

borrower would make a binding commitment to extend the low-income use of the housing and related facilities for not less than 15 years for loans without interest credit and 20 years for loans with interest credit, beginning on the date on which the new agreement is executed. If the borrower is unwilling to enter into a new restrictive-use provision and restrictive-use agreement, the Rural Housing Service should document this fact in writing and proceed to take the actions described in § 3560.658.

§ 3560.656 Incentive offers.

(a) The Rural Housing Service will offer a borrower, who submits a prepayment request meeting the conditions of § 3560.653(d), incentives to agree to the restrictive-use period in § 3560.662 if the following conditions are met:

(1) The Rural Housing Service determines that the prepayment will result in an adverse impact on the availability and affordability of housing for program-eligible households.

(2) For loan agreements approved after December 21, 1979, but prior to December 15, 1989, the restrictive-use period has expired.

(b) Specific incentives offered will be based on the Rural Housing Service's assessment of:

(1) The value of the housing project as determined by Rural Housing Service obtained "as-is" market value appraisal conducted in accordance with subpart P of this part.

(2) An incentive amount that will provide a fair return to the borrower;

(3) An incentive amount that will not cause basic rents at the housing project to exceed conventional rents for comparable units; and

(4) An incentive amount that will be the least costly alternative for the Federal Government while being consistent with the Rural Housing Service's commitment to the preservation of housing for very-low, low, and moderate income households in rural areas.

(c) The Rural Housing Service may offer the following incentives.

(1) The Rural Housing Service may increase the borrower's annual return on investment by one of the following two methods. The actual withdrawal of the return remains subject to conditions specified in subpart G of this part.

(i) The Rural Housing Service may recognize the borrower's current equity in the housing project. The equity will be determined using a Rural Housing Service accepted appraisal based on the housing project's value as unsubsidized conventional housing.

(ii) The Rural Housing Service may recognize the borrower's current equity in the housing project at the higher of the original rate of return or the current 30-year Treasury bond rate plus 2 percent rounded to the nearest one-quarter percent. The equity will be determined using the most recent Rural Housing Service accepted appraisal, which will include a determination of long-term repair or deferred maintenance, of the housing project prior to receiving the prepayment request.

(2) The Rural Housing Service may agree to convert projects without interest credit or with Plan I interest credit to Plan II interest credit or increase the interest credit subsidy for loans with Section 8 assistance to lower the interest rate on the loan and make basic rents more financially feasible.

(3) The Rural Housing Service may offer additional rental assistance, or an increase in assistance provided under existing contracts under sections 521(a)(2), 521(a)(5) or section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(4) The Rural Housing Service may make an equity loan to the borrower. The equity loan must not adversely affect the borrower's ability to repay other Rural Housing Service loans held by the borrower and must be made in conformance with the following requirements.

(i) The equity loan must not exceed the difference between the current unpaid loan balance and 90 percent of the housing project's value as determined by an "as-is" market value appraisal conducted in accordance with subpart P of this part.

(ii) Borrowers with farm labor housing loans are not eligible to receive equity loans as incentives.

(iii) If an incentive offer for an equity loan is accepted, the equity loan may be processed and closed with the borrower or any eligible transferee.

(iv) Excess reserve funds will be used to reduce the amount of an equity loan offered to a borrower.

(v) Equity loans may not be offered unless the Rural Housing Service determines that other incentives are not adequate to provide a fair return on the investment of the borrower to prevent prepayment of the loan or to prevent displacement of project tenants.

(5) The Rural Housing Service will offer rental assistance to protect tenants from rent overburden caused by any rent increase as a result of a borrower's acceptance of an incentive offer or tenants who are currently overburdened.

(6) In housing projects with project-based Section 8 assistance, the Rural Housing Service may permit the borrower to receive rents in excess of the amounts determined necessary by the Rural Housing Service to defray the cost of long-term repair or maintenance of such a project.

(d) The Rural Housing Service will determine that the combination of assistance provided is necessary to provide a fair return on the investment of the borrower and is the least costly alternative for the Federal Government.

(e) At the time the incentive is developed, the Rural Housing Service must take into consideration the costs of any deferred maintenance items in the housing project's operating budget and any expected long-term repair or replacement costs based on a capital needs assessment developed in accordance with § 3560.103(c). The amount required for the reserve account to be considered fully funded will be adjusted accordingly. To determine if basic rents exceed conventional rents for comparable units in the area, monthly contributions necessary to obtain the adjusted fully funded reserve account will be included in the calculation of basic rents. Deferred maintenance or any deficiencies identified in project compliance with section 504 of the Rehabilitation Act of 1973 must be addressed prior to the receipt of any incentive.

(f) Existing loans must be consolidated, provided consolidation retains the Rural Housing Service's lien position, and reamortized in accordance with subparts I and J of this part, unless consolidation is not necessary to maintain feasibility of the housing for the tenants or to reduce the debt service or the level of monthly rental assistance.

(g) The borrower must accept or reject the incentive offer within 30 days. If no answer to the offer is received within 30 days, the Rural Housing Service may void the prepayment request.

(h) If the borrower accepts the incentive offer, procedures outlined in § 3560.657 must be followed.

(i) If the borrower rejects the incentive offer, the borrower must comply with requirements listed in § 3560.658.

§ 3560.657 Processing and closing incentive offers.

(a) *Borrower responsibilities.* If a borrower accepts the Rural Housing Service's offer of incentives, the borrower must complete the actions listed below. The Rural Housing Service will not negotiate an incentive offer once it has been accepted.

(1) The borrower must insert the restrictive-use language specified in