

§ 1944.232

7 CFR Ch. XVIII (1-1-05 Edition)

(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(2) A loan request for MFH assistance may be withdrawn upon written request of the applicant at any time.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.

(2) The provider must provide FmHA or its successor agency under Public Law 103-354 with reasonable assurances that tenants receiving the PRA will not be displaced when the PRA expires.

(3) In accordance with §1944.215(w)(2)(ii) of this subpart, it must be demonstrated that for the term of the loan remaining after PRA is no longer available, an adequate rental market exists for the project without the assistance.

(4) For complexes with LIHTC, if the PRA term is less than the LIHTC compliance periods, the marketability of the PRA units must be further demonstrated by either:

(i) Demonstrating that there are sufficient households within the LIHTC income limits to support the units without rent overburden; or

(ii) The applicant's certification that the targeted percentage of LIHTC units (not the minimum set-aside option) does not include the PRA units, so that the units will be marketable to households in all FmHA or its successor agency under Public Law 103-354 income ranges.

(c) *Review and recommendations.* The documentation, the MOU, and the PRA agreement will be submitted to the servicing official for review. If acceptable, the servicing official will submit the proposal for similar review to the State Office and submission to the National Office. Proposals forwarded to the National Office will contain the recommendations of the District and State Director.

[58 FR 44272, Aug. 20, 1993, as amended at 59 FR 6897, Feb. 14, 1994]

§1944.233 Participation with other funding sources.

In order to develop the maximum number of affordable housing units and promote partnerships with states, local communities, and other partners with similar housing goals, RHS participation loans are encouraged.

Apartment complexes developed with participation funds may serve lower income households exclusively (RHS very-low and low income-eligible households; LIHTC income-eligible households) or may be marketed to households with mixed incomes. The following will apply:

(a) *RHS loan and rental assistance (RA) participation.* (1) RHS may participate with loan funds only, or with both RA and loan funds, as provided in paragraphs (a)(2) and (a)(3) of this section.

(2) If RHS RA is being provided, RHS loan participation should equal at least ten percent of the project's total development cost unless authorization for a lower percentage of participation is obtained from the National Office in accordance with §1944.240.

(3) RHS RA may be provided on any unit where the basic rent does not exceed what the basic rent would have been on that unit if RHS provided full financing. The number of RHS RA units available for participation loans is limited and established annually through subpart L of part 1940 of this chapter.

(b) *General conditions.* (1) The number of units that will serve RHS income-eligible tenants must equal or exceed the number of units financed by RHS, determined by dividing the RHS loan amount by the State's average new construction cost.

(2) The total funds provided by all sources may not exceed what is necessary to make the project feasible in accordance with §1944.213(a).

(3) The total debt from all sources is limited to the State Director's loan approval authority unless written authorization is obtained from the National Office in accordance with §1944.213(b).

(4) The complex will be operated and managed in compliance with RHS requirements and regulations.

(5) If Low Income Housing Tax Credits are anticipated on a proportion of units higher than the percentage receiving RA or similar tenant subsidy, the market study must clearly reflect a need and market for units without deep subsidy. It is not the intent of RHS to provide servicing RA in the future nor can RHS provide RA on units which have basic rents higher than those if RHS had provided full financing.

(c) *Design requirements.* Complexes must comply with the provisions of §§1944.215 and 1944.222.

(1) Design features such as patios or balconies, washers and dryers, and garbage disposals may be included if they