

(1) Performing outreach efforts to inform and recruit potential LH applicants.

(2) Conducting site searches, negotiating and executing property acquisitions, and resolving planning and zoning issues.

(3) Preparing market analyses, feasibility analyses, and financial proformas.

(4) Packaging LH loan and grant applications, as well as applications from other funding sources.

(5) Estimating construction costs and providing oversight during construction periods.

Variety of interests. To meet the representation of a variety of interests in a broad-based nonprofit organization, members should be actively affiliated with or participating in civic, business, agricultural, or service organizations in their community; members' previous and current occupations may be considered in this determination. Individual members may represent multiple interests as well.

[56 FR 28472, June 21, 1991, as amended at 57 FR 59903, Dec. 17, 1992; 58 FR 40951, July 30, 1993; 64 FR 24480, May 6, 1999; 67 FR 66310, Oct. 31, 2002; 67 FR 78328, Dec. 24, 2002]

§ 1944.154 Priorities for tenants' occupancy.

(a) Tenant occupancy in labor housing is prioritized in the following order:

(1) First priority is to be given to eligible farm laborer households based upon percent of total earnings from farm labor in the following ranked categories: 71 to 100 percent; 51 to 70 percent; 26 to 50 percent; and less than 25 percent.

(i) For LH units without Rental Assistance, occupancy priority within each ranking category is according to the household's income, very-low, low, then moderate.

(ii) For LH units with Rental Assistance, tenant occupancy priority is given to all eligible very-low income farm worker households by ranked category, then to low income farm worker households by ranked category. Moderate income may be served when there are no very-low or low-income eligible farm workers on the waiting lists, again by ranked category.

(2) Second priority is given to retired or disabled farm laborer households who were in the local farm market area at the time of retirement or becoming disabled. Occupancy priority will be by paragraph (a)(1) (i) or (ii) of this section without the farm income ranking category.

(3) Third priority is to be given to other retired or disabled farm laborer households. Occupancy priority will be by paragraph (a)(1) (i) or (ii) of this section without the farm income ranking category.

(b) When there is a diminished need for housing by persons or families in the above categories, such units may be made available to persons or families eligible for occupancy under the section 515, Rural Rental Housing program. Section 515 tenants may occupy the labor housing until such time the units are again needed by persons or families eligible under paragraph (a) of this section. As the basis for FmHA or its successor agency under Public Law 103-354's approval or disapproval of a borrower's determination of diminished need, the borrower must submit to FmHA or its successor agency under Public Law 103-354 a current analysis of need and demand, identical to the market survey required of applicants in exhibit A-I of this subpart. The borrower's determination and the State Director's recommendation should be forwarded to the National Office for concurrence.

(c) For additional guidance on occupancy and rental assistance, refer to FmHA Instruction 1930-C, exhibit B VI of this subpart, Renting Procedures, and exhibit E of this subpart, Rental Assistance Program. The Agency is required by statute to provide affordable housing to eligible farm workers and their families as a first program priority and to provide Rental Assistance as a second program priority. If it appears there is conflict in FmHA Instructions concerning the housing of an eligible Domestic or Migrant Farm Worker, document the problem and consult the District Director. If necessary, the problem may be referred to the State Office and/or the National Office for resolution.

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(d) *Tenant Occupancy records.* (1) For tenants of housing owned by farm borrowers, rent is not charged and employment related occupancy restrictions do apply (reference §1944.164(h) for additional guidance). The borrower shall have each tenant execute a verification of occupancy and farm labor on exhibit K-1, Verification of Domestic Farm Labor and Occupancy in Rent Free Housing, on initial occupancy of the dwelling unit. The borrower shall retain the properly completed forms and make them available for FmHA or its successor agency under Public Law 103-354 Inspection only for the current tenant(s) and to supplement the annual reporting requirements required in the loan agreement. If the housing is not occupied on a year-round basis, then the report should list the names of the migrants or seasonal farmworkers attached to exhibit K-1.

(2) For tenants of housing when rent is charged and employment restrictions do not apply (reference §1944.164(h) for additional guidance). The borrower shall be guided by the procedures referenced in paragraph (c) of this section.

(e) *Ineligible occupants.* (1) For housing owned by farm borrowers. Ineligible occupants are immediate relatives of the borrower(s) and anyone who is not employed in domestic farm labor, as defined in §1944.153 of this subpart. Normally, occupancy of labor housing owned by farm borrowers is restricted to employees of the farmer or is governed by an employment contract with the farmer. Occupancy of housing owned by farm borrowers, regardless of the site (on-farm or in town), may be occupied by ineligible with the permission of the State Director.

(2) *For housing owned by organizations.* Ineligible occupants are defined in exhibit B of subpart C of part 1930 of this chapter.

[56 FR 28473, June 21, 1991, as amended at 57 FR 59904, Dec. 17, 1992]

§ 1944.155 Responsibility for LH processing and servicing.

All LH loan and/or LH grant application processing and servicing is the responsibility of the FmHA or its successor agency under Public Law 103-354

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District Director with redelegation authority for on-farm labor housing loans.

[57 FR 59904, Dec. 17, 1992]

§ 1944.156 General loan/grant processing requirements.

(a) *Timeliness.* All applicants will be informed of a decision regarding their request for assistance within a reasonable timeframe established by RHS. If RHS cannot provide an eligibility determination within a reasonable timeframe, the applicant will be notified when the determination will be made. A request for assistance may be withdrawn at any time by the applicant. RHS may return a request for assistance for failure of the applicant to provide the necessary underwriting information within a reasonable time period established by RHS.

(b) *Unlawful determination.* The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants based on race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, religion, sex, age, handicap, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms and conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin. If an applicant or borrower believes he or she has been discriminated against for any of these reasons, that person can write the Secretary of Agriculture, Washington, DC 20250. Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her rights under the Consumer Credit Protection Act. If an applicant believes he or she was denied a loan for