

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

requested funds: *Provided*, that the applicant includes evidence of a filed application for the funds; *and* the funding date of the requested funds will permit processing of the loan request in the current funding cycle, or, if the applicant does not receive the requested funds, will permit processing of the next highest ranked proposal in the current year. The Agency will issue a conditional commitment to the applicant with a specific deadline for providing a commitment of funds from the other source. If the deadline is not met, the application will be returned as incomplete and the next ranked proposal will be processed. (0 to 20 points)

(B) The loan request is for units to be developed in a colonia, tribal land, EZ/EC, or REAP community, or in a place identified in the state Consolidate Plan or state needs assessment as a high need community for multi-family housing. (20 points)

(C) The loan request is in support of a National Office initiative announced in NOFA. (20 points)

(D) The loan request is in support of an optional factor developed by the State that promotes compatibility with special housing initiatives in conjunction with state-administered housing programs such as HOME funds or low income housing tax credits.

A factor thus developed cannot duplicate factors already included in this paragraph and must be provided to the National Office prior to the funding cycle for concurrence and inclusion in NOFA. (20 points)

(E) The loan request includes donated land meeting the provisions of §1944.215(r)(4). (5 points)

(3) *Point score ties and ranking of loan requests.* Loan requests will be ranked in order of highest point score or, where there are point score ties, in order of highest point score and number assigned as follows:

(i) If one of the same-pointed requests is from an entity meeting the requirements of paragraph (e) of this section, it will be denoted with a #1 following the point score. If two or more are from entities meeting these requirements, a lottery will be held. The first drawn request will be denoted #1, the second drawn #2, etc.

(ii) After all requests from entities meeting the requirements of paragraph (e) of this section have been numbered, the next sequential number will be assigned to a loan request from an entity not meeting the requirements of paragraph (e) of this section. If there are two or more requests from entities not meeting the requirements of paragraph (e) of this section, a lottery will be held and each request numbered in the order it is drawn, beginning with the next sequential number.

(iii) States with a partnership designated place list developed in accordance with §1944.229(f) of this subpart, will score and rank loan requests as follows:

(A) All loan requests (including those for places on the partnership designated place list) will be reviewed and scored together as one group, following the process described in paragraph (b)(2) of this section.

(B) Using the point score and rank order established in accordance with paragraphs (b)(3)(i) and (b)(3)(ii) of this section, two separate ranking lists will be formed: the RHS ranking list will consist of loan requests for places on the State's designated place list; the partnership ranking list will consist of loan requests for places on the partnership designated place list. Selection of loan requests for further processing will be in accordance with paragraph (b)(6) of this section.

(4) *Preliminary eligibility and feasibility review.* In order of ranking, a preliminary review of eligibility and feasibility will be made on the highest ranked requests, including:

(i) A review of the preliminary plans and cost estimates.

(ii) A market feasibility review, including the Agency's review of the market, a review of HUD's (and similar lender's, if applicable) feedback on the market area, and a review to ensure compliance with the "build and fill" provisions of §1944.213(f).

(iii) A site visit and preliminary review to determine if the site criteria of §1944.215(r) can be met.

(iv) A review of the Affirmative Fair Housing Marketing Plan.

(v) Analysis of a current (within 6 months) credit report.

(5) *Selection of loan requests for further processing.* The Agency will select loan requests for further processing from loan requests determined preliminarily eligible and feasible, in ranking order, taking into consideration the amount of available funds.

(i) If any selected loan requests are later withdrawn, rejected, or delayed for a period of time that will not permit funding in the current funding cycle, the Agency will select additional loan requests in ranking order as funding levels permit. For this purpose, the State may keep the next highest ranked loan request until it is determined that all selected loan requests will be funded. Applicants whose loan requests are held for this purpose will be advised that their loan request was not selected but ranked sufficiently high to be retained in the event a selected request is withdrawn or rejected in the current funding cycle.

(ii) Loan requests not funded in the funding cycle, including incomplete requests, or requests not meeting the requirements of exhibit A-7 of this subpart or NOFA, will be returned to the applicant with the reason it was not considered.

(6) *Selection of loan requests for further processing for States with a partnership ranking list.* States with a partnership ranking list developed in accordance with paragraph (b)(3)(iii) of this section, will use the following process:

(i) Loan requests must first be selected in rank order from the RHS ranking list that, based on total development cost (TDC), are proportionate to the State's RHS allocation amount.

(ii) After loan requests have been selected in accordance with paragraph (b)(6)(i) of this section, remaining RHS funds must be used for the next highest scoring loan requests (or point score and tie-breaker number assigned in accordance with paragraph (b)(3) of this section), regardless of whether they are on the RHS ranking list or the partnership ranking list.

(c) *Additional requirements for selected loan requests.* For selected loan requests, the applicant must provide the additional information required by exhibit A-9 of this subpart and any additional State requirements within the timeframes established by the Agency.

If the applicant fails to meet established timeframes, the Agency may grant an extension if the delay appears reasonable and granting the extension will still permit funding of the loan request in the current funding cycle.

(d) *Site rejections.* Site rejections will be handled as follows:

(1) Applicants will be given 15 calendar days from the date of the Agency's site rejection letter to submit a new site option. If the applicant appeals the decision but submits a new site option within 15 days, the new site option will be accompanied by a copy of their letter to the National Appeals Division withdrawing their appeal request. If the new site is acceptable, processing will continue. If the new site is not acceptable, the loan request will be rejected.

(2) If the applicant does not submit a new site option within 15 days, and has appealed the Agency's decision, the Agency will not delay processing of loan requests in other market areas pending the outcome of the appeal. The next ranked loan request, within available funding limits, will be selected for further processing.

(3) If the applicant prevails in the appeal, the loan request will be considered in the next funding cycle. The applicant will be given the opportunity to amend their loan request consistent with NOFA.

(e) *Nonprofit or public body preference.* Preference in ranking loan requests will be provided to an entity that meets all of the following conditions:

(1) Is a local nonprofit organization, public body, or Indian Tribe whose principal purposes include the planning, development, and management of low-income housing;

(2) Is exempt from Federal income taxes under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code (26 U.S.C. 501(c)(3) or 501(c)(4));

(3) Is not wholly or partially owned or controlled by a for-profit or limited-profit type entity;

(4) Whose members, or the entity, do not share an identity of interest with a for-profit or limited-profit type entity;

(5) Is not co-venturing with another entity; and

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(6) The entity or its members will not be receiving any direct or indirect benefits pursuant to LIHTC.

(f) *RCH loan requests.* (1) Loan requests for RCH assistance will be processed in the order in which a complete loan request was received.

(2) All loan requests for RCH assistance will be reviewed for eligibility and feasibility. In cases where the proposal is not eligible or feasible, the proposal will be rejected. Proposals which appear eligible and feasible will be forwarded to the National Office for review and authorization.

(3) If authorized by the National Office, the State will notify the applicant that the proposal appears eligible and feasible. The applicant will be requested to provide the additional information required by exhibit A-9 of this subpart and any additional State requirements.

(4) If funds are not available in the current funding cycle, the loan request will be considered for funding in the next funding cycle.

(g) *General guidance on processing requests for Multi-Family Housing (MFH) Assistance.* (1) All applicants must provide their taxpayer identification number. The taxpayer identification number for individuals who are not businesses is their Social Security Number.

(2) A loan request for MFH assistance may be withdrawn upon written request of the applicant at any time. The Agency may withdraw a loan request for failure of an applicant to provide necessary information to process a request for assistance should the applicant fail to respond to a written request which provides the applicant with a reasonable time period to submit the information.

[62 FR 25068, May 7, 1997, as amended at 62 FR 67223, Dec. 23, 1997]

§ 1944.232 Rental Assistance (RA) from sources other than FmHA or its successor agency under Public Law 103-354.

RA from sources other than FmHA or its successor agency under Public Law 103-354 may be used in new or existing RRH projects upon National Office authorization. FmHA or its successor agency under Public Law 103-354 will consider authorizing such private RA

(PRA) proposals which offer RA in the same general dollar amount and terms in which FmHA or its successor agency under Public Law 103-354 RA is calculated and granted. PRA proposals will be in the form of a memorandum of understanding (MOU) between the provider and FmHA or its successor agency under Public Law 103-354.

(a) *Provisions of MOU.* FmHA or its successor agency under Public Law 103-354 may consider entering into an MOU with other providers of RA such as State or local public entities, profit or nonprofit organizations, individuals, or other providers acceptable to FmHA or its successor agency under Public Law 103-354. The MOU will be executed between FmHA or its successor agency under Public Law 103-354 and the provider prior to the appropriate official issuing an AD-622 for new projects. At a minimum, the MOU must contain the following provisions:

(1) Reason for providing PRA and its intended purpose.

(2) The length of time PRA will be provided.

(3) Actions to be taken at the end of the PRA proposal to minimize impact on tenants losing PRA and avoid displacement.

(4) A copy of the proposed PRA agreement, which is the instrument of agreement involving the tenant, owner, and provider of assistance. FmHA or its successor agency under Public Law 103-354 will not be a party to the PRA agreement nor have any responsibilities under the agreement. The PRA agreement must state that:

(i) The payments should be paid directly to the tenants or a separate project operating account for this purpose. The tenants must be advised of the amount and source of the assistance through the lease or a supplement to the lease.

(ii) Sufficient funds will be set aside in a way that assures availability of PRA for the life of the PRA agreement, which must be for a minimum of 5 years. The method of supplying the funds must be clearly set forth and acceptable to FmHA or its successor agency under Public Law 103-354.

(b) *Documentation.* (1) Documentation must be provided that the PRA is needed in the market area.