



DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR 3560

[Docket No. RHS-23-MFH-0013]

RIN 0575-AD36

Updates to the Off-Farm Labor Housing (Off-FLH), Loan and Grant Rates and Terms; Clarification of Grant Agreement Terms

AGENCY: Rural Housing Service, U.S. Department of Agriculture (USDA).

ACTION: Proposed Rule.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), proposes to amend the current regulation for the Off-Farm Labor Housing (Off-FLH) program by clarifying the grant agreement term and adopting the period of performance as required by Federal award information requirements. The changes in this proposed rule are expected to clarify for applicants and grantees their obligations and requirements as Federal award recipients.

DATES: Comments on the proposed rule must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted electronically by the Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the “Search” field box, labeled “Search for docket and documents on agency actions” enter the following docket number: (RHS-23-MFH-0013) or the RIN# 0575-AD36. To submit or view public comments, click the “Search” button, select the

“Documents” tab, then select the following document title: (**Updates to the Off-Farm Labor Housing (Off-FLH), Loan and Grant Rates and Terms; Clarification of Grant Agreement Terms**) from the “Search Results,” and select the “Comment” button. Before inputting your comments, you may also review the “Commenter’s Checklist” (optional). Insert your comments under the “Comment” title, click “Browse” to attach files (if available). Input your email address and select “Submit Comment.” Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “FAQ” link.

Other Information: Additional information about Rural Development (RD) and its programs is available on the Internet at <https://www.rd.usda.gov/>.

All comments will be available online for public inspection at the Federal eRulemaking Portal (www.regulations.gov).

FOR FURTHER INFORMATION CONTACT: Christa Lindsey, Finance and Loan Analyst, United States Department of Agriculture Rural Housing Service, Multifamily Housing Production and Preservation Division; telephone number: (352) 538-5747; email address: mfh.programsupport@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The RHS, an agency of the USDA, offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for single- and multi-family housing, childcare centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, and housing for farm laborers. RHS also provides technical assistance loans and grants in partnership with

non-profit organizations, Indian tribes, state and Federal government agencies, and local communities.

Title V of the Housing Act of 1949 (Act) authorized the USDA to make housing loans to farmers to enable them to provide habitable dwellings for themselves or their tenants, lessees, sharecroppers, and laborers. The USDA then expanded opportunities in rural areas, making housing loans and grants to rural residents through the Single-Family Housing (SFH) and Multi-Family Housing (MFH) Programs.

The RHS also operates the MFH Farm Labor Housing direct loan and grant programs under Sections 514 and 516 which provide low interest loans and grants to provide housing for year-round and migrant or seasonal domestic farm laborers. These eligible farm laborers may work either at the borrower's farm (“on-farm”) or at any other farm (“off-farm”). Housing under these programs may be built in any area with a need and demand for housing for farm laborers.

II. Discussion of this Proposed Regulatory Action

Section 534(a) of the Housing Act requires notice and comment for rulemaking for all Rural Housing Service rules and regulations pursuant to Title V. The intention of this proposed rule is to update 7 CFR 3560.566 by clarifying the grant agreement term and adopting the period of performance as required by the Federal award information requirements outlined in 2 CFR 200.211. Pursuant to 2 CFR 200.1, the “*period of performance*” is defined as the total estimated time interval between the start of an initial Federal Award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the period of performance in the Federal award per 2 CFR 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period. Furthermore, a Federal

award is defined under 2 CFR 200.1 as the instrument setting forth the terms and conditions of the grant agreement, cooperative agreement or other agreement for assistance as specified in 2 CFR 200.1.

The regulations set forth at 7 CFR 3560 establish the requirements for making loans and grants for Off-FLH and for ongoing operations of this housing.

Currently, the regulations set forth at 7 CFR 3560.566(c) determine the term of the grant agreement. As required by 2 CFR 200.211, the Agency must include the period of performance of the Federal award that has been given in the grant agreement. Therefore, the changes in this proposed rulemaking will further clarify the term of the grant agreement in 7 CFR 3560.566(c) and include a 5-year fixed period of performance in 7 CFR 3560.566(d).

III. Summary of Changes

The proposed changes would amend 7 CFR part 3560.566 to clarify the term of the grant agreement and adopt the period of performance as required by the Federal award information requirements outlined in 2 CFR 200.211.

The Agency proposes the following changes to the loan and grant rates and terms in §3560.566 as follows:

(1) Amend §3560.566(c) to read as follows: (c) Term of grant agreement. The grant agreement will remain in effect for as long as there is a need for the housing, as determined by the Agency.

(2) Add paragraph (d) to section 3560.566 to read as follows: (d) Grant Period of Performance. The grant period of performance *is five (5) years*, which starts on the date the grant

agreement is executed by both the Agency and the grantee and *ends five (5) years* from the date the grant agreement was executed by both the Agency and the grantee.

IV. Regulatory Information

Statutory Authority

The Off-FLH Loan and Grant program is authorized by Title V of the Housing Act of 1949 (Pub. L. 81-171), as amended; 42 U.S.C. 1484; 42 U.S.C. 1486(h); and 42 U.S.C. 1480; and implemented under 7 CFR part 3560, Subpart L.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Executive Order 12866, Regulatory Planning and Review

This proposed rule has been determined to be non-significant and, therefore, was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before suing in court that challenges action taken under this rule.

Executive Order 13132, Federalism

The policies contained in this proposed rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. This proposed rule does not impose substantial direct compliance costs on State and local Governments; therefore, consultation with States is not required.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this rule, they are encouraged to contact USDA's Office of Tribal Relations or RD's Tribal Coordinator at: AIAN@usda.gov to request such a consultation.

National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, "Environmental Policies." RHS determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement (EIS) is not required.

Regulatory Flexibility Act

This proposed rule has been reviewed regarding the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Unfunded Mandates Reform Act (UMRA)

Title II of the UMRA, Public Law 104-4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and Final Rules with "Federal mandates" that may result in expenditures to State, local, or tribal Governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal Governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575-0189. This proposed rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

RHS is committed to complying with the E-Government Act by promoting the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information, services, and other purposes.

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300-4, "Civil Rights Impact Analysis," to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the rule and available data, it has been determined that implementation of the rule will not adversely or disproportionately impact very low, low- and moderate-income populations, minority populations, women, Indian tribes, or persons with disability by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this proposed rule.

Assistance Listing

The programs affected by this regulation is listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under number 10.405 - Farm Labor Housing Loans and Grants.

Non-Discrimination Statement Policy

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public

assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, staff office; the or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights about the nature and date of an alleged civil rights violation.

The completed AD-3027 form or letter must be submitted to USDA by:

(1) Mail: U.S. Department of Agriculture

Office of the Assistant Secretary for Civil Rights

1400 Independence Avenue, SW

Washington, D.C. 20250-9410; or

(2) Fax: (833) 256-1665 or (202) 690-7442; or

(3) Email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

List of Subjects in 7 CFR 3560

Accounting, Administrative practice and procedure, Aged, Conflict of interest, Government property management, Grant programs-housing and community development, Insurance, Loan programs-agriculture, Loan programs-housing and community development, Low and moderate-income housing, Migrant labor, Mortgages, Nonprofit organizations, Public-housing, Rent-subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Rural Housing Service proposes to amend 7 CFR part 3560 as follows:

PART 3560- DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart L – Off-Farm Labor Housing

2. Amend § 3560.566 by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 3560.566 Loan and grant rates and terms.

* * * * *

(c) ***Term of grant agreement.*** The grant agreement will remain in effect for as long as there is a need for the housing, as determined by the Agency.

(d) ***Grant Period of Performance.*** The grant period of performance is five (5) years, which starts on the date the grant agreement is executed by both the Agency and the grantee and ends five (5) years from the date the grant agreement was executed by both the Agency and the grantee.

Joaquin Altoro,

Administrator,

Rural Housing Service.

[FR Doc. 2023-19662 Filed: 9/11/2023 8:45 am; Publication Date: 9/12/2023]