

(4) When a housing project is being transferred from one borrower to another, the transferee must submit a management plan that addresses the required items identified in paragraph (b)(1) of this section in sufficient detail to enable the Agency to give final approval of the transfer.

(d) *Housing projects with compliance violations.* Upon receiving notice of compliance violations in accordance with § 3560.354, borrowers must submit to the Agency:

(1) Revisions to the management plan establishing the changes in housing operations that will be made to restore compliance; or

(2) If the borrower determines the compliance violations were due to a failure to follow the management plan, the borrower must certify to the Agency that the management plan is adequate to assure compliance with the applicable requirements of this part and submit a written description of the actions they will take to ensure the management plan is followed.

(3) If the Agency discovers continued discrepancies between a management plan and housing project operations or compliance violations, the Agency may require the borrower to install a different management agent acceptable to the Agency as described in paragraph (e) of this section.

(e) *Acceptable management agents.* Borrowers must obtain Agency approval of the agent proposed to manage a housing project prior to entering into any formal agreement with the agent and prior to allowing the agent to assume responsibility for housing project operations. Borrowers that plan to self-manage a housing project also must receive Agency approval before assuming responsibility for housing operations.

(1) Borrowers must submit a written request for Agency approval of the proposed management agent at least 45 days prior to the date the agent is to assume responsibility for operations. This request must include a profile of the proposed management agent that provides sufficient information to allow the Agency to evaluate whether the agent is acceptable.

(2) The Agency will deny approval of any proposed management agent that cannot provide evidence of at least two years of experience and satisfactory performance in directing and overseeing the management of similar federally-assisted multi-family housing.

(3) The Agency may issue approval of a management agent that does not meet the requirements of § 3560.102(e)(2) if the management agent can provide evidence that indicates the ability to

successfully manage a multi-family housing project in accordance with Agency requirements.

(4) If a borrower enters into an agreement with a management agent or begins to self-manage prior to receiving Agency approval, the Agency will place the borrower in non-monetary default status and, if not a self-management situation, will require the borrower to immediately terminate the contract with the management agent.

(5) With Agency consent, borrowers may self-manage housing on a 30-day temporary basis or may enter into a 30-day temporary agreement with a management agent if management services are needed to ensure proper operation of a housing complex prior to completion of the Agency management agent approval process. Such 30 day temporary agreements may be renewable for additional 30-day periods with Agency approval.

(f) *Self-management.* Borrowers may self-manage a housing project but must receive Agency approval before assuming responsibility for housing operations. Borrowers that plan to self-manage must meet all requirements of § 3560.102, except for paragraph (h).

(g) *Identity-of-interest disclosure.* Borrowers and management agents must disclose to the Agency all identity-of-interest relationships which they have with firms and must receive Agency approval to use such firms prior to entering into any contractual relationships with such entities that involve Agency funds.

(1) This disclosure must include any identity-of-interest relationships between:

(i) The borrower and the management agent;

(ii) The borrower or management agent and the providers of supplies and services to the housing project; and

(iii) The borrower or the management agent and employees of any of the above.

(2) Failure to disclose such relationships may subject the borrower, the management agent, and the other firms or employees found to have an identity of interest relationship to suspension, debarment, or other remedies available to the Agency.

(3) After disclosure of an identity-of-interest relationship:

(i) The borrower, management agent, and supplier of goods and services must provide documentation proving that use of identity-of-interest firms is in the best interest of the housing project;

(ii) Any supplier of goods and services must certify in writing to the Agency that the individual or organization has a viable, on-going trade

or business qualified and licensed, if appropriate, to do the work for which a contract is being proposed;

(iii) The borrower, management agent, and supplier of goods and services must agree, in writing, that all records related to the housing project will be made available to the Agency, OIG, GAO, or a representative of the Agency, upon request; and

(iv) The Agency will deny the use of an identity-of-interest firm when the Agency determines such use is not in the best interest of the Federal government or the tenants.

(h) *Management agreement.* Borrowers contracting with a management agent must execute a management agreement that establishes:

(1) The management agent's responsibility to comply with Agency requirements and local, state, and Federal laws;

(2) That the management fee is payable out of the housing project's general operating account consistent with the requirements of paragraph (i) of this section; and

(3) The Agency's authority to terminate the agreement for failure to operate the housing project in accordance with Agency requirements or local, state, or Federal laws.

(i) *Management fees.* Management fees will be an allowable expense to be paid from the housing project's general operating account only if the fee is approved by the Agency as a reasonable cost to the housing project and documented on the management certification. Management fees must be developed in accordance with the following:

(1) The management fee may compensate the management entity only for the specifically identified bundle of services to be provided to the housing project.

(2) Management fees may consist of a base per occupied unit fee, add-on fees for specific housing project characteristics, and incentive fees to encourage superior performance. Management entities may be eligible to receive the full base per occupied unit fee for any month or part of a month during which the unit is occupied.

(i) Periodically, the Agency will develop and publish for public comment a range of base per occupied unit fees that will be paid in each state. The Agency will develop the fees based on a review of housing industry data. The final base for occupied unit fees for each state will be made available to all borrowers.

(ii) Periodically, the Agency will develop and publish for public comment the amount and qualifications