the balance is greater than the re-
quired deposits minus authorized with-
drawals.
(ii) The housing project has sufficient
funds to address identified capital or
operational needs.

(b) Unpaid return on investment. An
earned, but unpaid ROI for the previous
year only may be requested by the bor-
rower and authorized by the Agency
under the provisions of §3560.305(a)(2)
provided the current year's ROI has
been paid first and a rent increase is
not required to generate funds to pay
the unpaid ROI.

§3560.306 Reserve account.

(a) Purpose. To meet the major cap-
tial expense needs of a housing project,
borrowers must establish and maintain
a reserve account.
(b) Financial management of the reserve
account. Borrower management of the
reserve account is subject to the re-
quirements of 7 CFR part 1902, subpart
A regarding supervised bank accounts.
(c) Funding of the reserve account.
Borrowers must make payments to the
reserve account in the amount estab-
lished in loan documents, beginning
with the first loan payment or a date
specified in loan documents.
(d) Transfer of surplus general oper-
ating account funds. (1) The general op-
erating account will be deemed to con-
tain surplus funds when the balance at
the end of the housing project's fiscal
year, after all payables, exceeds 20 per-
cent of the operating and maintenance
expenses. If the borrower is escrowing
taxes and insurance premiums, include
the amount that should be escrowed by
year end and subtract such tax and in-
surance premiums from operating and
maintenance expenses used to cal-
culate 20 percent of the operating and
maintenance expenses.
(2) If a housing project's general op-
erating account has surplus funds at
the end of the housing project's fiscal
year, the Agency will require the bor-
rrower to use the surplus funds to ad-
dress capital needs, make a deposit in
the housing project's reserve account,
reduce the debt service on the bor-
rrower's loan, or reduce rents in the fol-
lowing year. At the end of the bor-
rrower's fiscal year, if the borrower is
required to transfer surplus funds from
the general operating account to the
reserve account, the transfer does not
change the future required contribu-
tions to the reserve account.
(e) Account requirements. Borrowers
must establish and maintain the re-
serve account according to §3560.65,
§3560.302(c)(5), and the following re-
quirements:
(1) Reserve accounts must be depos-
ited in interest-bearing accounts or se-
curities; and
(2) Reserve accounts must be super-
vised accounts that require Agency
countersignatures on all withdrawals.
(f) Funds invested in securities. In addi-
tion to the requirements specified in
paragraph (e) of this section, the fol-
lowing requirements apply when re-
serve funds are invested in securities:
(1) The reserve account must be held
either at a Federally insured domestic
institution such as a bank, savings and
loan association, credit union, or at a
domestic institution authorized to sell
securities.
(2) The borrower must record the
price actually paid for the securities.
When designated as a reserve deposit,
the price paid must equal the required
contribution to reserves.
(3) Borrowers must be knowledgeable
about industry practices and consider
the impact of typical fees and charges
for purchases and sales and mainte-
nance of an account when making in-
vestment 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 fi-
nancial advisor.
(g) Use of the reserve account. (1) Bor-
rrowers must request Agency approval
of reserve account withdrawals prior to
the withdrawal. Borrowers must in-
form the Agency of planned uses of re-
serve accounts in their annual capital
budget if known at budget planning
time. Any item on the approved capital
budget does not require additional pre-
approval by the Agency.
(2) The Agency will indicate any con-
ditions governing withdrawals from a
reserve account at the time it approves
the withdrawal.
(3) In emergency situations, the
Agency may specify special procedures
to provide an expedited approval proc-
cess for the use of the reserve account.
(4) 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.

(b) 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 (g)(4) 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 if such payment comes from surplus operating funds in the reserve account.

(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 interest 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.

(k) 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, for any of the following:

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

(2) Make payments and reamortize 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.

(l) Procurement. The requirements of §3560.102(g), (j), and (k), 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 the procedures established by the Agency as specified in paragraph