

May 16, 2008

TO: State Directors  
Rural Development

FROM: Russell T. Davis (*Signed by Russell T. Davis*)  
Administrator  
Housing and Community Facilities Programs

SUBJECT: Fiscal Year 2006 Section 514/516  
Management Control Review  
Establishing the Diminished Need for Off-Farm Labor Housing

This Unnumbered Letter (UL) is written to provide guidance on establishing the diminished need for off-farm labor housing. Additionally, this UL provides corrective action for weakness two discovered during the fiscal year 2006 Management Control Review.

**Background:**

The Housing Act of 1949 and 7 C.F.R. part 3560 subpart L Section 3560.577 makes farm labor housing available for: citizens of the United States; permanent resident aliens; retired or disabled domestic farm laborers from the local market, who were domestic farm laborers at the time of retirement or became disabled; and other retired and disabled farm laborers. Tenant occupancy in offfarm labor housing prioritizes active farm laborer households allowing very low-income households, low-income households, moderate-income households, retired or disabled farm laborers from the local market, and retired or disabled farm laborers from outside the local market.

**WEAKNESS NUMBER 2:**

Of all the properties visited, 100 percent failed to prioritize tenant occupancy in accordance with 7 C.F.R. part 3560 subpart L Section 3560.577. Additionally, all States were not aware that non-farm laborers were eligible to reside in farm labor housing. A waiting list is used to determine the diminished need in farm labor housing. However, the waiting list(s) reviewed were not in accordance with regulations and thus a diminished need could not be verified. If a diminished need is determined, units may be made available to: very low-income households, low-income

EXPIRATION DATE:  
May 31, 2009

FILING INSTRUCTIONS:  
Housing Programs

households and moderate-income households, persons eligible under the requirements established to qualify for housing benefits by sources other than Agencies like the Department of Housing and Urban Development (HUD) and Low Income Housing Tax Credits (LIHTC), as stated in 7 C.F.R. part 3560 subpart D Section 3560.152.

**Guidance:**

As a basis for Agency approval or disapproval of the borrower's determination of diminished need, the borrower must submit a current analysis of need and demand to the Agency, identical to the market analysis that is required of loan applicants in the loan origination process. This market analysis must determine project viability, economic conditions and farm worker demographics. The market analysis must determine that, based upon the market study, local economic conditions will not significantly improve in the next one to two years. The market study should identify any known changes in the local economy. For example, if farms were sold to developers to build houses. Market studies or market surveys must identify farm worker demographics. Furthermore, the market study or market survey must represent eligible tenants for off-farm labor housing properties. According to 7 C.F.R. part 3560 subpart L section 3560.577, eligible tenants of off-farm labor housing are: citizens of the United States; permanent resident aliens; retired or disabled domestic farm laborers from the local market who were domestic farm laborers at the time of retirement or became disabled; and other retired and disabled farm laborers.

This summary should qualify eligible tenants as discussed above within the farm worker demographics sample and provide the reference/source of the information. All market studies or market surveys must provide a summary of the sample of farm workers used to document the need for off-farm labor housing.

In addition to the above viability determinations and market study or market survey criteria, borrowers must also provide the following:

1. A Form HUD-935.2, Affirmative Fair Housing Marketing Plan (AFHMP) stated in part 4 or part 7 efforts to attract eligible tenants of farm labor housing according to 7 C.F.R. part 3560 subpart L section 3560.577;
2. Sample marketing or advertisements representing 7 C.F.R. part 3560 subpart L section 3560.577 from the most recent three years; and
3. Complete Attachment 4-F, Analyzing the Market Feasibility Documentation to determine diminished need.

If (1) and (2) above do not identify efforts to attract eligible farm labor tenants according to 7 C.F.R. part 3560 subpart L section 3560.577, then (1) or (2) must be updated. Additionally, the borrower must market an additional 12 months from the initial diminished need request. After 12 months, an updated (1) and (2) should be submitted.

7 C.F.R. part 3560 section 3560.576(e) allows non-farm laborer tenants to reside in farm labor housing if the diminished need for such housing has been determined. If a diminished need is determined, units may be made available to (1) very low-income households, low-income households and moderate-income households, or (2) persons eligible under the requirements established to qualify for housing benefits by sources other than Agencies like HUD and LIHTC, as stated in 7 C.F.R. part 3560 D section 3560.152(a)(2) and (3).

Should you have any questions or concerns regarding this matter, please do not hesitate to contact Henry Searcy, Senior Loan Specialist at 202-720-1753.