

the price paid must equal the required contribution to reserves.

(3) Investors must be knowledgeable about industry practices and consider the impact of typical fees and charges for purchases, sales and maintenance of an account, when making investment decisions. Such fees may be paid for out of reserves, only with the consent of the Agency. Housing project funds may not be used to pay for a financial advisor.

(h) *Use of the reserve account.*

(1) Borrowers must request Agency approval of reserve account withdrawals prior to the withdrawal.

(2) Borrowers must inform the Agency of planned uses of reserve accounts in their annual capital budget if known at budget planning time.

(3) The Agency will indicate any conditions governing withdrawals from a reserve account at the time it approves the withdrawal.

(4) In emergency situations, the Agency may specify special procedures to provide an expedited approval process for the use of the reserve account.

(5) The Agency may "post-approve" the use of reserve funds only under extraordinary circumstances and only if the funds were used for authorized purposes and their expenditure would have been approved by the Agency had a request been submitted prior to the withdrawal.

(6) The Agency may approve the use of reserve funds for operating costs when circumstances that are determined by the Agency to be beyond the borrower's control have resulted in a shortfall in the housing project's general operating account.

(i) *Allowable uses.* Allowable uses of reserve funds include the following.

(1) Major capital improvements and replacements.

(2) Housing project operating expenses provided the requirement of paragraph (h)(6) of this section has been met, including:

(i) Payments due on the loan, or

(ii) Payment of a return on investment at the end of the borrower's fiscal year.

(3) With Agency approval, borrowers operating on a for-profit or a limited profit basis may make an annual withdrawal from the reserve account, equal to no more than 25 percent of the amounts earned on a reserve account during the prior year.

(4) For other purposes, which in the judgment of the Agency will promote the loan purposes, strengthen the security or facilitate, improve, or maintain the housing and the orderly collection of the loan without jeopardizing the loan or impairing the adequacy of the security.

(j) *Records.* Borrowers must maintain records documenting all expenses which were paid by withdrawals from the reserve account.

(k) *Changes to reserve requirements.*

(1) At a borrower's request, the Agency may permit the loan agreement or loan resolution to be amended to adjust the required funding of the reserve account to meet anticipated "life-cycle" capital needs, including equipment and facility replacement costs. Such a request may be based on a capital needs assessment performed in response to § 3560.103(c)(2).

(2) Borrowers may use an Agency approved capital needs assessment as the basis for requesting adjustments to the reserve account.

(3) The Agency may approve a change in the reserve account funding level based on the findings of an approved capital needs assessment. The approval to increase reserve account funding levels will take into consideration the housing project's approved budget and the housing project's ability to support increased reserve account deposits without causing basic rents to exceed conventional rents for comparable units in the area.

(l) *Excess reserves.* Amounts in the reserve account which exceed the total required by the loan or grant agreement must be used, at the direction of the Agency, to:

(1) Pay for expenses specified in a long-term capital plan;

(2) Make payments on the Agency loan;

(3) Reduce rents by a transfer to the general operating account;

(4) Fund preservation incentives authorized in subpart N of this part; or

(5) Cover other expenditures determined to be related to the purpose of the housing project and in the best interest of the Federal Government.

(m) *Procurement.* The requirements of § 3560.102(c), (d) and (i), and all other Agency requirements relating to procurement, bidding, identity-of-interest, cost-reasonableness, and construction management apply to any work or services paid out of reserve funds. Structural repairs and other significant work on major building systems such as heating or air conditioning must be done in accordance with the requirements of 7 CFR part 1924, subpart A.

§ 3560.307 Reports.

(a) *Required reports.* Borrowers must submit required reports using Agency-approved formats.

(b) *Quarterly and monthly reports.* The Agency may require quarterly or monthly reports to monitor financial

progress when closer supervision is warranted.

§ 3560.308 Annual financial reports.

(a) *General.* Borrowers must submit annual financial reports that meet the requirements of this section. The annual financial reports to be submitted are the Multi-Family Housing (MFH) Project Budget with actual expenditures and the MFH Balance Sheet. Annual financial reports are due to the Agency within 90 days of the end of the borrower's fiscal year.

(1) Borrowers with 16 or more units in their housing project must base their annual financial reports on an engagement report completed according to agreed upon procedures established by the Agency as specified in paragraph (c) of this section. Borrowers must include the engagement report with their annual financial reports submitted to the Agency.

(2) Borrowers with less than 16 units in their housing project must submit annual financial reports using Agency-approved formats and certify that the housing meets the performance standards established in paragraph (d) of this section. Borrowers may use a CPA to prepare this report.

(b) *Housing projects with common management.* In housing projects managed by a common management entity, operate under a common accounting system and procedures, and have a common managing general partner, the Agency may designate a sample of the housing projects for annual financial reports that meet the requirements of paragraph (a)(1) of this section. For the housing projects not included in the sample, the borrower must submit annual financial reports that meet the requirements of paragraph (a)(2) of this section.

(c) *Engagement requirements.*

Borrowers required to submit annual financial reports based on an engagement performed by a CPA must meet the following requirements.

(1) Borrowers must submit the results of an engagement that examines specific records using agreed upon procedures established by the Agency and that describes the borrower's performance in meeting the standards described in paragraph (d) of this section.

(2) The engagement will be initiated by the borrower using the Agency's engagement letter, which will specify the engagement program and establish the reporting requirements for the engagement.

(3) The engagement must be conducted by a Certified Public Accountant (CPA) in accordance with American Institute of Certified Public