

findings will result, requiring less OIG and RHS staff time to resolve.

The proposed rule eliminates agency approval of project management plans and requires instead that borrowers submit a management plan that addresses a specified list of operational areas. RHS staff would review the plan to see if the required areas have been covered in the plan but will not approve the plan. The plan will be used to monitor project performance, but discrepancies between project operations and the plan will not constitute a violation of program requirements unless the discrepancies affect program performance. This change reduces the administrative burden on RHS staff and borrowers. It also provides borrowers with greater flexibility to make sound changes in project operations without creating a performance concern.

Management Fees

Current program regulations require that management fees for projects be reasonable and competitive. However, OIG staff found that the management fees approved for projects varied significantly, ranging from as low as \$25 per unit per month to \$55 per unit per month across States. This led OIG to question whether the higher fees found in some instances was reasonable. As with management plans, the OIG expressed concern that current regulations were neither clear nor consistent concerning what services were to be included in the management fee. In some States, many of the maintenance services provided by management company staff were included in the management fees and in other States, the charges were not. Another example is that in some States, insurance and tax costs for project employees were included in management fees while in other States the costs were billed directly to the project. Comments by agency staff at stakeholder meetings revealed that the variations were often due to differences in field office interpretations about the bundle of services covered by the management fee. They noted that services not covered by the fee were paid for as a line item on the budget. When management fees plus other fees for services were accounted for, management compensation was consistent.

Together with representatives of the property management industry and OIG, RHS developed the bundle of management services that is a part of this regulatory change. By moving to a standardized grouping of services that is to be included in the management fee,

RHS and OIG believe that the change will greatly improve consistency between areas of the country and RHS offices. As stated in the previous paragraph, as these services were all being provided previously but charged to the project on different lines of the operating budget, the grouping of these expenses in a different manner would neither increase nor decrease the overall cost to the project or the rents being charged.

The proposed rule and accompanying handbooks address the inconsistencies in fees by establishing a standard bundle of services covered by the management fee and a framework for setting standard adjustments for project characteristics that warrant slightly higher fees, such as for a new management agent taking over a troubled property. However, the proposed rule should improve RHS' ability to document that the management fees for projects are reasonable. It should also ensure consistency between RHS field offices in interpretation of services included in fees. Additionally, the number of OIG findings should be reduced, requiring less OIG and RHS staff time to resolve.

Standards for Physical Conditions at Projects

Current regulations establish the borrower's responsibility to maintain their projects in decent, safe, and sanitary condition. However, the OIG raised concerns about consistency in the implementation of this standard.

Therefore, the proposed rule establishes specific standards for physical conditions that clarify the conditions that constitute decent, safe, sanitary housing. These standards do not represent a change in agency policy. Rather, they make agency expectations explicit and thus improve the agency's ability to enforce physical standards, thereby improving the quality of living conditions for tenants and better preserving the security for agency loans.

Recertifications of Tenant Eligibility

Recertifications are used to document a tenant's income for the purpose of determining eligibility to live in an MFH unit and qualify for rental assistance payments. Current regulations require both an annual recertification and an interim recertification whenever the tenant's income changes. Stakeholders indicated that the recertification process is time consuming for tenants, borrowers, and the agency.

The proposed rule simplifies the process by eliminating the requirements for an interim recertification for tenant

income changes that have an impact on the rent of \$25 or less. RHS arrived at the \$25 threshold by comparing the cost of re-certifying a tenant with the benefit either the Government or the tenant would receive as a result of increased or decreased rent. Based on consultation with industry groups and OIG, RHS determined that the cost to re-certify a tenant was about \$150. Assuming that any change would apply for only 6 months of the year, the \$150 figure was converted to a monthly figure of \$25, which became the threshold. The regulations allow a tenant to request a recertification any time their income decreases. This provision was included in order not to negatively impact tenants with the lowest income for which the \$25 per month figure may constitute a significant portion of income for which the \$25 per month figure may constitute a significant portion of income.

While a detailed analysis of how the impact of the \$25 threshold might be distributed between the Government and tenants was not completed, recent OIG audits have indicated the current recertification process produces approximately the same amount of rent increases as rent decreases, and thus results in little or any overall change in rental assistance payments.

The proposed rule also adds a requirement for electronic reporting of information, including tenants' income. The faster transmission of this information provides RHS with more time for analyzing the information. Consequently, the proposed rule extends by 10 days the period for submitting recertifications, giving borrowers more time to comply with agency requirements, thus improving customer service while maintaining program performance.

Lease Protection

The proposed rule would require that leases for rental units that receive rental assistance include a clause that specifies that the tenant's contribution to rent will not increase if rental assistance is terminated due to actions by the borrower/owner. This requirement is not contained in current regulations. RHS estimates that there have been two to four incidents a year in which a borrower/owner has attempted to make up for the loss of rental assistance payments due to a default on his/her part, by raising tenants' rents. Such action usually occurs in a contentious situation, with the borrower/owner already in default and uncooperative. Consequently, requiring that the lease include a clause specifically prohibiting such action may not resolve all cases. However, it would provide tenants with