

50 years from the date of signature of all the parties.

**§ 3560.567 Establishing the profit base on initial investment.**

The requirements established under § 3560.67 apply to applicants eligible under § 3560.555(a)(2) and operating as a limited partnership with a nonprofit general partner.

**§ 3560.568 Supplemental requirements for seasonal off-farm labor housing.**

For off-farm labor housing operating on a seasonal basis, the management plan must establish specific opening and closing dates. During the off-season, off-farm labor housing may be used as defined in subpart A of this part under short-term lease provisions. Where rents are charged on a per-unit basis and family income qualifies the household for rental assistance, rental assistance may be used.

**§ 3560.569 Supplemental requirements for manufactured housing.**

The requirements established in § 3560.70 apply to all applications for off-farm labor housing loans and grants.

**§ 3560.570 Construction financing.**

The requirements established in § 3560.71 apply to all applications involving off-farm labor housing loans and grants. In addition, the following requirements apply.

(a) If the Agency is providing grant only assistance, the Agency will provide grant funds as part of the take out of construction financing.

(b) If construction is financed with a Labor Housing grant, it is subject to the provisions of the Davis-Bacon Act (published in the Department of Labor regulations (29 CFR parts 1, 3, and 5)).

(c) If the Agency is providing both loan and grant funds, loan funds must be fully released and expended prior to the release of grant funds from the Agency.

**§ 3560.571 Loan and grant closing.**

The requirements established in § 3560.72 apply to all applications for off-farm labor housing loans and grants. In addition, the following requirements apply.

(a) For loans, a nonprofit organization will have its Board of Directors adopt an Agency-approved loan resolution and furnish a certified copy for the loan docket before loan approval. All other loan applicants will execute an Agency-approved loan agreement.

(b) For grants, an Agency approved grant agreement, must be executed by the applicant on the date of grant closing. Also, a nonprofit organization will have its Board of Directors adopt a

resolution containing provisions authorizing the Agency to prescribe requirements regarding housing and related facilities' operations and other provisions including the following provisions.

(1) The rents charged domestic farm labor must not exceed the rents approved by the Agency after considering the income of the occupants, Agency and non-Agency rental assistance available and the necessary costs of operation, debt service, and adequate maintenance of the housing.

(2) The housing must be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by state and local law, and Agency requirements.

(3) When making occupancy decisions, domestic farm labor applicants will always receive priority.

(c) The obligations incurred by the applicant, as a condition of accepting the grant, will be in accordance with the off-farm labor housing grant agreement.

(d) All off-farm labor housing loans and grants are subject to the restrictive use provisions established by subpart N of this part. Such restrictions must be included in the mortgage, deed of trust or grant agreement. The term of the restricted use provision for the off-farm labor housing grants is 50 years with or without a loan.

**§ 3560.572 Subsequent loans.**

The requirements established in § 3560.73 will apply to all applications for subsequent off-farm labor housing loans.

**§ 3560.573 Rental assistance.**

(a) Rental assistance may be provided to income eligible tenants living in off-farm labor housing in accordance with subpart F of this part. The requirements established in § 3560.252 apply to all tenants receiving rental assistance.

(b) For dormitory style facilities operating on a per bed basis, rental assistance will be made available to the housing on a per unit basis, but may be pro-rated to tenants on a per bed basis. However, total rent charged for a unit must not exceed conventional rent for comparable units in the area or a similar area and per bed rents must be comparable to per bed rents in the market.

**§ 3560.574 Rental structure and changes.**

Off-farm labor housing is subject to the tenant contribution and rental unit rent requirements for Plan II housing established under subpart E of this part, except where seasonal housing will be occupied for less than a 3-month period.

In such instances the best available and practical income verification methods may be used with prior approval of the Agency.

**§ 3560.575 Occupancy restrictions.**

(a) *Restrictions on conditions of occupancy.*

(1) No nonprofit organizational borrower, other than an association of farmers or family farm corporation or partnership, will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing.

(2) Tenant selection should be in accordance with the loan agreement, subpart D of this part and § 3560.576.

(3) No borrower will discriminate, or permit discrimination by any agent, lessee, or other operator in the use or occupancy of the housing or related facilities because of race, color, religion, sex, age, handicap, marital or familial status, or national origin.

(b) *Eligible households.* To be eligible for occupancy in off-farm labor housing, households must meet the following requirements.

(1) *Occupational.* An eligible household must include a domestic tenant or co-tenant farm laborer, a retired domestic farm laborer, a domestic farm laborer with a farm labor-related disability, or must be a surviving household of a deceased domestic farm laborer.

(2) *Income.* The household must meet the definition of income eligible as established in § 3560.152 and the tenant or co-tenant must receive a substantial portion of income from farm labor employment. To determine if a substantial portion of income is from farm labor employment, the following measures will be used.

(i) For housing rented to farm laborers and owned by public bodies and public or private nonprofit organizations when charging rent.

(A) Actual dollars earned from farm labor by domestic farm laborers other than migrant farmworkers must equal at least 65 percent of the annual income limits published by the Agency. For migrant farmworkers living in seasonal housing the actual dollars earned from farm labor by a domestic farm laborer must equal at least 50 percent of published annual income limits.

(B) An alternate measure for determining substantial portion of income when actual earnings are not available may be the duration of time a farm laborer worked on a farm or other farming enterprise as a domestic farmworker during the preceding 12 months. In order to be considered as