared under OMB No. 0575-0189). This form itemizes the project budget for the ensuing year of operation. It includes utility allowances and rent schedules. This document supports any request for a rent change. This document assists the Agency in management analysis and decision making necessary to meet program objectives in a changing economic environment. A budget may occasionally be requested more than once a year in certain servicing situations. The budget provides the borrower and the Agency with factual information to identify initial or subsequent borrower performance in meeting program objectives. The Agency may require quarterly or monthly reports to monitor financial progress when closer supervision is warranted.

Form RD 3560-7A, On-Farm Labor Housing Project Budget, (Cleared under OMB No. 0575-0189). Each on-farm labor housing borrower must complete this form showing expenses of the farming business.

**\*Updated Form\* – No Increase in Burden - Form RD 3560-8, Tenant Certification, and annual recertification, (Cleared under OMB No. 0575-0189).** This form has been revised

to satisfy requirements implemented by the Housing Opportunity Through Modernization Act of 2016 (HOTMA.) Changes have been made to update income calculation, net family assets, and income review. This form is prepared by the owner and signed by every tenant living in a subsidized project, except in those instances where Section 8 subsidy is provided, and HUD forms are used for this same purpose. It is necessary for the Agency to fulfill its mandate to monitor the borrower and the tenant to determine that the borrower is in compliance with regulations and equal opportunity requirements, that only eligible tenants occupy the projects, that rental assistance is being provided only to qualified tenants, and that rental assistance and interest credit requested does not exceed the maximum benefit actually accruing to the project or tenant.

**\*New Form\* – No Increase in Burden - Form RD 3560-8(a), Tenant Certification, and annual recertification, (Cleared under OMB No. 0575-0189).** RHS is redesignating the previous RD Form 3560-8 as RD Form 3560-8(a). While the revised Form 3560-8, which includes revisions to satisfy requirements implemented by the HOTMA, could be utilized as early as October 1, 2024. The Agency will still need keep this previous version active for borrowers who do not recertify on time. There is no added burden to what is currently required.

Form RD 3560-9, Multi-Family Housing Interest Credit and Rental Assistance Agreement, (Cleared under OMB No. 0575-0189). This form is used for MFH loan, assumption agreements, re-amortizations, credit sales, conversion of payment method, loan consolidations and for existing loans to provide interest credit.

Form RD 3560-10, Multi-Family Housing Balance Sheet, (Cleared under OMB No. 0575-0189). This form provides a comparison of year-end financial condition with the financial condition one year earlier. It is a statement of borrower financial condition as of a specific date and is used for analysis of borrower progress.

Form RD 3560-12, Request for Authorization to Withdraw Reserve Funds, (Cleared under OMB No. 0575-0189). This form is to assure the steady buildup of the reserve fund, its use is restricted by requiring approval of the Agency prior to use of any portion of the reserve. In cases of extreme emergency, the Agency can post-approve such withdrawals.

Form RD 3560-13, Multifamily Project Owner's/Management Agent's Management Certification, (Cleared under OMB No. 0575-0189). This form is completed by Owners of Agency multifamily housing projects that are required to submit certain data for review by the Agency for approval of a new management agent.

Form RD 3560-15, Reamortization Request, (Cleared under OMB No. 0575-0189). This form is used to request reamortization of certain loan types. The terms of the existing note may be modified through use of this form.

Form RD 3560-16, Multifamily Housing Reamortization Agreement, (Cleared under OMB No. 0575-0189). This form is used to modify the payment schedule of a promissory note. It

provides the borrower the opportunity to operate successfully and carry out the purpose of the loan.

Form RD 3560-20, Multi-Family Housing Transfer and Assumption Review and Recommendation, (Cleared under OMB No. 0575-0189). This form is used by the Agency to assemble information needed in planning transfers of real estate security.

Form RD 3560-22 Offer to Convey Security, (Cleared under OMB No. 0575-0189). This form is used by borrowers in offering to convey real estate security property to the Agency.

Form RD 3560-25, Request for Rental Assistance/Operating Assistance, (Cleared under OMB No. 0575-0189). This form is utilized to document the initial need for rental assistance for a project. Subsequent needs will be a checkbox on annual budgets submitted by borrower.

Form RD 3560-27, Rental Assistance Agreement, (Cleared under OMB No. 0575-0189). This form, executed by the borrower, contains the agreement between the borrower and the Agency as to the amount of rental assistance made available to a project and the conditions for its use. This form is used whenever the Agency has approved and obligated rental assistance to a borrower.

Form RD 3560-27A, Operating Assistance Agreement, (Cleared under OMB No. 0575-0189). This form, executed by the borrower, contains the agreement between the borrower and the Agency as to the amount of operating assistance made available to a project and the conditions for its use. This form is used whenever the Agency has approved and obligated operating assistance to a borrower. Operating assistance is only available for Off-Farm Labor Housing.

Form RD 3560-29, Notice of Payment Due Report, (Cleared under OMB No. 0575-0189). This form is sent by the borrower with the monthly loan payment to certify the need for interest credit and rental assistance for that month. This status changes monthly in the project. This document serves as a summary income source document for the borrower. Most borrowers are using the Agency's printout sent to them each month and stapling it to this form.

Form RD 3560-30, Identity of Interest Disclosure, (Cleared under OMB No. 0575-0189). All applicants are required to complete a form disclosing the type, name, and address of any identity of interest party. This form indicates that the applicant or borrower is subject to a fine or imprisonment for falsifying the form. This requirement has been implemented as one way to curtail fraud, waste, and abuse in the programs.

Form RD 3560-31, Identity of Interest Disclosure and Qualification Certificate, (Cleared under OMB No. 0575-0189). This form must be completed by the principal for each trade or business with an identity of interest relationship with the borrower.

Forms RD 3560-33, RD 3560-34, RD 3560-35, Loan Agreement/Resolution, (Cleared under OMB No. 0575-0189). Individuals, partnerships, or corporations execute the applicable form. These documents contain regulatory provisions governing the housing and related operations and assure full understanding of all responsibilities of both the Agency and the borrower.

Forms RD 3560-39, RD 3560-40, RD 3560-41, RD 3560-42, RD 3560-43, Labor Housing Resolution, and loan/grant agreement, (Cleared under OMB No. 0575-0189). Individuals, partnerships, or corporations execute the applicable form. These documents contain regulatory provisions governing the labor housing and related operations and assure full understanding of all responsibilities of both the Agency and the borrower.

Forms RD 3560-33A, RD 3560-34A, RD 3560-35A, Loan Consolidation, (Cleared under OMB No. 0575-0189). With the Agency's approval, loans may be consolidated to reduce the administrative burden, improve cost effectiveness, and utilize facilities common to housing projects.

Form RD 3560-44, Farm Labor Housing Technical Assistance Grant Agreement, (OMB No. 0575-0189). The Agency may award technical assistance grants to eligible private and public nonprofit agencies. These grant recipients will assist other organizations to obtain loans and grants for the construction of farm labor housing.

Form RD 3560-38, Application for Cooperative Housing Membership, (Cleared under OMB No. 0575-0189). This form is used by cooperatives to obtain formal applications from persons seeking membership in a rural housing cooperative.

Form RD 3560-51, MFH Obligation Fund Analysis, (Cleared under OMB No. 0575-0189). This form is used to obligate loan funds and grants for MFH projects. It may be used to obligate or de-obligate rental or operating assistance.

Form RD 3560-57, Application for Settlement of Indebtedness, (Cleared under OMB No. 0575-0189). Borrowers requesting debt settlement must submit complete and accurate information from which the Agency can make a decision. Offers that are rejected will be returned to the borrower with comments on potential points of negotiation. The borrower may resubmit his/her offer at any time.

**\*New Form\* -Increase in Burden - Form RD 3560-XX Replacement Reserve Intercreditor Agreement, (Cleared under OMB No. 0575-0189).** This form is a supplement to the existing Section 515 Subordination Agreement. The ICA form will be used between the Section 515 RRH Borrower/Owner and the Section 538 Lender to establish control and guidance on how the Reserve Account will be handled in a joint transaction.

## **RECORDKEEPING REQUIREMENTS**

Retain Tenant Applications. Borrowers must retain all tenant application forms for at least three years. The Agency may require borrowers to submit application information for Agency review.

Retain Copies of Correspondence and A Record of Conversations Regarding Unauthorized Assistance Received by Tenants. Borrowers must retain correspondence and record of conversations regarding unauthorized assistance for at least three years. The Agency may require borrowers to submit correspondence and records of conversations for Agency review in order to service any unauthorized assistance received and paid back by the tenant.

Marketing Records. The borrower must maintain records that reflect efforts to fulfill the affirmative fair housing marketing plan. The Agency may require borrowers to submit records and to update plans as needed.

## **FORMS CLEARED WITH OTHER OMB NUMBERS**

HUD 935.2A, Affirmative Fair Housing Marketing Plan, (Cleared under OMB No. 2529-0013). This form is required of all borrowers to ensure compliance with title VI of the Civil Rights Act of 1964 and other Fair Housing laws.

HUD 2530, Previous Participation Certification, (Cleared under OMB No. 2502-0118). This form is required for applying to participate in multifamily programs and is completed by Controlling Participant(s) of Covered Commissioner.

Form SF 424, Application for Federal Assistance (Cleared under OMB No. 4040-0004). This is a standard form used by applicants for Federal assistance. This is a common form and burden is accounted for as an RCF entry.

Form RD 440-11- Estimate of Funds Needed, **(Cleared under OMB No. 0575-0015, and OMB No. 0570-0021).** This form is used to estimate the amount of funds needed for a 30-day period.

Form RD 1924-1, Development Plan, **(Cleared under OMB No. 0575-0042).** This form is used by the Agency to record planned development and changes in development.

Form RD 1924-2, Description of Materials, **(Cleared under OMB No. 0575-0042).** This form is prepared by an applicant/borrower, builder, or designer to furnish the Agency with sufficient information to fully describe the materials, equipment, and fixtures to be used in the construction or repairs of a residential dwelling unit. The collection of information for the form is a normal business practice.

Form RD 1924-3, Service Building Specifications, **(Cleared under OMB No. 0676-0042).** This form is prepared by the applicant/borrower, builder, or designer to furnish the Agency with sufficient information to fully describe the materials, equipment, and fixtures to be used in the construction of a farm service building. The collection of information for the form is a normal business practice.

Form RD 1924-5, Invitation for Bid, **(Cleared under OMB No. 0575-0042)**. This form is prepared by an applicant/borrower or architect to invite builders to submit bids for constructing service buildings, single family homes, or multi-family housing units by the contract method. The collection of information for the form is a normal business practice for contracts that are competitively bid.

Form RD 1924-6, Construction Contract, **(Cleared under OMB No. 0575-0042)**. This form is prepared by an applicant/borrower, builder, architect, or engineer to set forth specific conditions and terms of a construction contract. The applicant/borrower and builder must sign the form indicating their commitment to fulfill their responsibilities described in the agreement. The collection of information for the form is a normal business practice.

Form RD 1924-7, Contract Change Order, **(Cleared under OMB No. 0575-0042)**. This form is prepared by an applicant/borrower, contractor, architect, or engineer to record any changes in the development work performed by the contract method. An applicant/borrower, contractor, architect/engineer, and the Agency indicating mutual approval of the change sign the form. The collection of information for the form is a normal business practice.

Form RD 1924-9, Certification of Contractor's Release, **(Cleared under OMB No. 0575-0042)**. This form is prepared by a contractor to certify that payments have been made in full for all material and labor used in the performance of a construction contract and to release an applicant/borrower from any claims which might arise by virtue of the contract.

Form RD 1924-10, Release by Claimants, **(Cleared under OMB No. 0575-0042)**. This form is prepared by a contractor to show that the contractor has paid all materials and labor used in a construction contract. All subcontractors and suppliers who have provided material and/or labor for the development work sign the form. Their signatures indicate their release to the applicant/borrower from any claims.

Form RD 1924-11 Statement of Labor Performed, **(Cleared under OMB No. 0575-0042)**. This form is prepared by an applicant/borrower when requesting countersignatures by the Agency on checks for payment of labor performed by hired workers involved with the construction of a single-family home or multi-family housing units.

Form RD 1924-12, Inspection Report, **(Cleared under OMB No. 0575-0042)**. This form is prepared by the Agency to record the results of an inspection of development work or an existing dwelling or other type building. An applicant/borrower signs the form indicating acceptance of the completed development work or existing facility.

Form RD 1924-13-Estimate and Certificate of Actual Cost, **(Cleared under OMB No. 0575-0042)**. This form, prepared by all applicants for Section 515 loans, is used to provide the applicant/borrowers and the Agency with a trade-item cost breakdown of the proposed development work for evaluation. The form is also used to certify actual cost of construction work performed. In its efforts to combat fraud, waste, and abuse in the 515 programs, the Agency has developed a sophisticated cost tracking system which will enable it to closely scrutinize proposed construction costs to preclude unnecessary expenditures of Government

funds. The tracking system will track costs of construction on a line item basis. This form requires such a breakdown of costs, thus enabling the Agency to capture the needed information.

Form RD 1924-18, Partial Payment Estimate, **(Cleared under OMB No. 0575-0042)**. A contractor to request partial payment prepares this form for work performed on financed construction. The completed form provides the applicant/borrower and Agency information on the quantity and value of work performed. The applicant/borrower and Agency indicating their acceptance/approval of the request sign the form. The collection of information for the form is a normal business practice.

Form RD 1924-19, Builder's Warranty, **(Cleared under OMB No. 0575-0042)**. This form is completed by a contractor/builder and issued to the applicant/borrower at the completion or acceptance of the development work. The completed form protects the applicant/borrower against deficient materials and workmanship. The collection of information for this form is a normal business practice.

Form RD 1924-25, Plan Certification, **(Cleared under OMB No. 0575-0042)**. This form is prepared by licensed architects, professional engineers, plan reviewers, local building officials, National codes organizations, registered professional building designers, local communities, plan services, or builders/contractors to certify that final drawings and specifications and any modifications thereof are in conformance with the applicable development standard. The collection of information for the form is a normal business practice.

Form RD 1927-5, Affidavit Regarding Work of Improvement, **(Cleared under OMB No. 0575-0147)**. This form is used by the Closing Agent/Attorney to obtain an affidavit regarding improvement work that has been done to the property being financed. The applicant(s) and/or seller(s) certify that they have not incurred any obligations for repairs on the property that will result in a lien on the Agency financed property.

Form RD 1927-8, Agreement with Prior Lienholder, **(Cleared under OMB No. 0575-0042)**. This form is used by the Loan Approval Official in conjunction with a loan made subject to an existing lien when it is determined necessary to protect the Government's security interest against foreclosure action by the prior lien holder.

Form RD 1927-9, Preliminary Title Opinion, **(Cleared under OMB No. 0575-0042)**. This form is used by the Closing Agent/Attorney to furnish a preliminary title opinion for all loans being closed and an occasional Agency loan using an attorney's opinion.

Form RD 1927-10, Final Title Opinion, **(Cleared under OMB No. 0575-0147)**. This form is used by the Closing Agent/Attorney to furnish a final title opinion for loans using an attorney's opinion and being closed in connection with this regulation.

Form RD 1927-15, Loan Closing Instructions/Loan Closing Statement, **(Cleared under OMB No. 0575-0147)**. This form is used by the Loan Approval Official to transmit loan closing instructions and forms to be executed at the time of closing to the Closing

Agent/Attorney. The form is prepared by the local field office and used by the Closing Agent/Attorney to certify the loan was closed in accordance with 7 CFR 1927-B, and that the funds and the documents executed were disbursed as instructed. The form is completed by the Closing Agent/Attorney and reviewed by the Loan Approval Official. Information to complete the form is obtained from the loan closing documents.

Form RD 1927-19, Certification of Attorney, (Cleared under OMB No. 0575-0147). This form is used by the attorney to certify liability and fidelity coverage.

Form RD 1927-20, Certification of Title Insurance Company, (Cleared under OMB No. 0575-0147). This form is used by the insurance company selected by the applicant to certify that the company meets eligibility criteria for approval.

Guide Letter 1927-B-1, (Cleared under OMB No. 0575-0147). This guide letter is used by local field offices to compose a letter notifying the Closing Agent/Attorney that the applicant has selected them to close their Agency loan and will be responsible for paying the closing fee. The letter is prepared by the local field office, the burden is limited to the time required to review, concur, and sign the letter to indicate concurrence.

HUD 2530, Previous Participation Certification, (Cleared under OMB No. 2502-0118). All parties applying to become principal participants in multifamily housing projects use this form.

Form RD 3560-57, Application for Settlement of Indebtedness, (Cleared under OMB No. 0572-0137). Borrowers requesting debt settlement must submit complete and accurate information from which the Agency can make a decision. Offers that are rejected will be returned to the borrower with comments on potential points of negotiation. The borrower may resubmit his/her offer at any time.

Form RD 400-1, Equal Opportunity Agreement, (Cleared under OMB No. 0575-0018). This form is an agreement between Rural Development and a recipient of Federal financial assistance when a construction contract of \$10,000 or more is involved. The borrower agrees not to discriminate against any employee, or applicant for employment, and agrees to abide by the requirements of Executive Order 11246.

Form RD 400-4, Assurance Agreement, (Cleared under OMB# 0575-0018), and (OMB# 0570-0062). Recipients of Rural Development's Federal financial assistance as an assurance that the recipient will comply with the requirements of Title VI of the Civil Rights Act of 1964 execute this form.

Form RD 400-8, Compliance Review, (Cleared under OMB No. 0575-0018), and (OMB No. 0570-0062). This form is used by Rural Development employees to do compliance reviews on recipients of Rural Development financial assistance for compliance with Title VI of the Civil Rights Act of 1964. Compliance reviews are done on most recipients every three years, and in addition to reviewing the recipients, the employee is required to make community contacts with minorities and community-based organizations.

Form RD 402-1, Deposit Agreement, (Cleared under OMB No. 0575-0158) and (OMB# 0570-0062). A deposit agreement typically will be used to hold funds in a non-interest-bearing account for a short period of time. This agreement may be used for any program administered by the Agency that may require the holding of funds for very short periods of time in a non-interest-bearing account.

RD 440-24, Position Fidelity Schedule Bond, (Cleared under OMB No. 0575-0015). This form is used by the Insurance or Surety Company to write policy for an organizational borrower to protect against loss caused by theft or dishonest acts of employees if the company has no form of its own.

GL 1927-B-,1 Request for Title Opinion and Legal Services

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection.**

Several of the forms used for information collection have been adapted to automation technology and the identified response times incorporate this fact. These forms may be found on eGov.usda.gov which is the USDA Web Based Service Center eForms. On eGov the public forms may be viewed, printed, or transmitted electronically. Also, with the implementation of the Industry Interface during the fall of 1997, Agency borrowers may now use an automated interface with the Agency to transmit tenant information. Some automation software suppliers have automated several of the forms and have developed products for borrowers to organize and transmit tenant information through the Industry Interface. Tenant information reports such as Forms RD 3560-8 "Tenant Certification" and 3560-29, "Notice of Payment Due," have benefited greatly from automation because the complex and time consuming mathematical calculations are performed quickly and with greater accuracy than by the previous hand calculation and form preparation.

Other forms generally automated by software suppliers, or independently by users, are financial reports such as Forms RD 3560-7, "Multiple Family Housing Project Budget/Utility Allowance" and 3560-10, "Multiple Family Housing Borrower Balance Sheet." All of the forms are currently available via the USDA web site to the public. With the implementation of Industry Interface, the Agency is meeting the Government Paperwork Elimination Act (GPEA) requirement of making the necessary data available electronically. The Agency collects 95% of Forms RD 3560-8 and 3560-29, and 40% of Forms RD 3560-7 and 3560-10 electronically. These forms represent the largest public burden requirements of this program. However, overall, the Agency is only electronically collecting 36% of all the information requirements listed in this docket.

Report items that contain typed text such as the management plan, management agreement, various requests and/or notice letters that are used repeatedly are kept in automated word processing storage for easy recall and completion by simply filling in names and addresses or

other variable information. The Agency encourages automation of any or all information collection and report forms that can be automated. The only technical obstacle facing RHS is that OMB cleared forms, when automated, must provide identical wording and nomenclature of the approved form, including the OMB approval number. Additionally, the mathematical logic and calculation that is automated must be the same as in the approved form. The automation source is required to visibly affix a name or logo on the output of each form produced by automation to enable the Agency to monitor compliance. This also helps the Agency to identify and contact the source when any correction is necessary. The Agency will permit nominal adjustment of spacing of the "official form" to fit the constraints of automated systems.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The Agency uses standard conventional forms whenever possible of HUD or other government forms to reduce duplication. Each form has unique data collection requirements.

**5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.**

Most borrowers affected by this program are small businesses or individuals and have professional management agents working on behalf of the borrower and owners. The Agency strives to keep each collection and/or report item as simple as possible. Most forms are designed to be completed by the borrower rather than by other technical or professional persons. Step-by-step instructions are provided for completion of forms. There are industry software vendors that provide accounting related software to assist borrowers and management agents. Only the minimum information needed to determine program eligibility and the creditworthiness of a business or a credit proposal is requested. RHS has made every effort to ensure that the burden on small entities is the minimum necessary to effectively administer agency programs and meet statutory requirements needed with respect to both large and small entities beyond that performed in normal business practice.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

RHS could not effectively make loans and grants to eligible entities nor monitor borrowers and assess program effectiveness if information was collected less frequently or was not collected at all. Lack of information upon which to base servicing options and decisions could lead to unauthorized assistance and potential fraud, waste, and abuse in the program.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- a. Requiring respondents to report information more than quarterly. Nearly all respondents sign promissory notes calling for monthly payments. Further, it is common practice for tenants to pay monthly rent. The associated subsidies are therefore applied on a monthly basis. The borrower reports the monthly change of project tenant profile, which changes the total amount of interest credit and rental assistance for the project each month.
- b. Requiring written responses in less than 30 days. RHS information requirements provide for at least a 30-day response period.
- c. Requiring more than an original and two copies. RHS does not require more than an original and two copies.
- d. Requiring respondents to retain records for more than 3 years. RHS does not require respondents to retain records for more than 3 years.
- e. Not utilizing statistical sampling. RHS has no such requirements.
- f. Requiring use of statistical sampling which has not been reviewed and approved by OMB. RHS has no such requirements.
- g. Requiring a pledge of confidentiality. RHS has no such requirements
- h. Requiring submission of proprietary trade secrets. RHS has no such requirements.

**8. If applicable, identify the date and page number of publications in the Federal Register of the agency’s notice soliciting comments on the information collection. Summarize public comments received and describe actions taken by the agency in response to these comments. Describe efforts to consult with a minimum of 3 persons outside the agency to obtain their views on availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

As required by 5 CFR 1320.8(d), a Notice to request comments was published on in the *Federal Register* on June 9, 2023; Docket # RHS-23-MFH-0012, Vol. 88, No. 111; Page number 37848. Suggestions and comments are always considered by the Agency, and RD remains committed to pursuing further reductions in both the burdens placed upon our borrowers/customers and the total volume of regulations imposed. The Agency did not receive any comments.

The following are some of the organizations and their representatives we have sought out for their feedback regarding the burden of this information collection:

Flynn Management Corporation  
 Kevin Flynn, President  
 516 Lakeview Road, #8

Clearwater, FL 33756  
(727) 449-1182

Boyd Management, Inc  
Babbie Jaco, Vice President  
7700 Trenholm Rd  
Columbia, SC 29223  
(803) 419-6500

Southwind Management Services  
Pam Borton  
1006 Grove Street  
Clearwater, FL 33755  
(727) 443-3251

The representatives indicated they found the instructions to be clear and the data available. They considered the assistance from the processing office to be adequate and felt the paperwork and reporting burden were not any greater than other information collections.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

RHS makes no remuneration to respondents other than contractors or grantees.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or Agency policy.**

RHS makes no such assurances.

**11. Provide additional justification for any question of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private.**

RHS does not require information of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information.**

The Agency estimates there are 589,500 respondents made up of 12,500 project respondents, 480,000 tenant respondents and 97,000 tenant applicant respondents. The burden associated with this package is expected to be 2,236,035 responses and 1,072,246 hours per year.

See attached spreadsheet.

Information is completed by developers and potential borrowers seeking approval of rural rental housing loans with the assistance of professionals such as attorneys, architects, and contractors.

Item	Responses	Burden Hours
Written Reporting Requirements	1,472,466	637,488
Form Reporting Requirements	738,839	428,443
Record Keeping	24,730	6,315
Total	2,236,035	1,072,246

Based on this information, the overall hourly wage and the cost to the public were broken down by the following wage classes:

- Tenants - \$7
- Management (Support Staff) - \$16
- Management (Property Mgr.) - \$27
- Developer, Consultant/Packager, CPA Paralegal - \$45
- Professionals (Attorney & Architect) - \$56

These figures are based on the Bureau of Labor Statistics web site. The hourly cost was then multiplied by the burden hours. The addition of the new form “Replacement Reserve Intercreditor Agreement” added an additional \$180 to the total cost burden. The new form 3560-8a and revised form 3560-8 do not add any additional costs. Based on this computation, the projected annualized cost to the public is \$21,666,140.

**13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.**

There are no capital/startup or operation and maintenance costs.

**14. Provide estimates of annualized cost to the Federal Government.**

The estimated annualized cost for RHS to develop and administer this regulation is \$29,461,120. The addition of the new form “Replacement Reserve Intercreditor Agreement,” added an additional \$32,820 to the total cost to the Federal Government. The new form 3560-8a and revised form 3560-8 does not add any new costs. The cost is determined as follows:

<u>NATIONAL OFFICE</u>					
		No. of People	Grade and Salary	Time	Cost
Administrator		1	SES 177,000	0.33	58,410
Associate Administrator/Chief of Staff		1	SES 140,000	0.33	46,200
Deputy Administrator, MFH		1	SES 170,000	1	170,000
Directors (Preservation/Direct Loan Division & Portfolio Management Division)		2	15 152,760	1.024	312,852
Preservation/Direct Loan Staff		9	13/14 118,000	1.024	1,087,488
Portfolio Management Staff		6	13/14 118,000	1	708,000
Regs/Forms staff		0.5	13 116,000	1	58,000
<b>NATIONAL OFFICE SUBTOTAL</b>					<b>2,440,950</b>
<u>STATE OFFICE (47 OFFICES)</u>					
		No. of People	Grade and salary	Time	Cost
State Director		47	15/5 138,320	0.02	130,021
Rural Housing Director (SFH/MFH)		47	13/5 99,512	0.4	1,870,825
MFH Coordinator/Specialist		96	12/5 83,685	1	8,033,760
Housing Technician		47	7/5 47,176	0.75	1,662,954

<b>STATE OFFICE SUBTOTAL</b>					<b>11,697,560</b>
<u>SERVICING OFFICES (230)</u>					
		<b>No. of People</b>	<b>Grade and salary</b>	<b>Time</b>	<b>Cost</b>
Loan Specialist		230	12/5 83,685	0.6	11,548,530
Technician		200	7/5 47,176	0.4	3,774,080
<b>SERVICING OFFICE SUBTOTAL</b>					<b>15,322,610</b>
<b>TOTAL AGENCY COST</b>					<b>29,461,120</b>

**15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-1.**

This request for revision includes the addition of a new form “Replacement Reserve Intercreditor Agreement.” This form adds 24 responses and 4 hours to the total burden.

This submission also includes the addition of a new form, Form RD 3560-8(a). This new form does not create any new burden. The burden associated with this new form has been transferred from the existing Form RD 3560-8 in the amount of 5,000 responses and 2,500 burden hours.

Form RD 3560-8 has been updated. This updated form does not create or remove any new burden.

**16. For collection of information whose results will be published, outline plans for tabulation and publication.**

RHS collects information for use in loan selection and processing and for the monitoring of existing loans and projects. There are no plans for publication of collected information.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

RD will display the OMB expiration date on the forms.

**18. Explain each exception to the certification statement identified in item 19 on OMB 83-1.**

There are no exceptions requested.

**19. How is this information collection related to the Service Center Initiative (SCI)?**  
**Will the information collection be part of the one stop shopping concept?**

The Service Center Initiative will have no effect on how we administer this program. The information contained in this collection cannot be shared because it is program specific to our agency only.