

who are older than 70 years. Therefore, the market study must contain demographic information particular to those over the age of 62 and those over 70 years old. The study must also address the growth trends of people who are over 85 years old.

(5) Market studies must include information concerning alternative service providers as required in paragraph (a)(6) of this section.

(d) *Compliance with other laws.* Congregate housing and group homes must meet all applicable Federal, State and local laws, statutes, codes and/or ordinances pertaining to these types of housing and the services provided.

[55 FR 26644, June 29, 1990, as amended at 58 FR 38925, July 21, 1993; 58 FR 40953, July 30, 1993; 59 FR 6890, Feb. 14, 1994; 62 FR 25065, 25067, May 7, 1997]

**§§ 1944.225–1944.227 [Reserved]**

**§ 1944.228 Ranking of rural places based on greatest need for Section 515 housing.**

The Agency will rank rural places based on greatest need for Section 515 housing in accordance with this section. Places may be incorporated population centers such as cities, boroughs, towns, and villages; or unincorporated population centers identified by the Census Bureau (known as Census Designated Places (CDPs)). States must be consistent state-wide in their use of place types that are included in the list of designated places. Ranking will be based on the following:

(a) Qualifies as a rural area in accordance with 7 CFR 3550.10.

(b) Lacks mortgage credit for borrowers in accordance with §1944.211(a)(2).

(c) Demonstrates a need for multi-family housing based on the following factors, with equal weight given to each. Data for this purpose will be provided to States by the National Office from the most recent rural place data obtained from the Census Bureau. If Census data is not available for an eligible rural place, the State may request authority from the National Office to include the place on the list of designated places established in accordance with §1944.229, provided the place meets the requirements of

§1944.229(b) and it can be demonstrated that there is a high need for assisted multi-family housing based on information obtained from reliable local or state sources. The State may request authority from the National Office to use other state-wide data if it is objective and consistent with the Housing Act of 1949, as amended.

(1) The incidence of poverty, measured by determining households below 30 percent of the county rural median income.

(2) The existence of substandard housing, measured by determining the number of occupied housing units that lack complete plumbing or have more than one occupant per room.

(3) The lack of affordable housing, measured by determining households below 30 percent of county rural median income paying more than 30 percent of income in rent.

[62 FR 25067, May 7, 1997, as amended at 62 FR 67222, Dec. 23, 1997]

**§ 1944.229 Establishing the list of designated places for which Section 515 applications will be invited.**

States will compile a list of designated places for which Section 515 applications will be invited, in accordance with the provisions of this section and the ranking process described in §1944.228. Inclusion on the list of designated places does not indicate that market need and demand has been established; this will be a loan feasibility determination. Once placed on the list of designated places, places will be considered equal, with no regard to their ranking on the ranking list or order of selection. In exceptional circumstances, there may be an instance when a place with an urgent need for multi-family housing is not reflected in the ranking process in §1944.228; for example, a place that has had a substantial increase in income-eligible population since the most recent decennial Census data because of a new industry, a place that has experienced a loss of affordable housing because of a natural disaster, or a community within the limits of an Indian reservation or tribal allotted or trust land with a demonstrated need for multifamily housing. With concurrence from the National Office, the State may include

the place on the list of designated places.

(a) *Establishing the number of designated places.* Initially, the number of designated places may equal up to 10 percent of the state's total eligible rural places ranked in accordance with § 1944.228, but must equal, in all cases, at least 10 places. For example, in a state with 1,000 total rural places, the State may designate up to 10 percent, or 100 places. However, in a state with 60 total rural places, the State would use the minimum number of 10 places, since 10 percent of 60 equals 6. In states where 10 percent equals more than the minimum number of 10, consideration in determining the number of places to include on the list should be given to the size and population of the state, funding levels, and the potential for leveraging. If warranted by funding levels, the Administrator may authorize in NOFA the selection of designated places up to 20 percent of the States' total rural places.

(1) States may designate a higher number of places than 10 percent or the minimum 10 places to reach high-need areas in accordance with paragraph (c)(3) of this section.

(2) States that anticipate high loan activity because of leveraging may designate a number of places higher than 10 percent or the minimum 10 places with the concurrence of the National Office.

(b) *Requirements for inclusion on the list of designated places.* Places selected for the list of designated places:

(1) Must have 250 or more households as a minimum feasibility threshold for multi-family housing, or, for Indian reservations, must have 250 or more households within the boundaries of the reservation; and

(2) May not have any of the "build and fill" conditions described in § 1944.213(f)(2). Places thus identified will be deferred for inclusion on the current year's list of designated places. Deferred places will be reviewed annually and, at such time that the "build and fill" conditions no longer exist, will be considered for inclusion on the list for the next fiscal year in accordance with this section. To the extent practicable, States will consult with HUD and other state or local agencies

or entities that provide very low- or low-income rental housing to determine places where loan proposals have been approved or are in process.

(c) *Selection of designated places.* Places meeting the requirements of paragraph (b) of this section will be selected from the ranking list as follows:

(1) At least 80 percent of the State's total designated places must be selected in rank order from the list.

(2) With concurrence from the National Office, up to 20 percent of the State's designated places may be selected for geographic diversity. For example, in a state with 1,000 total rural places, the State has elected to select designated places equal to the maximum 10 percent, or 100 places. Of the 100 places, at least 80 percent, or 80 places, must be selected from the places that meet the requirements of paragraph (b) of this section in order of their ranking; up to 20 percent, or 20 places, may be selected for geographic diversity. Places selected for geographic diversity must be the highest ranked place in each geographic division designated by the State, which must correspond with established State divisions, such as districts, regions, or servicing areas.

(3) In addition to the designated places selected in accordance with paragraphs (c)(1) and (c)(2) of this section, States may designate the following high need areas for multi-family housing:

(i) Places identified in the state Consolidated Plan or similar state plan or needs assessment report.

(ii) EZ/ECs, Indian reservations or communities located within the boundaries of tribal allotted or trust land, colonias, or REAP communities.

(d) *Length of designation.* Places will remain on the list of designated places for 3 years or until a loan request is selected for funding or the community is otherwise deferred for other "build and fill" conditions, whichever occurs first. Places that are deferred before the end of the 3-year designation period will be reviewed annually for potential inclusion on the next year's list of designated places. A place may be removed from the list prior to the end of the 3-year designation period because of a substantial loss of income-eligible

population or an increase in the affordable rental housing supply, for example, a place that experiences the closing of a military base or other major employer.

(e) *List of designated places.* A list of designated places may be obtained by contacting the State Office or any Rural Development office in the state.

(f) *Partnership designated place list.* States with an active leveraging program and formal partnership agreement with the state agency may establish a partnership designated place list consisting of places identified by the partnership as high need areas based on criteria consistent with the Agency's and the state's authorizing statutes. The partnership agreement and partnership designated place list must have the concurrence of the Administrator. Ranking and selection of loan requests for places on the partnership designated place list will be in accordance with §1944.231(b)(3)(iii) and §1944.231(b)(6) of this subpart.

[62 FR 25067, May 7, 1997, as amended at 62 FR 67222, Dec. 23, 1997]

**§ 1944.230 Application submission deadline and availability of funds.**

(a) *Application submission and funding cycle.* Dates governing the submission and funding cycle of Section 515 loan requests will be published annually in the FEDERAL REGISTER and may be obtained from any Rural Development office.

(b) *Availability of funds.* The amount of funds available for each State, as well as any limits on the amount of individual loan requests, will be published as a notice annually in the FEDERAL REGISTER.

[62 FR 25068, May 7, 1997]

**§ 1944.231 Processing loan requests.**

(a) *Actions by the applicant.* Loan requests may be submitted for designated areas when the availability of funds is announced. The loan request will consist of an application form prescribed by the Agency and the items listed in exhibit A-7 of this subpart. If an application is selected, the applicant will be required to provide the additional items required by exhibit A-9 of this

subpart within the timeframes established by the Agency.

(b) *Actions by the Agency—(1) Actions by the Agency on loan requests received.* Loan requests received after the deadline announced in the FEDERAL REGISTER will not be considered for funding in that funding cycle and will be returned to the applicant.

(2) *Review and scoring of loan requests.* Loan requests will be reviewed:

(i) To determine if the loan request is complete and includes the additional information required in NOFA;

(ii) To determine if the request is for an authorized purpose; and

(iii) To establish a point score based on the following factors:

(A) The presence and extent of leveraged assistance for the units that will serve RHS income-eligible tenants at basic rents comparable to those if RHS provided full financing. Eligible types of leveraged assistance include loans and grants from other sources, contributions from the borrower above the required contribution indicated by the Sources and Uses Comprehensive Evaluation, and tax abatements or other savings in operating costs provided that, at the end of the abatement period when the benefit is no longer available, the basic rents are comparable to or lower than the basic rents if RHS provided full financing. Scoring will be based on the presence and extent of leveraged assistance for each loan request compared to the other loan requests being reviewed, computed as a percentage of the total development cost of the units that will serve RHS income-eligible tenants. A total monetary value will be determined for leveraged assistance such as tax abatements or services in order to compare such items equitably with leveraged funds. As part of the loan application, the applicant must include specific information on the source and value of the services for this purpose. Proposals will then be ranked in order of the percent of leveraged funds and assigned a point score accordingly. Loan proposals that include secondary funds from other sources that have been requested but have not yet been committed will be processed as follows: the proposal will be scored based on the