

of all services or in installments as services are performed. "Legal Service Agreement," exhibit G of this subpart, may be used.

[45 FR 47655, July 16, 1980, as amended at 46 FR 36112, July 14, 1981; 48 FR 7159, Feb. 18, 1983; 56 FR 67482, Dec. 31, 1991; 58 FR 40951, July 30, 1993; 58 FR 44752, Aug. 25, 1993; 61 FR 56116, Oct. 31, 1996; 64 FR 24480, May 6, 1999]

§ 1944.170 Preapplication requirements and processing.

A two-stage application process is used. In stage one, applicants submit a preapplication, which is used to determine preliminary eligibility and feasibility. Preapplications selected for further processing will be invited to submit an application. The preapplication consists of SF-424.2, "Application for Federal Assistance (For Construction)" and the information listed in exhibit A-1 or A-2 of this subpart, as applicable. Preapplications for off-farm new construction loans and grants will be accepted and processed in accordance with this section when NOFA is announced in the FEDERAL REGISTER. Applicants are advised to read the notice carefully for any restrictions on loan or grant amounts. Preapplications for repair and rehabilitation of existing off-farm LH units and new units of on-farm housing may be submitted any time during the year and will be processed on a first-come, first-served basis in accordance with subpart L of part 1940 of this chapter.

(a) *Preapplications for new units in off-farm facilities.* (1) The Agency will publish NOFA annually in the FEDERAL REGISTER with deadlines for submitting preapplications. The notice will include the amount of funds available, any limit on the amount of individual loan and grant requests, any limit on the amount of funds that any one State may receive, and the loan scoring criteria.

(2) The preapplication must be submitted in accordance with NOFA and consists of SF-424.2, "Application for Federal Assistance (For Construction)", and the information required by exhibit A-1 of this subpart. The preapplication will be used by the Agency to determine preliminary eligibility and to score and rank proposals.

(b) *Preliminary eligibility assessment of preapplications received in response to NOFA.* The Agency will make a preliminary eligibility assessment using the following criteria:

(1) The preapplication was received by the submission deadline specified in NOFA;

(2) The preapplication is complete as specified in NOFA;

(3) The applicant is an eligible entity and is not currently debarred, suspended, or delinquent on any Federal debt; and

(4) The proposal is for authorized purposes.

(c) *Scoring and ranking off-farm preapplications.* The Agency will score and rank off-farm preapplications for new units that meet the criteria of paragraph (b) of this section.

(1) The following criteria will be used to score project proposals:

(i) The presence and extent of leveraged assistance, including donated land, for the units that will serve program-eligible tenants, calculated as a percentage of the RHS total development cost (TDC). RHS TDC excludes non-RHS eligible costs such as a developer's fee. Leveraged assistance includes, but is not limited to, funds for hard construction costs, Section 8 or other non-RHS tenant subsidies, and state or federal funds. A minimum of ten percent leveraged assistance is required to earn points. (0 to 20 points)

(A) To count as leveraged funds for purpose of the selection criteria:

(1) A commitment of funds must be received within a timeframe that permits processing of the loan request within the current funding cycle (the latest commitment date for leveraged funds will be announced in NOFA); and

(2) If RHS RA is being provided, the interest cost to the project using leveraged loan funds may not exceed the cost of 100 percent LH loan financing.

(B) For donated land to be scored as leveraged assistance, all of the following conditions must be met.

(1) Based on a preliminary review, the land is suitable and meets Agency requirements. Final site acceptance is subject to a completed environmental review.

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(2) Site development costs do not exceed what they would be to purchase and develop an alternative site.

(3) The overall cost of the project is reduced by the donation of the land.

(C) Points for leveraged assistance will be awarded in accordance with the following table. Percentages will be rounded to the nearest whole number, rounding up at .50 and above and down at .49 and below. For example, 25.50 becomes 26; 25.49 becomes 25. If the total percentage of leveraged assistance is less than ten percent, and it includes donated land, two points will be awarded for the donated land.

Percentage	Points
75 or more	20
60-74	18
50-59	16
40-49	12
30-39	10
20-29	8
10-19	5
0-9	0
Donated land in proposals with less than ten percent total leveraged assistance	2

(ii) The loan request is in support of an Agency initiative announced in NOFA. (10 points)

(iii) Seasonal, temporary, or migrant housing. (5 points for up to and including 50 percent of the units; 10 points for 51 percent or more)

(iv) For Fiscal Year 1999 and Fiscal Year 2000 funding cycles, outstanding applications or requests that were issued an AD-622, "Notice of Preapplication Review Action," inviting a formal application, or had been reviewed and authorized by the National Office prior to October 29, 1998. (15 points)

(2) The Agency will rank preapplications by point score. For point-score ties within the State, rank order will be determined by giving first preference to the application with the greatest actual percentage of leveraged assistance. In case of further same-State ties, rank order will be determined by lottery.

(d) *Selection of preapplications for further processing.* (1) States will make a preliminary eligibility and feasibility assessment, score and rank the preapplications, and provide this information to the National Office with their review comments.

(2) The National Office will rank the preapplications nationwide. In case of point-score ties in the National ranking, first preference will be given to a preapplication to develop units in a state that does not have existing RHS-financed off-farm LH units; second preference to a preapplication from a State that has not yet been selected in the current funding cycle. In the event there are multiple preapplications in either category, one preapplication from each State (the highest State-ranked) will compete by computer-based random lottery. If necessary, the process will be completed until all same-pointed preapplications are selected or funds are exhausted.

(3) The Agency will not select a preapplication for a new LH loan in an area with competing or problem projects when:

(i) The Agency has selected another LH proposal in the same market area for further processing;

(ii) A previously authorized or approved Agency, HUD, or similar assisted MFH project in the same market area serving farmworkers has not been completed or reached its projected occupancy level; or

(iii) An existing Agency, HUD, or similar assisted MFH project in the same market area serving farmworkers is experiencing high vacancy levels, unless such vacancy is planned as part of the occupancy cycle of a seasonally-operated migrant farmworker facility.

(4) If any selected preapplications cannot meet the processing deadlines established by the Agency to enable processing and fund obligation within the current funding cycle, or if requested leveraged funds are not committed within the timeframe established in NOFA, the Agency will select the next ranked preapplication for processing.

(e) *Notification to applicants.* States will notify all applicants of the results of the selection process.

(1) Applicants selected for further processing will be notified and processed in accordance with this section and § 1944.171.

(2) Project proposals not selected for further processing, including incomplete proposals or those that failed to meet NOFA requirements, or those

that could not be reached because of insufficient funds, will be returned to the applicant with the reason they were not selected.

(f) *Actions by State Director.* (1) If the applicant is an organization adopting without change the "Articles and By-laws" prescribed by State supplements, the preapplication need not be submitted to OGC.

(2) In all other cases involving loans or grants to organizations, the docket, with any questions or comments of the State Director, will be submitted to OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(3) An original and one copy of the appropriate environmental review document required by subpart G of part 1940 of this chapter must be completed prior to submitting the docket to the National Office for review.

(4) In cases not receiving a National Office review, the following statement is to be added to the Form AD-622: "You are advised against taking any actions or incurring any obligations which would either limit the range of alternatives to be considered, or which would have an adverse effect on the environment. Satisfactory completion of the environmental review process in accordance with subpart G of part 1940 of this chapter must occur prior to loan approval. The issuance of this review action does not constitute site approval."

(5) *Determining amount of grant.* (i) *General.* The State Director will determine the amount the applicant can obtain from other sources, including an LH loan, and the amount of the grant to be made, within the limits set forth in §1944.164(b). The State Director will make this determination after thoroughly analyzing the information in the docket and receiving authorization from the National Office.

(ii) *Method of determining amount of grant.* (A) The State Director will examine the income of the project based on the estimated rental charges and operating costs of the housing when in full operation to determine the soundness of the operations. When there is any doubt as to the probable soundness due to unrealistic planning of income

or operating expenses, or for other reasons, the housing project and its operation will be discussed with the applicant to determine changes which can be made to correct the deficiencies.

(B) When a sound plan of operation has been agreed upon, the State Director will determine the amount of funds that can be expected to be available from other sources, including a LH loan. The State Director will also determine the amount of income available for loan repayments after allowing for reasonable and necessary maintenance costs, payments on debts of the applicant, and the orderly accumulation of an adequate reserve.

(C) The amount of the grants will be the difference between the amount of funds to be provided in accordance with paragraph (f)(5)(ii)(A) of this section, plus any funds available from the applicant's own resources and the total development cost of the project. In no case, however, may the amount of the grant exceed 90 percent of the total development cost.

(6) When the State Director considers it necessary, any preapplication may be sent to the National Office for evaluation and instructions.

[48 FR 200, Jan. 4, 1983, as amended at 53 FR 36267, Sept. 19, 1988; 55 FR 13503, Apr. 11, 1990; 55 FR 25077, June 20, 1990; 58 FR 40951, July 30, 1993; 61 FR 39851, July 31, 1996; 64 FR 24480, May 6, 1999]

§1944.171 Preparation of completed loan and/or grant docket.

(a) *Information needed.* If the applicant has been requested to file an application, SF 424.2 (for application submission), and the additional information as outlined in exhibit A-1 or A-2, as applicable, will be submitted to the District Director.

(b) *District Director's responsibility.* As the information for the loan docket is being developed, the District Director will work closely with the applicant. The District Director will review and verify the information furnished for correctness, adequacy, and completeness. The District Director will determine that the market survey is adequate and that the market survey report is accurate. The District Director will evaluate the manner in which the applicant plans to conduct its business