

in the housing project's approved budget and the required loan payment set in the promissory note reduced by the interest credit agreement.

(3) *HUD contract rents.* For housing receiving project-based Section 8 rental subsidies, the HUD contract rent will be established in accordance with 24 CFR part 880 or part 884, as applicable, available at any Agency servicing office.

(4) *Low-income housing tax credit (LIHTC) rents.* Borrowers who receive LIHTCs may establish rents in accordance with LIHTC requirements. However, borrowers are obligated to ensure that sufficient annual funds are available to cover expenses in the housing project's approved budget including the required payments on borrower's Agency loan. Borrowers must not use housing project funds to make up any difference between rents required under Agency program requirements and the maximum allowed rents under the LIHTC program.

(d) *Utility allowances.* In projects where tenants pay the utilities, borrowers must establish utility allowances for each size and type of rental unit in the housing project based on estimated utility costs. Borrowers must review utility allowances annually, adjust for accuracy, and submit any utility allowance changes to the Agency for approval. If no changes are needed, the borrower must notify the Agency that no changes were made. Documentation to justify utility allowances must be maintained in the housing project files.

(e) *Funds contributed to reduce rents.* If borrowers use funds contributed from sources other than the Agency (e.g., state or local grants, private contributions) to reduce general operating and management expenses, housing project rents must be reduced to reflect the funding being used to offset housing project expenses. When funds contributed from sources other than the Agency are used for housing project expenses, the borrower must certify to the Agency, in writing, that the funds provided will not need to be repaid with Agency funds.

(f) *Rents for resident manager, caretaker, or owner-occupied unit.*

(1) If approved as a part of a management plan, a borrower may occupy a rental unit in a housing project when they are acting as a management agent or resident manager as specified in § 3560.102(e).

(2) If the rental unit being occupied by a borrower or resident manager is designated as a revenue-producing unit, borrowers must calculate the rental charge to the borrower or resident

manager in the same manner as tenant contributions.

(3) If the rental unit being occupied by a borrower or resident manager is designated as a non-revenue producing unit, borrowers must treat the cost of providing the unit the same as other non-revenue producing portions of the housing project.

#### **§ 3560.203 Tenant contributions.**

(a) *Tenant contributions.* A tenant's contribution to rent charged for a rental unit in an Agency financed housing project is based on the tenant's income, as calculated on the Agency's tenant certification forms, and the availability of Agency or non-Agency rental subsidies.

(1) *Gross tenant contributions.* Borrowers must set gross tenant contributions to rent at the highest of the following standards but never more than the note rent:

(i) Thirty percent of monthly adjusted income;

(ii) Ten percent of gross monthly income;

(iii) An amount equal to the portion of an assistance payment specifically designated to meet the household's shelter costs if the household is receiving assistance payments from a public agency; or

(iv) The basic rent, unless RHS rental assistance is provided to the household.

(2) *Net tenant contributions.*

Borrowers must set net tenant contributions to rent at an amount equal to the gross tenant contribution less any utility allowance assigned to the rental unit occupied by the tenant.

(3) *Tenant contribution surcharge.* Tenants in a Plan I housing project with incomes above the eligibility standards set in § 3560.152(a)(1) must pay a 25 percent surcharge in addition to note rent.

(b) *Adjustment of net tenant contribution.* Borrowers must adjust gross tenant contribution whenever there is a change in tenant household status or income sufficient to generate a revised tenant certification in accordance with § 3560.152(e) or an Agency approved rent or utility allowance change that affects the net tenant contribution amount.

(c) *Overage.* If a tenant's net tenant contribution is higher than basic rent, borrowers must remit to the Agency the rent collected in excess of the basic rent and up to the note rent.

#### **§ 3560.204 Security deposits and membership fees.**

(a) *General.* Borrowers may collect security deposits when it is reasonable and customary for the area in which the

housing is located. Borrowers must hold security deposits in a separate bank or bookkeeping account in accordance with § 3560.302(c)(3).

(b) *Allowable amounts.* Borrowers may charge security deposits that are typical for the area in which the housing is located, as long as the security deposit charged a tenant does not exceed that tenant's net contribution for one month's rent or basic rent, whichever is greater.

(1) As noted in § 3560.102(b)(1)(viii) and § 3560.156(c)(15)(iii), borrowers must specify in the housing project's management plan how the amount to be charged as a security deposit will be established and must specify the amount to be charged to individual tenants in the lease to be signed by the tenant.

(2) Borrowers may charge security deposits to households receiving HUD assistance in accordance with HUD requirements.

(3) Members of a cooperative shall be required to pay a membership fee no greater than one month's occupancy charge.

(4) Additional security deposits for pets may be charged as long as the additional deposit is not greater than basic rent for 1 month. No additional security deposit for pets is allowed where a service animal is necessary for the normal function of a household member.

(5) Borrowers must not charge additional security deposits based on disabilities of tenants or other personal characteristics.

(c) *Payment plans.* Borrowers must offer, for persons who are eligible for rental assistance or Section 8 assistance, the option of paying the security deposit on an installment payment plan. Should installments not be met, the total charge may become due and payable in full.

(d) *Charges for damage or loss.* Borrowers may charge tenants for damage or loss caused or allowed by the tenant equal to the cost of the damage or loss.

(1) Borrowers must consider routine turnover expenses a normal operating expense and must not charge tenants a fee or withhold security deposits to pay for such costs.

(2) Borrowers may withhold security deposits and may charge tenants for damage or loss costs above security deposit amounts.

(e) *State and local security deposit requirements.* Borrowers must follow all state and local laws and other requirements governing the handling and disposition of security deposits.