

PART 1944 - HOUSING

Subpart E - Rural Rental and Rural Cooperative Housing Loan
Policies, Procedures, and Authorizations

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PART 1944 - HOUSING

Subpart E - Rural Rental and Rural Cooperative Housing Loan
Policies, Procedures, and Authorizations

§ 1944.201 General.

This subpart sets forth the policies and procedures and delegates authority for making Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) loans under Sections 515 and 521 of the Housing Act of 1949. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to RHS employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an RHS employee. (Revised 02-04-93, SPECIAL PN.)

§ 1944.202 Objective.

The basic objective of RRH and RCH loans is to provide eligible persons with economically designed and constructed rental or cooperative housing and related facilities suited to their living requirements.

§ 1944.203 - 1944.204 [Reserved]

§ 1944.205 Definitions.

Accessible. When used in respect to the public and common area of a building containing covered multi-family dwellings, means that these areas of the building can be approached, entered, and used by individuals with handicaps.

Adviser to the board. An individual or organization who will work with and provide guidance to a cooperative board.

Agency. The Rural Housing Service within the Rural Development mission area of the U.S. Department of Agriculture or its successor agency which administers Section 515 loans and Section 521 rental assistance. (Added 05-07-97, SPECIAL PN.)

Amortization effective date (AED). A date established by the accounting system on which advanced principal and any accrued interest is combined and amortized to establish a schedule of payments. This date is always the first day of a month.

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Articles of incorporation. A document filed with a government agency containing information about the organization's structure and operation.

Board and directors. The governing body and members of the governing body of an organization.

Bylaws. Rules adopted by an organization to govern the conduct of its affairs.

Census designated place (CDP). An unincorporated population center identified by the Census Bureau. (Added 05-07-97, SPECIAL PN.)

Community. Cities, towns, boroughs, villages and unincorporated places which have the characteristics of an incorporated area and are easily identifiable as established concentrations of inhabited dwellings located in rural areas as defined in 7 CFR part 3550. (Revised 01-23-03, SPECIAL PN.)

Congregate housing. Residential housing, for persons or families who are elderly, or have handicaps or disabilities, consisting of private apartments and central dining facilities in which a number of specific preestablished services are provided to tenants (short of those services provided by a health care facility that provides health related care and services recognized by the medicaid program). Tenants requiring additional services not provided by the facility will acquire them or provide for them with their own financial, familial, or social resources. (Revised 08-30-93, SPECIAL PN.)

Consolidated Plan. A plan developed by a community or state addressing community planning and development that is used to support requests for assistance from the Department of Housing and Urban Development. (Added 05-07-97, SPECIAL PN.)

Consumer cooperative. A corporation which (1) is organized under the cooperative laws of a State or Federally recognized Indian tribe; (2) will own and operate the housing on a cooperative basis solely for the benefit of the members; (3) will operate at cost and, for this purpose, any patronage refunds accruing to members as defined in §1944.205 of this subpart will not be considered gains or profits; and (4) will restrict membership in the housing to eligible persons and, to any extent the cooperative and RHS permit, to others in special circumstances. (Revised 08-30-93, SPECIAL PN.)

Dealer-contractor. A person, firm, partnership or corporation in the business of selling and servicing manufactured homes and developing sites for manufactured homes for persons who purchase such homes for purposes other than resale. Dealer-contractors will be qualified as shown in 7 CFR part 3550, except all processing will be handled by the servicing official rather than the County Supervisor. (Revised 01-23-03, SPECIAL PN.)

§ 1944.205 (Con.)

Development cost. The cost of constructing, purchasing, improving, altering, or repairing housing and related facilities and the value or cost of purchasing and improving the necessary land. Costs that can be paid for with RRH and RCH loan funds are detailed in § 1944.212 of this subpart.

Dwelling unit. A residence for a family of one or more persons, and includes, in addition to those that would normally come to mind, units in which sleeping accommodations are provided but toileting or cooking facilities are shared, such as dormitories or shelters for the homeless.

Elderly (Senior Citizen). A person who is at least 62 years old. The term elderly (senior citizen) also means individuals with handicaps or disabilities as separately defined in this section, regardless of age. (Revised 08-30-93, SPECIAL PN.)

Elderly family. A household where the tenant, cotenant, member or comember (individual) is at least 62 years old, disabled, or handicapped as defined separately in this section. An elderly family may include a person(s) younger than 62 years of age who is essential to the care and well being of the person who is elderly, disabled, and/or handicapped. (To receive an elderly family deduction, the person who is elderly, or has disabilities or handicaps must be the tenant, cotenant, member, or comember.) (Revised 08-30-93, SPECIAL PN.)

Eligible tenants or cooperative members. Persons who are elderly, or have handicaps or disabilities and very low-, low-, or moderate-income households or any combination thereof as planned for the project and shown on the applicant's loan resolution or loan agreement and who meet the eligibility requirements of Exhibit B to Subpart C of Part 1930 of this chapter. In the case of cooperative housing projects, all members must have a very low, low, or moderate income except that any member who is admitted as an eligible member of the cooperative may not subsequently be deprived of his/her membership or tenancy by reason of no longer meeting the income eligibility requirements as outlined in 7 CFR 3550.53. (Revised 01-22-98, SPECIAL PN.)

EZ/EC. Empowerment Zone or Enterprise Community. (Added 01-22-98, SPECIAL PN.)

Familial status. One or more individuals (who have not attained the age of 18) being domiciled with:

- (1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person, or a person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Gains or profits. For the purpose of the patronage capital refund, gains and profits do not include dividends payable on stock which is nonvoting, limited as to the amount of dividends that can be paid thereon and limited as to liquidation value in the event of corporate dissolution.

Group home. Housing that is occupied by tenants who are elderly, or have handicaps, or disabilities sharing living space within a rental unit in which a group home resident assistant may be required. (Revised 08-30-93, SPECIAL PN.)

Household. One or more persons who maintain or will maintain residency in one rental or cooperative unit, but not including a resident assistant or chore service worker.

HUD. The U.S. Department of Housing and Urban Development. (Added 05-07-97, SPECIAL PN.)

Individual. A natural person.

Individual with disability. A person is considered disabled if the person meets the criteria of either of the following: (Added 08-30-93, SPECIAL PN.)

(1) The person has an inability to engage in any substantial gainful activity, but with use of auxiliary aids apparatus can otherwise participate in gainful activity, by reason of any medically determinable physical or mental impairment where the disability;

(i) Has lasted or can be expected to last for a continuous period of not less than 12 months, or which can be expected to result in death, and

(ii) Substantially impedes the ability to live independently, and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(iv) In the case of a sight impaired person who is at least 55 years old (within the meaning of sight impairment as determined in Section 223 of The Social Security Act), is unable, because of the sight impairment, to engage in substantial gainful activity in which he/she has previously engaged with some regularity over a substantial period of time.

(v) Receipt of veteran's benefits or Social Security Disability Payments for disability, whether service oriented or otherwise, does not automatically establish disability.

(2) The person has a developmental disability; a severe, chronic disability which:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairment; and

(ii) Was manifested before age 22; and

(iii) Is likely to continue indefinitely; and

(iv) Results in substantial functional limitations in three or more of the following areas of major life activity:

- (A) Self-care;
- (B) Receptive and expressive language;
- (C) Learning;
- (D) Mobility;
- (E) Self-direction;
- (F) Capacity for independent living; and
- (G) Economic self-sufficiency.

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care or treatment, or for other services which are of lifelong or extended duration and are individually planned and coordinated.

Individual with handicap. (Added 08-30-93, SPECIAL PN.)

(1) A person with a physical or mental impairment that:

(i) Is expected to be of long-continued and indefinite duration; and

(ii) Substantially impedes the person or is of such a nature that the person's ability to live independently could be improved by more suitable housing conditions.

(2) The term handicap further means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current illegal use of or addiction to a controlled substance. As used in this definition:

(i) Physical or mental impairment includes:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or

more of the following body systems: neurological; musculoskeletal; special senses organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatics; skin; and endocrine; or

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus (HIV) infection, acquired immunodeficiency syndrome (AIDS), mental retardation, emotional illness, drug addiction (other than that addiction caused by current, illegal use of a controlled substance), and alcoholism.

(ii) Major life activities means functions such as caring for one's self, performing major tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(iii) Has a record of such an impairment means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more of major life activities.

(iv) Is regarded as having an impairment means:

(A) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

(B) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(C) Has one of the impairments defined in paragraph (2)(i)(A) and (2)(i)(B) of this definition but is treated by another person as having such an impairment.

§ 1944.205 (Con.)

Initial operating capital. Cash to pay for costs such as property and liability insurance premiums, fidelity coverage premiums if an organization, utility hookup deposits, maintenance equipment, movable furnishings and equipment, printing lease forms, and other initial operating expenses. The initial operating capital will be at least 2 percent of the total development cost of the project. (Revised 03-16-94, SPECIAL PN.)

Interested parties. Any person who has or will have a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance under this title or the planning, development, or implementation of the project or activity. Residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

LIHTC. Low-income housing tax credits. (Added 05-07-97, SPECIAL PN.)

Limited equity. The amount of funds which have accumulated in the cooperative member's patronage capital account (defined in §1944.205) and as described in Exhibit H of this subpart. (Revised 08-30-93, SPECIAL PN.)

Limited partnership. A partnership consisting of one or more general partners who are jointly and severally responsible for conducting the business of the partnership, and one or more special partners contributing cash in a specific amount as capital to the common stock, who are not liable for the debts of the partnership beyond the funds contributed.

Limited profit basis. An individual or organization applicant who, in order to obtain interest credit assistance, will agree to limit the amount of profit to be obtained. Applicants operating on this basis will be permitted to receive a return on their initial investment in accordance with the requirements outlined in § 1944.215 of this subpart. The applicant will legally obligate itself to regulate rents, charges, rate of return, and methods of operation.

Loans to build or acquire new units. Any initial or subsequent loan made on or after December 15, 1989, to build or acquire new RRH units. Loans under this category may not be prepaid for the term of the mortgage. (Added 08-30-93, SPECIAL PN.)

Low-income household. A household having an adjusted annual income within the maximum low-income limit stated in Appendix 9 of HB-1-3550 (available in any Rural Development office). (Revised 01-23-03, SPECIAL PN.)

Management reserve. That portion of the cooperative occupancy charge which is designated for payment of professional management services but which is not being used for that purpose.

Manufactured home (unit). A dwelling unit which is built to conform with the Federal Manufactured Home Construction and Safety Standards and Rural Housing Service (RHS) thermal requirements. Manufactured homes are described further in Exhibit J of subpart A of part 1924 of this chapter.

Manufactured home project. A parcel(s) of land located in the same community which contain two or more manufactured home units on each parcel for rental or cooperative member occupancy and operated under one management plan with one loan agreement/resolution. For a cooperative housing project, the parcels of land must be in the same neighborhood and in a clustered configuration.

Maximum debt limit (MDL). The maximum amount that RHS will lend for a project based on the appraised value or total development cost, whichever is less, multiplied by 95, 97, or 102 percent in accordance with § 1944.213(b) of this subpart. (Revised 10-01-93, SPECIAL PN.)

Member. A person who has executed documents pertaining to a cooperative housing type of living arrangement and has committed himself/herself to upholding the cooperative concept.

MFH. Multi-Family Housing. (Added 05-07-97, SPECIAL PN.)

Moderate-income household. A household having an adjusted annual income within the maximum moderate-income limit stated in Appendix 9 of HB-1-3550 (available in any Rural Development office). (Revised 01-23-03, SPECIAL PN)

Modification. Any change to the public or common use areas of a building or any change to a dwelling unit to comply with handicap accessibility.

NOFA. Notice of funding availability. (Added 05-07-97, SPECIAL PN.)

§ 1944.205 (Con.)

OGC. The Regional Attorney or the Attorney in Charge in the field office of the Office of the General Counsel (OGC) of the United States Department of Agriculture.

Occupancy agreement. A contract setting forth the rights and obligations of the cooperative member and the cooperative, including the amount of the monthly occupancy charge and the other terms under which the member will occupy the housing. An example of the agreement is in Exhibit J of this subpart.

§ 1944.205 (Con.)

Organization. A private nonprofit, profit corporation, consumer cooperative, association, State, or local public agency, trust partnership, or limited partnership.

Other Government Assistance. Any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form or direct or indirect assistance.

Owner-builder. A qualified builder-applicant who has experience and has demonstrated the ability and capability to build an RRH project.

Patronage capital refund. Amounts received by the cooperative in excess of operating costs and expenses which have been assigned to members' patronage capital accounts each year of membership in the cooperative.

Pecuniary Interest. Financial concern or financial gain.

Private nonprofit corporation. A corporation which:

- (1) Is controlled by private persons or interests;
- (2) Is organized and operated for purposes other than making gains or profits for the corporation or its members;
- (3) Is legally precluded from distributing to its members any gains or profits during its existence; and
- (4) In the event of its dissolution, is legally bound to transfer its net assets to a nonprofit corporation of a similar type or to a public corporation which will operate the housing for the same or similar purposes. (Revised 08-30-93, SPECIAL PN.)

Project. The total number of rental or cooperative housing units that are operated under one management plan with one loan agreement/resolution.

Public use areas. Interior or exterior rooms or spaces of a building that are made available to the general public.

RCH. Rural Cooperative Housing. (Added 05-07-97, SPECIAL PN.)

REAP. Rural Economic Area Partnership. (Added 01-22-98, SPECIAL PN.)

Resident assistant. A person(s) residing in a tenant's housing unit who is essential to the well-being and care of person(s) who are elderly, or have

handicaps, or disabilities, residing in the unit but is not obligated for the person's financial support and would not be living in the unit except to provide the needed support services. While the resident assistant may be a family member, the resident assistant may not be a dependent for tax purposes and is not subject to the eligibility requirements of a tenant or member. A resident assistant is not a chore service worker. A resident assistant may function in any type of housing affected by this subpart. (Revised 08-30-93, SPECIAL PN.)

RHS. Rural Housing Service. (Added 05-07-97, SPECIAL PN.)

RRH. Rural Rental Housing. (Added 05-07-97, SPECIAL PN.)

Rural area. Open country or rural places as defined in §3550.10 of this title. (Revised 05-07-97, SPECIAL PN.)

Rural rental housing. Structures in a rural area which are or will be suitable for, and available to, eligible tenants on a rental basis for dwelling use. The structures may include related facilities where appropriate.

Section 515. Section 515 of title V of the Housing Act of 1949. (Added 05-07-97, SPECIAL PN.)

Security value. The present market value of the real estate offered as security for the loan as determined by the loan approval official less the unpaid principal balance plus past due interest on any other liens against it. Other liens will include any prior liens and junior liens to be or likely to be taken or subordinated at or immediately after loan closing.

Service agreement. A written agreement between the borrower and service provider detailing the specific service to be provided, the cost of the service and length of time the service will be provided. (Revised 08-30-93, SPECIAL PN.)

Service plan. A written plan describing how services will be provided to an RHS financed project. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services, how tenants will be advised of the availability of services, and the staff needed to provide the services. (Revised 08-30-93, SPECIAL PN.)

Servicing office. RHS servicing office or other place designated by the State Director where loan requests are processed. (Added 03-16-94, SPECIAL PN.)

Servicing official. RHS servicing official or other RHS staff member designated by the State Director to be responsible for processing loan requests. (Added 03-16-94, SPECIAL PN.)

§1944.205 (Con.)

State Agency. The Agency within a State that has been given the responsibility to allocate low-income tax credits.

(Revised 01-27-92, SPECIAL PN.)

§ 1944.205 (Con.)

Subscription agreement. The initial contract between the prospective cooperative member and the cooperative specifying the terms of application for membership and the amount of the membership fee contributed by the member. An example of the agreement is in Exhibit I of this subpart.

Very low-income household. A household having an adjusted annual income within the maximum very low-income limit stated in Appendix 9 of HB-1-3550 (available in any Rural Development Office). (Revised 01-23-03, SPECIAL PN.)

§§ 1944.206 - 1944.210 [Reserved]

§ 1944.211 Eligibility requirements.

(a) Eligibility of applicant. To be eligible for an RRH or RCH loan, the applicant must:

(1) Be a citizen of the United States or a legally admitted alien for permanent residence in the United States; an organization as defined in § 1944.205 of this subpart; or an American Indian tribe, band, group, or nation (including Alaskan Indians, Aleuts, Eskimos, and any Alaskan native village), which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512).

(2) Be unable to obtain the necessary credit from private or cooperative sources on terms and conditions that allow establishment of rent or occupancy charges within the payment ability of eligible tenants or members. (Revised 06-06-97, SPECIAL PN.)

(i) For an individual, the assets of both the applicant and spouse will be considered.

(ii) For nonprofit organizations, the assets of the individual members will not be considered.

(3) Have the ability and intention to maintain and operate the housing for the purposes for which the loan is made.

(4) With the exception of a nonprofit organization, consumer cooperative, or public body, provide from its own resources the borrower contribution required by § 1944.213(b) of this subpart. This contribution must be in the form of cash, land, or a combination thereof. (Revised 03-16-94, SPECIAL PN.)

(5) Own the housing and related land or become the owner when the loan is closed. In addition to the owner of full marketable title, an owner may be a lessee of a tract of land owned by a nonpublic body, State, political subdivision, public body, or public agency, or American Indian tribal lands which are not available for purchase. The State Director must determine that leaseholds are fully marketable in the area. The following conditions must be met when considering leasehold interests:

- (i) A recorded mortgage constituting a valid and enforceable lien on the applicant's leasehold will be given as security.
- (ii) The amount of the RRH or RCH loan against the property will not exceed the estimated market value determined in accordance with Subpart B of Part 1922 of this chapter.
- (iii) The unexpired term of the lease on the date of loan approval must be at least 25 percent longer than the repayment period of the loan and rent charged for the lease does not exceed the rate being paid for similar leases in the area.
- (iv) The borrower's interest must not be subject to summary foreclosure or cancellation.
- (v) The lease must:
 - (A) Not restrict the right to foreclose the RRH or RCH mortgage or to transfer the lease.
 - (B) Permit RHS to bid at a foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.
 - (C) Permit RHS to occupy or sublet the property and sell the leasehold for cash or credit if the leasehold is acquired through foreclosure (or voluntary conveyance in lieu of foreclosure), or if the borrower abandons the property.
 - (D) Permit the borrower, in the event of default or inability to continue with the lease and the loan, to transfer the leasehold, subject to the RRH or RCH mortgage, to a transferee with assumption of the RRH or RCH debt.

§1944.211 (a)(5) (Con.)

(vi) The advice of OGC will be obtained as to legal sufficiency of the lease. When the State Director is uncertain as to whether a loan can be made on a leasehold, he/she should request National Office evaluation and instruction.

(6) Have or be able to obtain the initial operating capital and other assets needed for a sound loan. Loans made to nonprofit organizations, consumer cooperatives, and to State or local cooperatives, and to State or local public agencies may include up to 2 percent of the development cost for initial operating expenses.

(i) The applicant will provide a detailed list of all materials and equipment needed to be funded by the initial operating capital including, but not limited to, property and liability insurance premiums, fidelity bond premiums when the applicant is an organization, utility hook-up charges and deposits, maintenance and other equipment, lease forms, furnishings, loan payments that may become due during construction, purchase of office equipment and furniture, community room furnishings, other movable equipment and furnishings, congregate items referenced in §1944.224 of this subpart, advertising expenses, management fees, etc. The list will be approved by the servicing office based upon similar projects in the State. The initial 2 percent operating and maintenance (O&M) expenses, plus any amounts needed for these items above the 2 percent, must be provided in cash. (Revised 03-16-94, SPECIAL PN.)

(ii) The O&M cash will be deposited into the general operating account in accordance with the provisions of the loan agreement or loan resolution. Rural Development will be provided with documentation of the deposit prior to the start of construction or loan closing (whichever is first) and such funds will be used for authorized purposes only. (Revised 03-16-94, SPECIAL PN.)

(iii) If the borrower provided the initial 2 percent operating capital from its own funds, the State Director may, in accordance with Subpart C of Part 1930 of this chapter, authorize the borrower to make a one-time withdrawal from project funds. The borrower must request in writing the withdrawal after 2 years, but before 5 full (12 month) borrower fiscal years of operation. (Renumbered 03-16-94, SPECIAL PN.)

RD Instruction 1944-E
§1942.211 (a) (Con.)

(7) Possess the ability, experience, and the legal and financial capacity to incur and carry out the obligations required for the loan.

(8) Agree to comply with all Rural Development requirements, such as those set forth in the loan resolution, loan agreement, the form of note, the mortgage and Rural Development regulations.

(9) Provide necessary management to assure the successful operation of the project. Management services may be provided by the applicant, a management firm or an agent. Management will be handled in accordance with Exhibit B to Subpart C of Part 1930 of this chapter.

(10) In the case of a private nonprofit organization:

(i) If operating in one community and its trade area, meet the following additional requirements for an RRH loan:

(A) The organization must maintain a broadly-based membership reflecting a variety of interests in the community. The organization should have at least 25 members. The number of members may be decreased for projects with less than 25 units.

(B) Each member must be limited to one vote the affairs of the organization.

(C) A majority of the members must reside in the community or the trade area where the housing will be located.

(D) At least five of the members must be recognized as leaders in civic, governmental, fraternal, religious, and other community organizations of the community where the housing will be located.

(E) There must be at least five people on the board of directors and they must be selected by a procedure that insures that the interests of minorities and women are adequately represented.

(F) The directors must be members of the organization.

(G) The organization should adopt articles of incorporation and bylaws substantially conforming to the model articles and bylaws set forth in Exhibits C and D of this subpart, modified as appropriate in accordance with State law. The State Director, with the assistance of OGC, may develop a model set of

articles of incorporation and bylaws for the State which are consistent with Exhibits C and D of this subpart and publish an appropriate State supplement.

(ii) If operating in more than one community or on a county or regional basis and providing or planning to provide rental housing in more than one community, meet the following requirements in addition to those in paragraph (a)(10)(i), with the exception of (a)(10)(i)(C) of this section: (Revised 08-20-93, SPECIAL PN.)

(A) The membership base should be representative of the area being served with at least five members representing a variety of interests from each community where the housing will be located.

(B) The organization's articles of incorporation and bylaws must include the requirements outlined in paragraph (a)(10)(ii)(A) of this section.

(11) In the case of transfers of projects to nonprofit corporations which receive subsequent loans to avert prepayment, meet the requirements of §1965.216 (c) of Subpart E of Part 1965 of this chapter. (Added 08-20-93, SPECIAL PN.)

(12) In the case of a cooperative: (Renumbered 08-20-93, SPECIAL PN.)

(i) Each member must be limited to one vote in the affairs of the cooperative.

(ii) The number of directors must not be less than 5, or whatever is allowable under State law.

(13) In the case of a limited partnership:
(Renumbered 08-20-93, SPECIAL PN.)

(i) The general partners must be able to meet the financial requirements of §1944.211(a)(4) of this subpart if the partnership is not able to when the loan request is filed. (Revised 05-07-97, SPECIAL PN.)

(ii) The general partners must maintain a minimum 5 percent financial interest in the partnership. For this purpose, the minimum 5 percent requirement will be deemed to have been met if the general partner has a minimum

§1944.211(a)(13)(ii) (Con.)

5 percent interest in the residuals or refinancing proceeds. The general partner will not be required to have a minimum 5 percent interest in current profits, losses, and cash distributions of the partnership. For example, an agreement where the general partners have such a 5 percent interest in a limited partnership and receive only 1 percent of the profits while the limited partners receive 99 percent of the profits would be allowable.

(iii) The partnership must agree that new general partners can be brought into the organization only with the prior written consent of RHS.

(14) Be willing to honor the long term commitment associated with receipt of a Section 515 loan. Borrowers or principals of borrower organizations who sell or transfer loans less than 5 years old will not be considered eligible for further participation in the program as borrowers or principals (i.e., a general partner in a limited partnership) for at least 5 years from the date of the loan or assumption closing. The State Director may make an exception to this provision only if the transfer or sale meets the hardship provisions of §1965.65(a)(4) of Subpart B of Part 1965 of this chapter, and the applicant meets all other eligibility requirements.

(15) Meet the following requirements if the applicant, including the principals, has prior or existing RHS debts and is applying for a new or subsequent loan or requesting incentives to preclude prepayment. Applicants who do not meet these requirements will be rejected for failure to meet the applicable provisions of this section, as well as §1965.213(c)(2)(i) of subpart E of part 1965 of this chapter, if applicable. (Added 06-06-97, SPECIAL PN.)

(i) The applicant, including the principals, must be in compliance with existing debts in accordance with all legal and regulatory requirements and agreements, including the Promissory Note, Loan Agreement, and mortgage, all applicable local, state, and federal laws, and must provide regular financial and other required reports within required timeframes; or, if the applicant fails to meet any of these requirements, has an approved workout plan in effect that meets the provisions of paragraph (a)(15)(ii) of this section.

(ii) An applicant or principal with an approved workout plan in effect to correct deficiencies in an existing RHS debt may be considered for eligibility if the applicant or principal has been in compliance with the provisions of the workout plan for 6 months. The State Director may waive this requirement for borrowers who have acted in good faith but are in noncompliance through circumstances beyond their control, including substantial local economic downturn, natural disaster, assuming responsibility for a troubled loan through substitution of the general partners, or assuming a loan with an existing workout plan.

(iii) Applicants and principals must be in compliance with the provisions of the Civil Rights Act of 1964 (in accordance with their Form RD 400-4, "Assurance Agreement") and all other civil rights laws. If the Agency has reasonable grounds, based on a substantiated complaint, the Agency's own investigation, or otherwise, to believe that the representations of an applicant or borrower as to civil rights compliance are in some material respect untrue or are not being honored, assistance may be deferred or denied.

(iv) Applicants or principals who have been debarred but whose debarment period has expired will be considered for eligibility subject to all requirements of this section.

(v) Applicants, including principals, who have been determined ineligible by one State may not be determined eligible by another State until the problems have been corrected or workout plans are in effect in all States in which the applicant or principal is operating.

(b) Authorized representative of an applicant. RHS will deal only with the applicant or its authorized representative and the representative's technical advisers. An authorized representative of a nonprofit applicant must have no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of the land for the housing site.

§1944.212 Loan and grant purposes. (Revised 08-20-93, SPECIAL PN.)

RRH and RCH loans may be made to qualified applicants to:

(a) Construct new housing.

§1944.212 (Con.)

(b) Purchase and rehabilitate existing buildings only when the loan for such purchase and rehabilitation does not exceed by 5 percent the loan for new construction in the same area and when moderate or substantial modifications, repairs or improvements to the structures are necessary to meet the requirements of decent, safe, and sanitary living units.

(Revised 06-06-97, SPECIAL PN.)

(1) All rehabilitation work to be performed must be classified as either moderate or substantial rehabilitation as defined in Exhibit K of Subpart A to Part 1924 of this chapter.

(2) The structure to be rehabilitated must be physically and structurally sound enough to afford maximum safety (including fire safety) to the residents of the structure after rehabilitation.

(3) Rehabilitation must be planned and accomplished so that the resulting housing will:

(i) Meet the applicable development standards as provided for in §1924.5(d)(1) of Subpart A of Part 1924 of this chapter and any applicable historic preservation requirements.

(ii) Create a suitable and appealing living environment and be substantially equivalent to new construction in quality and livability.

(4) The applicant must submit complete plans and specifications for rehabilitation for RHS's review and acceptance.

(5) The rehabilitated project must generally meet the provisions of §1944.215(b) of this subpart.

(6) When the downtown location of a rehabilitation project dictates such, a portion of the structure (such as part of the ground floor and basement) can be designated for commercial use on a lease basis. Loan funds, however, cannot be used to finance any cost associated with the commercial space. In order to determine the correct loan amount for the residential portion of such a structure, the following guidelines will apply:

(i) The applicant must supply a complete cost breakdown for purchasing and rehabilitating the entire structure into its joint residential/commercial use.

(ii) The costs that can be easily and appropriately identified as being part of either the commercial or residential portion of the structure should be separated.

(iii) The costs which cannot be easily and appropriately isolated (such as the cost associated with repair or renovation of a boiler, the value of the structure "as is," and certain mechanical or electrical components that will benefit both commercial and residential tenants or members will be prorated between the two uses based on the percentage of equipment load (example - central boiler or air conditioning) which would be necessary for each portion of the structure.

§1944.212 (b)(6) (Con.)

(iv) For the purposes of the loan limitations in §1944.213 (b)(1) and (2) of this subpart, the term "development cost" means the development costs associated with or prorated to the residential use of the structure, and the term "security value" is the security value of the project exclusive of the value contributed to the land and structure(s) by the commercial space. The capitalization approach to value is one means by which Rural Development may establish the value contributed by the commercial space. (Revised 09-18-91, PN 173.)

(v) The applicant must rely on other sources of financing for all costs associated with or prorated to the commercial space, given the Rural Development security requirements of §1944.221 of this subpart.

(7) The applicant may not lease any authorized commercial space without the prior written consent of the State Director. Prior to loan closing, the advice of OGC will be obtained as to any modifications needed in the mortgage, loan agreement or loan resolution to enforce this requirement. The State Director may not consent to any lease unless:

(i) The lease contains a provision by which the lessee agrees to vacate the premises if Rural Development withdraws its consent to the lease.

(ii) The proposed use of the leased space has a mutually supportive relationship to the needs of the residential tenants or members and to the use of the residential portion of the structure.

(iii) The terms of the lease and the proposed use of the leased space do not jeopardize the interests of the tenants or members of the project or the continued use of the residential portion of the structure.

(iv) The lease has been reviewed by OGC and found to be legally sufficient and in compliance with the requirements of this subpart.

(c) Purchase and improve the necessary land on which the housing will be located.

(1) Loan funds used to purchase land may not exceed the estimated market value of the site in its present condition as shown by a current appraisal in accordance with RD Instruction 1922-B (available in any Rural Development office). (Revised 03-16-94, SPECIAL PN.)

(2) With prior written approval of the State Director, loan funds may be used to buy land from a member of a broadly-based nonprofit applicant/organization. (Revised 03-16-94, SPECIAL PN.)

(3) Loan funds may be used to acquire land in excess of that needed for the housing, including related facilities, only when:

(i) The applicant cannot acquire only the needed land at a fair price, can justify the acquisition, agrees to sell the land as soon as practicable and apply proceeds on the loan, and has legal authority to acquire and administer the land; and

(ii) The cost of the excess land is a reasonable portion of the loan; and (Revised 03-16-94, SPECIAL PN.)

(iii) The site density requirements of §1944.215 (a)(6) of this subpart are met. (Added 03-16-94, SPECIAL PN.)

(d) Develop and install streets, a water supply, sewage disposal, heating, cooling, and light systems necessary in connection with the housing. If the facilities are located offsite, the following requirements must be met:

(1) The applicant will hold the title to the facility or have a legal right to use the facility for a period of at least 25 percent longer than the life of the loan and the title or right can be transferred to any subsequent owner of the site.

(2) The facilities are provided for the exclusive use of the project or funds are limited to the prorated part of the total cost of the facility according to the use and benefit to the project. The applicant will agree in writing to the application, as extra payments on the loan, of any subsequent collection by the borrower from other users or beneficiaries of the facility.

(3) Adequate security can be obtained with or without a mortgage based on the offsite facilities.

§1944.212 (Con.)

(e) Develop other related facilities in connection with the housing such as:

(1) Maintenance workshop and storage facilities.

(2) Recreation center when the project is large enough to justify the facility. In all projects, passive recreation (such as outdoor seating) for elderly rental projects and active facilities (such as tot lots) for family projects will be provided.

(3) Central cooking and dining in congregate and group living housing when the project is large enough to justify them to supplement the kitchen facilities in each unit. All equipment purchased with loan funds for the central cooking and dining facilities, such as stoves, refrigerators, ovens, dish washing machines and steam tables, should be attached to the land or buildings in a manner regarded in law as part of the real estate.

(4) Space for a small infirmary for emergency care only when justified by the size of the project. An infirmary will not be justified if facilities for emergency care expected to be needed by the tenants are readily accessible elsewhere.

(f) Construct office and living quarters for the resident manager and other operating personnel if the facilities would be to the advantage of the project and the Government. The State Director should make a determination and the justification will be included in the docket.

(g) Purchase and install ranges, refrigerators, drapes, blinds/shades, drapery rods, and clothes washers and dryers. Laundry facilities are required in all projects and clothes washers and dryers should be provided in a central laundry room. Normally, a minimum of one washer and dryer should be provided for every 8 to 12 units in a project. Clothes washers and dryers may not be installed in individual units if the installation is not customary in the area for the size of project and type of housing involved. In any case, both central and individual laundry facilities will not be provided in a single project. (Revised 03-16-94, SPECIAL PN.)

(h) Provide landscaping, seeding or sodding of lawns, and other necessary facilities related to buildings such as walks, yards, fences, parking areas, and driveways.

(i) Pay related costs such as fees and charges for market studies, tax credit application, legal (costs pertaining to the closing of the Rural Development loan only), archeological, architectural, engineering, environmental, and other appropriate technical and professional services. The fees and charges may be paid to an applicant or officer, director, trustee, stockholder, member, or agent of the applicant provided those fees and charges are reasonable and typical for the area and are earned and the identity of interest is disclosed. Legal, technical, and professional fees do not include the costs incurred in the formation or incorporation of the limited profit applicant, costs of syndication, or the payment of a loan packaging or development fee. (Revised 03-16-94, SPECIAL PN.)

(j) Provide loan funds to enable a nonprofit group or public body to pay fees for technical assistance received from a nonprofit organization, with housing and/or community development experience, to assist it in the formation or incorporation and development and packaging of its loan docket and project, as well as legal, technical, and professional fees incurred in the formation or incorporation of the applicant entity. (Revised 03-16-94, SPECIAL PN.)

(1) Fees can also be provided to pay the nonprofit applicant entity for packaging of its own docket and project, but not to include the formation and incorporation of the entity.

(2) The amount to be paid for packaging of the loan docket and project should not exceed 1 percent of the Rural Development loan or whatever is reasonable and typical for the area.

(3) Related project costs as listed in §1944.222 of this subpart are not included as a part of the fee for packaging of the loan docket and project.

§1944.212 (Con.)

(k) Provide loan funds to pay for the cost of educational programs for the board of directors both before and after incorporation of the cooperative.

(l) Pay construction interest as follows:

(1) In the case of multiple advances, loan funds will not be used to pay construction interest. Accrued interest during construction will be capitalized when construction is substantially complete, loan funds are fully advanced and the project is ready for full operation or when advances plus accrued interest reach the maximum debt limit (MDL). When requested by the borrower, each month the servicing official will provide the borrower monthly computations of the amount of interest that is accruing during the construction period. (Revised 03-16-94, SPECIAL PN.)

(2) In the case of interim financed construction, interest accrued and customary charges necessary to obtain interim financing may be included in the loan amount.

(m) Purchase housing from an interim lender that holds fee simple title to an RRH project upon which construction commenced pursuant to §1944.235 (c)(1) and after issuance of a letter of commitment to the interim lender in accordance with Exhibit B of this subpart, when all of the following conditions exist.

(1) The interim lender holds title to the property because the original RRH applicant for whom funds were obligated will not or cannot continue with the project after a letter such as that shown in Exhibit B to this subpart was issued.

(2) The owner of the property is the interim lender to whom Rural Development issued a letter such as that shown in Exhibit B to this subpart for the construction of the project.

(3) The project is substantially complete (see §1944.235 (c)(1)(vi) of this subpart), all work has been satisfactorily completed in a workmanlike manner in accordance with the originally approved drawings, specifications and contract documents, and is in compliance with subparts A and C of part 1924 of this chapter.

(4) There are no unpaid obligations outstanding in connection with the project.

(5) All other requirements of this subpart have been met.

RD Instruction 1944-E
§1944.212 (Con.)

(n) Pay for related costs incurred in compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and in accordance with §1944.215 (v) of this subpart. (Revised 01-27-92, SPECIAL PN.)

(o) Construct demonstration projects involving innovative housing units and systems which do not meet existing published standards, rules, regulations, or policies, but do meet the intent of providing decent, safe, and sanitary rural housing. Only the Administrator may authorize loan funds to be used for this purpose.

(p) Finance the conversion of Section 502 units in inventory to a Section 515 project in accordance with the requirements of this subpart and Subpart C to Part 1955 of this chapter. Loans for this purpose can be made only to public agencies and private nonprofit organizations. Units should be repaired or rehabilitated prior to conversion to Section 515 housing. To facilitate a cooperative's self-maintenance plan, the use of 502 inventory houses will be considered only if the units are located in the same subdivision and in a clustered configuration.

(q) Provide grants for advances to nonprofit corporations or public agencies for costs to develop an application package or close a loan to purchase a project to avert prepayment. Such grants shall not exceed \$10,000 and shall be administered in accordance with §1965.217 (d) of Subpart E of Part 1965 of this chapter.
(Added 08-20-93, SPECIAL PN.)

§1944.213 Limitations.

(a) Loan limits. The State Director must certify that assistance provided any housing project is not more than is necessary to make the project affordable to potential tenants and the Government. The applicant must disclose, during each stage of the process, all other assistance proposed for the project, including all other government assistance as defined in §1944.205 of this subpart. The State Director is also responsible for providing the state agency responsible for administering Low Income Housing Tax Credits (LIHTC) with information on projects that are allocated LIHTC. At the time of loan approval, the State Director will consider the amount of all other such assistance when determining the RHS loan amount through the use of an analysis tool that considers the sources and uses of all assistance provided for development of the project. SF 424.2, "Application for Federal Assistance (For Construction)," will be used by an applicant to disclose the source(s) of all assistance and its proposed uses.
(Revised 05-07-97, SPECIAL PN.)

§1944.213 (a) (Con.)

(1) Requirements and Conditions for the Memorandum of Understanding (MOU).

(i) The State Director will enter into a Memorandum of understanding (MOU) with the state agency that allocates tax credits to projects as set forth in Section 42 of the Internal Revenue Code. A MOU based on the model provided in Exhibit A-10 of this subpart will be executed and used without further review if the terms and conditions do not materially differ from the model. If the document is materially changed, concurrence of the National Office must be obtained prior to execution. The State Director or a designee will participate with the state agency in the development of the state's Consolidated Plan to ensure that the RHS resources available from the Rural Development mission area are coordinated, to the extent possible, with the Consolidated Plan to efficiently maximize the number of affordable housing units to be produced. This cooperation should include (but is not limited to) the sharing of the loan request and application information from RHS applicants, the analysis tool and the results of any evaluation conducted using this tool, funding levels, and rural area designations by the State Director.

(ii) In entering into a MOU, the State Director, in consultation with the state agency, will:

(A) Establish a process for sharing information on project costs,

(B) Determine, as appropriate, the fees for builder's profit, builder's overhead, and general requirements, as defined in the Forms Manual Insert (FMI) for Form RD 1924-13, "Estimate and Certificate of Actual Cost," considering the state agency allocation plan and RHS regulations,

(C) Determine an appropriate developer's fee for new construction, rehabilitation, and the acquisition cost of an acquisition rehabilitation request, and

(D) Determine the definitions and formulas to be used for calculating costs and amounts of assistance.

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(Added 05-07-97, SPECIAL PN.)

(02-21-91) SPECIAL PN

(iii) RHS has established the fee norms below for purposes of analysis. The State Director and the state agency have the flexibility to determine the appropriate percentage of these fees individually, provided the total of the three fees does not exceed 21 percent.

- (A) Builder's profit: up to 10% of the construction contract.
- (B) General overhead: to 4% of the construction contract.
- (C) General requirements: up to 7% of the construction contract.

(iv) Other fee norms:

(A) In addition, RHS has established the new construction and rehabilitation fee norm for a developer's fee at up to 15 percent of the total development cost authorized for tax credit purposes. This norm is provided solely for determination of the adequacy of assistance and for analysis purposes. (A developer's fee is not an authorized Section 515 loan purpose.)

(B) For transfer proposals that include acquisition costs, RHS has established the developer's fee on the acquisition costs at up to 8 percent of the acquisition costs only when authorized by the state agency and only for tax credit purposes. (A developer's fee is not an authorized Section 515 loan purpose.)

(v) Any deviation in the MOU over the 21 percent cap for builder's profit, general overhead, and general requirements, or over the developer's fee norm on new construction or acquisition cost must be submitted to the National Office with justification and documentation for the Administrator's review and concurrence. In order for a State Director to exceed the RHS fee norms, a detailed justification consisting of factual evidence and supporting documentation must be provided to the National Office for the Administrator's review and concurrence. The Administrator will consider:

(A) An explanation of the data being used to justify the deviation.

§1944.213 (a)(1)(v) (Con.)

(B) The applicability of the deviation, i.e., to the entire jurisdiction, or for specific markets, or for project types within a jurisdiction.

(C) Sources of conventional development information which support the deviation.

(D) The position of the state agency on the requested deviation.

(E) The impact of not granting the deviation.

(F) The history of rental housing development in rural areas and developer's fee levels and impact of developer's fees on development in the rural area of the State.

(vi) In cases where no MOU or agreement can be reached on the fees, the State Director will use the following as fee norms or the state agency fees, whichever are less:

- (A) Builder's profit: up to 10% of the construction contract.
- (B) General overhead: up to 4% of the construction contract.
- (C) General requirements: up to 7% of the construction contract.
- (D) Developer's fee: up to 15% of the total development costs authorized for tax credit purposes on new construction or rehabilitation; up to 8% of the acquisition costs only for the acquisition rehabilitation costs.

(2) Analysis of loan requests to determine the minimum amount of assistance.

(i) The state agency's fee structure (under a MOU or not) will be used in the RHS analysis of the amount of assistance that is necessary for a proposal. All data for the analysis will be included in the Section 515 loan request and provided to the state agency. RHS will prepare an analysis on all loan requests and provide the results to the applicant and state agency:

- (A) When accepted as a loan request.
- (B) Immediately prior to loan approval, and
- (C) When the cost certification is completed and prior to issuance of an IRS Form 8609, indicating the amount of tax credits.

(ii) In all cases where the results of an analysis indicate that there will be excess assistance (defined as more than the lesser of \$25,000 or 1 percent of the total development cost as authorized by the state agency), RHS will consult with the applicant, as well as with the state agency, to strive to reach an agreement for reducing the excess assistance. Options include:

- (A) Reducing the amount of tax credits requested, or
- (B) Reducing the level of assistance provided by one or more of the sources of funds, or
- (C) Revising the uses to include eligible costs for any funding participants, provided the project enhancement is consistent with the intent of the RRH program to provide modest housing and will assist the resident population being served by the housing.

(iii) In the event that excess assistance is not reduced through other means, RHS will adjust the amount of equity contribution by the amount of excess assistance (through the reduction of the loan) to ensure that assistance provided is not more than is necessary to provide affordable housing after taking account of assistance from all Federal, state and local sources. Approval of any reduction will require formal notification to the applicant, the state agency, and the National Office.

§1944.213 (Con.)

(b) State Director's loan limitation. The amount of the RRH loan(s) on each project (including principal and interest on all existing and proposed loans) is limited to the maximum amount of the State Director's loan approval authority unless the National Office provides prior written authorization. To request authorization, the State Director must submit the loan request and all information required in §1944.231(h) of this subpart to the National Office, Attention: Multi-Family Housing Processing Division (MFHPD). This must be done before notice is given to the applicant indicating that the loan has been determined eligible and/or feasible. Each loan will also be subject to the following additional requirements: (Revised 05-07-97, SPECIAL PN.)

(1) For all applicants, including its members, who will be receiving any benefits from Low-Income Housing Tax Credits (LIHTC), the amount of the RRH loan(s) will be limited to no more than 95 percent of the development cost or 95 percent of the security value, whichever is less.

(2) For all applicants, including its members, not receiving any benefits from LIHTC, who are comprised solely of nonprofits, consumer cooperatives, State or local public agencies, the amount of the loan(s) will be limited to the development cost or the security value of each project, whichever is less, plus the 2 percent initial operating capital and/or the relocation costs incurred as indicated in §1944.215 (v) of this subpart. Grants made in accordance with §1944.212 (q) of this subpart are not included in the preceding limitations.

(3) For all other applicants, including its members, not receiving any benefits from LIHTC, the amount of the RRH loan(s) will be limited to no more than 97 percent of the development cost or 97 percent of the security value, whichever is less.

(4) The examples set forth in Exhibit A-13 of this subpart (available in any Rural Development office) provide clarity in determining the proper loan amount for various types of loans. (Added 03-16-94, SPECIAL PN.)

(5) For equity loans to avert prepayment, the amount of the RRH equity loan will be limited to no more than the difference between 90 percent of current value of the project as appraised as conventional unsubsidized housing and current unpaid balance(s). (Renumbered 03-16-94, SPECIAL PN.)

(6) For all applicants, the amount of the loan after capitalized construction interest is considered will not exceed the loan limits in paragraphs (b)(1), (2), and (3) of this section. However, Predetermined Amortization Schedule System (PASS) loans closed with multiple advances may exceed that amount when an additional amount is permitted to allow interest to be capitalized to the first of the following month. (Renumbered 03-16-94, SPECIAL PN.)

(7) All applicants must agree in writing to provide funds from their own resources to pay any cost for completing planned construction after the MDL is reached. (Renumbered 03-16-94, SPECIAL PN.)

(c) Limitations on use of loan funds. Loans will not be made for:

(1) Specialized equipment for training and therapy.

(2) Commercial facilities except essential service-type facilities for tenants or members when such facilities are not conveniently available.

(3) Housing to serve primarily temporary and transient residents.

(4) Nursing homes, special care facilities, or institutional-type homes.

(5) Operating capital for a central dining facility or any items which do not become affixed to the real estate security, such as special portable equipment, furnishings, kitchen ware, dining ware, eating utensils, movable tables, and chairs, etc.

(6) Facilities contrary to cost containment measures defined in §1944.215 (a) of this subpart. (Revised 03-16-94, SPECIAL PN.)

(7) Refinancing debts of the applicant except:

(i) As authorized in §1944.213 (d) and §1944.235 (c)(1) of this subpart; or

(ii) When a nonprofit organization or a State or local public agency applicant already owns land on which a lien exists and a subordination or release cannot be obtained and the applicant does not have the financial resources necessary to obtain a release of the existing lien(s). In this situation, loan funds may be used to obtain a release of the land needed for the site of the proposed project. The amount of funds used for such purposes will be limited to the amount necessary to obtain the release but will not exceed the "as is" value of the land as determined in accordance with RD Instruction 1922-B (available in any Rural Development office).

(8) Payment of any fee, charge or commission to any broker, negotiator or other person for the referral of a prospective applicant or solicitation of a loan.

(9) Payment of any fee, salary, commission, profit, or compensation to an applicant or to any officer, director, trustee, stockholder, member, or agent of an applicant except as provided in §1944.212 (j) of this subpart.

§1944.213 (c) (Con.)

(10) Land which the applicant or a member of an applicant/organization owns or land which is owned by any other organization in which any member of the applicant/organization has an interest, or has had an interest within the last 3 years, including any commission due on the sale thereof, except as authorized in §1944.212 (c)(2) of this subpart. (Revised 03-16-94, SPECIAL PN.)

(11) Compensation to an applicant for value of land contributed in excess of the initial contribution as required by paragraph (b) of this section. (Revised 10-01-93, SPECIAL PN.)

(d) Obligations incurred before loan closing. When an applicant files a loan request, the servicing official will advise the applicant not to start construction or incur any indebtedness until the loan is closed, except for those cases involving interim financing; the guidelines outlined in §1944.235 (c)(1) of this subpart and the environmental requirements of subpart G of part 1940 of this chapter will then apply. During the period of review and processing, applicants will not take any actions with respect to their applications which would have an adverse impact on the environment or limit the choice of reasonable alternatives. This requirement does not preclude the applicant from developing preliminary plans or designs or performing other work necessary to support an application for Federal, State, or local permits or assistance. If the applicant incurs debts for work, materials, land purchase, or other authorized fees and charges before the loan is closed, the State Director may authorize the use of loan funds to pay the debts when all of the following conditions exist and debts were authorized in writing by RHS prior to their being incurred (market studies will be exempt from this requirement): (Revised 05-07-97, SPECIAL PN.)

(1) The debts were incurred: (Revised 05-07-97, SPECIAL PN.)

(i) After the applicant filed a written loan request for a loan with RHS;

(ii) Prior to the date of loan request as part of a predevelopment loan specifically intended as temporary financing from a public agency or nonprofit organization and the State Director secures prior concurrence from the National Office; or

(2) The applicant is unable to pay the debts from its own resources or to obtain credit from other sources and failure to authorize the use of loan funds to pay the debts would impair the applicant's financial position.

(3) The debts were incurred for eligible loan purposes.

(4) Contracts, materials, construction, and any land purchased meet RHS standards and requirements.

(5) Payment of the debts will remove any liens which have attached and any basis for liens that may attach to the property on account of such debts.

(e) Limitations on cost increases. After loan approval of a project involving new construction or major rehabilitation:

(1) No increase in per unit development cost will be approved, whether the circumstance causing the cost increase occurs before, during, or after the construction period, unless these conditions were unforeseen factors beyond the owner's control and the increase in cost was approved by RHS in writing before the expense was incurred. (In case of an emergency, the requirement that the cost be approved by RHS in writing before the expense is incurred is waived as long as the servicing official is notified by the next working day.) Such costs are: (Revised 03-16-94, SPECIAL PN.)

(i) Design changes required by RHS or State or local government having jurisdiction over the development of the project; or

(ii) Changes in financing approved by RHS.

(2) Any cost increase which cannot be approved for funding by RHS must be satisfied by the owner from its own resources. Whenever there is doubt as to the resulting effect of a cost increase upon per unit development cost, the cost increase request may be conditionally approved provided:

(i) The owner agrees in writing to provide any funds necessary in excess of its initial contribution and the loan amount to complete the project; and

§1944.213 (e)(2) (Con.)

(ii) The owner furnishes surety that guarantees payment under the assurance agreement in the form of a surety bond, unconditional and irrevocable letter of credit or cash which is put into an interest or noninterest bearing supervised bank account. Such funds will not result in a lien on the project or its operating income.

(3) Under no circumstances will a cost increase request be approved without concurrent agreement between Rural Development and the applicant/borrower as to how the cost increase will be funded.

§ 1944.213 (Con.)

(f) New loans in areas with RHS, the Department of Housing and Urban Development (HUD), or similar type rental housing assistance. (Revised 05-07-97, SPECIAL PN.)

(1) Definitions. As used in this paragraph only.

(i) Similar type rental housing assistance. Housing assistance provided by a Federal, State or local agency or other entity which provides very low- or low-income housing assistance. Vouchers or tenant-based Section 8 assistance are not considered similar rental housing assistance. The State Director will determine if similar type rental housing assistance is available within his/her jurisdiction and will coordinate efforts under this paragraph.

(ii) Market area. See Exhibit A-8 of this subpart. When a difference in opinion exists in the market area determined by RHS personnel, the applicant, market analyst, HUD, or similar type rental housing provider, for the purposes of this paragraph, the market area established by RHS personnel will prevail.

(2) Applicability. A request for an RRH/RCH loan to develop additional housing units (regardless of type) in the same market area with an RHS, HUD, LIHTC, or similar rental housing assistance project will not be determined eligible/feasible, authorized, or approved when any of the following conditions exist:
(Revised 01-22-98, SPECIAL PN.)

(i) Another RRH or RCH loan request in the same market area has been selected for further processing; or (Revised 05-07-97, SPECIAL PN.)

(ii) A previously authorized/approved RHS, HUD, LIHTC, or similar type rental housing assistance project in the same market area has not been completed or reached its projected occupancy level. For example, a recently completed RHS project is 85 percent occupied, reflecting a 15 percent vacancy. The Form RD 1930-7, "Multiple Family Housing Project Budget," approved when this loan was obligated, indicated a proposed vacancy rate of 10 percent. In this case, another project could not be authorized until the recently completed project reached and sustained a 90 percent occupancy level; or
(Revised 01-22-98, SPECIAL PN.)

(iii) An existing RHS, HUD, LIHTC, or similar type rental housing assistance project in the same market area is experiencing high vacancies. The State Director, without authority to redelegate, will determine a reasonable vacancy rate for this purpose on a state, district, or regional basis. Generally, a high vacancy rate would be in the 5 to 10 percent range. For the purpose of this paragraph, a high vacancy rate due to documented mismanagement will not be considered as a reason to defer processing a viable loan request provided there is an adequate market for the existing and proposed units. In addition, substandard units or excessive nonmarketable efficiency apartments would not be a reason to defer a viable loan request; or (Revised 01-22-98, SPECIAL PN.)

(iv) A request for a Servicing Market Rate Rent (SMR), or similar servicing tool, as defined in subpart C of part 1930 of this chapter in the same market is pending, or in effect and still needed; or

(v) The need in the market area is for additional rental assistance (RA) or similar subsidy and not for additional housing units. This can be evidenced by similar rental housing in the market area in which tenants are experiencing rent overburden; existing projects in the market area which are experiencing vacancies due to lack of RA, Section 8, or similar subsidy; high vacancies in conventionally financed apartments; or other circumstances where the market needs affordable housing but not additional housing.

(3) Status. When a loan proposal or project exists in the market area which meets any of the criteria established in paragraph (f)(2) of this section, loan requests in the same market area will be returned to the applicant in accordance with § 1944.231 of this subpart. This does not affect the processing of loan requests in other market areas. (Revised 05-07-97, SPECIAL PN.)

§ 1944.213(f) (Con.)

(4) Exceptions.

(i) Categorical. A group home for persons with disabilities is exempt from the provisions of paragraph (f)(2) of this section when existing housing in the market area is not available or insufficient for their needs.

(ii) Other. In unusual circumstances where there is a compelling need for additional housing in a market area, the State Director may request an exception to the provisions of paragraph (f)(2) of this section, to the Deputy Administrator, Multi-Family Housing. Circumstances in which an exception would be considered include, but are not limited to: a colonia, or market area which is located within a county, designated under the Rural Housing Targeting Set Aside (RHTSA) defined in Exhibit C to subpart L to part 1940 of this chapter; a market area where an applicant/borrower is only constructing a small fraction of the units (generally less than 25 percent) proposed by the original market analysis; or a market area which is in need of housing as the result of a natural disaster which destroyed existing similar rental housing units. The State Director will submit a request for exception to the Deputy Administrator, Multi-Family Housing, with clear documentation to support the request. The Deputy Administrator, Multi-Family Housing, may authorize an exception at the request of the State Director or Director, MFH/PD.

§ 1944.214 Rates and terms.

(a) Interest. Upon request of the borrower, the interest rate charged by RHS will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice at the time of loan approval, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in Exhibit B of RD Instruction 440.1 (available in any Rural Development office).

(b) Amortization period. Each loan will be scheduled for payment within a period that is necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security. The payment period will not exceed 30 years from the date of the note; however, if necessary to ensure affordability, the loan may be amortized for a period not to exceed 50 years. (Revised 01-22-98, SPECIAL PN.)

§ 1944.215 Special conditions.

(a) Cost containment. To achieve affordable rents and occupancy rates (not considering rental assistance or similar subsidies), all development costs will be economical in nature and not include costs for unnecessary or elaborate design features. Cost containment is not to be interpreted as accepting poor design or cheap construction. Projects must provide the features and amenities necessary for the lifestyles of the tenants and members. Consideration must be given to the cost/benefit ratio when evaluating, recommending, or requiring specific design features or construction techniques. Life cycle cost analysis will be employed to determine the types of materials which will reduce operation/maintenance costs even though their initial costs are higher. Operation and maintenance costs factored into proposed operating budgets will be adjusted accordingly. The following guidelines are to be followed when developing projects: (Revised 03-16-94, SPECIAL PN.)

(1) Each State architect/engineer (A/E) will compile and maintain data on costs of all projects. Total project estimates will be compared with estimates available through the Marshall & Swift computer program. These estimates, along with the line item costs recorded in RHS's Automated Multi-Housing Accounting System (AMAS) cost tracking system, will be used to establish a benchmark for future project costs. Any proposal that exceeds these costs must be carefully evaluated for possible cost reductions. The borrower will be responsible for resolving the differences in cost to bring the project into line with the lesser of the cost tracking system or Marshall & Swift estimates. Final determinations must be realistic, interrelated to maintenance and operation costs, and based upon local conditions and common sense. The State will consider circumstances such as high land costs, remote rural areas, etc., which could present a problem in achieving such an alignment of costs. The AMAS cost tracking system will be used to record both estimates and actual line item costs. At the time the estimates are being examined by RHS, the percentages for builder's profit, general overhead, and general requirements will be calculated to determine if they are within

§1944.215 (a)(1) (Con.)

the allowable percentages established in accordance with §1944.213 (a)(1)(iii) and (a)(1)(iv) of this subpart. (Revised 05-07-97, SPECIAL PN.)

(2) The elimination or reduction of unnecessary delays in application processing can contribute to cost containment through lower interest and other business expenses on land, inventory, tests, design studies, etc. When reasonable processing timeframes are established, known and followed, appropriate time can be planned for preparing quality application and construction documents. This can result in better instructions to the builder, fewer errors and lower construction costs.

(3) Most materials and systems are available in a range of qualities and prices. The construction documents will be carefully reviewed for specifications that require qualities or grades higher than necessary. These specifications will be accepted only if fully justified and no reasonable alternatives are available.

(4) Designs which employ standard building material dimensions and reduce waste will be used.

(5) Sites will require a minimum amount of site development work. The State Director may authorize a site requiring higher than normal site development costs only if:

(i) The proposed site and site development costs are less than the cost of the normal site and site development costs; or

(ii) There are no other sites available in the market area with a lower combined cost.

(6) All project site densities (units per acre) will be within the following ranges, regardless of site conditions unless local zoning requirements dictate otherwise:

	Minimum	Maximum
One-story buildings	10	14
Two-story buildings	14	18
Three or more story buildings	18	22

(i) For example: A 24-unit project composed of two-story buildings must have a site of at least 1.3 acres. RHS will finance the purchase and development of larger sites, but not more than 1.7 acres. Ranges for projects with a mixture of building heights can be interpolated.

(ii) An exception may be made to this provision only if the site in question is the only site available in the market area and its size, shape, or condition makes a portion of the site unsuitable for building. An exception to this requirement must be granted by the State Director or a designee. The applicant must provide written documentation that no other sites are available.

(7) Sound judgment and common sense must also be used in construction inspections and final acceptance of projects. Field staff involved in these activities must be careful not to impose additional or unreasonable requirements on the builder that will increase construction costs. States should consider hiring enough construction inspectors to provide more than the required inspections and to allow multiple unscheduled and unannounced visits. The State Office may also, with National Office authorization, contract for inspection services to deter deviations from the RHS-accepted construction documents. Prefinal and final inspections must be conducted by qualified RHS personnel.

(8) Buildings will not include numerous wall and roof breaks, unusual designs requiring excessive corners and foundation off-sets, or that require more exterior entrances than absolutely necessary. Designs will not be considered acceptable that place dining facilities in structures attached to the main building when these amenities can be less expensively included within the main structure.

§1944.215 (a) (Con.)

(9) Buildings will not include roof slopes less than 3/12 nor greater than 6/12 unless otherwise required by local authorities or in order to accommodate severe weather conditions.

(10) The use of repeat designs will be required from applicants whose architects have designed projects previously approved by Rural Development. This does not mean "cloned" projects are required throughout the State and/or region. When a repeat design is being used in the same community, the exterior facade (such as color, siding material, etc.) must be noticeably changed except in the case of subsequent phases. The State Office architect will ensure that sufficient differences are included in the proposed plans which will preclude the appearance of "cloned" designs. "Predesigned" buildings must fit the basic existing contours of the proposed site.

(11) The following facilities are considered nonessential and will not be included in the loan unless required by local codes or ordinances:

- (i) Garages/covered parking;
- (ii) Bay/box/picture or similar type windows;
- (iii) Fireplaces;
- (iv) Community room furniture;
- (v) Sliding glass/atrium or similar type doors;
- (vi) Materials atypical for the area;
- (vii) Atriums/solariums;
- (viii) Saunas;
- (ix) Whirlpools;
- (x) Gyms (facilities to accommodate physical exercises may be included in elderly projects without regard to this restriction); and
- (xi) Swimming pools.

RD Instruction 1944-E
 §1944.215 (a) (Con.)

(12) Other design features which will only be accepted if determined customary for the area are:

- (i) Patios/balconies (minimum size which will accommodate handicapped accessibility);
- (ii) Washer and dryer hookups in individual units; and
- (iii) Washers and dryers in individual units.

(13) The following is a list of allowable amenities according to the type of units: (Revised 09-28-94, PN 234.)

	Elderly	Congregate	Home	Group Family
Active outdoor recreation	Yes	No	No	Yes
Carpet	Yes	Yes	Yes	Yes
Central laundry facilities	Yes	Yes	Yes	Yes
Community rooms	No	Yes	Yes	Yes
Dishwashers	No	No	Yes _{1/}	Yes _{1/}
Drapes/blinds/shades	Yes	Yes	Yes	Yes
Elevators for 2-story elderly	No	Yes	Yes	No
Garbage disposals	No	No	Yes _{1/}	Yes _{1/}
Lawn sprinklers - financing will depend on geographic area				

1/ In central kitchens only

(14) Total on-site parking spaces per living unit will be within the following ranges unless otherwise required by local authorities: (Note: Additional spaces for visitors, staff, or health care workers may be provided.)

FAMILY		ELDERLY		CONGREGATE		GROUP	
Min	Max	Min	Max	Min	Max	Min	Max
1.0	1.5	0.5	1.0	0.25	1.0	0.25	0.5

§1944.215 (a) (Con.)

(15) Management, maintenance, and community rooms should be in accordance with Guide 2 of Subpart A of Part 1924 of this chapter (available in any Rural Development office). Laundry rooms should be no larger than necessary to accommodate equipment, circulation (including handicapped accessibility) and areas for sorting and folding clothes.

(b) Type of housing. All housing will be designed to:
(Revised 03-16-94, SPECIAL PN.)

(1) Be economically constructed and not of elaborate design or materials. All new construction will conform with the applicable development standards of §1924.5 (d)(1) of Subpart A of Part 1924 of this chapter. The gross square foot living area of new units will be within the ranges listed below. Living area is defined as: All enclosed space for the unit (except unfinished storage space for outdoor items and space needed for heating and/or cooling equipment) and measured from the exterior surface of the framing of exterior walls and the center line of interior party or corridor walls. States should establish ranges within these dimensions to be commensurate with unit sizes in the local market. For example, when conventional units in the market are at the low end of Rural Development's range scale, Rural Development will also build a comparably smaller unit. (Revised 03-16-94, SPECIAL PN.)

<u>TYPE OF UNIT</u>	<u>MINIMUM/MAXIMUM LIVING AREA</u>
0-Bedroom Unit	350-500 sq. ft.
1-Bedroom Unit	500-650 sq. ft.
2-Bedroom Unit	650-800 sq. ft.
3-Bedroom Unit	800-950 sq. ft.
4-Bedroom Unit	950-1100 sq. ft.

(i) An additional 100 to 120 square feet of living area may be added to the 4-bedroom unit guideline for each bedroom in excess of four. Floor areas for living and dining rooms should comply with Guide 2 of Subpart A of Part 1924 of this chapter (available in any Rural Development office). The maximum square footage in congregate housing units will not exceed 110 percent of the minimum square footages listed above. (Revised 03-16-94, SPECIAL PN.)

(ii) In townhouse units where living area is on two floor levels of the unit, the maximum gross square footage of living area may be exceeded by up to 70 square feet, but only to the extent necessary to accommodate interior stairways.

(iii) Room sizes must be in compliance with the applicable development standard. Minimum room sizes may be determined by the minimum areas in Guide 2 of Subpart A of Part 1924 of this chapter (available in any Rural Development office).
(Revised 03-16-94, SPECIAL PN.)

(iv) Additional area to accommodate energy conserving and solar heating elements such as vestibules, heat sinks, solar greenhouses, solar heat storage devices and the like may be allowed in excess of the stated maximum size guidelines. However, such devices, if included, must be justified on a cost effective basis.

(2) Consist of multi-unit type housing with two or more units and appropriate related facilities except for the conversion of Section 502 inventory housing as covered in §1944.212 (p) of this subpart, manufactured homes and group homes. Single family structures may be considered for cooperative housing projects if economically feasible. (Revised 08-20-93, SPECIAL PN.)

(3) Be residential in character and be designed to meet the needs of eligible tenants or members. Generally, structures should not be more than three stories high. However, low-rise structures with elevators can be considered when the following conditions exist:

(i) There is a serious shortage of suitable building sites, the number of units needed cannot be built due to lack of space on available suitable sites and other building sites are not available.

(ii) Land costs are such that one- to three-story construction would result in a unit cost and rental/occupancy rates in excess of what eligible tenants and members can afford.

(iii) The number of stories proposed for the structure is compatible with other rental structures in the community. If there are no other low-rise rental structures in the community, the proposed structure must be in character with surrounding structures.

§1944.215 (b)(3) (Con.)

(iv) The cost of the units should compare favorably with one- to three-story construction financed with RRH loans. If the costs are higher, the loan will not be approved until the Rural Development State architect or engineer has reviewed the plans, specifications and cost data to assure that further cost savings cannot be achieved without sacrificing the quality and serviceability of the housing.

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(Added 03-16-94, SPECIAL PN)

(02-21-91) SPECIAL PN

(v) Elevators will be provided in accordance with the applicable development standards. If elevators are included, the subsoil conditions of the site must be adequate for the installation of elevators and sufficient service personnel must be available in the area for service and repair work.

(4) Provide kitchen and bath facilities consistent with the size of the unit. For example, units with three or less bedrooms typically can be designed with one bath. However, townhouse units with three or more bedrooms where living area is on two floors may contain bath facilities on both levels. Kitchen facilities are required in all units; however, in congregate housing, some or all of the units may have limited facilities, such as a cooktop with a small oven and refrigerator.

(5) Give maximum consideration to energy conservation measures and practices. To keep operating costs at a minimum, units should be individually metered for utilities unless adequate justification is provided to show that it would be infeasible. (Revised 08-30-93, SPECIAL PN.)

(6) Meet the needs of tenants with handicaps in rental projects. At least 5 percent of the units in the project or one unit, whichever is greater, must be accessible to or adaptable for persons with physical handicaps. The percentage of the units provided may be modified if an applicant shows, through information obtained from a State, local or independent agency or organization serving people with handicaps, that a different percentage of accessible or adaptable units is appropriate. However, at least one accessible unit will be provided. Adaptable units must be constructed in accordance with the Uniform Federal Accessibility Standards, Sections 4.34.3 through 4.34.6. (Revised 08-30-93, SPECIAL PN.)

(7) For covered dwellings, handicap accessibility requirements will be met as set forth in Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments Act of 1988. (Revised 08-30-93, SPECIAL PN.)

(c) Deferred principal payments.

RD Instruction 1944-E
§1944.215 (c) (Con.)

(1) When construction is funded by multiple advances from Rural Development, principal payments on the loan will be deferred for the period of construction.

(2) When an interim financed loan is closed other than the first day of the month, principal payments will be deferred for the remaining period of the month in which the loan is closed.

(3) When construction is substantially complete and the project is ready for full operation, or the total of principal advances plus accrued interest reaches the MDL, interest on the advances will be accrued to the Amortization Effective Date (AED) and will be capitalized, establishing a new principal (loan) amount.

(4) At loan obligation, the MDL will be established according to §1944.213 (b) of this subpart. When the final advance on the loan is issued or the MDL is reached, the Finance Office will:

(i) Accrue interest on all advances through the last day of the month and capitalize the interest as of the AED. When there is a remaining obligation balance, it will be canceled by the Finance Office.

(ii) Establish the new loan amount and the borrower's monthly payments computed over the remaining term of the loan.

(5) The District Office will:

(i) Contact the applicant and complete Form RD 1944-52, "Multiple Family Housing Promissory Note."

(ii) Implement Form RD 1944-7, "Multiple Family Housing Interest Credit and Rental Assistance Agreement," at AED or when the project is substantially complete and ready for full operation, whichever is later. (Revised 08-20-93, SPECIAL PN.)

(d) Refinancing Loans. Each borrower, except those borrower(s) whose loans were made pursuant to contracts entered into on or after December 15, 1989, must agree to refinance the unpaid balance of the loan when requested by the Agency. The rates and terms of the refinanced loan must be considered reasonable by the Agency to enable the borrower to offer

§1944.215 (d) (Con.)

the units to eligible tenants and members at rates within their payment ability. The refinancing of a loan must comply with the restrictions indicated in §1944.236 (b)(5) of this subpart, Subpart F of Part 1951 and Subpart E of Part 1965 of this chapter.
(Revised 08-20-93, SPECIAL PN.)

(e) Loan resolution or loan agreement. The loan resolution or loan agreement contains provisions of policy and procedure which should be carefully read, fully understood by the applicant, and executed by the applicant prior to loan approval. If any provisions are not appropriate to a particular case, proposed substitute language must be approved by Rural Development and OGC. Subpart C of Part 1930 of this chapter provides for the maintenance of certain accounts and the pledge of housing income as security. It contains regulatory provisions governing and giving Rural Development power to impose requirements regarding the housing and related operations of the applicant. All sections and requirements determined applicable by OGC will form part of any other loan resolution or agreement that may be submitted by the applicant. These are: (Revised 03-16-94, SPECIAL PN.)

- (1) Form RD 1944-33, "Loan Agreement."
- (2) Form RD 1944-34, "Loan Agreement."
- (3) Form RD 1944-35, "Loan Resolution."

(f) Cooperative management. Consideration must be given to the special conditions of a cooperative housing structure concerning management. The following forms of management will be recognized for cooperative housing.

- (1) Self-management. The primary management objective for small housing cooperatives. To achieve this, education and training efforts should be an on-going part of their early years of operation. Accordingly, modest educational costs will be permitted in the budget as a subheading under management expenses. It is understood that, in the beginning, it may be necessary to obtain some outside services, such as a bookkeeper. If so, then partial self-management can be considered. It will be necessary for a qualified nonmember (individual or organization) to advise the board during the formative years of the cooperative. Exhibits F and G to this subpart will be used as a guide for determining the qualifications of the adviser.

(2) Partial self-management. Certain management and/or supervisory services contracted from a technical service organization, housing authority, or management firm, etc. If this additional assistance does not enable the cooperative to manage itself, then the ultimate solution will have to be contract management.

(3) Contract management. Professional services contracted for the day-to-day supervision of cooperative operations. The board of directors would develop the policies which would then be administered by the management agent.

(g) Cooperative membership fee. Cooperative housing is a form of homeownership. In order to promote a commitment from prospective members, cooperatives will require a membership fee. The membership fee established by the board of directors will be equal to one month's occupancy charge. Once the fee has been established, that amount will be uniformly applied to all members. Members unable to pay a cash membership fee should be permitted to make monthly payments without interest, until the membership fee is paid; however, a cash payment of at least \$25 should be required at occupancy. The period of payment on the membership fee should not exceed 12 months.

(h) Cooperative limited equity.

(1) RCH loans will only be made to cooperatives which limit the accumulation of equity. The limitations are designed to maintain unit availability for low-income people. In addition, all prospective members must have received, prior to becoming an actual member, a statement of the objectives of the cooperative, debts and a declaration describing limited equity and what it will mean to them. Exhibit H of this subpart will be used for this purpose. Limited equity is further described in "A Guide to Cooperative Housing" which is to be given to prospective members. (Revised 03-16-94, SPECIAL PN.)

(2) Inflation equity which accrues on cooperative property is not considered part of members' limited equity and will not be taken from the project when a member vacates the project.

(i) Interest credits and rental assistance (RA).

§1944.215(i) (Con.)

- (1) Borrowers may receive interest credits if they meet the requirements outlined in Exhibit B of Subpart C to Part 1930 of this chapter.
 - (2) RA may be provided to eligible tenants and members in eligible projects in accordance with Exhibit E to Subpart C of Part 1930 of this chapter.
 - (3) At least 95 percent of RA units available for newly constructed projects must be used to assist very low-income tenants and members. Up to 5 percent can be used for low-income tenants and members.
 - (4) Cooperative members must have sufficient incomes to pay their management reserve charge. RA will not be used for this purpose. Management reserve charge is further described in Exhibit A to this subpart.
- (j) Nondiscrimination in use and occupancy. The borrower will not discriminate or permit discrimination by any agent, lessee or other operator in the use or occupancy of the housing or related facilities because of race, color, religion, age, sex, marital or familial status, mental or physical handicap (tenants must possess the capacity to enter into a legal contract), or national origin, in accordance with Subpart E of Part 1901 of this chapter. (Revised 08-20-93, SPECIAL PN.)
- (k) Eligibility for occupancy. Loans will be made on the basis of the housing being occupied by eligible tenants and members as defined in §1944.205 of this subpart. Eligible tenants and members must meet the requirements of Exhibit B of Subpart C of Part 1930 of this chapter.
- (l) Tenant and member certification. Initial certification and recertifications will be executed on Form RD 1944-8, "Tenant Certification," in accordance with Exhibit B to Subpart C of Part 1930 of this chapter.
- (m) Supervision of borrowers. Supervision will be provided to borrowers under Subpart C of Part 1930 and Subpart B of Part 1965 of this chapter.
- (n) Establishing profit base on initial investment. Applicants agreeing to operate on a limited profit basis will be permitted a return not to exceed 8 percent per annum on their initial investment determined at the time of loan approval. For equity loans to avert prepayment,

the rate of return and equity position may be set in accordance with §1965.213 of Subpart E of Part 1965 of this chapter. This amount will be reflected in the loan agreement or loan resolution and will not be changed once it is determined. The initial investment may exceed the required contribution in §1944.213(b) of this subpart and a return allowed on the excess investment if: (Revised 10-01-93, SPECIAL PN.)

(1) Cash contributions made by the applicant from the applicant's own resources, which, when added to the loan and grant amounts from all sources, do not exceed the security value of the project. Proceeds received by the applicant from the syndication of low-income housing tax credits (LIHTC) and contributed to the project may be considered funds from the applicant's own resources for the portion of the proceeds which exceeds: (Revised 06-06-97, SPECIAL PN.)

(i) The allowable developer's fee determined by the State Agency administering the LIHTC, and

(ii) The amounts expected to be contributed to the transaction, as determined by the State Agency administering the LIHTC.

(2) The value of the building site or essential related facilities contributed by the applicant up to the amount which, when added to the loan and grant amounts from all sources, is not in excess of the security value of the project. An appraisal will be completed in accordance with applicable RHS regulations. Value of the applicant's contribution will be determined on an "as is" basis less liens against the property. (Revised 06-06-97, SPECIAL PN.)

(3) Borrowers receiving incentives to avert prepayment may have the amount of borrower equity redefined to include the difference between the value used in determining the incentives and the balance of all loans, including the equity loan, if any. Redefined equity may be received only as a part of an incentive offer developed under §1965.213 of Subpart E of Part 1965 of this chapter. (Added 08-20-93, SPECIAL PN.)

(o) Intergovernmental review. RHS will consider comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities," when making decisions on loan applications. (See RD Instruction 1940-J.)

§1944.215 (Con.)

(p) Guidelines for preparing environmental assessments and environmental impact statements. All projects will comply with Subpart G of Part 1940 of this chapter.

(q) National flood insurance. The provisions of the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 and Executive Order 11988, are applicable to RHS authorities permitting financing of housing now located in, or to be located in, special flood or mudslide-prone areas as designated by the Federal Emergency Management Administration (FEMA). Subpart B of Part 1806 of this chapter (RD Instruction 426.2) and Subpart G of Part 1940 of this chapter will apply.

§1944.215 (Con.)

(r) Location of housing.

(1) The location of the project should expand the supply of decent, safe, and sanitary housing for very low-, low- and moderate-income elderly persons, persons with disabilities, and families in a nondiscriminatory way. The location should promote a greater choice of housing opportunities in the housing market area. (Revised 05-07-97, SPECIAL PN.)

(2) Project locations are to promote equal access for the inclusion of all groups regardless of race, color, religion, sex, national origin, age, marital status, physical or mental disability, or familial status, thereby opening up nonsegregated housing opportunities for minorities. (Revised 05-07-97, SPECIAL PN.)

(3) Except as otherwise permitted by paragraph (r)(6) of this section, housing projects must be located in residential areas as part of established rural communities where essential public facilities (such as schools, hospitals and generally central water and sewer systems) and services (such as shopping, medical, and pharmaceutical) are readily available in close and convenient proximity to the site. Public facilities and services must be adequate to support the needs of the tenants and members and the housing project. (See RD Instruction 1922-B which is available in any Rural Development office.) (Revised 08-20-93, SPECIAL PN.)

(4) In order to provide housing at the lowest cost possible, preference in accordance with §1944.231 of this subpart will be given to loan requests in which specific tracts of land will be donated by States, units of local government, public bodies, and nonprofit organizations, provided the following conditions are met: (Revised 05-07-97, SPECIAL PN.)

(i) The land is suitable for the proposed housing and meets the site criteria of §1944.215 (r) of this subpart and the environmental requirements of subpart G of part 1940 of this chapter; and (Revised 05-07-97, SPECIAL PN.)

(ii) Site development costs of the donated site do not exceed the cost of purchasing an alternative site and the site development costs for the alternative site. For example, if the site development costs of the donated site are \$50,000 and purchasing an alternative site would cost \$20,000 and \$15,000 to develop, donation of the site would not be cost effective or qualify for preference; and (Revised 05-07-97, SPECIAL PN.)

(iii) Due to no land cost, the overall cost of the project has been reduced compared to similar type projects; and

(iv) The donor of the site has owned the site for at least 1 year. The State Director may waive the 1-year restriction when it is clearly documented that the donation of the land was not intended to circumvent the provisions of this paragraph; and

(v) A return on investment is not paid to the borrower for the value of the donated land nor is the value of the land considered as part of the borrower's contribution; and

(vi) There is no identity of interest between the donor of site (including any members of the donor entity) and the applicant for the loan (including any members of the applicant entity); or

(vii) In cases where there is an identity of interest between the donor of the site (including any members of the donor entity) and the applicant for the loan (including any members of the applicant entity), the applicant meets the requirements of §1944.231 (e) of this subpart. (Revised 05-07-97, SPECIAL PN.)

(5) Noncontiguous rental sites.

(i) Noncontiguous sites within the same community may be considered if feasible. Each site must meet all RHS site criteria and an appraisal must be made on each site in accordance with subpart B to part 1922 of this chapter (available in any Rural Development office). The units must be managed under one management plan with one loan agreement/resolution.

(ii) If a small community cannot support a project containing enough units to make it cost effective or in cases involving conversion of 502 inventory units, RHS will consider a project which includes more than one site in the same or different communities. The State Office and applicant must mutually agree that the location of the sites will not adversely effect the efficiency of management and servicing of the projects. The requirements of paragraph (r)(5)(i) of this section will also apply.

(6) Rural Development will consider financing new construction or the purchase and rehabilitation of existing structures (in accordance with §1944.212 (b) of this subpart) located in the downtown business areas of rural communities that have established a comprehensive strategy for meeting their community development and housing needs. That strategy must include the redevelopment, rehabilitation, restoration or revitalization of the downtown business area. The proposed project site must be located within the downtown business redevelopment/ revitalization area and the following conditions must be met:

(i) Essential public facilities (such as schools, hospitals and generally central water and sewer systems) and services (such as shopping, medical and pharmaceutical) must be readily available in close and convenient proximity to the site and must be adequate to support the needs of the tenants and members and the housing project.

(ii) The community must have an official short-term community development and housing plan which sets forth its comprehensive strategy for meeting identified community development and housing needs. The plan will include the need for eliminating and preventing economic decay, slums or blight; the need of benefiting the lower-income population; or other community development needs having a particular urgency. The strategy should include a community-wide component which describes the development strategy of the governing body, the major objectives the governing body seeks to accomplish, the priorities it has established, the factors taken into account in selecting areas for treatment and the anticipated public and private sources of funds necessary to conduct the treatment of each area selected. In addition, the plan should contain the following component strategies:

(A) Neighborhood revitalization: The strategy for alleviating physical deterioration, maintaining viable neighborhoods and stimulating investment to upgrade neighborhoods affected by blight and deterioration.

§1944.215 (r)(6)(ii) (Con.)

(B) Housing: The community-wide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. Reference to any current Department of Housing and Urban Development approved housing assistance plan would be helpful as part of this component strategy.

(C) Economic development: The strategy for attracting private investment in the business community and for solving the critical problems which may be the result of a stagnating or declining tax base or from population outmigration.

(iii) Evidence must be presented from the local governing body verifying that the community has adopted, through resolution or other official act, the community development and housing plan referenced in paragraph (r)(6)(ii) of this section. A copy of the adopted plan should be made available to RHS. While it is not necessary that the downtown redevelopment/revitalization area be formally designated as an urban renewal or other similar area, evidence supporting a local determination that the downtown business area meets the criteria established in the community development and housing plan must be maintained in the locality's records. Documentation received from the local governing body must also identify the site or structure involved in the applicant's proposal as part of or essential to the downtown redevelopment/revitalization area.

(iv) Evidence must be presented to RHS verifying the intended commitment of public and private resources which will be available for completing any other integrally related redevelopment/ revitalization activities being undertaken in the downtown business area along with the applicant's proposed project.

(v) Prior review and concurrence must be received from the National Office before the State Director or servicing official authorizes the applicant to develop a complete application. All of the information required in paragraph (r)(6) of this section must be provided by the applicant before National Office review. (Revised 03-16-94, SPECIAL PN.)

(7) The property for which a loan is made must be located in a rural area as defined in 7 CFR 3550.10. However, if the area where the site is located has changed from rural to nonrural in accordance with the most current official census figures, loan requests received before the date the area was determined nonrural will be processed as expeditiously as possible and loans closed if the applicants are otherwise eligible. Such loans must still be eligible and feasible, and processed in accordance with §1944.231 of this subpart. (Revised 05-07-97, SPECIAL PN.)

(s) Clean Air Act and Water Pollution Control Act Requirements. When the contract exceeds \$100,000, the contractor will comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations 40 CFR Part 15 which prohibit the awarding of nonexempt Federal contracts, grants or loans to facilities included on EPA's list of violating facilities. The contractor will report violations to the EPA.

(t) Concurrence with construction contracts. A construction contract between the borrower and contractor for development of a project will contain a provision that it is not in full force and effect until the State Director concurs in writing in the form, content and execution of the contract. Before loan closing or before the start of construction, whichever occurs first, the State Director or his/her delegate will concur with the contract form, content and execution by including the following paragraph at the end of the contract:

"The Rural Housing Service, as a potential lender or insurer of funds to defray the costs of this contract, and without liability for any payments thereunder, hereby concurs with the form, content, and execution of this contract.

Date _____

Rural Housing Service

By: _____

Title: _____

§1944.215 (Con.)

(u) Historic preservation requirements. The servicing official must take the necessary action to assure that the applicant will comply with the provisions of Subpart F of Part 1901 of this chapter. This regulation concerns compliance with the National Historic Preservation Act of 1966, the Archeological and Historic Preservation Act of 1974 (Public Law 93-291), and Executive Order 11593 dated May 13, 1971. (Revised 03-16-94, SPECIAL PN.)

(v) Uniform Relocation Assistance and Real Property Acquisition Act of 1970. Public bodies and agencies which have the power of eminent domain and/or condemnation must comply with the requirements of this Act. The applicant must provide assistance for relocation of displaced persons from a site on which a project will be located. RHS loan funds may be increased over and above the appraised value of the property to cover costs incurred in the relocation of displaced persons. Until instructions are published by the National Office, the Department regulations found at Part 21 of this chapter should be followed and the National Office should be consulted for guidance in developing an RRH or RCH loan for a project affected by this Act. Generally, if there are alternative sites of equal quality which meet the Agency's requirements, the site with the least relocation impact will be selected.

(w) Rental assistance (RA) and market feasibility.

(1) As evidence of market feasibility, an applicant that proposes a project which is expected to use RHS RA units will only be required to demonstrate that a market exists for tenants or members eligible for the RA.

(2) To evidence market feasibility for projects which are expected to use RA from sources other than RHS, applicants will be required to demonstrate that:

(i) The assistance will be provided for at least 5 years.

(ii) A market exists for persons and families eligible for the assistance. The amount of the RA to be provided must be considered when determining the number of families that would be income eligible for the project.

(iii) For the term of the loan remaining after RA is no longer available, an adequate rental market exists for the project without the assistance.

(iv) During the term of the RA contract, the provider will make available the amounts required at least annually.

(3) Feasibility for projects receiving tax credits will require a more extensive examination since tax credits are predicated on renting to very low-income persons. Applicants choosing to apply for tax credits will be responsible for identifying the amount of tax credits it anticipates requesting from the State, as well as the income percentage on which the credits will be based, and the percentage of units targeted for tax credit eligible persons. The market study must substantiate the presence of persons whose incomes would qualify for tax credits who cannot afford the basic rent and those persons whose incomes are tax credit eligible but who are still able to afford the basic rent. (Added 03-16-94, SPECIAL PN.)

(x) Civil Rights Impact Analysis. It is the policy within the Rural Development mission area to ensure that the consequences of any proposed project approval do not negatively or disproportionately affect program beneficiaries by virtue of race, color, sex, national origin, religion, age, disability, or marital or familial status. To ensure compliance with these objectives, the RHS approval official will complete Form RD 2006-38, "Civil Rights Impact Analysis Certification." (Added 06-06-97, SPECIAL PN.)

§§1944.216 - 1944.220 [Reserved]

§1944.221 Security.

(a) Mortgage. Each loan will be secured in a manner that adequately protects the financial interest of the Government. A first mortgage will be taken on the property purchased or improved with the loan, except as indicated in paragraphs (a)(1) and (a)(3) of this section and, for projects that are funded jointly by RHS and other sources, as indicated in §1944.233(f) of this subpart. (Revised 06-06-97, SPECIAL PN.)

(1) A second mortgage will be taken on a site developed with prior loan(s) when a subsequent loan is made to complete or finish out units on the site or when a second initial loan is made to develop units on a contiguous site.

(2) Personal liability will not be required for the members or stockholders of any corporation or trust or any partners in a limited partnership. Personal liability will be required of all members of other partnerships. For limited partnerships, the State Director will obtain the advice of the Regional Attorney as to any modifications needed in the promissory note and mortgage.

§1944.221 (a) (Con.)

(3) If it is impossible or inadvisable for an applicant which is a public or quasi-public organization to give a real estate mortgage, the security to be taken will be determined by the National Office upon the recommendation of the State Director. The State Director should consult OGC as to whether the proposed security is legally permissible.

(b) Financing statement. To secure the Rural Development loan, each borrower will execute Form RD 440-25, "Financing Statement," and a security agreement at loan closing pledging all revenue from the housing project. This includes any Rural Development RA payments, State or private RA payments and/or rent or occupancy payments.

44A

(Added 03-16-94, SPECIAL PN)

(02-21-91) SPECIAL PN

§ 1944.221 (Con.)

(c) If a bond is used in lieu of a promissory note to evidence a loan, it must be sent to the National Office for review prior to loan closing. OGC must also review the proposed bond.

§ 1944.222 Technical, legal, and other services.

(a) Appraisals. When real estate is taken as security, the property will be appraised without regard to such factors as race, color, religion, sex, handicap, marital or familial status, or National origin, and it is unlawful to use an appraisal where the person knows, or reasonably should know, that the appraiser improperly took into consideration the factors indicated above. Appraisals for Rural Development will be done by the multiple housing appraiser or a designated contract appraiser authorized to make real estate appraisals. If security involves less than five rental units, the property will be appraised under Subpart C of Part 1922 of this chapter. For security involving five or more rental units, the appraisal will be made under RD Instruction 1922-B (available in any State and servicing office). Form RD 1922-7, "Appraisal Report for Multi-Unit Housing," will be completed to show the depreciated replacement value of all the buildings existing or to be constructed on the property to be taken as security. (Revised 03-16-94, SPECIAL PN.)

(b) Architectural and engineering services.

(1) Housing and related facilities will be planned and developed in accordance with Subparts A and C of Part 1924 of this chapter. The housing will be designed to meet the needs of the types of persons who will likely occupy it.

(2) A written contract for architectural services will be required as outlined in Subpart A of Part 1924 of this chapter.

(c) Construction and development policies. Construction and development will be performed in accordance with Subpart A of Part 1924 of this chapter (RD Instruction 1924-A), available in any Rural Development office.

(d) Compliance with Federal, State and local codes, regulations and ordinances. Planning, construction and operation of housing financed with an RRH or RCH loan will conform with applicable laws, ordinances, codes and regulations (including any licensing required governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, sanitation, use and occupancy).

(e) Contracts for legal services. On projects requiring extensive legal services, the applicant must have a written contract if loan funds will be used for these services. All contracts will be subject to review and concurrence by Rural Development and should be submitted to Rural Development before execution by the applicant. Contracts will provide for the types of services to be performed and the amount of the fees to be paid, either in lump-sum on the completion of all services or in installments as services are performed.

(f) How to apply for a rural rental or rural cooperative housing loan. Exhibit A of this subpart may be used as a guide for applicants applying for loans. Extra copies may be obtained from Rural Development.

(g) Optioning of land. If a loan includes funds to purchase real estate, the applicant must obtain an option on the parcel to be purchased from the current owner of public record. Form RD 440-34, "Option to Purchase Real Property," or other option form with provisions acceptable to Rural Development and the applicant may be used. When an option form other than Form RD 440-34 is used, a provision should be included indicating that it is contingent upon Rural Development making a loan to the buyer. (Revised 03-16-94, SPECIAL PN.)

(h) Title clearance and legal services. When the applicant is an organization or an individual with special title or loan closing problems, title clearance and legal services will be obtained in accordance with instructions from OGC. In other cases, the provisions of 7 CFR part 3550 and subpart B of part 1927 of this chapter regarding title clearance and legal services will apply. (Revised 01-23-03, SPECIAL PN.)

(i) Use of and accountability for loan funds. Loan funds and any funds furnished by the borrower for eligible loan purposes may be deposited in accordance with the loan agreement or loan resolution and the provisions of Subpart A to Part 1902 and Subpart C to Part 1930. Collateral for deposit of funds will be pledged in accordance with §1902.7 of Subpart A of Part 1902 of this chapter. Funds furnished by the borrower for the purchase of special equipment and furnishings to be used in connection with the project, for which loan funds cannot be used, should not be deposited in encouraged. Stylized patterns and monotony will be

the supervised bank account with loan funds. Withdrawals of funds from the supervised bank account may be made only for eligible loan purposes.

(j) Insurance. The loan approval official will determine the minimum amounts and types of insurance the applicant will carry.

(1) Fire and extended coverage will be required on all buildings included in the security for the loan in accordance with Subpart A of Part 1806 of this chapter (RD Instruction 426.1) and Subpart C of Part 1930 of this chapter.

(2) Suitable worker's compensation insurance will be carried by the applicant for all its employees.

(3) The applicant will be advised of the possibility of incurring liability and encouraged or required, when appropriate, to obtain liability insurance.

(4) Flood insurance will be required on all buildings located in or to be located in special flood or mudslide prone areas in accordance with Subpart B of Part 1806 (RD Instruction 426.2).

(k) Surety bonding and fidelity coverage. (Revised 08-30-93, SPECIAL PN.)

(1) The provisions of Subpart A of Part 1924 of this chapter pertaining to surety bonds are applicable to RRH and RCH loans. When interim financing is used during the construction period, the decision concerning whether or not to require surety bonds is the interim lender's. If the interim lender decides not to require surety bonds, a bond waiver is not required from the National Office.

(2) If the applicant is an organization, it will see that fidelity coverage is in place on any personnel entrusted with the receipt, custody, and disbursement of any project monies, securities, or readily salable property other than money or securities. Fidelity coverage will be in force as soon as there are assets in the organization in accordance with the provisions described at paragraph XV A of Exhibit B of Subpart C of Part 1930 of this chapter. (Revised 08-30-93, SPECIAL PN.)

(1) Previous participation certification. All principals and affiliates are required to submit a properly completed Form HUD-2530/RD 1944-37, "Previous Participation Certification." Architects and attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals. The forms will be completed and processed in accordance with instructions attached to the form.

§1944.223 Supplemental requirements for manufactured home project development.

This section includes additional provisions that apply to the making of loans for manufactured home rental and cooperative project development. This section will apply in addition to all other applicable requirements contained elsewhere in this subpart. All references in this subpart to projects and housing for rent to eligible tenants will also mean the rental of sites with manufactured homes within a rental project development.

(a) Eligible projects. When a loan is closed on a manufactured home project, the borrower will have constructed and completed, pursuant to a commitment given in accordance with §1944.235(c)(1) of this subpart, or will be obligated to construct and complete, pursuant to §1944.235(c)(2) of this subpart, such project designed principally for rental or cooperative use for manufactured homes, and conforming to the development, installation and set-up requirements of Exhibit J to Subpart A of Part 1924 of this chapter.

(1) The borrower must be the first owner purchasing the manufactured homes for purposes other than resale.

(2) The project must include two or more contiguous sites with dwelling units. Each manufactured home unit must not have been previously occupied as a residence or for any other purpose and be less than 1 year old from date of manufacture.

(3) A project is not eligible if the purpose of the loan is to refinance the project, except as provided in §1944.212(1) of this subpart.

(4) A loan may be made to rehabilitate manufactured home units of an existing project only if the units to be rehabilitated are currently financed by Rural Development under this subpart.

(5) An eligible project may include the purchase of the real property of an existing project which will be redeveloped with the placement of new, previously unoccupied, manufactured homes conforming to the development, installation and set-up requirements of Exhibit J to Subpart A of Part 1924 of this chapter.

(b) Loan limitations. The maximum loan amount will be determined in accordance with §1944.213 of this subpart as applicable.

(c) Rates and terms. The amortization period of each loan will not exceed the economic life of the security, taking into account probable depreciation. However, under no circumstance will the amortization period for a loan made under this section exceed 30 years from the date of the promissory note.

(d) A mortgage or deed of trust will be taken on the entire property purchased or improved with the loan. The encumbered property must be covered under a standard real estate title insurance policy or attorney's title opinion that identifies the project (including the manufactured homes) as real property and insures or indemnifies against any loss if the manufactured home is determined not to be part of the real property. The property must be taxed as real estate by the jurisdiction where the project is located if such taxation is permitted under applicable law when the loan is closed.

(e) Property requirements.

(1) Construction and development of the project, including related facilities constructed or erected on the security property, will be in accordance with §1944.222(d) of this subpart and Exhibit J to Subpart A of Part 1924 of this chapter.

(2) Manufactured home projects will be designed to provide for a desirable residential environment. Innovative and imaginative design is avoided. All property improvements will relate to the individual characteristics of the land. The project, including structures, streets, and all site improvements, should be harmoniously, efficiently and conveniently arranged in relation to the topography and the shape of the property.

(3) The borrower will not use or permit the use of any portion of the security property for demonstrating mobile home models for sale promotion purposes.

(4) The manufactured home, when placed on site, will have floor space area of not less than 400 square feet, and a width of 12 feet or more for single wide and 20 feet or more for a double wide unit. The unit must:

(i) Be placed on a site-built permanent foundation that meets or exceeds applicable requirements of the Rural Development adopted standards which are identified in Exhibit J to Subpart A of Part 1924 of this chapter or other building codes approved by Rural Development.

(ii) Be permanently attached to the foundation by anchoring devices adequate to resist all loads identified in Exhibit J to Subpart A of Part 1924 of this chapter or other building codes approved by Rural Development.

(iii) Be constructed in compliance with Rural Development thermal performance construction standards as specified in Exhibit D to Subpart A of Part 1924 of this chapter. The unit must have an affixed label as specified in 7 CFR Part 3550 indicating that the unit is constructed to Rural Development thermal requirements for the appropriate winter degree days. (Revised 01-23-03, SPECIAL PN.)

(iv) Be constructed in compliance with applicable standards and manuals adopted by Rural Development as evidenced in Part A, paragraph V of Exhibit J to Subpart A of Part 1924 of this chapter. All units must conform to the HUD "Federal Manufactured Home Construction and

Safety Standards," and be identified by an affixed certification label according to Exhibit J to Subpart A of Part 1924 of this chapter.

(f) Special warranty requirements. The general contractor or dealer-contractor, as applicable, must provide a warranty in accordance with the provisions of Subpart A of Part 1924 of this chapter.

(1) The warranty will provide that the manufactured homes, foundations, positioning and anchoring of the units to their permanent foundations, and all contracted improvements are constructed in substantial conformity with applicable approved plans and specifications.

(2) The warranty will also include provisions that the manufactured homes sustained no hidden damage during transportation and, for double-wide units, that the sections were properly joined and sealed.

(3) The general contractor or dealer-contractor must warrant that the manufacturer's warranty is in addition to and not in derogation of all other warranties, rights and remedies that the borrower may have.

(4) The seller of the manufactured homes will deliver to the borrower the manufacturer's warranty. The warranty will identify the units by serial number.

§1944.224 Supplemental requirements for congregate housing and group homes.

This section includes additional provisions that apply to the making of loans for congregate housing and group homes. It will apply in addition to all other applicable requirements contained elsewhere in this subpart. Congregate housing and group homes are types of Section 515 RRH that require a broader commitment from applicants to ensure that needed and desired services will be provided when requested by prospective tenants. The concept may not be desired or feasible in all market areas. Congregate housing is unique and has many components. It is not merely an elderly housing project with services. It must be designed and

managed to meet the needs of aging tenants. The management of congregate housing requires supervision of support services and more interaction and consultation with tenants. We strongly recommend that applicants who have not dealt with this type of housing obtain assistance from organizations or individuals who have experience in planning and designing congregate housing. (Revised 08-30-93, SPECIAL PN.)

(a) Congregate housing. Congregate housing will create an environment that will assist individuals who request services to maintain their independence longer by making available nutritious meals and other services that can enhance their independence. Congregate housing will also help people who need some services to extend an independent lifestyle. (Revised 08-30-93, SPECIAL PN.)

(1) Eligible tenants. Eligible tenants are described in §1944.205 of this subpart and paragraph VI A of Exhibit J of Subpart C of Part 1930 of this chapter. (Revised 08-30-93, SPECIAL PN.)

(2) Design criteria. Applicants must pay particular attention to the layout of the structure and the effect of design elements on project management and ongoing operations. Applicants should engage the services of an architect experienced in congregate design. The initial planning of congregate housing should include input on design considerations from project management to prevent the potential long-term affects of poorly conceived design on operations. Congregate housing must be planned and developed in accordance with Subparts A and C of Part 1924 of this chapter. In addition, it must meet the following design criteria: (Revised 08-30-93, SPECIAL PN.)

(i) Applicants must pay particular attention to the site requirements contained in §1944.215(r) of this subpart. Congregate housing should be located as close to services and shopping as possible, considering the availability of affordable residential sites. The time it takes to reach services is also important, especially when considering potential medical emergencies. (Revised 08-20-93, SPECIAL PN.)

§1944.224 (a)(2) (Con.)

(ii) Facilities needed to accommodate the services described in §1944.224 (a)(5) of this subpart must be designed in accordance with acceptable practices. Specific design guidelines are provided in Chapter 1 of Guide 2 of subpart A of part 1924 of this chapter. These facilities may be larger than necessary to meet the tenants' requirements if they are needed in the community and other sources of funds are available to pay a pro rata share of the cost.

(iii) The design must accommodate the needs of the individuals the housing is designed to serve. The walkways and corridors between living units and the support service facilities must be safe, comfortable minimal in length. Handrails that comply with the Uniform Federal Accessibility Standards must be provided on at least one side of all public corridors.
(Revised 08-30-93, SPECIAL PN.)

(iv) Areas used by the tenants will be separated as much as possible from areas needed for delivery of food and supplies and other building services. Interior spaces and finish materials must be residential in character and designed to help prevent tenants from becoming disoriented within the building(s).

(v) Emergency lighting must be provided in every public space, corridor, stairway, elevator and other means of egress.

(vi) The entrances to all living units must be on a route accessible to individuals with handicaps. Living units accessible only via exterior steps or interior stairs will not be acceptable. (Revised 08-30-93, SPECIAL PN.)

(vii) The size of rooms and spaces in the living units must be comparable to units provided in other housing for the elderly. Kitchen facilities must be provided in all living units and include, as a minimum, a cooktop, oven, sink, refrigerator and a food preparation surface.

(viii) The bathroom and one bedroom in each living unit, and any public toilet rooms, must be furnished with an emergency call system that is appropriate for the size and management of the housing facility.

(3) Limitation on use of loan funds. Loan funds cannot be used for:

- (i) Items which do not become affixed to the real estate security, such as special portable equipment, furnishings, kitchen bars, dining ware, eating utensils, movable tables and chairs, etc. Congregate housing projects require additional items that will not become affixed to the real estate. Developers are responsible for ensuring that these items are made available to the project. The initial operating capital can be used for these items in accordance with §1944.211 (a)(6)(i) of this subpart. (Revised 03-16-94, SPECIAL PN.)
- (ii) Specialized equipment for training and therapy.
- (iii) Operating capital for a central dining facility.

(4) Management of congregate projects. Applicants must meet the provisions of Exhibit J of subpart C of part 1930 of this chapter in managing congregate housing and are encouraged to review Exhibit J before completing a loan application. In addition to the elements of managing a typical RRH project, congregate housing requires increased management experience and skills. Delivery of services, counseling with tenants, and the decision-making process of tenant selection add a unique dimension to prudent management. The success or failure of a project will rely heavily upon management's specialized management and marketing skills and abilities and delivery of services. Applicants who are not experienced with congregate housing must seek assistance from organizations or individuals experienced with congregate issues in developing the management and servicing plans. A separate plan detailing the delivery of services must be submitted with the loan request. If the applicant will be the service provider, it must also submit separate budgets for operation and maintenance of the project and services. (Revised 05-07-97, SPECIAL PN.)

(5) Support services. Exhibit E of this subpart must be addressed in planning services. Adequate services must be offered to assist tenants in living independently and be reasonably priced to ensure affordability by very low- and low-income tenants of the tenant base as defined in part 1930, subpart C, Exhibit J, Paragraph V of this chapter. A wide variety of services may be offered; however, the following services must be provided: (Revised 05-07-97, SPECIAL PN.)

(i) Meals. Since some tenants will depend on the meal service as their only sustenance, at least one cooked meal a day, 7 days a week, must be provided. There may be cases where the meal provider does not furnish meals on a daily basis. On days the meal provider does not furnish meals, an alternate source must provide meals to tenants who are not inclined to prepare their own meals. The following conditions apply to meals:

(A) To ensure that the meals are wholesome and meet the needs of individual tenants, a professionally trained dietitian or nutritionist must be involved in planning the menus.

(B) The feasibility of sustained meal service may be dependent on the number of people who elect to use it. Congregate housing borrowers should actively solicit tenant participation in the meal service if the economic feasibility of the service depends on user charges.

(C) If the entity that operates the service is eligible to accept food stamps under the regulations of the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA), the entity must be authorized by FNS to accept food stamps from tenants for the purchase of meals.

(ii) Transportation. Transportation must be provided to the project on a fixed schedule based on tenant needs. Applicants are encouraged to work with public and private transportation sources to develop a dependable and economical method for providing this service. If these sources cannot provide adequate transportation, the applicant must develop a project-sponsored transportation system.

(iii) Housekeeping. Housekeeping services must be provided to tenants who request assistance in keeping their units clean. Light housekeeping tasks, such as dusting, vacuuming, floor washing, bathroom cleaning and laundry for bedding, generally should be provided on a weekly basis. Heavier tasks, such as oven cleaning, window cleaning, and drapery cleaning, should be provided periodically. (Revised 08-30-93, SPECIAL PN.)

(iv) Personal services. Limited nonmedical personal services must be made available to tenants who request them. Personal services can include such items as assistance with personal hygiene, nutrition counseling, and general health screening. They do not include recurring medical assistance such as dispensing medication or constant medical supervision. Space may be included in the project for a small beauty shop and health screening area. Applicants may want to consider contracting for personal services to assure their continued and dependable availability to tenants. (Revised 08-30-93, SPECIAL PN.)

(v) Recreation/social. Recreational and social activities should be offered to tenants to encourage interest in a variety of areas. Areas such as hobby and craft classes, special dinners, and wellness and exercise classes could be considered.

(6) Service providers. Services must be provided at a cost that can be afforded by very low-, low- and moderate-income tenants. Applicants should explore as many service providers as possible to ensure services at the most reasonable cost. Applicants must research alternative service providers since the original provider may be unable to furnish services in the future. If feasible, project management should be consulted concerning alternative service providers since they may have experience with available sources in the area. Documentation concerning alternative services must be submitted as part of the loan request. Alternative sources must be documented even if the applicant plans to use onsite personnel for services. The availability of services from alternative sources can enhance a proposal's feasibility since long-term services are crucial to the success of congregate housing. (Revised 05-07-97, SPECIAL PN.)

(7) General service requirements. Applicants must provide a plan which addresses the long-term availability of assistance from service providers. As a part of the loan request, applicants must provide a letter of commitment from each service provider

detailing its ability and willingness to provide services. This letter must identify the type, scope, cost, term and any licensing requirements of services that will be provided to the project. If a local agency on aging will provide a service, the commitment can be contingent on the agency maintaining its level of funding. In these cases, it is imperative that applicants document the availability of alternative sources as required in paragraph (a)(6) of this section. As a part of the final application, applicants must provide a service agreement detailing the information contained in the letter of commitment. Initial service agreements must be effective for at least 1 year after the project becomes operational. Subsequent agreements must be effective for at least 1 year. Applicants should refer to paragraph V D of Exhibit J of subpart C of part 1930 for further guidance. (Revised 05-07-97, SPECIAL PN.)

(8) Services provided to people who are not tenants of RHS financed congregate housing. If the meal facility serves people who are not tenants of the project, the applicant must obtain a lease from the service provider and require payment sufficient to cover the annual operating expenses, debt service and reserve account attributable to the portion of increased space that is in excess of the needs of tenants in the project. In most cases, this will be a negligible amount that the meal provider can afford to pay. Applicants should refer to paragraph VIII B of Exhibit J of subpart C of part 1930 of this chapter for further guidance. (Revised 08-30-93, SPECIAL PN.)

(b) Group homes. Group homes will provide housing in a residential environment for individuals capable of caring for themselves in the basic functions of everyday living but otherwise need the direction and/assistance of a trained resident assistant. Group homes may be designed for individuals who are elderly, have handicaps or disabilities as defined in §1944.205 of this subpart. Appropriate common areas and facilities should be included to encourage participation by the tenants under the direction of a staff person in sharing the meal preparation, housekeeping, social and recreational activities within the home. It is not the goal of group homes to provide housing for tenants requiring constant medical attention. The following conditions are applicable to group homes: (Revised 08-30-93, SPECIAL PN.)

(1) A group home is generally designed as a single household dwelling; however, it can also be a small multi-unit structure. Specific design guidelines are provided in Chapter 1 of Guide 2 of subpart A of part 1924 of this chapter. In addition, group homes must meet the following design criteria:

- (i) The potential decreasing physical and mental capabilities of tenants must be considered in the design.
 - (ii) Interior spaces and finish materials must be residential in character.
 - (iii) Emergency lighting must be provided in every corridor, stairway and other means of egress.
 - (iv) The entrances to all living units must be on a route accessible to handicapped persons. (Revised 08-30-93, SPECIAL PN.)
- (2) Prospective tenants must be evaluated to determine if they meet the essential eligibility requirements to reside in a group home. Applicants should be guided by paragraph VI B 1 b of Exhibit J of subpart C of part 1930 of this chapter. (Revised 08-30-93, SPECIAL PN.)
- (3) A group home may limit occupancy to a specific group of tenants. For example, a group home may limit occupancy to eligible elderly tenants, developmentally disabled people, or mentally impaired tenants. Refer to Exhibit J of subpart C of part 1930 of this chapter for additional information.
- (4) A group home may be associated with another organization, such as a workshop for the developmentally disabled. However, it must be a separate entity and able to function without being dependent on another organization.
- (5) Applicants must show that adequate support services needed by the tenants will be available on a continual long range basis. Support services can be provided by the project or by a State or local public agency. A nonprofit organization with an established ongoing service program also may be deemed capable of providing support services.
- (6) Food stamps must be accepted from tenants as part of their contribution for meals in accordance with paragraph (a)(5)(i)(C) of this section.
- (7) A legal guardian (an individual) may execute a lease agreement on behalf of a tenant in a group home when that tenant does not possess the legal capacity to enter into a legal contract with the project owner. (Revised 08-30-93, SPECIAL PN.)

§ 1944.224(b) (Con.)

(8) Instructions on how to determine the per unit rental rates for group homes are stipulated in Exhibit J of subpart C of part 1930 of this chapter.

(c) Market studies for congregate housing and group homes. In addition to the requirements of Exhibit A-8 of this subpart, the following are applicable to market studies for congregate housing and group homes:

(1) Market studies must address the need for housing with services. Local agencies on aging and other groups familiar with the elderly can be a valuable source of information on the needs and wants of elderly people in the market area. Applicants can conduct a mail-out survey to age and income qualified elderly people if information is not available from other sources.

(2) An expanded market area may be considered only when the additional communities are part of the trade area and are so rural that they cannot support development of a congregate or group home facility. If an expanded market area is proposed, the market study must establish conclusively that the community will be able to draw enough tenants from the market area to ensure feasibility of the project. The market study must clearly identify the expanded area and contain separate information on the additional communities. If used, mail-out surveys must clearly address the probability of respondents relocating to the proposed site. (Revised 08-30-93, SPECIAL PN.)

(3) Market studies should include income information from the local social security office since many elderly people are dependent on social security and/or supplemental security income. This information will assist in determining if proposed tenants would have sufficient income to afford the services provided by the project.

(4) Demand for congregate housing generally is displayed by elderly people 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. (Revised 08-30-93, SPECIAL PN.)

(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.

§§ 1944.225 - 1944.227 [Reserved]

§ 1944.228 Ranking of rural places based on greatest need for Section 515 housing. (Added 05-07-97, SPECIAL PN.)

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 statewide 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) of this subpart.
- (c) Demonstrates a need for multifamily 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 a State identifies a rural place that does not appear in the Census data, the State should contact the Multi-Family Housing Processing Division in the National Office to have the place added. If Census data is not available for an eligible rural place, the State Director may request authority from the Deputy Administrator, Multi-Family Housing, 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 multifamily housing based on information obtained from reliable local or state sources. The State Director may request authority from the Deputy Administrator, Multi-Family Housing, to use other statewide 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.
(Revised 01-22-98, SPECIAL PN.)
 - (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.

§ 1944.228(c) (Con.)

(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. (Revised 01-22-98, SPECIAL PN.)

§ 1944.229 Establishing the list of designated places for which Section 515 applications will be invited. (Added 05-07-97, SPECIAL PN.)

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 of this subpart. 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 multifamily housing is not reflected in the ranking process in § 1944.228 of this subpart; 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 Deputy Administrator, Multi-Family Housing, the State Director 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 the NOFA the selection of designated places up to 20 percent of the state's total rural places. (Revised 01-22-98, SPECIAL PN.)

(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 Deputy Administrator, Multi-Family Housing.

(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 multifamily housing, or, for Indian reservations, must have 250 or more households within the boundaries of the reservation and; (Revised and renumbered 01-22-98, SPECIAL PN.)

(2) May *not* have any of the "build and fill" conditions defined in § 1944.213 (f)(2) of this subpart. 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. (Renumbered 01-22-98, SPECIAL PN.)

(c) Selection of designated places. Places meeting the requirements of paragraph (b) of this section will be selected from the ranking list as follows: (Revised 01-22-98, SPECIAL PN.)

(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 multifamily housing:

§ 1944.229(c)(3) (Con.)

(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. (Revised 01-22-98, SPECIAL PN.)

(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. The partnership agreement may be a part of, or addendum to, the Memorandum of Understanding (MOU) each State is required to execute with the state housing agency in accordance with § 1944.213 (a)(1) of this subpart. Ranking and selection of loan requests for places on the partnership designated place list will be in accordance with § 1944.231 (b)(4)(iii) and § 1944.231 (b)(7) of this subpart. (Added 01-22-98, SPECIAL PN.)

§ 1944.230 Application submission deadline and availability of funds. (Added 05-07-97, SPECIAL PN.)

(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.

§ 1944.231 Processing loan requests. (Revised 05-07-97, SPECIAL PN.)

(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 SF 424.2, "Application for Federal Assistance (For Construction)," 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 RHS.

(b) Actions by the Agency.

(1) Initial actions by the Agency. The Agency will handle initial inquiries, provide basic information about the program, and provide applicants with Form SF 424.2, "Application for Federal Assistance (For Construction)," Exhibits A-7 and A-9 of this subpart, and other required forms. Assistance in completing the required information may be provided to applicants to the extent practicable. Applicants should be advised that loan requests may be submitted for designated places when the availability of funds is announced and must be received by the published deadline in order to be considered for the funding cycle.

(2) Actions by the Agency on loan requests received. Loan requests will be date stamped with the date of receipt. 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.

(3) Review and scoring of loan requests.

(i) A loan committee will be used to review and score loan requests. The committee will consist of at least three Federal employees with experience in multifamily housing. The following RHS staff must be included:

(A) The State's staff member in charge of Multi-Family Housing, such as the Program Director.

(B) One or more additional RHS State or field office staff members with multifamily housing underwriting experience, rotated annually where staffing levels permit.

§ 1944.231(b)(3) (Con.)

(ii) Loan requests will be reviewed:

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

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

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

(1) 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 service 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: 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)
(Revised 01-22-98, SPECIAL PN.)

(2) 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 Consolidated Plan or state needs assessment as a high need community for multifamily housing. (20 points)
(Revised 01-22-98, SPECIAL PN.)

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

(4) 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 Deputy Administrator, Multi-Family Housing, prior to the funding cycle for concurrence and inclusion in the NOFA. (20 points)

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

(4) 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, and so forth.

(ii) After all requests from entities meeting the requirements of paragraph (e) of this section have been numbered, the next

§ 1944.231(b)(4)(ii) (Con.)

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: (Added 01-22-98, SPECIAL PN.)

(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)(3) of this section.

(B) Using the point score and rank order established in accordance with paragraphs (b)(4)(i) and (b)(4)(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)(7) of this section.

(5) 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 in accordance with Exhibit K of this subpart, and a review to ensure compliance with the "build and fill" provisions of § 1944.213 (f) of this subpart.

(iii) A site visit and preliminary review to determine if the site criteria of § 1944.215 (r) of this subpart can be met. A civil rights impact analysis will be completed in accordance with RD Instruction 2006-P. An environmental assessment, in accordance with subpart G of part 1940 of this chapter, will not normally be completed as part of this preliminary review. However, the site visit should be regarded as an opportunity to

gather initial information which may later be used in completion of the environmental assessment. FEMA Form 81-93, "Standard Flood Hazard Determination," should be completed at this time to determine the presence of floodplains and the availability of flood insurance.

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

(v) Analysis of a current (within 6 months) credit report(s), ordered in accordance with subpart B of part 1910 of this chapter for individual credit reports and subpart C of part 1910 of this chapter for commercial credit reports, as follows:

(A) Individual applicant(s). An individual credit report is required for each individual applicant, including co-applicants. If an applicant and co-applicant are married, a joint report will be ordered.

(B) Newly formed for-profit partnerships and corporations. An individual report is required for each general partner or principal who is an individual. A commercial report is required for each general partner or principal that is an organization.

(C) Established for-profit partnerships and corporations. A commercial credit report is required for the partnership or corporation. Individual or commercial credit reports will be obtained for each general partner or principal as deemed necessary to make a credit determination.

(D) Nonprofit organizations or public bodies. A credit report will not be requested for newly formed nonprofit organizations, or for public bodies, unless deemed necessary by the State Director. For an established nonprofit organization, a commercial credit report may be ordered at the State Director's discretion. The credit report fee may be waived for nonprofit organizations.

(6) Selection of loan requests for further processing. The State Director will select loan requests for further processing from loan requests determined preliminary 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 State Director will

§ 1944.231(b)(6)(i) (Con.)

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 loan 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 the NOFA, will be returned to the applicant with the reason(s) it was not considered.

(7) 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)(4)(iii) of this section will use the following process: (Added 01-22-98, SPECIAL PN.)

(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)(7)(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)(4) 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 State Director 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 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 the NOFA.

(4) If a site is rejected prior to completion of the environmental assessment, the rejection letter will contain the following paragraph: "This site rejection is based on a site review which did not include a complete environmental assessment in accordance with subpart G of part 1940 of this chapter. Any future consideration of this site will be subject to full compliance with subpart G of part 1940 of this chapter."

§1944.231 (con.)

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

(f) RCH loan requests:

- (1) The State Director will contact the National Office to determine if sufficient funds are available for the RCH loan request. 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 and appeal rights provided in accordance with 7 CFR part 11 of this chapter. Proposals which appear eligible and feasible will be forwarded to the National Office for review and authorization in accordance with paragraph (h) of this section.
- (3) If authorized by the National Office, the State Director 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) Notice to applicants advising of loan selection. The following paragraphs should be included in the notice to applicants advising that their loan request has been selected for further processing, as appropriate (paragraphs 2 and 5 must be used when an environmental assessment in accordance with subpart G of part 1940 of this chapter has yet to be completed):

(1) "The action taken herein is based upon representations made in your loan request. Any changes therein, including but not limited to changes in complex cost, size, or scope of complex, rental rates or subsidy costs to the Agency, scope of services, sources of funds, etc., may adversely affect this decision and must be reported to and approved by the Agency in writing. Any changes not approved by the Agency will be cause for the Agency to discontinue processing your request for services. All applicants requesting changes will be required to give full justification for each change and, if Agency approval is not given, written reasons will be given with a 30-day negotiation period to resolve the differences."

(2) "This action should not be construed as a reservation of funds, the availability of funds, or loan approval."

(3) "Loan processing will continue based upon a loan not to exceed the amount specified in this notice."

(4) "If a complete loan request has not been submitted to the Agency by the date specified in this notice, the Agency reserves the right to discontinue processing your loan request with 30 days written notice. If a longer timeframe to develop your loan request is necessary, you should submit a request in writing with specific reasons why a longer timeframe is required with a projected date to accomplish such action. Failure to submit a complete loan request, or to request a longer timeframe, will be considered a lack of interest on your part and a request to withdraw the loan request."

(5) "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 affect 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."

§1944.231 (Con.)

(h) Information to be contained in loan files submitted to the State or National Office. At a minimum, the following information is to be contained in case files submitted to the State or National Office for authorization:

- (1) Form SF 424.2
- (2) All information outlined in Exhibit A-7 of this subpart.
- (3) The servicing official's recommendations and comments on eligibility, and in cases reviewed by the State Director, the State Director's recommendations and comments on eligibility.
- (4) Comments and recommendations concerning the proposed complex site resulting from an on-site visit to determine its overall desirability and conformance with the site location requirements outlined in §1944.215 (r) of this subpart.
- (5) The following information when the loan request exceeds the State Director's approval authority, National Office authorization is required, or when appropriate. State Offices will forward such files to the National Office, Attention: MFH/PD.
 - (i) Original and one copy of Form RD 1940-21, "Environmental Assessment for Class I Action," or Exhibit H of subpart G of part 1940 of this chapter, signed by all required parties, depending on whether the assessment is a Class I or Class II action. A copy of the published "Finding of No Significant Impact" (or affidavit from the publisher) will also be included together with any comments and consideration of same.
 - (ii) The schematic or preliminary drawings and specifications, together with the architectural comments and recommendations of the State Architect.

(i) General guidance on processing requests for Multi-Family Housing (MFH) Assistance.

- (1) Form RD 410-9, "Statement Required by the Privacy Act," is required by all applicants who are individuals. A loan request will not be considered complete without this form.

(2) All applicants must provide their taxpayer identification number. The taxpayer identification number for individuals who are not businesses is their Social Security Number.

(3) 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. The letter informing the applicant of the necessary information will contain the following, or essentially similar, statement: "If you fail to provide the Agency with this information within ___ days from the date of this letter, we will assume this lack of response on your part to be an indication that you wish to have your application withdrawn." If the applicant fails to respond to the request within the specified timeframe, a letter will then be sent to the applicant, with review rights given in accordance with 7 CFR part 11 of this chapter, indicating their loan request has been withdrawn. Both letters will be sent by certified mail, return receipt requested.

(4) Equal Credit Opportunity Act (ECOA).

(i) Act. The Federal ECOA prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract), because any or part of the applicant's income is derived from any public assistance program, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

(ii) The ECOA paragraph set forth in paragraph (i)(4)(i) of this section will be included in all written notifications of adverse actions.

(5) Form RD 410-7, "Notification to Applicant on Use of Financial Information from Financial Institution," will be provided by the Agency within 3 business days of receipt of a complete loan request.

§1944.231 (f) (Con.)

(6) For all loans and credit sales secured by a first mortgage and involving the purchase of an existing 1 to 4 family unit, or purchase of a building site and construction of 1 to 4 residential units, the booklet entitled "Settlement Costs," will be sent to the applicant within 3 business days after receipt of a complete loan request. The booklet will include Form RD 440-58, "Estimate of Settlement Costs." A record of the date and method of delivery of the booklet and form will be placed in the case file.

(7) If a loan is refused because of information obtained from a credit report, the Agency will advise the applicant of the reason for the rejection, including:

(i) The specific information given in the credit report that led to the rejection (e.g., delinquent obligations, tax liens, or judgments).

(ii) The name and address of the credit reporting company.

(iii) A statement advising that a copy of the credit report may be obtained from the Agency if requested by the applicant, but that any dispute regarding the accuracy of the information in the credit report must be resolved between the credit reporting company and the applicant.

§1944.232 Rental assistance (RA) from sources other than RHS.

(Revised 10-01-93, SPECIAL PN.)

RA from sources other than RHS may be used in new or existing RRH projects upon National Office authorization. RHS will consider authorizing such private RA (PRA) proposals which offer RA in the same general dollar amount and terms in which RHS RA is calculated and granted. PRA proposals will be in the form of a memorandum of understanding (MOU) between the provider and RHS.

(a) Provisions of MOU. RHS 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 RHS. The MOU will be executed between RHS 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. RHS 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 RHS.

(b) Documentation.

- (1) Documentation must be provided that the PRA is needed in the market area.
- (2) The provider must provide RHS with reasonable assurances that tenants receiving the PRA will not be displaced when the PRA expires.
- (3) In accordance with §1944.215 (w)(2)(iii) 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.

§ 1944.232(b) (Con.)

(4) For complexes with LIHTC, if the PRA term is less than the LIHTC compliance period, 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 RHS 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. (Revised 03-16-94, SPECIAL PN.)

§ 1944.233 Participation with other funding sources. (Added 06-06-97, SPECIAL PN.)

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 of this subpart.

(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. (Revised 01-22-98, SPECIAL PN.)

(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) of this subpart.

(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) of this subpart.

(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. (Revised 01-22-98, SPECIAL PN.)

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

(1) Design features such as patios or balconies, washers and dryers, and garbage disposals may be included if they are customary for the area and needed for marketability.

(2) Mixed income complexes may include nonessential common facilities such as swimming pools provided:

(i) The facility is not financed with RHS funds,

§1944.233(c)(2) (Con.)

(ii) The complex is able to support the facility's operating and maintenance costs through collection of a user fee from tenants who subscribe to the service, and

(iii) The facility is designed and operated with appropriate safeguards for tenant health and safety.

(d) Borrower contribution and return on investment.

(1) The minimum required borrower contribution will be based on the RHS loan amount and determined in accordance with §1944.213(b) of this subpart.

(2) For limited profit borrowers, additional funds exceeding the minimum required contribution that are provided from the borrower's own resources (not loans or grants from other sources) may be included in the borrower's initial investment, for purposes of determining return on investment, as provided in §1944.215(n) of this subpart.

(3) A loan from the borrower to the project may be considered, provided the loan proposal meets all conditions of this section and the loan to the project is from the borrower's own resources. LIHTC proceeds may be considered the borrower's own resources as provided in §1944.215(n)(1) of this subpart.

(e) Reserve requirements. RHS reserve requirements (the annual reserve requirement and the fully funded reserve amount) will be determined on a case-by-case basis, taking into consideration the reserve requirements of the other participating lenders, so that the aggregate fully funded reserve amount established by RHS and the other lenders equals at least 10 percent of the project's total development cost (TDC) or appraised value, whichever is greater. For example, if the other lenders do not have reserve requirements, RHS will establish its reserve requirements to meet the full aggregate amount (at least 10 percent of the TDC or appraised value of the project, whichever is greater), regardless of the RHS loan amount. On the other hand, if the other lenders have aggregate reserve requirements equal to or higher than the minimum 10 percent of TDC or appraised value required by RHS, and the amount is sufficient to meet project needs based on its capital improvement plan, it may not be necessary for RHS to establish additional reserve requirements. Reserve requirements and procedures for reserve withdrawals should be agreed upon by all lenders and included in the intercreditor or participation agreement referenced in paragraph (g) of this section.

(f) Security requirements.

(1) RHS will take a first or parity lien in all instances where the Agency's participation is 50 percent or more.

(2) If RHS participation is less than 50 percent, every effort should be made to obtain a parity lien position. If a parity lien cannot be negotiated, an exception may be requested to accept a second lien position in accordance with §1944.240 of this subpart. The State Director will submit requests to accept a second lien position to the Deputy Administrator, Multi-Family Housing with comments and recommendations.

(3) RHS will take a first lien on project revenue from rent or occupancy payments; RHS, State, or private RA payments; and operating and reserve accounts.

(g) Participation agreement. RHS will enter into a participation (or intercreditor) agreement with the other lenders that clearly defines each party's relationship and responsibilities to the others.

§1944.234 Actions prior to loan approval. (Added 06-06-97, SPECIAL PN.)

Prior to loan approval the application will be reviewed for continued eligibility. The applicant may be required to submit updated information at that time.

§1944.235 Actions subsequent to loan approval.

(a) Precommitment or closing actions. After loan approval, the loan docket will be processed to the stage where a construction loan would normally be closed prior to the start of construction. During this processing, the following actions should be taken:

(1) RHS will obtain closing instructions from OGC in accordance with the requirements of Subpart B of Part 1927 of this chapter and §§1944.236(a) and 1944.236(b)(4) of this subpart. (Renumbered 03-16-94, SPECIAL PN.)

(2) Ensure that the servicing office has on file evidence that a deposit has been made to the general operating account of an amount of initial operating capital sufficient to cover the expected start-up costs. (Renumbered and revised 03-16-94, SPECIAL PN.)

(3) The applicant will provide evidence indicating the terms and final arrangements for interim financing. (Renumbered 03-16-94, SPECIAL PN.)

§1944.235(a) (Con.)

(4) The applicant will certify as to the availability or nonavailability of other government assistance as defined in §1944.205 of this subpart immediately prior to loan closing. If other government assistance becomes available prior to loan closing, the loan amount will be decreased in accordance with paragraph (e)(3) of this section. (Renumbered 03-16-94, SPECIAL PN.)

(b) Transfer of obligations. The transfer of fund obligations may occur only when:

(1) Organizational entity remains the same. The entity remains legally the same but a substitution of the members occurs. All or part of the membership may change as long as eligibility is not affected. The project site location and market must remain the same.

(2) Organizational entity changes. The membership and their interests remain identical, the project site location and market are the same, but the legal entity changes.

(3) Monetary default by original applicant/entity. An obligation may be transferred to any person or applicant eligible to receive an RRH loan when the original applicant/entity is in monetary default which has or may result in foreclosure by the interim lender, and: (Added 03-16-94, SPECIAL PN.)

(i) The applicant/entity assuming the obligation, or the interim lender, removes any liens filed against the property;

(ii) There have been no deviations from the RHS approved plans and specifications;

(iii) The transferee will not be composed of any principals of the transferor;

(iv) The transfer will be in the best interest of RHS and prospective tenants;

(v) The applicant/entity and all members thereof whose obligations are transferred will not be considered eligible for further participation in the RRH program for at least 5 years from the date of the transfer of the RHS loan obligation; and

(vi) Prior approval is obtained from the National Office.

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(Added 06-06-97, SPECIAL PN)

(02-21-91) SPECIAL PN

§1944.235 (Con.)

(c) Financing during the construction period.

(1) Interim financing. When the amount of the loan exceeds \$50,000, the applicant may obtain interim financing from commercial or public sources for the construction period if it can be obtained at reasonable interest rates, fees, and terms, and in the best interests of the Government. Interim financing will be obtained to preclude the necessity for multiple advances of Rural Development funds. The interim lender must be authorized to operate in the State in which the project will be located and must have an established record of providing financing to entities other than Rural Development-financed projects. Since the interim lender is responsible for inspecting construction along with Rural Development, the borrowing entity (including any of its identity of interest entities) cannot provide interim financing to its own project. Interim financing will be used subject to the following: (Revised 03-16-94, SPECIAL PN.)

(i) Rural Development will proceed as if Rural Development funds had been advanced from the standpoint of approving construction contracts, inspection of construction and assuring compliance with applicable equal opportunity and nondiscrimination.

(ii) The guide letter shown as Exhibit B of this subpart will be used to inform a proposed interim lender that a specified amount of funds has been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions, the builder's performance is acceptable and all construction bills are paid.

(iii) Since Rural Development's commitment to the applicant is contingent upon acceptable performance by the builder and payment of all construction bills, the interim lender should be advised of the additional risk involved if the builder is unable to provide, or the interim lender does not require, a payment and performance bond. Although partial payments to the builder constructing the project by the contract method of construction must be made in accordance with the approved construction contract, the interim lender should not be permitted to make disbursements of more than 90 percent of the value of acceptable work in place.

§1944.235 (c)(1) (Con.)

(iv) Any cash for land purchase or development that is to be furnished by the applicant in fulfillment of the applicant's contribution requirement in §1944.213 (b) of this subpart must be placed on deposit with the interim lender and disbursed prior to any disbursement of interim loan funds. Obligations incurred prior to loan closing and the start of construction will be handled in accordance with §1944.213 (d) of this subpart. (Revised 10-01-93, SPECIAL PN.)

(v) A supervised bank account need not be established for funds obtained through interim financing except for any small amounts held to complete construction so loan funds can be fully advanced and AED can be established. However, in order to assure that funds are requested and used for authorized purposes, requests for partial payments will be submitted through the servicing official on Form RD 1924-18, "Partial Payment Estimate," or other professionally recognized form containing the certifications of the architect, applicant and Rural Development representative shown on Form RD 1924-18. For recordkeeping purposes, Form RD 402-2, "Statement of Deposits and Withdrawals," should be used to record the deposit of applicant funds for construction with the interim lender and payments of estimates where Rural Development has approved the estimate. (Revised 03-16-94, SPECIAL PN.)

(vi) When the project is substantially complete, the Rural Development loan may be scheduled for closing. A project is substantially complete when it is possible, in accordance with any contract documents, applicable State or local codes or ordinances and the Rural Development approved drawings and specifications, to permit safe and convenient occupancy and use of the buildings. Upon substantial completion, the owner's architect must issue a dated and signed statement certifying to substantial completion. The owner's architect will also prepare and verify a punch list of any minor items of development that need to be corrected and completed.

§1944.235 (c)(1) (Con.)

(vii) The Rural Development loan may be closed, permanent instruments issued to evidence the Rural Development indebtedness and Rural Development loan funds used to retire the interim indebtedness when the project is substantially complete and all bills have been paid. To evidence that there are no unpaid obligations outstanding in connection with the project, the applicant must submit to the servicing official, at or prior to loan closing, signed statements from the contractor, architect, engineer and attorney indicating that obligations for material, labor or services have been paid in full in accordance with their contracts or other agreements, less any funds withheld for minor punch list items. Form RD 1924-10, "Release by Claimants," or other similar form may be used for this purpose. If these statements cannot be obtained, the loan may be closed if all of the following can be met: (Revised 03-16-94, SPECIAL PN.)

(A) Statements to the extent possible are obtained.

(B) The interests of Rural Development can be adequately protected and its security position is not impaired.

(C) Adequate provisions are made for paying the unpaid accounts by withholding or escrowing sufficient funds to pay such claims or obtaining a release bond.

(viii) Because interest rates can fluctuate between the time construction estimates are finalized and completion of construction, any excess funds remaining from interim financing will be returned on the Rural Development loan. Also, interim funds remaining because of early completion of construction will be returned. The leftover interest may be used for certain other eligible loan purposes critical to the completion of the project which were unknown to the applicant and contractor at the time the loan was approved, provided prior National Office concurrence is obtained. (Added 03-16-94, SPECIAL PN.)

(2) Multiple advances of loan funds. If interim financing is not available and the applicant supplies such evidence, multiple advances will be used subject to the following:

(i) In cases where relatively large amounts of funds are to be expended for purchases of real estate or for other reasons at the time of closing, separate checks for these

purposes may be ordered and endorsed by the borrower to the seller or other appropriate party. This will preclude the necessity for depositing these loan funds in the supervised bank account and reduce the amount of required collateral.

(ii) Except as indicated in paragraph (c)(2)(i) of this section, advances will be made only as needed to cover disbursements required by the borrower for a 30-day period. Normally, there should be no more than 24 advances. These advances should generally be used within 2 years of loan closing. The retained percentage withheld from the contract to assure that construction will be completed in accordance with the contract documents will ordinarily be included in the last advance. Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, land purchase, legal, engineering or architectural costs, interest and other expenses as needed. The borrower will prepare Form RD 440-11, "Estimate of Funds Needed for 30-day Period Commencing _____," modified as needed, to show the amount of funds required during the 30-day period. This form will be approved by the servicing official or his/her designee. (Revised 03-16-94, SPECIAL PN.)

(iii) After it is determined that the estimate prepared by the borrower is adequate, the advance will be requested through field office terminals in accordance with the MFH user procedure. As an example, for a loan of \$100,000, the advances may be made as follows: Assuming that the loan will be closed on July 1, the borrower will complete Form RD 440-11 in sufficient time so that the funds will be available on the day of loan closing. The estimates should be broken down for the first advance in a manner similar to the following:

Construction	\$30,000
Land Acquisition	5,000
Architectural	4,000
Legal	<u>1,000</u>
Total	\$40,000

An advance of \$40,000 would then be available on July 1, the date of loan closing.

§1944.235 (c)(2) (Con.)

(iv) The second advance is also based on the borrower's estimate prepared on Form RD 440-11 which must be prepared in sufficient time so that the estimated amount of funds will be available on August 1. This estimate of funds might be broken down as follows:

Construction	\$20,000
Architectural	<u>1,000</u>
Total	\$21,000

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(Added 03-16-94, SPECIAL PN)

(02-21-91) SPECIAL PN

§1944.235 (c)(2) (Con.)

(v) When the project is substantially complete in accordance with §1944.235 (c)(1)(vi), schedule final payment to the contractor for disbursement. Withhold funds over the amount needed to cover the costs for correcting or completing the minor items identified from the contractor's final payment in accordance with the requirements of subpart A to part 1924 of this chapter until full performance. Any funds withheld should be deposited in the supervised bank account so the loan can be fully advanced and AED can be established.

(vi) If funds remain after the loan is fully disbursed and AED has been reached, they must be put into a supervised bank account. The funds cannot be returned on the loan to be drawn later since Automated Multiple Housing Accounting System will treat them as a refund.

(vii) Any deviation from the multiple advance procedure must have the prior approval of the National Office.

(d) Requesting the check. When loan approval conditions can be met, including any real estate lien required, and a date for RHS loan closing has been agreed upon, the servicing official will determine the amount of funds needed in accordance with paragraph (c)(1) or (c)(2) of this section. The servicing official or his/her designee will then order the loan check through field office terminals so that it will be available on or just before the date set for loan closing. (Revised 03-16-94, SPECIAL PN.)

(e) Increase or decrease in the amount of the loan.

(1) If it is necessary to increase the amount of the loan within the same fiscal year but before loan closing, the loan approving official or servicing official will request that all distributed docket forms be returned to the servicing office. The loan docket will be revised accordingly and reprocessed provided no funds have been disbursed. The State Office, through a field office terminal, must deobligate the existing obligation and enter the new amount to be obligated. (Revised 03-16-94, SPECIAL PN.)

(2) If it is necessary to increase the amount of the loan in the next fiscal year but before loan closing, the servicing official must process a subsequent loan for the amount of increase. (Revised 03-16-94, SPECIAL PN.)

(3) If it is necessary to decrease the amount of the loan before closing, the deobligation will be processed through field office terminals.

(f) Cancellation of loan. Loans may be canceled after approval and before loan closing in accordance with instructions on the Form Manual Insert (FMI) for Form RD 1944-53, "Multiple Family Housing Cancellation of U.S. Treasury Check and/or Obligation."

(1) If the loan check is received in the servicing office, the servicing official will return the check as prescribed in RD Instruction 2018-D, except if the check was issued by the National Finance Center (NFC). If the check was issued by NFC, cancel under RD Instruction 2024-A (available in any Rural Development office). (Revised 11-02-94, PN 236.)

(2) Notification. Notify all interested parties of cancellation as provided in subpart B of part 1927 of this chapter. Unless the cancellation of the loan is by mutual agreement, notify the applicant that the decision may be appealed in accordance with 7 CFR part 11 of this chapter. (Revised 05-07-97, SPECIAL PN.)

(g) Handling the loan check. The loan check will be handled in accordance with RD Instruction 2018-D and subpart A of part 1902 of this chapter. (Revised 11-02-94, PN 236.)

(h) Preoccupancy conference. To promote proper planning for initial rent-up and occupancy, the servicing official will meet with the applicant and management firm, if any, 90 to 120 days prior to the construction completion date. Among the items that should be discussed are the advertisement of available units, the affirmative fair housing marketing practices, tenant eligibility, and tenant selection criteria. The same effort to achieve adequate marketing results will be required for RCH loans except that its completion will be necessary at the initial application stage. (Revised 05-07-97, SPECIAL PN.)

(1) The servicing official will review the applicant's marketing plan to determine that it is complete and all supplemental information is provided. If the plan needs to be modified before marketing activity begins, approval must be granted from the official authorized to approve the loan. The servicing official will review the approved operating budget to determine if it is still adequate for the initial operating period. If it is not adequate, the budget and rent schedule will be revised by the borrower and approved by the loan approval official.

§1944.235 (h) (Con.)

(2) The servicing official should be assured that the applicant will sincerely direct marketing activity in an effort to attract applications for housing from all groups in the market area determined least likely to apply for the available housing. If it is anticipated that applications for housing may result in a concentration of occupancy by race, color, religion, sex or national origin, outreach efforts will be extended to persons who would not be expected to apply for the housing. The efforts will be conducted for a reasonable period of time prior to the normal period for receipt of applications and commencing not less than 90 days prior to project completion.

(3) Prior to initial occupancy by any person, the servicing official and the applicant will reconvene to assess implemented marketing activity by thoroughly reviewing the marketing plan and the extent of achievement of plan objectives. If original marketing concepts prove to be less than effective and/or if there are changes in the housing market, the applicant may be required to modify the marketing plan for the project. If the servicing official determines that the applicant is in noncompliance with the plan and a modification to the plan is not warranted, the matter will be referred to the Rural Development Administrator, attention Equal Opportunity Staff Director, through the State civil rights coordinator.

§1944.236 Loan closing.

(a) Applicable regulations. RRH and RCH loans will be closed in accordance with Subpart B of Part 1927 of this chapter and any State supplements. Loan dockets for organizations and, in special cases, dockets for individuals will be sent through the State Office to OGC for closing instructions. A profit or limited profit organization or individual applicant may use any designated attorney or title insurance company to close the loan in accordance with the applicable loan closing instructions if the attorney or title insurance company and its principals or employees are not members, officers, directors, trustees, stockholders or partners of the applicant entity. Nonprofit organizations may use a closing agent who is a member of their organization if the cost is in accordance with §1944.212 (j) of this subpart. (Revised 03-31-92, SPECIAL PN.)

(b) Mortgage. Unless OGC determines the form to be inappropriate, Form RD 1927-1 (State), "Real Estate Mortgage for _____," will be used. For loans to organizations, Form RD 1927-1 will be modified as prescribed by or with the advice of OGC with respect to the name, address and other identification of the borrower, the style of execution and the acknowledgment. (Revised 03-31-92, SPECIAL PN.)

(1) The mortgage or other instrument will contain the following covenant:

"The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 and the regulations issued pursuant thereto for as long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for as long as the purchaser owns it, whichever is longer."

(2) When a loan resolution or loan agreement is used, include an additional paragraph in the mortgage to read as follows:

"This instrument also secures the obligations and covenants of borrower set forth in borrower's Loan Resolution (Loan Agreement) of (Date), which is hereby incorporated herein by reference."

(3) For a loan to an individual when a loan agreement is not used, additional paragraphs will be included in the mortgage to read as follows:

(i) "Occupancy of the housing and related facilities on the property will be limited to eligible tenants as defined in the regulations of Rural Development unless the Government gives prior written approval to other occupancy."

(ii) "As required by the Government: Borrower will permit the Government to inspect and examine the operation of the housing and the books, records, and operations of borrower; submit regular and special

reports pertinent to the purpose of the loan or the Government's financial interest; subject rents and charges and other terms of rental agreements with tenants of the housing, and compensation to employees connected with its operation, to prior approval by the Government, or to adjustment at the direction of the Government when necessary in its judgment to carry out the purpose of the loan or protect its financial interests; and comply with any other requirements which in the discretion of the Government are reasonably appropriate to the purpose of the loan or protection of the Government's interests. Revenue from the housing will be first used to pay operation and maintenance costs of such housing and to make adequate provision to meet required payments as they become due on the Rural Development rural rental housing loan."

(4) For a loan to a limited partnership, the following nonrecourse language should be inserted, subject to modification by the OGC:

"No partner, either general or limited, will have any personal liability for the payment of all or any part of the indebtedness."

(5) For all Section 515 RRH and RCH loans used to build or acquire new units made pursuant to a contract entered into on or after December 15, 1989, the following language will be included in the mortgage:

"The borrower and any successors in interest agree to use the housing for the purpose of housing people eligible for occupancy as provided in section 515 of Title V of the Housing Act of 1949, and Rural Development regulations then in effect during the full term of this mortgage. No eligible person occupying the housing will be required to vacate nor any eligible person denied occupancy for housing prior to the close of such period because of a prohibited change in the use of the housing. A tenant or person wishing to occupy the housing may seek enforcement of this provision as well as the Government."
(Revised and Renumbered 08-20-93, SPECIAL PN.)

(6) For the following categories of loans, the language set forth in Exhibit A-1 or A-2, as appropriate, of Subpart E of Part 1965 of this chapter will be included in the mortgage instead of the language contained in paragraph (b)(5) of this section: (Added 08-20-93, SPECIAL PN.)

(i) Equity loans made to avert prepayment.

(ii) Subsequent loans to nonprofit organizations or public agencies made in conjunction with transfers to avert prepayment.

(iii) Subsequent loans for any purpose other than to build or acquire new units.

(7) Additional guidance on closing transfers and loans to nonprofit corporations and public agencies to avert prepayment is contained in §1965.217 (e) of Subpart E of Part 1965 of this chapter. (Added 08-20-93, SPECIAL PN.)

(c) Promissory note.

(1) Form RD 1944-52, "Multiple Housing Promissory Note," will be used. Regular amortized payments for principal and interest will be scheduled on a monthly basis. Instruction for preparation in the FMI for the note will be followed.

(2) The amount to be shown on the note will be the obligated amount as shown on Form RD 1944-51, "Multiple Family Housing Obligation-Fund Analysis." The note will be dated the date of loan closing except as authorized in Subpart B of Part 1927 of this chapter. If the first day of the month falls on Saturday, Sunday or a holiday, the note may be dated the first, loan closing will be the last working day prior to the first and the closing documents will be filed on the first working day following the first. (Revised 03-31-92, SPECIAL PN.)

§1944.236 (c) (Con.)

(3) Payments on loans will be scheduled on the note in accordance with the FMI and as provided in §1944.215 (c) of this subpart. (Revised 03-16-94, SPECIAL PN.)

(4) The note(s) will be signed in accordance with subpart B of part 1927 of this chapter. (Revised 03-31-92, SPECIAL PN.)

(5) All loans will be closed on PASS as described in subpart K of part 1951 of this chapter. If the loan is a subsequent loan, all other loans on the project must be converted to PASS.

(6) All loans to be secured by revenue bonds or other forms of security other than a real estate mortgage or deed of trust will be sent to the National Office prior to loan approval with all necessary information for review and further instructions.

(d) Recorded mortgage. When the real estate mortgage is returned by the recording official, the servicing official will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy, including the recording data showing the date and place of recordation and book and page number, will be prepared and filed in the borrower's case folder. A copy of the mortgage, conformed as to all matters except the recording date, will be delivered to the borrower. (Revised 03-16-94, SPECIAL PN.)

(e) Date of closing - establishment of account.

(1) A loan is considered closed when the security instrument is filed of record or, if no security instrument is filed of record, when the loan funds are deposited in the supervised bank account or otherwise made available to the borrower after the borrower executes and delivers the note and any other required instruments.

(2) After the loan is closed, the account and case folder will be established at the servicing office following the requirements of RD Instructions 1905-A and 2033-A (available in any Rural Development office). (Revised 03-16-94, SPECIAL PN.)

§1944.237 Subsequent loans.

(a) A subsequent loan is made to an applicant/borrower to complete, improve, repair, and/or make modifications to the project initially financed by RHS, or for equity and/or other purposes when authorized by the provisions of subpart E of part 1965 of this chapter to avert prepayment. A subsequent loan to develop additional units must compete for funding in accordance with §1944.231 of this subpart. Other subsequent loan requests do not have to compete for funding. (Revised 05-07-97, SPECIAL PN.)

(b) If the designation of an area changed from rural to nonrural after the initial RHS loan was made, a subsequent loan can be made only to make necessary improvements and repairs to the property, or for equity and other purposes, when necessary to avert prepayment.

(c) In cases where the loan is to complete the original housing under the initial RHS loan:

(1) If the applicant/borrower provided an initial investment greater than required under the initial RHS loan, the excess may be credited toward the required amount of the initial investment of the subsequent loan per §1944.213 (b) of this subpart; the applicant/borrower should only be required to put up additional funds for this purpose if needed. The same applies to initial operating and maintenance (O and M) requirements. (Revised 10-01-93, SPECIAL PN.)

(2) If the initial investment and 2 percent O and M amounts are sufficient to cover only the initial RHS loan, the applicant/borrower must provide the additional respective amounts to cover the subsequent loan. The 2 percent O and M amounts must be in the form of cash as described in §1944.211 (a)(6) of this subpart. The required amount of the initial investment is described in §1944.213 (b) of this subpart. (Revised 03-16-94, SPECIAL PN.)

(d) If the loan is to repair and/or improve an existing project which has been in operation for some time, then:

(1) The applicant/borrower should not be required to provide the initial 2 percent O and M amount since its purpose is to cover project start-up costs.

§1944.237 (d) (Con.)

(2) The applicant/borrower must provide the initial investment per §1944.213 (b) of this subpart unless it provided more than the required initial investment when the loan was made. When the applicant/borrower has more than the required amount invested in the initial loan, the excess may be credited toward the required investment for the subsequent loan. The applicant/borrower should be required to contribute additional funds only if needed. The applicant/borrower will not be given consideration for any increased equity or value that the property may have since the date of the initial Rural Development loan. (Revised 10-01-93, SPECIAL PN.)

84A

(Added 10-01-93, SPECIAL PN)

(02-21-91) SPECIAL PN

§1944.237 (Con.)

(e) Subsequent loans, other than those made to a nonprofit corporation or public agency to avert prepayment, will be subject to the restrictive-use provisions contained in Exhibit A-1 of Subpart E of Part 1965 of this chapter. Subsequent loans made to nonprofit organizations or public agencies to avert prepayment will be subject to the restrictive-use provisions contained in Exhibit A-2 of Subpart E of Part 1965 of this Chapter. The required restrictive-use language for subsequent loans shall be appended to the mortgage referencing all notes for the applicable term, beginning on loan closing. The advice of OGC shall be obtained to carry out the requirements of this paragraph. (Revised 08-20-93, SPECIAL PN.)

(f) For additional requirements in closing equity loans to avert prepayment, see Exhibit A-11 of this subpart. (Added 08-20-93, SPECIAL PN.)

(g) For additional requirements in closing subsequent loans to nonprofit corporations and public agencies made in conjunction with transfers to avert prepayment, see §1965.65 (f) of Subpart B of Part 1965 of this chapter. (Added 08-20-93, SPECIAL PN.)

§1944.238 Prohibition against prepayment.

The Agency shall not accept an offer to prepay, or request refinancing of any loan made to build or acquire new units made or insured under section 515 pursuant to a contract entered into on or after December 15, 1989, regardless of the fact the borrower has received previous RRH loans on the project. For purposes of this requirement, the date a "contract is entered into" is the date on which the Form RD 1944-51 is mailed or delivered to the applicant/borrower. (Revised 08-20-93, SPECIAL PN.)

§1944.239 Complaints regarding discrimination in use and occupancy of RRH and RCH.

Any tenant/member or prospective tenant/member seeking occupancy or use of RRH, RCH, or related facilities who believes he/she has been discriminated against because of age, race, color, religion, sex, familial status, handicap or national origin may file a complaint in person with, or by mail to the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development (HUD), Washington, DC, 20410, or any HUD office, or to the Under Secretary, Rural Development, USDA, Washington, D.C. 20250. If a complaint is made to a Rural Development County, servicing, or State Office, it must be directed to the Director of Equal Opportunity Staff (EOS), National Office, by the Rural Development employee in charge of that office. When a complaint is sent to Rural Development-EOS by a county or servicing office, the State Director will be made aware of the complaint. (Revised 03-16-94, SPECIAL PN.)

RD Instruction 1944-E
§1944.239 (Con.)

- (a) Personnel in Rural Development field offices will provide assistance to the aggrieved party when filling out required forms and filing a complaint.
- (b) Each complaint must contain the following information:
- (1) The name and address of the respondent.
 - (2) The name and address of the aggrieved person.
 - (3) A description and the address of the dwelling which is involved, if appropriate.
 - (4) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.
- (c) Participants in Rural Development's housing program failing to comply with the requirements of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and the respective Affirmative Fair Housing Marketing Plan will make themselves liable to sanction authorized by law, regulations, agreements, rules and/or policies governing the program pursuant to which the application was made. Victims of discriminatory housing practices may seek reparations from HUD or by private lawsuit. (Revised 08-30-93, SPECIAL PN.)
- (d) All complaints will be handled in accordance with prescribed procedure. (Added 08-30-93, SPECIAL PN.)

§1944.240 Exception authority.

The Administrator may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if he/she finds that application of such requirement would adversely affect the interest of the Government or adversely affect the accomplishment of the purposes of the RRH program or result in undue hardship by applying the requirement. The Administrator may exercise the authority at the request of the State Director. The State Director will submit the request supported by data that demonstrates the adverse impact, citing the particular requirement involved and recommending proper alternative course(s) of action, and outlining how the adverse impact could be mitigated. Exception to any requirement may also be initiated by the Assistant Administrator for Housing.

§§1944.241 - 1944.244 [Reserved]

§1944.245 Preparation of completed loan docket. (Revised 05-07-97, SPECIAL PN.)

(a) Information needed. If selected for further processing in accordance with §1944.231 of this subpart, the applicant must submit to the servicing official the additional information outlined in Exhibit A-9 of this subpart. (Revised 05-07-97, SPECIAL PN.)

(b) Servicing official's responsibility.

(1) The servicing official should schedule a conference to provide copies of appropriate exhibits and forms, including those listed in §1930.141 of subpart C of part 1930 of this chapter; furnish guidance necessary for orderly application processing; and initiate a processing checklist for use in establishing a schedule for completion of docket items. The servicing official will confirm decisions made at this meeting in writing and will provide the applicant a copy of any processing checklist initiated. The original and a copy of the processing checklist will be retained in the servicing office and a copy will be sent to the State Office.

(2) The servicing office will work closely with the applicant in completing the required checklist items. If necessary, the servicing official may extend the deadline for any processing checklist item provided the delay is reasonable and will still permit funding of the loan in the current funding cycle.

(3) The servicing official will review all materials submitted for completeness, correctness, and adequacy.

(c) Assembly, review, and distribution of loan docket items. (Revised 05-07-97, SPECIAL PN.)

(1) Before presenting the application to the approving official, the servicing official will:

(i) Provide comments and recommendations for loan approval. Proposed conditions of loan approval must indicate if construction will be financed by interim financing or multiple advances.

(ii) Obtain the written analysis and recommendations of the State Office architect/engineer.

(iii) Obtain the analysis and recommendations of a member of the State Office rural housing staff. This analysis will include a review of and recommendations concerning the proposed conditions of loan approval.

(2) Docket items will be assembled in the following order for distribution after loan approval:

(i) Form RD 1944-50, "Multiple Family Housing Borrower/Project Characteristics."

(ii) Form RD 1944-51, "Multiple Family Housing Obligation - Fund Analysis."

(iii) SF-424.2, "Application for Federal Assistance (For Construction)." (Revised 05-07-97, SPECIAL PN.)

(iv) Exhibit A-7, "Information to be Submitted with Loan Request for a Rural Rental Housing (RRH) or a Rural Cooperative Housing (RCH) Loan." (Revised 05-07-97, SPECIAL PN.)

(v) Form HUD 2530/RD 1944-37, "Previous Participation Certification." (Renumbered 05-07-97, SPECIAL PN.)

§1944.245 (c)(2) (Con.)

- (vi) Form RD 1910-11, "Application Certification, Federal Collection Policies for Consumer or Commercial Debts."
- (vii) Exhibit A-9, "Additional Information to be Submitted for Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) Loan Requests." (Revised 05-07-97, SPECIAL PN.)
- (viii) Form RD 400-4, "Assurance Agreement."
- (ix) Form RD 440-25, "Financing Statement."
- (x) Form RD 400-1, "Equal Opportunity Agreement."
- (xi) **Form RD 400-3, "Notice to Contractors and Applicants."
- (xii) Form RD 400-6, "Compliance Statement" (when applicable).
- (xiii) Form RD 1922-7, "Appraisal Report for Multi-Unit Housing."
- (xiv) Form RD 426-1, "Valuation of Buildings."
- (xv) *Proof of organization (certified copy of charter or articles of incorporation).
- (xvi) *Certified copies of bylaws or regulations.
- (xvii) *List of names and addresses of officers, directors, and members, and membership interest held by each.
- (xviii) *Certified copy of Loan Resolution.
- (xix) Loan Agreement or Resolution, if applicable.
- (xx) **Survey of land given as security, plans, specifications, cost estimates, and proposed manner of construction.
- (xxi) Form RD 1930-7, "Multiple Family Housing Project Budget," (first year). (Revised 08-30-93, SPECIAL PN.)
- (xxii) Form RD 1930-7, "Multiple Family Housing Project Budget," (typical year). (Revised 08-30-93, SPECIAL PN.)

(xxiii) Exhibit A-6, "Housing Allowances for Utilities and Other Public Services," if applicable.

(xxiv) Form RD 1940-20, "Request for Environmental Information," if applicable.

(xxv) Form RD 1940-21, "Environmental Assessment for Class I Action," or Form RD 1940-22, "Environmental Checklist for Categorical Exclusions," or Exhibit H, Subpart G of Part 1940 of this chapter, as required by Subpart G of Part 1940 of this chapter.

(xxvi) Management Plan and Management Agreement. (Added 05-07-97, SPECIAL PN.)

- * When applicant is an organization
- ** One copy for contractor

(3) Other loan docket items. A preliminary title and a final title opinion or a title insurance binder; an Affirmative Fair Housing Marketing Plan; a mortgage title insurance policy; and a copy of deed, purchase contract or other instrument of ownership.

(4) When applicable, include a copy of the lease to be used between borrower and public housing authority or other authorized lessees, report of lien search, option or foreclosure notice agreement and items of information concerning prior mortgage.

(d) Submission of docket to National Office. If the State Director considers it necessary after reviewing the docket, he/she may submit recommendations, a copy of a proposed memorandum of approval and the complete loan docket to the National Office for review and recommendations. If the docket was required to be reviewed (or was reviewed) by OGC, the comments of that office will be included. All loan requests involving congregate housing, group homes, manufactured housing, and cooperative housing must be reviewed by the National Office unless a state-wide exception is authorized by the Deputy Administrator, Multi-Family Housing. (Revised 05-07-97, SPECIAL PN.)

(e) Announcement. When it is determined that the loan can be approved, project information will be prepared in accordance with subpart C of part 2015, available in any Rural Development office.

(f) Establishing borrower/project data. Prior to loan approval, the State Director, servicing official or a designee will establish on the Finance Office accounting record, through field office terminals, required information on the borrower and project. (Revised 05-07-97, SPECIAL PN.)

§1944.246 Loan approval.

(a) Authority. Loans will be approved in accordance with this subpart and Subpart A of Part 1901. The State Director may redelegate loan approving authority in writing to State Office employees.

(b) Loan approval action.

(1) Responsibilities of loan approving official. The loan approving official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations. In making this review, the loan approving official will determine that:

(i) The applicant is eligible and has legal authority to contract for a loan and enter into the required agreements.

(ii) The location of the housing meets the requirements outlined in §1944.215 (r) of this subpart.

(iii) The funds are requested for authorized purposes.

(iv) The proposed loan is sound.

(v) The security is adequate.

(vi) All preapproval requirements have been met, including the applicant's execution of Form RD 400-4.

(vii) For projects with four or less units, the State Director has taken the necessary action to comply with §1940.406 of Subpart I of Part 1940 of this chapter.

(viii) All other requirements will be met.

(2) Approval or disapproval of a loan.

(i) Approval. Before the loan approving official executes documents evidencing loan approval, a complete review of the proposed management and occupancy procedures must be made to assure compliance with Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. If the loan approving official is assured of compliance, he/she

RD Instruction 1944-E
§1944.246 (b)(2)(i) (Con.)

may execute the loan approval documents. When a loan is approved, Form RD 1944-51 will be completed according to instructions on the Form Manual Insert. The approving official will insert a statement in block 48 of Form RD 1944-51 advising the applicant that the amount of the loan may decrease if other government assistance as defined in §1944.205 of this subpart becomes available to the applicant before loan closing.

(ii) Disapproval. If a loan is disapproved after the docket has been developed, the reason for the action will be shown on the original Form RD 1944-51 and the form will be initialed and dated. The servicing official will notify the applicant of the reasons for disapproval. The disapproved docket will then be handled in accordance with Subpart A of Part 2033 of this chapter. If disapproval is not at the applicant's request or by mutual agreement, the applicant will be notified that it may request a further review of the decision in accordance with Subpart B of Part 1900 of this chapter. (Revised 03-16-94, SPECIAL PN.)

(3) OGC closing instructions. For a loan to an organization, or an individual in special cases, the approved docket, including any title evidence, will be sent through the State Office to OGC for preparation of closing instructions and any special legal documents required for closing. A certified copy of a loan resolution or the original executed witnessed loan agreement must be supplied by the applicant in time to be included in the docket. No docket will be considered which does not include the required resolution or agreement. The OGC will route the docket, including closing instructions and any legal documents, to the servicing office through the State Office. (Revised 03-16-94, SPECIAL PN.)

§1944.247 Assigning cases numbers, project numbers, and initial and subsequent loan codes.

(a) The loan approving official will assign the borrower's case number using the State and county codes where the project will be located and the borrower's social security or tax identification number. See the FMI for Form RD 1944-51 for specific information.

(b) Each project will be assigned a project number by the Finance Office. When the social security or tax identification number is identified in a future case number anywhere in the nation, the Finance Office will assign project numbers sequentially.

§1944.247 (Con.)

(c) When the total number of units financed are built or purchased at one place at one time, the loan will be coded as the initial loan on the project.

(d) A subsequent loan will be coded when an additional loan(s) is necessary to complete, improve, repair, modify, and/or expand the project initially financed as indicated in §1944.237 of this subpart.

§§1944.248 - 1944.249 [Reserved]

§1944.250 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0047. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 40 hours per response, with an average of 6.4 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575-0047), Washington, D.C. 20503.

Attachments: Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, B, C, D, D-1, E, F, F-1, G, H, I, J, and K.

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HOW TO BRING RENTAL AND COOPERATIVE HOUSING TO YOUR TOWN

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I. INTRODUCTION

A. Most areas in rural America need more adequate rental housing. Some people with modest incomes live in impoverished housing that is cold in the winter and hot in the summer because adequate housing at a reasonable rent is not available. Other households that prefer to rent have the choice of either commuting many miles to work or living in the substandard rental housing that is available in small rural communities. To help reduce this rental housing shortage, the Rural Housing Service (RHS) finances rental housing in rural communities.

B. To augment the choice of living accommodations available to modest income persons, RHS also provides financing for cooperative-type housing units. Although this kind of housing unit is appropriate only to a particular group of persons, it also serves to help reduce the existing housing shortage in rural communities. Nonprofit organizations, other types of organizations and individuals may qualify for these housing loans. Information about the loans is available at the local Rural Development office.

C. This handbook will assist interested persons and groups in applying for a rural rental or cooperative housing loan. It also briefly explains requirements regarding the construction and operation of the housing.

D. The basic guidelines in this handbook apply to all applicants; however, some procedural requirements will vary depending on the size of the project being proposed and the type of applicant/borrower. However, in no instance will different policies, practices or procedures be utilized in the evaluation or in determination of the creditworthiness of any organization or person(s) in connection with the provision of any Rural Rental Housing or Rural Cooperative Housing loan or other financial assistance for a project or other financial assistance which is secured by residential real estate because of race, color, religion, sex, handicap, marital or familial status, age or national origin.

E. The objective of the RHS housing loan program is to provide credit for housing that serves the needs of eligible very low-, low-, and moderate-income permanent residents.

F. Successful housing depends on the existence of the following three important conditions:

1. There must be a need for the housing to be built.
2. The housing must fit the needs of prospective tenants or cooperative members from the standpoint of location, design and cost.
3. The applicant must provide good management.

G. An applicant for a loan must provide adequate information to RHS to show that these basic conditions can be met.

II. APPLYING FOR A LOAN
(Revised 05-07-97, SPECIAL PN.)

A. An individual, organization, or group organizing to provide housing may contact any Rural Development office processing Section 515 loan requests to obtain information and necessary forms. The Section 515 program is administered by Rural Development's Rural Housing Service (RHS).

B. Each funding cycle, RHS will publish in the Federal Register a notice of the availability of funds (NOFA) for Section 515 loans. A list of designated places (communities) for which loan requests may be submitted is available from any Rural Development office processing Section 515 loan requests. Designated places are rural places identified by RHS as having the greatest potential need for Section 515 housing. Except in unusual circumstances, places are designated for a period of 3 years or until a loan has been selected for funding, whichever occurs first.

C. Applicants must submit a loan request by the deadline announced in the Federal Register, and available in any Rural Development office, to be considered in the funding cycle. Section III of this exhibit provides information on the loan review and selection process. In addition, applicants are advised to read 7 CFR part 1944, subpart E, which provides detailed information on the Section 515 program.

D. The loan request consists of SF 424.2, "Application for Federal Assistance (For Construction)," the supporting material or information listed in Exhibit A-7 of this subpart, and any additional information required in the NOFA. This information will enable the Agency to determine:

1. The eligibility of the applicant;
2. The feasibility (economic, environmental, and architectural) of the proposed housing;
3. That prospective cooperative members have read and understand their responsibilities as outlined in "What is Cooperative Housing?" (available in any Rural Development office) before agreeing to a cooperative housing project;
4. Whether the proposed housing can appropriately be financed by RHS; and
5. Its Civil Rights impact.

E. This information usually can be furnished by the applicant without hiring extensive professional services. Fees for professional packaging services rendered to a nonprofit organization can be made a part of loan development costs.

III. REVIEW OF THE LOAN REQUEST (Revised 05-07-97, SPECIAL PN.)

A. Loan requests received by the deadline announced in the NOFA will be reviewed, scored, and ranked based on the loan selection criteria announced in the NOFA. Requests that rank sufficiently high will be reviewed for eligibility and feasibility.

B. Upon completion of the loan review process, applicants will be advised of RHS' decision. Applicants whose loan requests are selected for further processing will be notified of the additional steps that need to be taken. Loan requests not selected for further processing in the current funding cycle will be returned to the applicant.

IV. DEVELOPING THE LOAN DOCKET

A. When a loan request is selected for further processing, the servicing official will review the items required in Exhibit A-9. The amount of information required will vary based on the complexity and size of the proposed project. The servicing official will also provide forms and guides to assist the applicant in recording required information. Some of the guides are included as exhibits in this handbook. The applicant is responsible for providing the information required. The servicing official will assemble this information and complete the docket. (Revised 05-07-97, SPECIAL PN.)

B. The following information will be helpful in developing a loan docket. The first two items are applicable only to nonprofit organizations. The other items apply to any applicant. In addition, the requirements of Exhibit A-7 of this subpart must be met when developing a loan request and the requirements of Exhibit A-9 of this subpart must be met for loan requests selected for further processing. (Revised 05-07-97, SPECIAL PN.)

1. Getting organized if applicant is a nonprofit organization and has not adopted articles of incorporation and bylaws.

a. Steering Committee. The group may choose a steering committee to act for it. An attorney will usually be required to advise the organization on incorporation and assist in developing the loan application. The steering committee, or sponsor, should select an attorney who is interested in the proposed housing and will render the necessary services promptly for a reasonable fee.

b. Articles of incorporation and bylaws. RHS has developed model articles of incorporation and bylaws for nonprofit organizations. The steering committee, or sponsor, should arrange for the servicing official to meet with the attorney. The servicing official will give the attorney copies of the RHS model articles of incorporation and bylaws and explain RHS requirements. Separate bylaws have been developed for cooperatives and for rental housing organizations.

c. Attorney's fees. Reasonable attorney's fees may be included in the RHS loan. A written agreement between the applicant and attorney is required. See Exhibit A-1 for a sample copy of an agreement.

2. Obtaining broadly based membership for rental housing.

a. A nonprofit corporation applying for a loan must have and maintain a broadly based local membership, including leaders in the community, representing a variety of interests in the community. The members may be individuals or organizations but each member is limited to one vote.

b. The purpose of the broadly based membership requirement is to obtain community support, provide enough members to be able to rotate officers and members of the board of directors, protect the Government's financial interest as mortgagee and provide assurance that the housing will be a success and the purpose of the loan carried out.

c. In RRH loans made to nonprofit organizations and public bodies, there is no profit incentive. The term of the loan may be for as long as 30 years, with an amortization period not to exceed 50 years. Therefore, factors such as the prospect for continuous competent management and supervision, maintenance and adequate community support of the housing project over the expected life of the loan are important. (Revised 01-22-98, SPECIAL PN.)

d. A membership list showing the names and addresses of each member should be maintained by the secretary of the organization.

(1) Number of members required. The organization should have at least 25 members. The number of members may be decreased for projects with less than 25 units.

(2) Contributions by members. Nonprofit corporations may require a membership fee or ask prospective members for a contribution. This is the method often used by nonprofit corporation applicants to raise initial operating capital. However, no such fee or contribution can entitle a member or prospective member to a preference in occupancy of the housing.

3. Cooperative membership.

a. Only those persons who will reside in the cooperative housing will be members of the cooperative. The composition of the board of directors will be drawn from that membership, initially by appointment and later by election from the general membership. The board should be composed of at least 5 members.

b. The board of directors, with assistance from the adviser to the board (discussed in a later section), will devise the rules and regulations under which the cooperative will operate. Additionally, the board will be responsible for management of the cooperative.

c. A membership list showing the names and addresses of each member will be maintained by the secretary of the cooperative.

d. Cooperative membership will require the deposit of a membership fee by each member as outlined in § 1944.215 (g) of this subpart. The fee will be retained by the cooperative for as long as the person remains a member of the cooperative. The fee will be refunded to the person when membership is terminated.

4. The applicant should communicate with officials of the community early in the development of the proposal to explain the benefits of the proposed housing to the community. This meeting will serve to remove the uncertainty of the impact of the housing on the community and may aid in a timely processing of the loan request. The support of community officials is helpful in obtaining environmental clearances, possible zoning changes, favorable taxation, etc. (Revised 05-07-97, SPECIAL PN.)

5. Initial operating capital.

a. All applicants must have enough initial operating capital to get started. When justified, RHS may include these funds in a loan made to a consumer cooperative, nonprofit organization or public body. Initial operating capital should be sufficient to pay such costs as property and liability insurance premiums, fidelity coverage premiums when the applicant is an organization, utility hook-up charges and deposits, maintenance and other equipment, lease forms, furnishings, loan payments that may become due during construction and other initial expenses.

b. At least 2 percent of the total development cost of the project is required for initial operation and maintenance costs. The applicant can determine the amount required by working out a detailed budget of income and expenses for the period of time until the housing is ready for occupancy and income will be available. The actual budget may indicate that more than 2 percent is needed.

6. Analysis of market to determine demand for rental housing.

a. Applicants should discuss with the servicing official the type of market analysis that will be needed. Applicants must comply with paragraph II of Exhibit A-7 when preparing market information.

b. Exhibits A-2 and A-3 are sample forms which may be modified by the applicant to assist in the assembly of the information for the market analysis.

7. Planning to serve the market.

a. Planning the housing to serve the market in the community involves more than obtaining a blueprint of the building. It requires a careful evaluation of conditions in the community and careful planning to assure that the result will be good housing designed for independent living at a cost eligible persons can afford. Well planned housing is:

(1) Convenient, attractive, safe and comfortable.

(2) Easily maintained.

(3) Located where tenants or members can have easy access to the goods and services they require for daily living.

(4) Planned to meet all codes, regulations, and acceptable construction practices.

(5) Priced within an affordable range of its prospective tenants and members.

(6) Energy efficient and complies with Rural Development's thermal performance standards.

b. The servicing official and State Office architect can provide information that will help the applicant in planning the housing.

8. Selecting an architect.

a. The services of an architect are required for all housing projects which have more than four units. The cost of a registered architect/engineer may be included in the loan.

b. Before anything more than schematic drawings are prepared, the applicant and its architect, the Rural Development architect/engineer and the servicing official should arrange a meeting. This meeting will acquaint the applicant's architect with the purposes of the housing and Rural Development's requirements. This will be helpful in eliminating misunderstandings. Among the topics that should be discussed are:

- (1) Objectives of the housing program.
- (2) Design requirements that will produce good housing at reasonable cost.
- (3) Stages at which Rural Development must review plans and specifications.
- (4) Services the architect will be expected to perform.
- (5) Agreement between architect and applicant.

9. Selecting a site.

a. The location of the housing is an important part of planning to serve the market. Occupants should have easy access to required services. A desirable residential setting within a rural community is essential.

b. Site cost is also important. The total cost of the site, including the cost of improvements and the price of the land, must be considered. Both may be included in the loan. However, loan funds made available to purchase land may not exceed the present market value of the land in its present condition as determined by an Rural Development appraisal.

c. Before buying a site, the applicant should consult the architect to determine the suitability of the site for the proposed housing. The applicant must consider the site requirements detailed in paragraph III of Exhibit A-7 of this instruction. The applicant should not enter into any firm agreement to buy a site with the expectation of receiving an Rural Development loan without consulting with the servicing official and prior to the Agency's completion of the environmental impact review.

10. Drawings, specifications and cost estimates. The size, complexity and cost of housing projects can vary from a duplex located on a small building lot to a complex of buildings located on a site containing several acres. The applicant must provide drawings and specifications in accordance with paragraph IV of Exhibit A-7 of this subpart.

11. Budgets.

a. The initial budget should cover the period from the date the first construction expenses are incurred until the end of the applicant's first fiscal year following completion of the housing. After the final cost estimate has been made and the amount of the loan needed has been determined, a budget for a typical year should be developed.

b. This budget should be based on a typical annual operation after the project is occupied. Budgeting is an important part of the management. The applicant should spend enough time working on it to assure that the estimates are realistic. Budgets will be required each year until the Rural Development loan is repaid in full. The budget serves several purposes including:

- (1) Helps determine rental or occupancy rates.
- (2) Indicates financial soundness.
- (3) Serves as a guide for paying expenses.

c. Form RD 1930-7, "Multiple Family Housing Project Budget," and its accompanying Exhibit A-6 of this subpart are a sample budget form and utility allowance form.

12. Loan resolution or loan agreement. When the applicant is a corporation or an individual applying for a loan above certain amounts, a copy of the required loan resolution or loan agreement should be obtained from and discussed with the servicing official before the loan docket is developed. Among other things, this document outlines how the income from the housing is to be used. These requirements should be understood at the time the budget is developed.
13. Rental management plan. A detailed management plan will be developed which will outline the basic policies and procedures to be followed and the duties of the officers and employees. The applicant must manage the project in accordance with the requirements of Subpart C to Part 1930 of this chapter.
14. Rental manager and caretaker.
 - a. A comprehensive management program is essential to the successful operation of the project. A carefully written plan should be developed in accordance with Exhibit B of RD Instruction 1930-C.
 - b. The use of an onsite manager should be based on the size of the project. The manager should be readily available to the tenants. The manager might be one of the tenants or a member of the board of directors of a nonprofit corporation. The manager's duties should be specified in the management plan.
 - c. The board of directors of a corporation is responsible for overall supervision and management of all its affairs. The board should delegate actual operating and management responsibility to committees or individuals and meet often enough to see that enterprise is being managed successfully.
15. Cooperative self-management.
 - a. The success of cooperative housing will depend on how well the members are able to manage the cooperative themselves with assistance from the adviser to the board. The cooperative must first develop and designate those areas of responsibilities to be delegated to committees, a list of the committees, and the functions of the committees. A copy of this information will be provided to each prospective member.

b. It will be necessary for the proposed board of directors to become familiar with how a cooperative is supposed to work before it is able to successfully assume the responsibilities of running the cooperative. This can best be achieved by participating in programs designed for the express purpose of educating potential board members. The prospective board members will be expected to take part in such a training program.

c. Participation on committees by members will be on a voluntary basis. However, if it appears a committee does not have sufficient numbers for it to adequately operate, then additional members will be expected to volunteer their time and talents. Thus, participation on committees is voluntary up to a point. If a member has experience in a particular area, that member should be encouraged to join the committee which will benefit from his/her experience. The cooperative will need a total commitment from the membership in order to assure success of self-management. Examples of the types of committees which may be considered are:

- (1) Maintenance
- (2) Groundskeeping
- (3) Communications
- (4) Budget and finance
- (5) Rules
- (6) Recreation
- (7) Home service

d. If the cooperative is not successful in managing itself, professional management will be hired by the cooperative.

16. Occupancy policies.

a. Applicants should review carefully the occupancy requirements with the servicing official. Particular attention should be given to the following requirements:

(1) The housing must be open to all eligible persons regardless of race, color, religion, sex, handicap, familial status, age, or national origin.

(2) The incomes of tenants and the initial incomes of cooperative members must be within the maximum income limits approved by Rural Development.

b. Additional guidance concerning occupancy in congregate housing projects can be found in Exhibit J of Subpart C of Part 1930 of this chapter.

17. Cooperative board of directors. The board will essentially be the backbone of the cooperative structure. In this capacity it will be responsible for establishing the policies and procedures which will govern the operation of the cooperative and for enforcing those policies and procedures. The board will be composed of members of the cooperative with the same interests and concerns as the general membership. For instance, instituting an increase in the occupancy rates or terminating a member's right to cooperative ownership because of serious repeated violations of cooperative rules and regulations will be the types of actions which are taken by the board. The members of the board will be affected by these same decisions since they must adhere to the same rules and regulations as the rest of the cooperative community.

18. Adviser to the board. Resident(s) of the community who is not a member of the cooperative will serve as an adviser to the board during the period of formation and until the board of directors has effectively demonstrated its ability to manage the cooperative. At that time, the adviser will maintain close contact with the cooperative and provide advice and assistance as needed. The adviser may also be an organization; however, one specific individual will have sole contact with the board to eliminate confusion and to prevent one person from countermanding another's instructions. The adviser will closely monitor the cooperative for at least 2 years after it becomes its own manager. This time may vary, depending on the circumstances. The adviser must be very carefully selected to ensure that adequate guidance is given to the board. The adviser must be able to meet certain criteria in order to provide the best possible counsel. The Qualifications for an Adviser to the Board, Relationship of Adviser to Members, and Adviser Responsibilities found at Exhibits F, F-1, and G of this subpart, should be used in evaluating potential advisers. While it may not be possible to find some one individual or

individuals who can meet all the requirements outlined, the criteria should be used as guides in determining the best candidate. RHS will provide counsel to the cooperative during the interview period and must approve the selection of the individual(s). We recognize the adviser will require compensation for services rendered, however, the amount paid should not severely limit the amount of patronage capital accruing to the members.

19. Management reserve. The board's ability to manage the cooperative will determine whether members will receive equity from membership in the cooperative. A set rate for professional management will be assessed each month as part of the occupancy rate and will be maintained in a separate reserve account. If the cooperative is successful at managing its own affairs during the year, the amount accumulated in the reserve will be assigned equally to each member at the end of the year as patronage capital. This same procedure will be followed each year, allowing a buildup of patronage capital. If professional management is hired by the cooperative to correct deficiencies which have arisen from poor self-management, further accumulations to the management account will then be used to pay for professional management and the amount being accrued to the members' patronage capital account will be suspended. If the amount being accumulated for management is not sufficient to meet the needs, occupancy rates will be increased to cover the expense of management. When the cooperative begins to again manage itself, the assessment for the management reserve will resume as previously stated. Any other income remaining at the end of the year will also be assigned as patronage capital. Assignment from both of these sources must be accomplished in accordance with the Internal Revenue Service ruling concerning patronage distribution. Careful records must be kept to track the monthly amount being contributed by each member to the management reserve account so that the cooperative will know how much patronage capital the member is entitled to should membership be terminated prior to the end of the fiscal year. RHS rental assistance proceeds are not to be used to make the member's contribution to the management reserve account. Therefore, the member must have sufficient income from which to make this payment. If it becomes necessary to hire full-time professional management, then the management fee will be considered part of the shelter cost and thus eligible for RA. RHS will assist the adviser to the board in determining if and when professional management will be hired in lieu of self-management. In the event the adviser and RHS are unable

to reach an agreement regarding the hiring of professional management, the ultimate decision will rest with RHS. Compensation paid to the adviser will be shared by members through the deduction of equal amounts from their management reserve payments.

20. Rules and regulations. The rules and regulations for tenants and members should be developed by the applicant and a copy included in the loan docket.

21. Lease or occupancy agreement. The applicant should develop an application form for occupancy and a lease or occupancy agreement form in accordance with the requirements of subpart C of part 1930 of this chapter. Exhibit J of this subpart is to be used as a guide for developing an occupancy agreement. Copies of these forms should be included in the loan docket.

22. Affirmative Fair Housing Marketing. In order to promote proper planning for initial rent-up and occupancy, the servicing official will meet with the applicant after loan approval, preferably at the preconstruction and/or the pre-occupancy conference to discuss the Affirmative Fair Housing Marketing Plan or other similar agreement approved for the project. In the case of a cooperative, the servicing official will discuss the Plan at the loan request stage. (Revised 05-07-97, SPECIAL PN.)

V. REVIEW OF THE COMPLETE DOCKET

A. When the applicant has developed the complete loan docket, it should furnish and discuss the information with the servicing official. SF-424.2, the information and materials listed in Exhibit A-9, plus RD forms provided by the servicing official become the loan docket.

B. If the docket is submitted to the State Office for consideration, the State Director will indicate any special requirements that need to be met before loan approval or loan closing.

C. Commercial financing should be used for projects during the interim construction period if available at reasonable rates and terms. RHS can make a conditional commitment to the interim lender that it will loan the funds to finance the construction of the project. The commitment will be conditioned upon acceptable performance by the builder and payment of all construction bills. After the conditions have been met, the RHS loan will be closed to pay the interim construction indebtedness. Draws on interim loan funds will be made only as needed and will require the joint approval of the applicant and the RHS servicing official.

D. In other cases RHS can make advances of loan funds for construction, the note and mortgage will be signed by the applicant, and the loan funds deposited in a joint bank account at loan closing. The loan funds are disbursed from the bank account as needed. Checks on the account must be signed by the borrower and countersigned by the RHS servicing official.

VI. CONSTRUCTION

The start of construction is the first physical sign that the housing will become a reality. The construction period is a most critical period of time.

A. Competitive bidding.

1. Competitive bidding is recommended and may be required by RHS in some cases. If required, the State Director's letter sent after the loan is authorized will instruct the servicing official to have the applicant or its architect complete the necessary bid documents.

2. The applicant and the architect should invite competent contractors to bid on the housing. If bids are within the estimates, the successful bidder will be selected and the contract for construction will be awarded. During construction, a qualified RHS representative and the applicant and its architect will inspect the work to protect their respective interests in the project. Payment will be made from the RHS loan funds, or interim loan funds, according to provisions in the contract.

B. Construction without competitive bidding. When competitive bidding is not required, the loan docket will include reliable cost estimates or a firm offer to build from a builder selected by the applicant. A contract concurred with by RHS will be executed by the applicant and the contractor. If full architectural services are obtained by the applicant, inspection of the work will be performed by the architect's staff. The applicant and RHS will inspect the construction to protect their respective interests in the project. Payments will be made to the contractor in accordance with the terms of the contract.

C. Starting construction. Construction should not be started until the RHS loan is closed or the RHS commitment has been made to the interim lender.

VII. OPEN HOUSE

Promotion of the housing availability should start at least 90 days prior to completion. The applicant may want to create interest in the housing and build up the list of prospective tenants or members by having a dedication ceremony. This will attract attention and remind the local residents of what the housing means to the community. This is especially recommended for housing developed by nonprofit corporations.

VIII. EXHIBITS

The following exhibits may be used when applicable and, if necessary, adapted to meet the specific needs of applicants.

Exhibit

- A-1 Legal Services Agreement
- A-2 Survey of Existing Rental Housing
- A-3 Rental Housing Survey
- A-4 Cooperative Housing Survey
- A-5 Housing Survey Summary
- A-6 Housing Allowances for Utilities and Other
Public Services
- A-7 Information to be Submitted with Loan Request
for a Rural Rental Housing (RRH) or a Rural
Cooperative Housing (RCH) Loan (Revised 05-07-97, SPECIAL PN.)
- A-8 Outline of Professional Market Study
- A-9 Additional Information to be Submitted for
Rural Rental Housing (RRH) and Rural Cooperative Housing
(RCH) Loan Requests (Revised 05-07-97, SPECIAL PN.)

- A-10 Processing Memorandum of Understanding Between the Rural Housing Service (State) and State Housing Credit Agency (Revised 05-07-97, SPECIAL PN.)
- A-11 Processing Guidelines for Loans for Equity to Avert Prepayment
- A-12 Market Study Checklist (available in any Rural Development office)
- A-13 Loan Calculation Worksheets (available in any Rural Development office)
- A-14 Information to be Submitted for Subsequent Loans (available in any Rural Development office)

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(SAMPLE)

LEGAL SERVICES AGREEMENT
(For Cooperative or Other Nonprofit Organizations)

Agreement made this _____ day of _____ 19____
between the _____, hereinafter called
the (owners) (board of directors), and _____,
hereinafter called the attorney, witnesseth:

Whereas the (owners)(board of directors) intend to form a cooperative or
other nonprofit corporation, hereinafter called the (corporation)
(cooperative), to construct and operate a rural housing project in

(Town) (County) (State)
and to obtain a loan from Rural Development to finance the construction, and
the attorney agrees to perform all legal services necessary to incorporate the
(corporation) (cooperative), and to perform all other customary legal services
necessary to the organization, financing, construction, and initial operation
of the proposed rural housing project, such services to include but not to be
restricted to the following:

1. Prepare and file necessary incorporating papers and supervise and assist in taking other necessary or incidental actions to create the (corporation) (cooperative) and authorize it to finance, construct, and operate the proposed housing project.
2. Prepare for and furnish advice and assistance to the owners, or to the board of directors and officers of the corporation, in connection with (a) notices and conduct of meetings; (b) preparation of minutes of meetings; (c) preparation of adoption of necessary resolutions in connection with the authorization, financing, construction, and initial operation of a rural housing project; (d) special tax treatment applicable to housing cooperatives; (e) necessary construction contracts; (f) preparation of adoption of bylaws and related documents; (g) any other action necessary for organizing the (corporation) (cooperative) or financing, constructing, and initially operating the proposed housing project.
3. Review construction contract, bid-letting procedure, and surety and performance bonds.

4. Examine real estate titles and prepare, review and record deeds and any other instruments.

5. Cooperate with the architect employed by the (owners) (board of directors) in connection with preparation of survey sheets, easements, and any other necessary title documents, construction contracts, and other instruments.

6. Render legal opinions as required by the (owners) (board of directors) or Rural Development, United States Department of Agriculture.

7. (Owners) (board of directors) agree to pay the attorney for professional services in accordance with this agreement, as follows:

The fees to be payable in the following manner and at the following times:

The attorney states and agrees that of the above total fees, _____ represents fees for services in connection with the organization and incorporation of the (corporation)(cooperative).

The (owners)(board of directors) and the attorney further covenant and agree that, if upon organization and incorporation, the (corporation)(cooperative) fails or refuses to adopt and ratify this agreement by appropriate resolution within _____ days, this agreement shall terminate and (owners)(board of directors) shall be liable only for payment for legal services rendered in connection with such organization and incorporation.

Signed this _____ day of _____ 19____.

Attorney: _____

(Owners:)

(Board of Directors:)

1944-E Exhibit A-2 not automated

(SAMPLE)

RENTAL HOUSING SURVEY

A rental housing project is being planned for (name of community.) The project would provide comfortable living at monthly rental rates of (Indicate proposed basic rent by number of bedrooms.) Your opinion on the following will help us to determine whether such a project is practical. This information does not obligate you in any way.

1. What age group are you in? 62 or over [] 50-61 [] 35-49 [] Under 35 []
2. Are you or members of the household handicapped or impaired and in need of specially designed housing arrangements? yes [] no []
3. Number of person(s) in your household: _____.
4. Approximate annual income from all sources including any social security pension, payments made on behalf of minor children, public assistance, etc.:
\$_____.
5. Do you own () or rent () present residence?
6. Do you live in house () apartment () room () mobile home ()
on a farm () in town ()?
7. Is your present housing modern () not modern, but adequate ()
inadequate (). If inadequate, in what respect? _____.
8. What amount of monthly rent do you pay with utilities included?
\$_____.
9. Would you pay 30 percent of your monthly income for modern housing for
your family? yes () no ()
10. Would you be willing to move in if an apartment were available _____,
19____? yes () no ()
11. Do you have a car? No, 1, 2, 3 (circle)

Name _____ Address _____
(including city/town)
Telephone Number _____ Location of employment _____

For Elderly and Congregate Housing

12. Number of meals you would like prepared for you per day

13. What other services would you like to have available to you?

Yes No

- a. Housekeeping services
- b. Personal care services
- c. Social and recreational activities services
- d. Linen and laundry services
- e. Health and medical related services
- f. Beauty and barber services
- g. Transportation or access services
- h. Other (specify) _____

14. List any hobbies or organizational membership you have.

Note to Applicant:

This sample survey form is for your use in evaluating the need for new rental units in the community and its market area. You should be prepared to explain the methodology of the survey since Rural Development will be spot checking the respondents' answers. How the survey is performed can influence the outcome; therefore, it is incumbent upon you to see that the manner in which it is conducted is suitable and acceptable to Rural Development. For instance, compensation being paid to someone for survey work should not be dependent upon the number of respondents who would be willing to move into the project. The survey should be based on a random sampling of persons now residing in the market area. Things to avoid are surveying from the telephone book listing or a door-to-door canvass of a certain segment of the community. We want the development of rental units to be based upon actual circumstances prevailing in the market area in order that the housing development will present a secure and economical living arrangement for the persons in need of the housing.

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Exhibit A-4
Page 2

At that time a representative of the cooperative will be on hand to answer other questions you may have. So that we may know how many persons to expect at the meeting, we ask that you give us your name, address, and phone number.

NAME _____

ADDRESS _____

PHONE _____

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(SAMPLE)

HOUSING SURVEY SUMMARY

<u>Item</u>	<u>Age - Head or Household</u>			
	<u>62 or over</u>	<u>:50 to 61</u>	<u>:35 to 49</u>	<u>:Under 35</u>
	:	:	:	:
	:	:	:	:
<u>Handicapped:</u>	:	:	:	:
Yes	_____	_____	_____	_____
No	_____	_____	_____	_____
	:	:	:	:
<u>Household Size (Bedrooms Needed)</u>	:	:	:	:
1 or 2 persons (1 bedroom)	_____	_____	_____	_____
3 to persons (2 bedrooms)	_____	_____	_____	_____
5 to persons (3 bedrooms)	_____	_____	_____	_____
7 to persons (4 bedrooms)	_____	_____	_____	_____
	:	:	:	:
<u>Annual Income:</u>	:	:	:	:
Less than \$3,420	_____	_____	_____	_____
\$3,421 - 4,925	_____	_____	_____	_____
\$4,926 - 6,440	_____	_____	_____	_____
\$6,441 - 7,960	_____	_____	_____	_____
\$7,961 - 9,475	_____	_____	_____	_____
\$9,476 - 10,990	_____	_____	_____	_____
\$10,991 - 12,505	_____	_____	_____	_____
\$12,506 - 14,020	_____	_____	_____	_____
\$14,021 - 15,537	_____	_____	_____	_____
\$15,538 - 17,053	_____	_____	_____	_____
Over \$17,054	_____	_____	_____	_____
	:	:	:	:
<u>Present Housing:</u>	:	:	:	:
House	_____	_____	_____	_____
Apartment	_____	_____	_____	_____
Room	_____	_____	_____	_____
	:	:	:	:
Rent	_____	_____	_____	_____
Own	_____	_____	_____	_____
	:	:	:	:
Modern	_____	_____	_____	_____
Not modern, but adequate	_____	_____	_____	_____
Inadequate	_____	_____	_____	_____

HOUSING SURVEY SUMMARY

<u>Item</u>	<u>Age - Head of Household</u>			
	<u>62 or over</u>	<u>:50 to 61</u>	<u>:35 to 49</u>	<u>:Under 35</u>
	:	:	:	:
	:	:	:	:
<u>Rent:</u>	:	:	:	:
Less than \$55	_____	_____	_____	_____
\$55 - 85	_____	_____	_____	_____
\$86 - 115	_____	_____	_____	_____
\$116 - 145	_____	_____	_____	_____
\$146 - 175	_____	_____	_____	_____
\$236 - 265	_____	_____	_____	_____
\$266 - 295	_____	_____	_____	_____
\$296 - 325	_____	_____	_____	_____
\$176 - 205	_____	_____	_____	_____
\$206 - 235	_____	_____	_____	_____
Over \$325	_____	_____	_____	_____
	:	:	:	:
Willing to move into	:	:	:	:
<u>housing when completed:</u>	:	:	:	:
Yes	_____	_____	_____	_____
No	_____	_____	_____	_____

HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES

PART II

BLOCK A	BLOCK B
TO: _____ Address of tenant _____ No. of Bedrooms _____ You will be billed directly for utilities and service charges. Block B sets forth the allowances credited in your rent for the payment of utilities. You may be billed for more or less than shown in Block B depending on your use of utilities.	ALLOWANCES FOR UTILITIES AND SERVICES BILLED DIRECTLY TO AND PAID BY TENANT _____ Heating.....\$ _____ Air conditioning.... _____ Cooking..... _____ Other Electric..... _____ Water Heating..... _____ Water..... _____ Sewer..... _____ Trash Collection.... _____ Other (Specify)..... _____ _____ _____ _____ TOTAL (Round to next highest dollar) _____
_____ Signature of Borrower or Agent	
_____ (Date)	

Instruction 1944-E Exhibit A-6 pgs 3 & 4 in PDF ONLY.

General appliance and lighting loans and fees for public services should be estimated using data from the local utility companies and from other sources listed in paragraph II A above.

C Type of allowance.

1 Separate heating and cooling allowances will be estimated for the various types of multiple family housing financed by Rural Development in the project. For example, separate allowances may be needed for duplexes, row or townhouses, or for garden and low and medium rise apartments. In addition to establishing different heating and cooling allowances for various types of structures, attention should be given to different allowances for water depending on whether the tenants will have responsibility for lawn care.

2 Allowances for air-conditioning will be established only for projects in which the owner furnishes a central air-conditioning system or other type unit as a part of the permanent equipment.

3 The cost of gas and electricity varies according to amounts consumed as shown on the appropriate rate schedules of the supplier. It is not possible to compute exactly the cost of electricity for any given function without knowing the total electrical usage for a unit. However, because neither the borrower nor the tenants know beforehand what the combination of utilities for any unit rented will be, it will be necessary to approximate the allowances for each function (e.g., heating, cooking, etc.) as follows: for electricity, the rates used for lighting, refrigeration and appliances should be from the top of the rate schedule or the higher unit costs. Allowances for electric cooling, water heating and space-heating should be computed from the middle or lower steps in the rate schedules. Similarly, allowances for gas used for water heating and cooking should be computed using rates from the top of the rate schedule and for heating from the lower steps.

III Preparation by borrower or applicant.

A Applicable projects. Except for projects operating on a profit basis, Exhibit A-6 will be completed in an original and three copies in all instances where the tenants pay utilities or authorized services directly. When the borrower pays all utilities, Part I of Exhibit A-6 may also be required as part of the budget submitted for any new project if the loan approval official determines it is needed to properly evaluate projected utility costs. This form will establish the allowances for all size units in the project. The allowances will be adequate for all utilities and any authorized services which are or will be payable directly by the tenants, except telephone and cable TV. The forms will be signed by the borrower. The original and two copies of the form will be submitted to Rural Development. Backup data and necessary documentation should be included with the submission.

B Submission of supporting data to Rural Development. The applicant will submit to Rural Development adequate data to justify the utility allowances for the project. The data will include the following:

- 1 Completed Exhibit A-6.
- 2 List of local sources contacted for information and copies of any data provided by such sources.
- 3 Any data on allowances already established for the area.
- 4 Complete narrative statement and computations on method used in arriving at the allowances.

IV Actions by Rural Development. If Rural Development finds the allowances acceptable, the approval portion of Part I will be completed. The servicing official will keep a copy for the servicing office file and return the original to the borrower. If the proposed utility allowance is unacceptable, the borrower will be requested to revise the data and resubmit it for further consideration. (Revised 03-16-94, SPECIAL PN.)

V Subsequent action by borrower. After approval by Rural Development, the borrower will complete Part II of Exhibit A-6 and provide copies for each tenant paying utilities directly by attaching it to the lease entered into by the borrower and tenant. The form will provide the household with the amount of allowance for each utility and service which is to be paid by the tenant. If all utilities and services are paid by the borrower, Exhibit A-6 need not be attached to the lease.

INFORMATION TO BE SUBMITTED WITH LOAN REQUEST FOR
A RURAL RENTAL HOUSING (RRH) OR A RURAL COOPERATIVE HOUSING (RCH) LOAN
(Revised 05-07-97, SPECIAL PN.)

The following information is to be submitted with SF-424.2, "Application for Federal Assistance (For Construction)." (Revised 05-07-97, SPECIAL PN.)

I Eligibility.

A Financial Statements for Rental Projects - Each applicant must submit a current, signed, and dated financial statement. The financial statement must reflect sufficient financial capacity to meet the applicant's equity capital and initial operating capital requirements. Applicants may contribute cash, free and clear title to the building site, or a combination of both as an equity contribution. The initial operating capital must be furnished in cash.

1 For a corporation (other than a nonprofit corporation) or a trust, financial statements will be required from each member, stockholder or beneficiary who holds an interest in the organization in excess of 10 percent.

2 For a partnership, financial statements will be required from each general partner who holds an interest in the organization.

3 A financial statement will be required for limited partners in a limited partnership who will have 10 percent or more ownership.

4 For applicants that are not legally organized at the time of filing the loan request, financial statements will be required from all of the proposed parties in proportion to the proposed ownership interest of each part. However, the applicant must be legally organized prior to loan approval and must submit financial statements. (Revised 05-07-97, SPECIAL PN.)

5 For cases in which financial statements are required from an individual, the financial statements must also include the financial interest and signature of the spouse.

6 When the applicant and/or general partner(s) have multiple applications pending and/or when the State Director is uncertain of the applicant's ability to provide the necessary borrower contribution required by §1944.213 (b) of this subpart, 2 percent initial capital contribution and/or other assets needed for a sound loan, the State Director may request the applicant to submit additional financial information relative to its financial position. (Revised 05-07-97, SPECIAL PN.)

7 All financial statements submitted must contain the following statement immediately preceding the signature line:

(A) In new projects in which the loan has not been closed:

"I/we certify the above is a true and accurate reflection of my/our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part." (Revised 05-07-97, SPECIAL PN.)

(B) For projects in which the loan has been closed and the applicant has been formed:

"I/we certify the above is a true and accurate reflection of my/our financial condition as of the date stated herein. This statement is given for the purpose of enabling the United States of America to make a determination of continued eligibility of the borrower organization for a loan as requested in the application of which this statement is a part."

B Financial Statements for Cooperative Members - Each prospective member must provide a statement of monthly income and expenses showing the repayment of debts and whether those payments are current. The statement must indicate that the person will have the financial ability to meet the monthly occupancy rate requirement, while still meeting other monetary obligations. Form RD 1944-38, "Application for Cooperative Housing Assistance," may be used for this purpose. (See Forms Manual Insert for preparation instructions.)

C The names and addresses of persons who have expressed an interest in becoming members of the cooperative. Signature and date evidencing this interest from each person will be obtained to fully document the need for the cooperative housing. This certification should contain a statement that the prospective member understands the cooperative type of organization and the time and effort each member must spend in its operation and maintenance.

D For all cooperative projects containing over four units, the applicant must submit an Affirmative Fair Housing Marketing Plan for approval in accordance with §1901.203 of Subpart E to Part 1901 of this chapter. The plan must be prepared in a complete, meaningful, responsive and detailed manner.

E Evidence Concerning the Test for Other Credit - Applicants must be unable to obtain other credit at rates and terms that will allow a unit rent or occupancy charge within the payment ability of the occupants. Based upon a review of the applicant's financial condition, the servicing official may require the applicant to provide documentation regarding the availability of other credit. (Revised 06-06-97, SPECIAL PN.)

F Statement of applicant's experience in operating rental or cooperative housing and related business, including a statement on the proposed method of operation and management.

G For an Organization Applicant - A copy of, or an accurate citation to, the specific provisions of State law under which the applicant is, or is to be organized; a certified copy of the applicant's actual, or a copy of the applicant's proposed charter, articles of incorporation, bylaws, partnership agreement, certification of limited RHS partnership, or other basic authorizing documents; the names and addresses of the applicant's members, directors and officers; and, if a member of a subsidiary of another organization, its name, address, and principal business, if available.

H Rural Housing Service (RHS) requires that applicants disclose identities of interest that will exist in the development of the proposed housing. Forms RD 1944-30, "Identity of Interest (IOI) Disclosure Certificate," and RD 1944-31, "Identity of Interest (IOI) Qualification Form," will be completed and submitted as part of the loan request. (Revised 06-06-97, SPECIAL PN.)

I The social security or tax identification number will be required in all cases. The loan will be denied for refusal to furnish the required social security or tax identification number.

1 In the case of an individual, the social security number of the applicant must be provided. The spouse's social security number must also be provided when they have joint responsibility for the loan.

2 In the case of a partnership, the tax identification number of the partnership must be provided if available and also the social security numbers of all the general partners and their spouses.

3 In the case of a limited partnership, the tax identification number of the limited partnership is required. The social security number of all the general partners and their spouses should be secured if possible.

4 In the case of a company, corporation or nonprofit organization, the tax identification number of the organization is required. The social security number of the officers should be secured if possible.

5 If an organization does not have a tax identification number, the social security number of one of the officers must be used.

J All known principals and affiliates are required to submit a properly completed Form HUD 2530/RD 1944-37, "Previous Participation Certification." Architects and attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals. The form will be completed and processed according to the instructions attached to the form.

II Need and demand. (Revised 06-06-97, SPECIAL PN.)

A Economic justification, the number of units, and the type of facility (family, elderly, congregate, mixed, group home, or cooperative) will be based on the housing need and demand of eligible prospective tenants or members who are permanent residents of the community and its surrounding trade area. Since the intent of the program is to provide housing for the eligible permanent residents of the community, temporary residents of a community (such as college students in a college town, military personnel stationed at a military installation within the trade area, or others not claiming their current residence as their legal domicile) may not be included in determining need and project size. Similarly, homeowners may not be included in determining need and project size. The market study must include a discussion of the current market for single family houses and how sales, or the lack of sales, will affect the demand for elderly rental units. The market study may discuss how elderly homeowners may reinforce the need for rental housing, but only as a secondary market and not as the primary market. The market study must assess need and demand for both family and elderly renter households. The conclusions of the market study must be provided to the community by the applicant, through direct contact with community officials whenever possible. The type of complex (family, elderly, etc.) that is proposed by the applicant must reflect the greater proportionate need and demand of the community, that is, the share or percentage of the community's total rental units that are designated for the elderly will be compared to the community's share of elderly households, and the share of total rental units for families will be compared to the share of family households in the community. (For mixed complexes, the unit mix must reflect the proportionate need of each household type.) In unusual circumstances, where there is a compelling need for a complex type that does not represent the greater proportionate need (i.e., family versus elderly need), the State Director may consider granting an exception to this requirement. At least one of the following conditions must be met in order to consider an exception: (1) the community's or State's housing plan indicates that the greater immediate need is for the complex type of the smaller proportionate need and the plan includes a specific proposal to address the housing needs of the other household type; (2) the complex has the support of a public community forum represented by diverse interests; or (3) the units are needed due to an emergency or hardship situation, for example, a loss of housing caused by a natural disaster. The circumstances for the exception must be documented in the casefile. The bedroom mix of the proposed units must reflect the need in the market area based on renter household size and the bedroom mix of existing units. Market feasibility for the proposed units will be determined

by RHS based on the market information provided by the applicant (requirements are described in section II. E. of this exhibit), RHS' knowledge of the market area and judgment concerning the need for new units, RHS' experience with the housing market in the State and local area, and the U.S. Department of Housing and Urban Development's (HUD's) or similar lender's analysis of market feasibility for the proposed units.

B The applicant must provide a schedule of the proposed rental or occupancy rates and, for congregate housing proposals, a separate schedule listing the proposed cost of any nonshelter service to be provided.

C For proposals where the applicant is requesting Low-Income Housing Tax Credits (LIHTC), the applicant must provide the number of LIHTC units and the maximum LIHTC incomes and rents by unit size. This information will determine the levels of incomes in the market area which will support the basic rents while also qualifying the borrower for tax credits.

D For Rural Cooperative Housing (RCH) proposals, market feasibility will be evidenced by the names and addresses of prospective members who have definitely affirmed their intention of becoming cooperative members in the proposed project. In the event some persons cannot be accepted for membership for financial or other reasons, the cooperative should obtain more names than the number of proposed units in order to assure adequate feasibility coverage. The Cooperative Housing Survey form found at Exhibit A-4 of this subpart may be used for this purpose.

E For Rural Rental Housing (RRH) proposals, except as permitted by section II. G. of this exhibit, a professional market study is required. The qualifications of the person preparing the market study should include some housing or demographic experience. The following requirements apply:

- 1 A table of contents, the analyst's statement of qualifications, and a certification of the accuracy of the study must be included.

- 2 Market analysts must affirm that they will receive no fees which are contingent upon approval of the project by RHS, before or after the fact, and that they will have no interest in the housing project. An analyst with an identity of interest with the developer will need to fully disclose the nature of the identity.

3 The analyst must personally visit the market area and project site and must certify to same in the market study. Failure to do so may result in the denial of further participation by the analyst in the Section 515 program.

4 A detailed study based upon data obtained from census reports, state or county data centers, individual employers, industrial directories, and other sources of local economic and housing information such as newspapers, realtors, apartment owners and managers, community groups, and chambers of commerce is required. Exhibit A-8 of this subpart details the specific information which professional market studies are required to provide. The study must be presented in clear, understandable language. Negative as well as positive market trends must be disclosed and discussed. Statistical data must be accompanied by analytical text which explains the data and its significance to the proposed housing. Mathematical calculations must be expressed in actual numbers and may be accompanied by percentages. Each table or section must identify the source of the data. A brief statement of the methodology used in the study should be included in the foreword and in other sections where necessary for clarity. RHS personnel will utilize the market study checklist found at Exhibit A-12 of this subpart (available in any Rural Development office) as a means of measuring market study credibility.

5 The market study will include:

a A complete description of the proposed site and its location with respect to city boundary lines, residential developments, employment centers, and transportation; the location and description of available services and facilities and their distances from the site; a discussion of the site's desirability and marketability based on its location in the community, adjacent land uses, traffic conditions, air or noise pollution, and the location of competitive housing units; and a description of the site in terms of its size, accessibility, and terrain.

b Pertinent employment data, including the name and location of each major employer within the community and market area, its product or service, number of employees and salary range, commute times and distances, and the year the employer was established at the location. If income data cannot be obtained from individual employers, salary information for the community can be obtained from the state employment commission.

c Population data required by Exhibit A-8 of this subpart, including population figures by year, number and percentage of increase or decrease, and population characteristics by age.

d Household data required by Exhibit A-8 of this subpart, including number of households by year, tenure (owner or renter), age, income groups, and number of persons per household.

e Building permits issued and demolitions by year by single unit dwelling and multiple unit dwelling. In nonreporting jurisdictions, this information may be substituted with the number of requests for electric service connections, number of water or sewer hookups, etc., obtained from local suppliers.

f Housing stock by tenure and vacancy rates for total number of units, one-unit buildings, two- or more-unit buildings, mobile homes, and number lacking some or all plumbing facilities.

g A survey of existing rental housing by name, location, year built, number of units, amenities, bedroom mix, type (family, elderly, etc.), rental rates, and rental subsidies if any.

h A projection of housing need and demand and the analyst's recommendation for the number, type, and size of units, based on the number of RHS and LIHTC income-eligible renter households, the existing comparable housing supply and vacancy rates, the absorption rate of recently completed units, the number of comparable units currently proposed or under construction, and current and projected economic conditions.

F For congregate housing proposals with central dining area or housing involving a group living arrangement, a narrative statement from local, state, or federal government agencies supporting the current and long-range need for the facilities in the community and its trade area is required.

G For RRH proposals of 12 or fewer units, the State Director may authorize the use of a market survey to establish market feasibility on a case-by-case basis. This authority may be used when there is evidence of strong market demand, for example, very low vacancy rates and long waiting lists in existing assisted or comparable rental units. The casefile must be documented accordingly. Exhibits A-2, A-3, and A-5 of this subpart may be used for the market survey.

III Site.

A Size of tract and a plot map identifying its boundaries.

B A map showing the location and other supporting information on the neighborhood and existing facilities, such as distance to shopping areas, churches, schools, available transportation, drainage, sanitation facilities, water supply and access to essential services such as doctors, dentists, pharmacies and hospitals. The map should also show significant features such as main highways, railroads, rivers and lakes. The use of property surrounding the site should also be indicated.

C The applicant will provide evidence of having control of the proposed site either by ownership or by executing an option to buy with the current owner of public record.

D Appropriate zoning or evidence of capability to be appropriately zoned. (Added 06-06-97, SPECIAL PN.)

IV General description of the housing planned. A brief narrative description of the housing planned should include the following items:

A The type of project and structures proposed, such as garden apartments for elderly and handicapped persons; townhouses for low- and moderate-income persons; congregate housing for senior citizens and handicapped persons; or housing designed for cooperative living.

B The size of each type of rental unit measured in square feet of living area.

C The size and type of other facilities to be included in the project, such as laundry rooms, storage spaces, etc., and a justification for any related facilities to be financed wholly or in part by RHS funds.
(Revised 05-07-97, SPECIAL PN.)

D The total number of units and the number of each type of unit proposed.

E The type of construction proposed and the method of construction, i.e., owner/builder, negotiated bid or public bid.

F A detailed cost breakdown of the project on Form RD 1924-13, "Estimate and Certificate of Actual Cost," will be prepared and submitted by all applicants. In addition to completing the individual line items, the cost of items such as rights-of-way, equipment, and utility connections must be included and identified with the Form RD 1924-13. Off-site improvements and the method of prorating the cost between eligible and noneligible loan items must be provided with the Form RD 1924-13. The cost breakdown must also separately show items not included in the loan, such as furnishings, equipment, and the noneligible off-site improvements. The trade item cost breakdowns must be updated just prior to loan approval.

G Type of utilities such as water, sewer, gas and electricity and whether each is publicly, community or individually owned.

H The comments and recommendations of any professional consultants regarding on-or off-site conditions that could affect the proposed project should be submitted, if available. Any comments addressing an adverse condition should include recommended corrective actions. Any special regulation waivers or variances that may be necessary should also be identified.

I Schematic design drawings should be included with the narrative description and contain, as a minimum:

- 1 Site plan, including significant ground contour lines.
- 2 Floor plans of each living unit type and other type spaces.

- 3 Building exterior elevations.
- 4 Typical building exterior wall section.

J A plot plan showing the relationship of the proposed structures, the property lines, streets, utility lines, RHS alleys and adjacent structures and their uses. It should also show proposed off-street parking for the tenants or members and their visitors. Other facilities, such as private and public walks, private drives and recreation areas on and off the property, laundry drying areas, and garbage and refuse holding areas which are sufficient for the period between collections in the neighborhood should be shown.

V The applicant must submit a signed statement agreeing to pay cost overruns from its own resources.

VI Form RD 1940-20, "Request for Environmental Information."
(Revised 05-07-97, SPECIAL PN.)

VII Disclosures by Applicants. (Renumbered 01-22-98, SPECIAL PN.)

A Applicants will submit information regarding any other government assistance as defined in § 1944.205 of this subpart from the Federal Government, a state, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project for which the applicant is seeking.

B The applicant will submit the names of any interested parties as defined in § 1944.205 of this subpart.

C The applicant will also submit a report detailing the expected sources and uses of funds that are to be made available for the project.

D The disclosures required in paragraphs (A) - (C) will be updated within 30 days of any substantial change during the period of the application process.

VIII For congregate housing proposals. Applicants must submit information on the services to be provided in accordance with Exhibit E of this subpart.
(Renumbered 01-22-98, SPECIAL PN.)

OUTLINE OF A PROFESSIONAL MARKET STUDY

Market studies which do not address all segments of this outline will not be considered acceptable and may adversely affect the processing of preapplications. Preapplications with unacceptable market studies may be returned, deferred, or rejected, as determined appropriate by the servicing office.

The following information is to be used by analysts in the preparation of market studies for the Section 515 housing program. It generally contains the type and depth of information which Rural Development requires for evaluating the feasibility of prospective housing developments. The analyst will be expected to provide sufficient quantitative data (such as census tables), primary data (such as survey of existing comparables), and qualitative data (such as local contacts in the community) to support the conclusions reached. The analyst may present any other discussions and/or data which will help support the complete analysis of the market.

The outline provides for the demonstration of historical trends and allows the analyst to project into the 2 years beyond the last actual year of record. Additional guidance is offered in individual segments of the outline. You will need to provide a statement of your experience and why you think you are qualified to prepare such a study.

Determination of need and demand will be derived for prospective rental tenants only from (1) persons migrating into the area, (2) persons dwelling in family units who desire to move into their own units (elderly living with family members will only be considered if evidence of their interest in moving into the project is furnished with the market study), (3) conservative estimate (not to exceed 20 percent) of households living in substandard rental housing, (4) demolition of rental stock, (5) allowance for a 5 percent vacancy rate, and (6) conservative estimate (not to exceed 20 percent) of households experiencing rent overburden provided the analyst has made a determination there are sufficient households in the market area to occupy any rental units vacated by those lower income persons who choose to move into the proposed project from the existing units. Substandard is defined as (1) units lacking complete plumbing and (2) overcrowded (1.01 or more persons per room).

For proposed congregate projects, the analyst will be responsible for researching the current need for, and usage of, services in the market area. The types of services being used, the provider of the services, and their location will be included.

Homeowners will not be included in the determination of need and demand for rental units. The analyst will discuss the current market for single family houses and how sales, or the lack of, will affect the demand for elderly rental units. If the economic conditions reflect a trend toward normal selling times for houses in the market area, then the discussion should point to how elderly homeowners may reinforce the need, but only as a secondary market and not as the primary market.

A statement, with signature, certifying that the analyst (including an individual under contract to the analyst's company) actually traveled to and physically surveyed the community where the proposed project will be located is also required.

I. Market area - General.

The market area will be the community where the project will be located and only those outlying rural areas which will be impacted by the project (excluding all other established communities). Except in specific cases of congregate housing projects where an expanded market may be justified, the market area will not include the entire county (or parish, township, or other subdivision). Any deviation from this definition must be coordinated with the servicing office. The market area must be realistic. The criteria for selection should be described by the analyst. A map showing the market area will be required. The following is an example of a market area description:

A. Based on an analysis of population and housing development patterns, major employers and commuting patterns, the effective market area for the subject proposal is defined to include all of (Name), 35 percent of (Name) and 25 percent of (Name) census divisions. This area is shown on Map 2 following Table 4 (page 11) in Section II of this report. In 1980, this geographic market area contained an estimated 6,350 persons (6.1 percent of the county total of 103,829 persons). During the 1970's decade, the overall market area experienced growth of 1,253 persons (representing 13.5 percent of total gains in the county). In 1990, the (Name) market area population of 7,603 represented 6.7 percent of the county population of 113,086. (See Table 4 and Map 2 in Section II for details.)

B. The effective market area for the subject proposal includes the town of (Name) and a portion of the unincorporated areas to the east and south. The (Name) River forms a natural barrier restricting development to the west. Housing development and population growth have occurred along major transportation corridors, particularly Interstate 81 and U.S. 11 between (Name) and (Name). Secondary growth has occurred along State Roads 63 and 68 to the northwest and southeast of (Name). The Interstate Industrial Park, with 16 employers providing 999 jobs, is centrally located within the market area.

II. Site.

This section will contain a full description of the site, its position in the community and location with respect to residential support services.

- A. The proposed site is located in the eastern section of (Town) on (Major Thoroughfare). The area surrounding the site is predominantly comprised of modest single family dwellings. The terrain is gently sloped, with grass, oak trees, and some shrubs.
- B. The site is currently zoned for commercial business and is currently owned by a local car dealer.
- C. The site is approximately .3 mile east of the heart of town which contains a grocery store, drugstore, restaurants, banking facilities, the post office, and town hall. Other shopping is available .2 mile south at (Town) Plaza.
- D. The medical clinic, which provides services of an osteopath, X-ray technician, a physician's assistant, and a nurse, is approximately .8 mile north of this site. This clinic is open daily and also provides 24-hour emergency service. The nearest hospitals are (Large Town) and (Town).
- E. All public services are available at the site.
- F. Photographs of the site are required.
- G. Communities suitable for multi-family projects may have certain smaller businesses necessary for the day-to-day living convenience of the tenants and to supplement the employment base. For example, these may include, but not be limited to, pharmacy, restaurants and fast food establishments, grocery and department stores, hardware and sundries, etc. A representative number of these businesses are to be listed (by name) and location with respect to the proposed site.

Name of business and street address

_____	_____
_____	_____
_____	_____

III. Demographic characteristics.

A. Economic profile.

1. Labor force and employment trends between 1990 and the present year. This will provide current year estimates and projected changes at the county level.

CIVILIAN LABOR FORCE AND EMPLOYMENT TRENDS AND
 FORECASTS, _____ COUNTY, 1990-19__

	<u>1990</u>	<u>19</u>	<u>1/</u>	<u>19</u>
Civilian Labor Force <u>2/</u>				
Unemployment				
Rate of Unemployment				
Employment				
Change in Total Employment				

	<u>Number</u>		<u>Percent</u>	
	<u>Total</u>	<u>Annual</u>	<u>Total</u>	<u>Annual</u>
1980-1990				
1990-19__				
19__-19__ (2-year projection)				

1/ Preliminary--based on monthly data through _____
2/ Data based on place of residence

Source:

2. Employment data. In order to determine how employment affects the market area, it will be necessary to show the number of employed persons for a 3-year period up to the current year, the increase and/or decrease and the percentage of unemployed at the county level. The employment figures can be obtained from the State Employment Commission.

Example:

County			
<u>Year</u>	<u>Number</u>	<u>Change</u>	<u>Unemployment %</u>
19__			
19__			
19__			
19__	(through current year)		

Source:

3. Major employers. This section will contain information pertinent to an analysis of the economic stability of the town. The major employers within the town and market area, the product or service offered by each employer, location of employer, and year each employer was established are types of data Rural Development will need to evaluate. It is also important to know if the larger employers intend to increase or decrease number of employees in the immediate future or if there have been any significant recent changes in number of employees.

Example:

<u>Employer</u>	<u>Product/ Service</u>	<u>Location</u>	<u>Year Established</u>
Washington Aircraft	Crop Dusting	Town	1957

In addition, the study will include the number of employees and average weekly salary listed in the place of work employment data for the classification groups of manufacturing; construction; trade; services; transportation, communications, and utilities (TCU); finance, insurance, and real estate (FIRE); and government.

4. Employment outside of county. The analyst will give the percentage of persons employed inside the county and driving times, if appropriate.

Source:

B. Demographic profile.

1. Population. The analyst will need to show population changes between 1980 and 1990, the reasons for the changes, the current year estimate and projected change. This information will be provided for the town, the market area, and the county. Any change in the County subdivisions (CCD, Township, Election District, etc.) between census years will have to be explained. These are to be shown in numeric characters as well as percentages.

Example:

Year	<u>Total</u>			<u>Annual</u>	
	Number	Change	Percent	Change	Percent
1980					
1990					
19__ (current estimate)					
PROJECTED: 19__ (2 years)					

2. Age characteristics.

<u>Age</u>	<u>TOWN</u>			<u>COUNTY</u>		
	<u>1980-1990</u>			<u>1980-1990</u>		
	<u>1980</u>	<u>1990</u>	<u>Change</u>	<u>1980</u>	<u>1990</u>	<u>Change</u>
Under 18						
19 - 34						
35 - 54						
55 - 61						
62 - 74						
75 - 84						
85+						

3. Households. A breakdown by town, market area, and county for last 2 census years, a current year estimate and a projection to the year the housing would be built (24 months) will have to be illustrated so that household formations can be tracked. This data will tell us what portion of a housing demand is being created by an increase in numbers of new households.

<u>Year*</u>	<u>Population</u>	<u>In Group Quarters</u>	<u>Households</u>	<u>Persons Per Household</u>
1980				
1990				
19__				

PROJECTED: 19__ (2 years)

4. Households by Size/Type/Age of Members (elderly and congregate projects).

	<u>Town</u>	Market <u>Area</u>	<u>County</u>
Households with:			
1 or more age 60 years and over			
1 person household			
2 or more persons (family)			
2 or more persons (nonfamily)			
1 or more age 65 and over			
1 person household			
2 or more persons (family)			
2 or more persons (nonfamily)			

5. Household type and relationship - Persons 65+ (elderly and congregate projects).

	<u>Town</u>	Market <u>Area</u>	<u>County</u>
Total			
In Households			
In Family Households			
Householder			
Spouse			
Other Relatives			
Nonrelatives			
In Nonfamily Households			
Male Householder			
Living Alone			
Not Living Alone			
Female Householder			
Living Alone			
Not Living Alone			
Nonrelatives			
In Group Quarters			
Institution (persons)			
Other Persons in			
Group Quarters			

6. Households by tenure. This section is one of the more important aspects of the market analysis. This information will enable Rural Development to more closely pinpoint the number of households which would comprise the target group of its evaluation. If the projected percentage of renters exceeds the historic percentage of renters, the analyst will have to explain why there is an increase. The information will be provided for town, market area, and county.

Example:

<u>Year</u>	<u>Total</u> <u>Households</u>	<u>Owner</u>	<u>Percent</u>	<u>Renter</u>	<u>Percent</u>
1980					
1990					

ESTIMATE: 19

PROJECTED: 19 (2 years)

7. Households by size. The study will provide number of households by household size for the town, market area, and county.

8. Tenure by age. Tenure by age of householder for town, market area, and county (elderly and congregate projects).

	<u>Owner</u>	<u>Renter</u>	<u>Total</u>
55-64			
65-74			
75 years +			

9. Households by income group. With the advent of Low Income Housing Tax Credits (LIHTC), we have found that more emphasis must be placed on analyzing persons whose incomes qualify for LIHTC. This means families who earn 60 percent or less of the median income as established by the U.S. Department of Housing and Urban Development (HUD). Therefore, feasibility for projects expecting to receive tax credits will also be based on the incomes required to support the tax credits. This could mean a level of incomes either slightly lower or higher than Rural Development very low-incomes. For those tax credit units occupied by low-income families, the monthly gross rent cannot exceed 30 percent of the family income.

Gross rent includes utilities, but excludes payments of rental assistance by Federal, State, and local entities. The applicant will be responsible for notifying Rural Development and the market analyst of the amount of tax credits being requested, the income percentage on which the credits will be based, and the percentage of project units targeted for tax credit eligible persons. In those cases where less than 100 percent of the units will be designated for tax credit eligible persons, the incomes needed to support the non-LIHTC units will need to be analyzed. Income data will be shown for total and renter households. This information will be presented as follows: (It is recommended that decile distribution of incomes be obtained from HUD. Other sources are acceptable and must be identified.)

Incomes Needed to Support Proposed Rents + Utilities (without LIHTC):

1-Bedroom	2-Bedroom	3-Bedroom	4-Bedroom
\$_____	\$_____	\$_____	\$_____

Number of Tax Credit Units Requested for Project: _____

Percentage of Units to be Designated for Tax Credit Eligible Persons:

Tax Credit Eligible Incomes: (based on 50% [] or 60% [] of income)

\$_____	\$_____	\$_____	\$_____
---------	---------	---------	---------

Tax Credit Eligible Rents:

\$_____	\$_____	\$_____	\$_____
---------	---------	---------	---------

Proposed project rents:

\$_____	\$_____	\$_____	\$_____
---------	---------	---------	---------

Town or Market Area

Household Income Groups	All Households		Renter Households	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$000				
\$000 - \$000				
\$000 - \$000				
\$000 - \$000				
\$000 - \$000				
Total				
Median				

Elderly Household Income Groups

Less than \$
 \$000 - \$000
 \$000 - \$000
 \$000 - \$000
 \$000 - \$000
 Total

Incomes of those eligible to live in the proposed project, considering tax credits and availability of rental assistance (RA):

\$000 - \$000
 \$000 - \$000

Source:

County

Household Income Groups	All Households		Renter Households	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$000				
\$000 - \$000				
\$000 - \$000				
\$000 - \$000				
\$000 - \$000				
Total				
Median				

Elderly Household Income Groups

Less than \$
 \$000 - \$000
 \$000 - \$000
 \$000 - \$000
 \$000 - \$000
 Total

Incomes of those eligible to live in the proposed project, considering tax credits and availability of RA:

\$000 - \$000
 \$000 - \$000

Source:

C. Housing supply profile.

1. Building permits issued for the last 10 years. The Housing Units Authorized by Building Permits and Public Contracts (C-40 Construction Report), furnished by the Bureau of the Census, provides a list of permits issued in all reporting jurisdictions. This publication is printed monthly and annually. If available, the number of units which have been demolished over the last 5 years will be needed.

Example:

	<u>Town</u>			<u>County</u>		
	<u>Single Family</u>	<u>Multi-Family</u>	<u>Demol.</u>	<u>Single Family</u>	<u>Multi-Family</u>	<u>Demol.</u>
Year						
19__						
19__						
19__						
19__						

Through current year

2. Housing stock. The study must include the number of units within the town and county (where available), both single family and multi-family, the number of mobile homes by tenure, along with the number of substandard units by tenure, based on the most recent census data. Occasionally, a situation will exist within a community where a number of detached single family homes are standing vacant. How this condition may affect the rental market must be evaluated and discussed.

Example:

Inventory Change Profile

	<u>Single Family</u>	<u>Multi-Family</u>	Mobile Home	
			<u>Own</u>	<u>Rent</u>
1980 Stock				
1990 Stock				

Annual Percent

Change in Number of Units

3. Existing rental housing. The analyst must determine where the proposed project will fit into the present housing stock. To accomplish this, the analyst will survey the existing units and will discuss how they (a) would be comparable with the proposed project in overall appeal; (b) are less than desirable because of the age factor or upkeep; (c) are inconveniently located; (d) do not provide the appropriate bedroom mix for the community need, etc.

4. Details of existing stock.

a. Additional narrative which describes the rental stock and provides tenant characteristics may be included. The survey will include both subsidized and nonsubsidized rentals. In those communities containing too many rental properties to list, all subsidized and a representative number of conventional projects will be included. Those conventional projects which have rent levels comparable to the proposed project will be listed. Because elderly persons may reside in family designated projects, the analyst will need to list all existing units and not just the existing elderly units. Photographs of the comparables are required.

b. The analyst will explore the availability of individual Section 8 certificates with the local housing authority since they can be used on any project to bring the existing rents into an affordable range. For instance, 10 to 15 available Section 8 certificates in a community could have an influence on the determination for new units and the number should be reduced to correspond to this availability. However, before automatically reducing the number of proposed units to match the number of available Section 8 units, the reason the certificates are available must be explored, (e.g., owners of non-Government subsidized units will not accept the certificates). (The bedroom sizes which the certificates cover must match the prospective bedroom sizes in the proposed project bedroom mix.)

c. The information needed in the survey must include the characteristics shown below. In conjunction with the survey, the analyst is expected to discuss the reasons for extended vacancies, either in individual developments or in the community in general. The data needed are:

Name of Project	Amenities: (if available)
No. of Units	Drapes
Bedroom Mix	Carpet
Type (i.e., family, elderly)	Central Cooling
Year Built	Dishwasher
Rent levels	Garbage Disposal
Vacancies	TV Cable
Location	

IV. Housing demand forecasts. (Revised 09-28-94, PN 234.)

The analyst must give a projection of the housing needs for a specified forecast period. The information should include the following as a minimum:

Sources of Demand	<u>Town</u>	<u>Market Area</u>
	Renter	Renter
<u>New Households</u> (from the most recent census year plus 2-year projection)	_____	_____
.20 of Households in Substandard Rental Units	+ _____	+ _____
Plus Demolition of Rental Stock	+ _____	+ _____
.20 of Households Experiencing Rent Overburden	+ _____	+ _____
Plus Vacancy (.05 of New Household Growth)	+ _____	+ _____
Total Demand	=====	=====

Number of Total Demand Determined Income Eligible (tax credit eligible, if applicable)	_____	_____
Less Number of Units in Planning Stage (Rural Development/HUD)	- _____	- _____
Net Demand	<u> </u>	<u> </u>

If a penetration percentage is used in the study analysis, explain how that particular percentage was chosen.

Recommended Number By Unit Size	One	Two	Three	Four
	_____	_____	_____	_____

Names and positions of individuals in the community who provided information for the study:

I affirm that I, or an individual under contract to my company, have made a physical inspection of the market area and that information has been used in the full assessment of the need and demand for new rental units. I understand that misrepresentation of this statement may result in denial of further participation in the Rural Development Section 515 program.

Market Analyst

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ADDITIONAL INFORMATION TO BE SUBMITTED FOR
RURAL RENTAL HOUSING (RRH) AND RURAL COOPERATIVE HOUSING (RCH) LOAN REQUESTS
(Revised 05-07-97, SPECIAL PN.)

1. Drawings and specifications, including any special design features for elderly or handicapped persons.
2. Updated cost estimates on Form RD 1924-13, "Estimate and Certificate of Actual Cost," will be submitted by all applicants, along with the updated estimates of associated costs specified in Exhibit A-7 of this subpart. (Revised 03-16-94, SPECIAL PN.)
3. Information on the method of construction, the proposed contractor if a construction contract is to be negotiated, and the architectural, engineering and legal services included in the proposal.
4. Satisfactory evidence of review and approval of the proposed housing by applicable State and local officials whose approval is required by State or local laws, ordinances or regulations. This could be an indication of approval to proceed with the development of the project rather than final approval of plans and specifications.
5. If more than 12 months have transpired since the market analysis was completed, the State Director may require that it be updated if he/she determines it necessary. (Revised 05-07-97, SPECIAL PN.)
6. The signatures and addresses of prospective members who have already affirmed their intention of moving into the project. The cooperative may also secure the membership fee, or a partial deposit of the fee, at this time.
7. For all rental projects containing over four units, the applicant must submit an Affirmative Fair Housing Marketing Plan for approval in accordance with §1901.203 of subpart E to part 1901 of this chapter. The plan must be prepared in a complete, meaningful, responsive and detailed manner.

8. If more than 90 days have transpired since the applicant submitted the signed and dated financial statement, the State Director may require a new one if he/she determines it necessary.

9. If there is any change in related assistance available to the applicant from other government agencies or in the interested parties as defined in §1944.205 of this subpart, it must be disclosed at this time.

10. Detailed operating budgets showing a schedule of proposed rental or occupancy rates for the first year's operation and a typical year's operation. The first year's budget should show that the applicant has sufficient operating capital on hand or sufficient planned income to pay all operating costs and meet scheduled payments on debts during the planning and construction period prior to occupancy. The typical year's budget should show there will be ample income to pay essential operating costs, meet required debt payments and permit accumulation of required reserves. Form RD 1930-7, "Multiple Family Housing Project Budget," and Exhibit A-6 of this subpart (or similar forms) may be used for this purpose. The operating budgets should be updated if necessary just prior to loan approval. (Revised 03-16-94, SPECIAL PN.)

a The initial budgets should include an allowance of 10 percent for vacancies, nonpayment of rent or occupancy charge and contingency expenses. The allowance in subsequent year budgets may be adjusted to be consistent with the actual past experience in vacancy, nonpayment of rent or occupancy charge and contingency needed for the project.

b The budgets should provide for accumulating a reserve at the rate of 1 percent per annum of the amount of the loan until a reserve equal to 10 percent of the loan is reached. Budgets should not include an additional item for depreciation since the reserve account is to provide funds for this purpose.

c Cooperative budgets should provide for accumulating a management reserve at a rate commensurate with normal management fees appropriate to the area. The reserve should be shown under the management column.

d All applicable taxes, including Federal and State income taxes, should be included in the budgets and separately identified. If the applicant considers itself tax-exempt, evidence of exemption must be included in the loan docket before the loan is closed. An eligible nonprofit organization should ordinarily be able to qualify for Federal income tax exemption under section 501 (c) (4) of the Internal Revenue Code.

11 The applicant will submit all proposed agreements for architectural, engineering, and legal services. (Revised 05-07-97, SPECIAL PN.)

12 For RRH housing, a statement outlining the proposed manner of management of the housing, such as whether by owner or by hired management firm or agent. Experience and other factors pertaining to the qualifications of the manager should be set forth and will be taken into consideration. If management will be performed by a hired management firm or agent, a copy of the proposed management agreement should be submitted. It must contain the clause stating that it is not in full force and effect until approved by RHS.

13 For RCH housing, a statement that should the cooperative be unable, after a 12-month period, to show some ability to manage itself without professional assistance, professional management will be obtained and the amount to be accumulated in the reserve account will be used to pay for this service.

14 A management plan which sets forth clear and concise statements of policy concerning management and operation of the project in accordance with the requirements of paragraph V of Exhibit B of subpart C of part 1930 of this chapter. A copy of the proposed application for occupancy, waiting lists, lease, rental or occupancy agreement, and rules and regulations governing administration and occupancy should be attached to the management plan. The management plan must be submitted in writing and the applicant must certify that it is in compliance with the requirements of subpart C of part 1930 of this chapter.

15 A schedule of any separate charges for the use of any related facilities and, in the case of congregate housing, a schedule of any separate charges for nonshelter services (such as meals, personal care and housekeeping). These

schedules should be supported by appropriate operating budgets for services to be provided.

16 A satisfactory survey of the land to be given as security prepared by a licensed surveyor will be included in loan docket. If necessary, a new survey will be obtained.

17 Form RD 1910-11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts." (Renumbered 05-07-97, SPECIAL PN.)

18 For RCH housing, an executed copy of a limited equity agreement which substantially conforms to Exhibit H to this subpart. (Renumbered 05-07-97, SPECIAL PN.)

19 For RCH housing, a completed subscription agreement which substantially conforms to Exhibit I to this subpart. (Renumbered 05-07-97, SPECIAL PN.)

20 Comments must be submitted in accordance with 7 CFR part 3015, subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities." See RD Instruction 1940-J (available in any Rural Development office.) (Added 01-22-98, SPECIAL PN.)

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PROCESSING
MEMORANDUM OF UNDERSTANDING
Between the
Rural Housing Service (State)
and
State Housing Credit Agency

INTRODUCTION

The Rural Housing Service of the Rural Development mission area in (name of applicable State), an Agency of the U.S. Department of Agriculture and hereinafter referred to as "RHS," and (Name of applicable State Agency), hereinafter referred to as "State Agency," wish to enter into the following Memorandum of Understanding (MOU) regarding the sources and uses of funds in projects receiving low-income housing tax credits.

RHS administers a loan program authorized by section 515 of the Housing Act of 1949, which provides financing for housing for very low- and low-income tenants in rural areas. The Section 515 program, and all programs administered by RHS, complies with all applicable Civil Rights laws. The Internal Revenue Service (IRS), through Section 42 of the Internal Revenue Code, provides tax credits to encourage the development of housing for very low- and low-income tenants which are administered through State or local housing credit agencies.

SCOPE OF THE AGREEMENT

Under this agreement, RHS, through its State Director for Rural Development (herein referred to as "State Director"), and the State Agency agree to engage in cooperative efforts to enable RHS to assure that only the necessary assistance is provided through the section 515 program and to enable the State Agency to effectively evaluate tax credit requests of RHS applicants, as provided in Section 42 of the IRS Code.

PURPOSE

The purpose of this document is to establish the general conditions under which the State Director and State Agency agree to cooperate.

BOTH PARTIES AGREE:

- (a) To share information on project costs.
- (b) To use the following fee norms:
 - (1) Builder's profit: up to (10%) of the construction contract.
 - (2) General overhead: up to (4%) of the construction contract.
 - (3) General requirements: up to (7%) of the construction contract.
 - (4) Developer's fee up to (15%) of the total development costs for tax credit purposes for new construction and rehabilitation costs; up to (8%) of the acquisition costs only for the acquisition rehabilitation costs.
- (c) As appropriate, both parties agree on the following process for deviation for a fee over the fee norm for an individual state. Alternative fee norms may be included in the MOU with approval of the National Office.
- (d) As appropriate, both parties agree to the definitions and formulas for the determination of costs and amounts of assistance, which will be attached to this MOU as Exhibit A.
- (e) The above fee norms will be used in the Agency's analysis of the amount of assistance that is necessary for a proposal. RHS will prepare an analysis spreadsheet on all loan requests:
 - (1) When accepted as a loan request,
 - (2) Just prior to approval, and
 - (3) When the cost certification is completed and prior to issuance of an IRS 8609, indicating the amount of tax credits.
- (f) In all cases where the results of an analysis indicate that there will be excess assistance (defined as more than the lesser of \$25,000 or 1 percent of the total development cost as authorized by the State Agency), RHS will consult with the applicant as well as the State

Agency, to strive to reach an agreement for reducing the excess assistance. The following alternatives are examples of actions that can be taken:

- (1) Reducing the amount of tax credit units requested, or
- (2) Reducing the level of assistance provided by one or more of the sources of funds, or
- (3) Revising the uses to include eligible costs for any funding participants, provided the project enhancement is consistent with the intent of the RRH program and will assist the resident population being served by the housing.

(g) Parties to this agreement understand that, in the event that excess assistance is not reduced through other means, RHS will adjust the amount of equity contribution (through the reduction of the loan) to ensure that RHS assistance provided is not more than is necessary to provide affordable housing after taking account of assistance from all Federal, State and local sources. Approval of any reduction will require formal notification to the applicant and the State Agency and the RHS National Office.

(h) Parties to this agreement understand that RHS does not certify accuracy of the tax credit applicant's eligibility, nor does it certify to the applicant's compliance with requirements of Section 42 of the Internal Revenue Code. The State Agency understands that the owner certifies the information to RHS as being true and correct representations, and that RHS carries out periodic reviews and analysis of the data to verify compliance with its requirements.

(i) It is further understood that the general information shared under this MOU is for internal analysis and will not be disclosed to other than the appropriate RHS and State Agency employees, and that specific information on a proposal may be shared with the applicant and other providers of funds on the respective proposals as appropriate.

(j) The State Director and the State Agency will review, at least annually, the fee norms on builder or general contractor charges (builder's profit, builder's overhead and general requirements) established by this MOU relative to the State Agency's allocation plan or other regulations. The developer's fee or any other fees allowed will also be reviewed. Any revised fee norms will be added as an amendment to this agreement and be used in subsequent analyses of loan requests.

RHS IN (STATE) AGREES:

(a) To provide to the State Agency information on section 515 projects being considered and receiving section 515 funding decisions as follows:

- (1) A list of 515 loan requests and their status.
- (2) For each loan request on the list, the most recent Form RD 1924-13, "Estimate and Certificate of Actual Cost," or other cost estimation documents.
- (3) A copy of Form HUD 2530/RD 1944-37, Previous Participation Certification, and any Identity of Interest disclosure information that has been provided to RHS.
- (4) A copy of any notification of selection for further processing issued to applicants.
- (5) When the construction is completed, the ACTUAL Form RD 1924-13 including any cost analysis prepared by RHS.
- (6) On an annual basis, a copy of the AMAS generated report on the Rural Rental Housing Section 515 Program, called "Construction Cost Analysis" for the prior year.
- (7) RHS will provide the results of any analysis on necessary assistance to the applicant and the State Agency.

THE STATE AGENCY AGREES:

(a) The State Agency agrees to inform any applicants seeking both Tax Credit and RHS loan assistance that the MOU will be applied to the processing of their request for Tax Credits. A copy of the MOU will be provided to applicants for their guidance when combining the assistance provided by both agencies.

(b) To provide to RHS in (State) the following data:

- (1) The list of tax credit loan requests received from applicants that indicate they are seeking financing from RHS.
- (2) For each loan request a copy of the Tax Credit Application with the detail cost breakdown used to estimate the amount of tax credits for which the developer would be eligible.

(3) When the development is complete and the final sources and uses of funds in projects receiving both RHS funds and tax credits is made, the IRS Form 8609 will be provided with a copy of the cost data used to determine the development cost of the project.

(4) The State Agency, in an effort to coordinate the use of limited resources and to ensure that no existing projects are adversely impacted, agrees to provide a list of all allocation requests to RHS for comment.

(c) The State Agency will provide the above information (quarterly), (at the end of its funding cycle on (date)) or (by (date)).

PERIOD OF AGREEMENT

This agreement will remain in effect until terminated by written notification of either party.

MODIFICATION OR AMENDMENT PROVISION

This agreement will be modified or amended by written agreement of RHS and the State Agency. Requests for amendments to the agreement will be initiated by either of the two parties through written notification.

ACCEPTANCE AND SIGNATURE OF EACH APPROVING PARTY

(State Director) (State)
Rural Development

(State Agency Head)
(State Housing Credit) Agency)

Date

Date

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PROCESSING GUIDELINES FOR LOANS FOR EQUITY TO AVERT PREPAYMENT

To apply for an equity loan to avert prepayment, the borrower should submit the following items in accordance with Exhibit A-7 of this subpart and this Exhibit:

1. SF 424.2 with a narrative discussion of the borrower's equity loan request,
2. Current Financial Statement,
3. Proposed budget showing anticipated rents to cover revised financing package, including updated figures on required reserve contributions and return on investment (if any),
4. Data on current tenants' income, rents and RA, and incomes of those on the waiting list to show that new rents will not displace or prevent occupancy by eligible tenants, unless sufficient RA is made available.

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County

Increase (decrease) in group quarters _____
 Increase (decrease) per household _____
 Increase (decrease) in # of households _____
 Projected Increase - 199____ _____

WHAT DATA SOURCES WERE USED IN POPULATION CALCULATIONS: _____

9. Households by size/type/age of members (elderly and congregate projects)

	<u>Town</u>	<u>Market Area</u>	<u>County</u>
1 or more age 60 years +			
1 person household	_____	_____	_____
2 or more persons (family)	_____	_____	_____
2 or more persons (nonfamily)	_____	_____	_____
1 or more age 65 and over			
1 person household	_____	_____	_____
2 or more persons (family)	_____	_____	_____
2 or more persons (nonfamily)	_____	_____	_____

10. Household type and relationship (elderly and congregate projects)

	<u>Town</u>	<u>Market Area</u>	<u>County</u>
Total in Households	_____	_____	_____
In Family Households	_____	_____	_____
In Nonfamily Households	_____	_____	_____
In Group Quarters	_____	_____	_____

11. Population by Tenure

Town

Increase (decrease) Owners 1980-1990	_____	_____%
Increase (decrease) in Renters 1980-1990	_____	_____%
Projected Increase in Renters - 199____	_____	_____%

13. Tenure by Age of Householders (elderly and congregate projects)

	<u>Renter</u>	<u>Owner</u>
55-64	_____	_____
65-74	_____	_____
75+		_____

14. Income

Town or Market Area

Incomes Needed to Support Proposed Rents + Utilities
 (without LIHTC):

1-Bedroom	2-Bedroom	3-Bedroom	4-Bedroom
\$ _____	\$ _____	\$ _____	\$ _____

Number of Tax Credit Units Requested for Project: _____

Percentage of Units to be Designated for Tax Credit Eligible Persons:

Tax Credit Eligible Incomes: (based on 50% [] or 60% [] of income)

\$ _____	\$ _____	\$ _____	\$ _____
----------	----------	----------	----------

Tax Credit Eligible Rents:

\$ _____	\$ _____	\$ _____	\$ _____
----------	----------	----------	----------

Proposed project rents:

\$ _____	\$ _____	\$ _____	\$ _____
----------	----------	----------	----------

Are vacancies in existing units explained? yes [] no []

Vacancies more prevalent to 1 BR _____ 2 BR _____ 3 BR _____

Overall vacancy condition in community _____

Are there photographs of the existing stock? _____

Your opinion of the quality of management of existing
 apartments _____

18. <u>Sources of Demand</u>	<u>Town Renter</u>	<u>Market Area Renter</u>
New Households (from the most recent census year plus 2-yr. projection)	_____	_____
.20 of Persons Living in Substandard Rental Units	+ _____	+ _____
Plus Demolitions	+ _____	+ _____
.20 of Persons Experiencing Rent Overburden	+ _____	+ _____
Plus Vacancy Allowance of 5% (of New Households)	+ _____	+ _____
Total Demand	<u> </u>	<u> </u>
Number of Total Demand Determined Income Eligible	_____	_____
Less Number of Units in Planning Stage (Rural Development/HUD) and Comparable Rental Units	- _____	- _____
Net Demand	<u> </u>	<u> </u>
Penetration Rate (with explanation)	x _____%	x _____%
Need and Demand	<u> </u>	<u> </u>

LOAN CALCULATION WORKSHEETS

Attachments 1 through 6 of this exhibit, with several examples of each type of loan, provide guidance in the determination of loan amounts.

- Attachment 1 - Not for proposals with donated land, applicant owned sites, or 102 percent loans. Examples A through C.
- Attachment 2 - Donated land only. Examples A through D.
- Attachment 3 - Applicant owned sites. (When value of site is equal to or greater than required applicant contribution) Examples A through C.
- Attachment 4 - Applicant owned sites. (When value of site is less than the required applicant contribution) Examples A through B.
- Attachment 5 - 102 percent loans with donated land. Examples A through C.
- Attachment 6 - 102 percent loans with applicant owned sites. Examples A through C.
- Attachment 7 - 102 percent loans with site purchase. Examples A through C.

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WORK SHEET FOR LOAN CALCULATION
 (Not for proposals with donated land, applicant
 owned sites, or 102 percent loans)

 (Applicant Name)

\$ _____ Total Development Cost (TDC) (Line 58 of Form RD 1924-13, "Estimate and Certificate of Actual Cost," including site cost on Line 50, and Line 35 of Form RD 1944-51, "Multiple Family Housing Obligation - Fund Analysis.")

\$ _____ Security Value (SV) (Recent Rural Development or Rural Development-contracted appraisal, including the appraised value of the site.)

\$ _____ Adjusted Total Development Cost (ATDC):
 \$ _____ TDC
 - _____ Minus site cost, line 50 of Form RD 1924-13
 + _____ Plus appraised value of site "as is"
 \$ _____ ATDC

\$ _____ Loan Basis Value (LBV) (Lower of SV or ATDC or TDC.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

\$ _____ x .95 = \$ _____ LIHTC proposals
 \$ _____ x .97 = \$ _____ Non-LIHTC proposals

Determining Applicant Contribution: (TDC minus ML)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
 \$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

Determining Return on Investment: (LBV minus ML)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
 \$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
 (Rural Development employee)

EXAMPLE A

WORK SHEET FOR LOAN CALCULATION

Security value is greater than total development
cost and value of site is greater than cost of site

(Applicant Name)

\$ 980,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13,
including site cost on Line 50, and Line 35 of Form
RD 1944-51.)

\$1,000,000 Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal, including the appraised
value of the site.)

\$ 990,000 Adjusted Total Development Cost (ATDC):
\$ 980,000 TDC
- 40,000 Minus site cost, line 50 of Form
RD 1924-13.
+ 50,000 Plus appraised value of site "as is"
\$ 990,000 ATDC

\$ 980,000 Loan Basis Value (LBV) (Lower of SV or ATDC or TDC.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive
pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

\$980,000 x .95 = \$931,000 LIHTC proposals
\$980,000 x .97 = \$950,600 Non-LIHTC proposals

Determining Applicant Contribution: (TDC minus ML)

\$980,000 - \$931,000 = \$49,000 LIHTC proposals
\$980,000 - \$950,600 = \$29,400 Non-LIHTC proposals

Determining Return on Investment: (LBV minus ML)

\$980,000 - \$931,000 = \$49,000 LIHTC proposals
\$980,000 - \$950,600 = \$29,400 Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE B

WORK SHEET FOR LOAN CALCULATION

Total development cost is greater than security value and value of site is greater than cost of site

(Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13, including site cost on Line 50, and Line 35 of Form RD 1944-51.)

\$ 980,000 Security Value (SV) (Recent Rural Development or Rural Development-contracted appraisal including the appraised value of the site.)

\$1,010,000 Adjusted Total Development Cost (ATDC):
\$1,000,000 TDC
- 40,000 Minus site cost, line 50 of Form RD 1924-13
+ 50,000 Plus appraised value of site "as is"
\$1,010,000 ATDC

\$ 980,000 Loan Basis Value (LBV) (Lower of SV or ATDC or TDC.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

\$980,000 x .95 = \$931,000 LIHTC proposals
\$980,000 x .97 = \$950,600 Non-LIHTC proposals

Determining Applicant Contribution: (TDC minus ML)

\$1,000,000 - \$931,000 = \$69,000 LIHTC proposals
\$1,000,000 - \$950,600 = \$49,400 Non-LIHTC proposals

Determining Return on Investment: (LBV minus ML)

\$980,000 - \$931,000 = \$49,000 LIHTC proposals
\$980,000 - \$950,600 = \$29,400 Non-LIHTC proposals

CALCULATIONS BY _____

(Rural Development employee)

(Date)

EXAMPLE C

WORK SHEET FOR LOAN CALCULATION

Total development cost is greater than security value and value of site is less than cost of site

(Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13, including site cost on Line 50, and Line 35 of Form RD 1944-51.)

\$ 950,000 Security Value (SV) (Recent Rural Development or Rural Development-contracted appraisal including the appraised value of the site.)

\$ 985,000 Adjusted Total Development Cost (ATDC):
\$1,000,000 TDC
- 60,000 Minus site cost, line 50 of Form RD 1924-13
+ 45,000 Plus appraised value of site "as is"
\$ 985,000 ATDC

\$ 950,000 Loan Basis Value (LBV) (Lower of SV or ATDC or TDC.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

\$950,000 x .95 = \$902,500 LIHTC proposals
\$950,000 x .97 = \$921,500 Non-LIHTC proposals

Determining Applicant Contribution: (TDC minus ML)

\$1,000,000 - \$902,500 = \$97,500 LIHTC proposals
\$1,000,000 - \$921,500 = \$78,500 Non-LIHTC proposals

Determining Return on Investment: (LBV minus ML)

\$950,000 - \$902,500 = \$47,500 LIHTC proposals
\$950,000 - \$921,500 = \$28,500 Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee)

WORK SHEET FOR LOAN CALCULATION
 (Donated land only)

(Applicant Name)

\$ _____ Total Development Cost (TDC) (Line 58 of Form RD 1924-13, "Estimate and Certificate of Actual Cost.") (Line 58 should include value of site.)

- _____ Appraised value of site

\$ _____ Adjusted TDC (ATDC)

\$ _____ Security value (Recent Rural Development or Rural Development-contracted appraisal)

- _____ Appraised value of site

\$ _____ Adjusted Security Value (ASV)

\$ _____ Loan Basis Value (LBV) (Lower of **ASV** or **ATDC**.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

\$ _____ x .95 = \$ _____ LIHTC proposals
 \$ _____ x .97 = \$ _____ Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML plus appraised value of site)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
 + \$ _____ Appraised value of site
 \$ _____ Total contribution

\$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals
 + \$ _____ Appraised value of site
 \$ _____ Total contribution

Determining Return on Investment: (LBV minus ML) (Not to exceed SV)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
 \$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
 (Rural Development employee)

EXAMPLE B
WORK SHEET FOR LOAN CALCULATION
(Donated land only)

(Applicant Name)

\$ 900,000	<u>Total Development Cost (TDC)</u> (Line 58 of Form RD 1924-13.) (Line 58 should include <u>value</u> of site.)
- 100,000	Appraised value of site
\$ 800,000	<u>Adjusted TDC (ATDC)</u>
\$1,000,000	<u>Security value</u> (Recent Rural Development or Rural Development-contracted appraisal)
- 100,000	Appraised value of site
\$ 900,000	<u>Adjusted Security Value (ASV)</u>
\$ 800,000	<u>Loan Basis Value (LBV)</u> (Lower of ASV or ATDC.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

<u>\$800,000 x .95 = \$760,000</u>	LIHTC proposals
<u>\$800,000 x .97 = \$776,000</u>	Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML plus appraised value of site)

<u>\$800,000 - \$760,000 = \$ 40,000</u>	LIHTC proposals	
+ <u>\$100,000</u>	Appraised value of site	
		\$140,000 Total

contribution

<u>\$800,000 - \$776,000 = \$ 24,000</u>	Non-LIHTC proposals
+ <u>\$100,000</u>	Appraised value of site
	\$124,000 Total contribution

Determining Return on Investment: (LBV minus ML) (Not to exceed SV)

<u>\$800,000 - \$760,000 = \$40,000</u>	LIHTC proposals
<u>\$800,000 - \$776,000 = \$24,000</u>	Non-LIHTC proposals

CALCULATIONS BY _____ (Date)

(Rural Development employee)

(03-16-94) SPECIAL PN

EXAMPLE C

WORK SHEET FOR LOAN CALCULATION
(Donated land only)

(Applicant Name)

\$ 900,000 Total Development Cost (TDC) (Line 58 of
Form RD 1924-13.) (Line 58 should include
value of site.)
- 50,000 Appraised value of site
\$ 850,000 Adjusted TDC (ATDC)

\$1,000,000 Security value (Recent Rural Development or Rural
Development-contracted appraisal)
- 50,000 Appraised value of site
\$ 950,000 Adjusted Security Value (ASV)

\$ 850,000 Loan Basis Value (LBV) (Lower of ASV or ATDC.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive
pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

\$850,000 x .95 = \$807,500 LIHTC proposals
\$850,000 x .97 = \$824,500 Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML plus
appraised value of site)

\$850,000 - \$807,500 = \$42,500 LIHTC proposals
+ \$50,000 Appraised value of site
\$92,500 Total contribution

\$850,000 - \$824,500 = \$25,500 Non-LIHTC proposals
+ \$50,000 Appraised value of site
\$75,500 Total contribution

Determining Return on Investment: (LBV minus ML) (Not to exceed SV)

\$850,000 - \$807,500 = \$42,500 LIHTC proposals
\$850,000 - \$824,500 = \$25,500 Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE D

WORK SHEET FOR LOAN CALCULATION
(Donated land only)

(Applicant Name)

\$ 900,000	<u>Total Development Cost (TDC)</u> (Line 58 of Form RD 1924-13.) (Line 58 should include <u>value</u> of site.)
- 200,000	Appraised value of site
\$ 700,000	<u>Adjusted TDC (ATDC)</u>
\$1,000,000	<u>Security value</u> (Recent Rural Development or Rural Development-contracted appraisal)
- 200,000	Appraised value of site
\$ 800,000	<u>Adjusted Security Value (ASV)</u>
\$ 700,000	<u>Loan Basis Value (LBV)</u> (Lower of ASV or ATDC.)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV x .95 or .97)

<u>\$700,000 x .95 = \$665,000</u>	LIHTC proposals
<u>\$700,000 x .97 = \$679,000</u>	Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML plus appraised value of site)

<u>\$700,000 - \$665,000 = \$ 35,000</u>	LIHTC proposals
+ <u>\$200,000</u>	Appraised value of site
<u>\$235,000</u>	Total contribution

<u>\$700,000 - \$679,000 = \$ 21,000</u>	Non-LIHTC proposals
+ <u>\$200,000</u>	Appraised value of site
<u>\$221,000</u>	Total contribution

Determining Return on Investment: (LBV minus ML) (Not to exceed SV)

<u>\$700,000 - \$665,000 = \$35,000</u>	LIHTC proposals
<u>\$700,000 - \$679,000 = \$21,000</u>	Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee) _____
oOo

Determining Return on Investment: (LBV minus ML)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
\$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE A

WORK SHEET FOR LOAN CALCULATION
 (Applicant Owned Sites)

 (Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13)
 (Line 58 should include cost of site.)

\$ 900,000 Security Value (SV) (Recent Rural Development or Rural
 Development-contracted appraisal.)
\$ 10,000 appraised value of site

\$ 910,000 Adjusted Total Development Cost (ATDC):
 \$1,000,000 TDC
 - 100,000 Minus site cost
 + 10,000 Plus appraised value of site "as is"
 \$ 910,000 ATDC

\$ 910,000 Loan Basis Value (LBV) (Lower of ATDC or SV)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive
 pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV minus site value) _____

\$910,000 - \$10,000 = \$900,000 LIHTC proposals
 \$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML minus
 site value) _____

\$910,000 - \$900,000 = \$10,000 LIHTC proposals
 site value - \$10,000
 cash \$ -0-
 \$ _____ - \$ _____ - \$ _____ Non-LIHTC proposals
 site value - \$ _____
 cash \$ _____

EXAMPLE A (Cont.)

Determining Return on Investment: (LBV minus ML)

<u>\$910,000</u>	-	<u>\$900,000</u>	=	<u>\$10,000</u>	LIHTC proposals
\$_____	-	\$_____	=	\$_____	Non-LIHTC proposals

CALCULATED BY _____
(Rural Development employee)

(Date)

EXAMPLE B (Cont.)

Determining Return on Investment: (LBV minus ML)

$$\begin{array}{rcll} \underline{\$1,400,000} & - & \underline{\$900,000} & = \underline{\$500,000} \quad \text{LIHTC proposals} \\ \$\underline{\hspace{1cm}} & - & \$\underline{\hspace{1cm}} & = \$\underline{\hspace{1cm}} \quad \text{Non-LIHTC proposals} \end{array}$$

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE C

WORK SHEET FOR LOAN CALCULATION
 (Applicant Owned Sites)

 (Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13)
 (Line 58 should include cost of site.)

\$ 750,000 Security Value (SV) (Recent Rural Development or Rural
 Development-contracted appraisal.)
\$100,000 appraised value of site

\$ 600,000 Adjusted Total Development Cost (ATDC):
 \$1,000,000 TDC
 - 500,000 Minus site cost
 + 100,000 Plus appraised value of site "as is"
 \$ 600,000 ATDC

\$ 600,000 Loan Basis Value (LBV) (Lower of ATDC or SV)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive
 pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV minus site value) _____

\$600,000 - \$100,000 = \$500,000 LIHTC proposals
 \$_____ - \$_____ = \$_____ Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML minus site value) _____

\$600,000 - \$500,000 = \$100,000 LIHTC proposals
 site value - \$100,000
 cash \$ -0-
 \$_____ - \$_____ = \$_____ Non-LIHTC proposals
 site value - \$_____
 cash \$_____

WORK SHEET FOR LOAN CALCULATION
 (Applicant Owned Sites)

 (Applicant Name)

(When value of site is less than the
required applicant contribution)

\$ _____ Total Development Cost (TDC) (Line 58 of Form RD 1924-13,
 "Estimate and Certificate of Actual Cost.") (Line 58 should
 include cost of site.)

\$ _____ Security Value (SV) (Recent Rural Development or Rural
 Development-contracted appraisal.)
 \$ _____ appraised value of site

\$ _____ Adjusted Total Development Cost (ATDC):
 \$ _____ **TDC**
 _____ Minus site cost
 + _____ Plus appraised value of site "as is"
 \$ _____ **ATDC**

\$ _____ Loan Basis Value (LBV) (Lower of **ATDC** or **SV**)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive
 pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (**LBV** minus site value)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
 \$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

Determining Applicant Contribution: (**ATDC** minus **ML** minus site value)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
 site value - \$ _____ - **THIS IS LESS THAN REQUIRED**
 cash \$ _____ **CONTRIBUTION**

Reduce loan amount by \$ _____ ; new loan amount \$ _____

\$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals
 site value - \$ _____
 cash \$ _____

Determining Return on Investment: (LBV minus ML)

\$ _____ - \$ _____ = \$ _____ LIHTC proposals
\$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE A

WORK SHEET FOR LOAN CALCULATION
(Applicant Owned Sites)

(Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13)
(Line 58 should include cost of site.)

\$ 800,000 Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal.)
\$10,000 appraised value of site

\$1,000,000 Adjusted Total Development Cost (ATDC):
\$1,000,000 **TDC**
- 100,000 Minus site cost
+ 10,000 Plus appraised value of site "as is"
\$ 910,000 **ATDC**

\$ 800,000 Loan Basis Value (LBV) (Lower of **ATDC** or **SV**)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive
pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV minus site value) *

\$800,000 - \$10,000 = \$790,000 LIHTC proposals
\$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML minus site value)

\$910,000 - \$790,000 = \$120,000 LIHTC proposals
site value - \$ 10,000 - **THIS IS LESS THAN REQUIRED**
cash \$110,000 **CONTRIBUTION**

Reduce loan amount by \$110,000; new loan amount \$680,000 *

EXAMPLE A (Cont.)

Determining Return on Investment: (LBV minus ML)

<u>\$800,000</u>	-	<u>\$790,000</u>	=	<u>\$10,000</u>	LIHTC proposals
\$_____	-	\$_____	=	\$_____	Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE B

WORK SHEET FOR LOAN CALCULATION
 (Applicant Owned Sites)

 (Applicant Name)

(When value of site is less than the
required applicant contribution)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13,
 "Estimate and Certificate of Actual Cost.") (Line 58 should
 include cost of site.)

\$ 500,000 Security Value (SV) (Recent Rural Development or Rural
 Development-contracted appraisal.)
\$100,000 appraised value of site

\$ 850,000 Adjusted Total Development Cost (ATDC):
\$1,000,000 TDC
 - 250,000 Minus site cost
 + 100,000 Plus appraised value of site "as is"
\$ 850,000 ATDC

\$ 500,000 Loan Basis Value (LBV) (Lower of ATDC or SV)

=====

CALCULATIONS

Low Income Housing Tax Credit (LIHTC): LIHTC or similar tax incentive
 pursuant to Section 42 of the Internal Revenue Code.

Determining Maximum Loan (ML): (LBV minus site value) *

\$500,000 - \$100,000 = \$400,000 LIHTC proposals
 \$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals

Determining Applicant Contribution: (ATDC minus ML minus site value) _____

\$850,000 - \$400,000 = \$450,000 LIHTC proposals
 site value - \$100,000 - THIS IS LESS THAN REQUIRED
 cash \$350,000 CONTRIBUTION

Reduce loan amount by \$350,000; new loan amount \$50,000 *

\$ _____ - \$ _____ = \$ _____ Non-LIHTC proposals
 site value - \$ _____
 cash \$ _____

EXAMPLE B (Cont.)

Determining Return on Investment: (LBV minus ML)

<u>\$500,000</u>	-	<u>\$400,000</u>	=	<u>\$100,000</u>	LIHTC proposals
\$_____	-	\$_____	=	\$_____	Non-LIHTC proposals

CALCULATIONS BY _____ (Date)
(Rural Development employee)

WORK SHEET FOR LOAN CALCULATION
(102 percent loans with donated land)

(Applicant Name)

\$ _____ Total Development Cost (TDC) (Line 58 of Form
RD 1924-13, "Estimate and Certificate of Actual Cost.")
(Line 58 should include value of site.)

\$ _____ Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal.)

\$ _____ Loan Basis Value (LBV) (Lower of **SV** or **TDC**.)

=====

CALCULATIONS

Maximum Loan (ML): \$ _____ (LBV)

Determining Applicant Contribution: The amount of funds that applicant must
contribute beyond the value of the site. (**TDC** minus **ML**)

\$ _____ - \$ _____ = \$ _____

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE A

WORK SHEET FOR LOAN CALCULATION
(102 percent loans with donated land)

(Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form
RD 1924-13.) (Line 58 should include value of site.)

\$1,200,000 Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal.)

\$1,000,000 Loan Basis Value (LBV) (Lower of SV or TDC.)

=====

CALCULATIONS

Maximum Loan (ML): \$1,000,000 (LBV)

Determining Applicant Contribution: The amount of funds the applicant must
contribute beyond the value of the site. (TDC minus ML)

\$1,000,000 - \$1,000,000 = \$ 0

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE B

WORK SHEET FOR LOAN CALCULATION
(102 percent loans with donated land)

(Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13.)
(Line 58 should include value of site.)

\$ 900,000 Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal.)

\$ 900,000 Loan Basis Value (LBV) (Lower of SV or TDC.)

=====
CALCULATIONS

Maximum Loan (ML): \$900,000 (LBV)

Determining Applicant Contribution: The amount of funds the applicant must
contribute beyond the value of the site. (TDC minus ML)

\$1,000,000 - \$900,000 = \$ 100,000

CALCULATIONS BY _____ (Date)
(Rural Development employee)

WORK SHEET FOR LOAN CALCULATION
(102 percent loans with applicant owned site)

(Applicant Name)

\$ _____ Total Development Cost (TDC) (Line 58 of Form RD 1924-13,
"Estimate and Certificate of Actual Cost.") (Line 58 should
include cost of site.)

\$ _____ Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal.)

\$ _____ Loan Basis Value (LBV) (Lower of SV or TDC.)

=====
CALCULATIONS

Maximum Loan (ML): \$ _____ (LBV)

Determining Applicant Contribution: (TDC minus ML)

\$ _____ - \$ _____ = \$ _____

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE A

WORK SHEET FOR LOAN CALCULATION
(102 percent loans with applicant owned site)

(Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form
RD 1924-13.) (Line 58 should include cost of site.)

\$1,000,000 Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal.)

\$1,000,000 Loan Basis Value (LBV) (Lower of SV or TDC.)

=====

CALCULATIONS

Maximum Loan (ML): \$1,000,000 (LBV)

Determining Applicant Contribution: (TDC minus ML)

\$1,000,000 - \$1,000,000 = \$ 0

CALCULATIONS BY _____ (Date)
(Rural Development employee)

EXAMPLE C

WORK SHEET FOR LOAN CALCULATION
(102 percent loans with applicant owned site)

(Applicant Name)

\$1,080,000 Total Development Cost (TDC) (Line 58 of Form
RD 1924-13.) (Line 58 should include cost of site.)

\$1,030,000 Security Value (SV) (Recent Rural Development or Rural
Development contracted appraisal.)

\$1,030,000 Loan Basis Value (LBV) (Lower of SV or TDC.)

=====

CALCULATIONS

Maximum Loan (ML): \$1,030,000 (LBV)

Determining Applicant Contribution: (TDC minus ML)

\$1,080,000 - \$1,030,000 = \$ 50,000

CALCULATIONS BY _____ (Date)
(Rural Development employee)

WORK SHEET FOR LOAN CALCULATION
(102 percent loans with site purchase)

(Applicant Name)

\$ _____ Total Development Cost (TDC) (Line 58 of Form RD 1924-13,
"Estimate and Certificate of Actual Cost," including site
cost on Line 50.)

\$ _____ Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal, including site value.)

\$ _____ Adjusted Total Development Cost (ATDC):
\$ _____ **TDC**
- _____ Minus site cost
+ _____ Plus appraised value of site "as is"
\$ _____ **ATDC**

\$ _____ Loan Basis Value (LBV) (Lower of **SV** or **ATDC**.)

=====
CALCULATIONS

Maximum Loan (ML): \$ _____ (**LBV**)

Determining Applicant Contribution: The amount of funds the applicant must
contribute. (**TDC** minus **ML**)

\$ _____ - \$ _____ = \$ _____

CALCULATIONS BY _____ (Rural Development employee) _____ (Date)

EXAMPLE A

**WORK SHEET FOR LOAN CALCULATION
(102 percent loans with site purchase)**

(Applicant Name)

\$1,000,000 Total Development Cost (TDC) (Line 58 of Form RD 1924-13,
including site cost on Line 50.)

\$1,200,000 Security Value (SV) (Recent Rural Development or Rural
Development-contracted appraisal, including site value.)

\$ 975,000 Adjusted Total Development Cost (ATDC):
\$1,000,000 TDC
- 150,000 Minus site cost
+ 125,000 Plus appraised value of site "as is"
\$ 975,000 ATDC

\$ 975,000 Loan Basis Value (LBV) (Lower of SV or ATDC.)

=====
CALCULATIONS

Maximum Loan (ML): \$975,000 (LBV)

Determining Applicant Contribution: The amount of funds the applicant must
contribute. (TDC minus ML)

\$1,000,000 - \$975,000 = \$25,000

CALCULATIONS BY _____ (Date)
(Rural Development employee)

INFORMATION TO BE SUBMITTED FOR SUBSEQUENT LOANS

The following information is to be submitted with Standard Form (SF) 424.2, "Application for Federal Assistance (For Construction.)" The types of information needed will depend on whether the subsequent loan is to be used to complete (C), improve (I), repair (R), make modifications (M), and/or expand (E) the project. (See further explanation of these requirements in Exhibits A-7 and A-9 of this subpart.) Each element is coded as to applicability. (Revised 05-07-97, SPECIAL PN.)

	C	I	R	M	E
I. <u>Eligibility.</u>					
A. Financial Statements for Rental Projects	x	x	x	x	x
B. Financial Statements for Cooperative Members					x
C. Names and addresses of potential cooperative members.					x
D. Affirmative Fair Housing Marketing Plan for cooperative projects of over four units.					x
E. Evidence Concerning the Test for Other Credit.	x	x	x	x	x
H. Forms RD 1944-30, "Identity of Interest (IOI) Disclosure Certificate" and RD 1944-31, "Identity of Interest (IOI) Qualification Form."	x	x	x	x	x
J. Form HUD 2530/RD 1944-37, "Previous Participation Certification."	x	x	x	x	x

C I R M E

II. Need and demand.

- A. Economic justification and analysis of need. x
- G. Names and addresses of prospective cooperative members. x
- H. Statement from Government agencies - congregate housing x
- I. A schedule of proposed rental/occupancy rates and cost of any nonshelter service. x

III. Site.

- A. Size of tract and a plot map identifying its boundaries. x
- B. A map showing the location/other supporting information on the neighborhood. x
- C. Evidence of having control of the proposed site. x

IV. General description of the housing planned.

- A. The type of project and structures proposed. x
- B. The size of each type of rental unit. x
- C. The size and type of other facilities. x
- D. The total number of units and the number of each type of unit proposed. x
- E. The method of construction. x x x x x

	C	I	R	M	E
F. The estimated total development cost, the cost per unit and the estimated loan amount.	x	x	x	x	x
G. Type of utilities.					x
H. Comments and recommendations regarding on- or off-site conditions.					x
I. Schematic design drawings.	x		x	x	x
J. A plot plan.					x
V. <u>Signed statement regarding cost overruns.</u>	x	x	x	x	x
VI. <u>Form RD 1940-20, "Request for Environmental Information," will be submitted to the National Office.</u>					x
VII. <u>Intergovernmental consultation.</u>					x
VIII. <u>Disclosures by applicants concerning other assistance.</u>					x
IX. <u>Information on the services to be provided in congregate housing proposals.</u>					x
X. Drawings and specifications.	x		x	x	x
XI. Detailed cost breakdown and associated costs.	x	x	x	x	x
XII. Information on architectural, engineering, legal services, and proposed contractor.	x	x	x	x	x
XIII. Approval by local officials.					x

	C	I	R	M	E
XIV. Updated market analysis.					x
XV. Signatures and addresses of prospective cooperative members.					x
XVI. Affirmative Fair Housing Marketing Plan.					x
XVII. Updated financial statements.	x	x	x	x	x
XVIII. Change in related assistance.	x	x	x	x	x
XIX. Detailed operating budgets.	x	x	x	x	x
XX. Justification for related facilities.					x
XXI. Demonstrated ability of cooperative to self-manage.	x	x	x	x	x
XXII. Charges for related facilities or nonshelter services.					x
XXIII. Survey of land.					x
XXIV. Form RD 1940-20.					x
XXV. Form RD 1910-11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts."	x	x	x	x	x
XXVI. Limited equity agreement.					x
XXVII. Subscription agreement.					x

GUIDE LETTER FOR USE IN INFORMING INTERIM LENDER
OF RURAL DEVELOPMENT'S COMMITMENT

(Name and Address of Private Lender)

Dear Mr./Ms. _____:

(For Organizations)

Reference is made to a request from the (Smith Housing Assoc.) through John Smith, its President, for interim financing from your firm to construct a housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

(For Individuals)

Reference is made to a request for (John Jones) for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

This letter is to confirm certain understandings on behalf of Rural Development.

Final drawings, specifications and all other contract documents have been prepared and approved, and the applicant is prepared to start construction. The applicant and Rural Development have determined that the conditions of loan closing can be met. Funds have been obligated for the project.

Rural Development has required the applicant to deposit \$_____ with your firm to be used before any interim loan funds. The applicant has proposed and Rural Development has agreed that you may first advance any applicant funds on deposit, and then advance the proceeds of the interim loan in accordance with the terms and conditions stated in your attached letter to pay for construction and other authorized and legally eligible expenses incurred by the applicant. It is understood, however, that advances of both the applicants's funds and the interim loan funds will be made only upon presentation of proper statements and partial payment estimates proposed by the builder and approved for payment by the consulting architect, applicant and Rural Development servicing official.

We have scheduled the Rural Development loan to be closed when construction to be financed with loan funds is substantially complete in accordance with the Rural Development approved (contract documents,) drawings and specifications, (except for minor punch list items), and the applicant provides evidence and a signed certification indicating that there are no unpaid obligations outstanding in connection with the project. At that time, funds not exceeding the Rural Development loan amount will be available to pay off the amount of loan advances your lending institution has made for authorized approved purposes, including accrued interest to the date of closing.

Rural Development cannot provide you with an unconditional letter of commitment guaranteeing Rural Development loan closing. Factors such as noncompletion, default, unacceptable workmanship and marked deviation from approved drawings and specifications could prevent the Rural Development loan from being closed.

These problems can be minimized by making a thorough review of the [contract documents]* and drawings and specifications, evaluating the qualifications and past performance of the builder, and obtaining an adequate corporate surety bond guaranteeing both payment and performance. If the builder is unable to provide a surety bond, we suggest that your lending institution consider making advances for partial payments to the builder [in accordance with the provisions of the construction contract]* based upon no less than 60 percent and no more than 90 percent of the value of acceptable work in place, less the aggregate of previous payments.

The following are additional safeguards to help assure Rural Development loan closing:

1. We invite you or your representatives to accompany Rural Development personnel during construction inspections so that at least three or four joint inspections at critical points during construction, including the final inspection, can be made to help assure that construction is proceeding in accordance with the Rural Development approved drawings and specifications.

2. Rural Development will maintain its commitment in the amount of the obligated loan funds for a reasonable period of time after the expiration of any specified completion dates provided work on the project is progressing satisfactorily and any identified problems have been resolved.

3. Rural Development will not arbitrarily abandon your lending institution in the event of default. If the contractor defaults, Rural Development will attempt to provide financial assistance to the applicant in accordance with our administrative procedures and lending requirements if a new contractor can complete the project for a total cost within the security value of the project. If this is not possible or if the Rural Development loan applicant becomes unable or unwilling to continue with the project, Rural Development will attempt to provide financial assistance to any eligible applicant (subject to the availability of funds, our administrative procedures, and our lending requirements) to purchase the completed project from your lending institution.

4. Rural Development is aware that circumstances such as subsurface ground conditions and change orders necessitated by required changes in the work to be performed may cause cost increases after Rural Development loan approval and the obligation of Rural Development loan funds. When justified, Rural Development may make subsequent loans when necessary to help cover the eligible costs, provided additional loan funds are available, the change orders were approved by Rural Development, the increased costs are legitimate and are for authorized loan purposes, and the total cost of the project is within its security value.

Your assistance to the applicant is appreciated.

Sincerely,

State Director

*These words may be omitted for projects constructed by the owner-builder method of construction without a construction contract.

oOo

(SAMPLE)

ARTICLES OF INCORPORATION
FOR RENTAL OR COOPERATIVE ORGANIZATIONS
(Not for Profit)

We, the undersigned, incorporators, hereby associate ourselves together to form and establish a (corporation) (cooperative) not for profit under the laws of the State of _____.

FIRST: The name of the (corporation) (cooperative) is _____.

SECOND: The location of its principal place of business in this State is _____, _____ County.

THIRD: The location of its registered office in this State is _____, _____ County.

FOURTH: The name and address of its resident agent in this State is _____, _____ County.

FIFTH: This (corporation) (cooperative) is organized not for profit under _____, and the objects and purposes to be transacted and carried on are to promote the general social welfare of the community and for that purpose:

to acquire, construct, provide, and operate (rental) (cooperative) housing and related facilities suited to the special needs and living requirements of eligible occupants as determined by Rural Development regulations, without regard to race, color, religion, sex, age, handicap, marital or familial status, or national origin;

to acquire, improve, and operate any real or personal property or interest or right herein or appurtenant thereto;

to sell, convey, assign, mortgage, lease any real and personal property; to borrow money and to execute such evidence of indebtedness and such contracts, agreements, and instruments as may be necessary, and to execute and deliver any mortgage, deed of trust, assignment of income, or other security instrument in connection therewith; and to do all things necessary and appropriate for carrying out and exercising the foregoing purposes and powers.

SIXTH: The number of directors shall be prescribed in the bylaws, but shall not be less than five nor more than nine. 1/

SEVENTH: The (corporation) (cooperative) formed hereby shall have no capital stock. It shall be composed of members rather than shareholders. The conditions and regulations of membership and the rights or other privileges of the classes of members shall be determined and fixed by the bylaws.

EIGHTH: (RENTAL ONLY) The corporation is not organized for pecuniary profit and shall have no power to declare dividends. No part of its net earnings shall inure to the benefit of any member, director, or individual. The balance, if any, of all money received by the corporation from its operations, after payment in full of all operating expenses, debts, and obligations of the corporation of whatsoever kind and nature as they become due shall be used to make advance payments on a _____ owed by the corporation, to lower the lease-rental charge to occupants of the housing, to provide additional housing and related facilities, or for some related purpose.

EIGHTH: (COOPERATIVE ONLY) The cooperative is not organized for pecuniary profit and shall have no power to declare dividends. The balance, if any, of all money received by the cooperative from its operations, after payment in full of all operating expenses, debts, and obligations of the cooperative of

1/ If the statute under which the cooperative housing project is to be incorporated will permit, it is preferable to state here the minimum number of directors. The actual number can then be stated in the bylaws which are more easily amended if it becomes necessary to change the number.

whatsoever kind and nature as they become due, shall accumulate in an interest-bearing account but be equally assigned to each member as patronage capital.

NINTH: The name and place of residence (post office address) of each of the incorporators and initial directors until the first annual meeting:

Incorporators	Directors
_____	_____
_____	_____

TENTH: (RENTAL ONLY) In the event of dissolution of this corporation, or in the event it shall cease to carry out the objectives and purposes herein set forth, all business, property, and assets of the corporation shall go and be distributed to one or more such nonprofit corporations or municipal corporations as may be selected by the board of directors of this corporation, to be used for and devoted to the purpose of carrying on a nonprofit housing project for such rural residents or other purposes to promote the general social welfare of the community. In no event shall any of the assets or property, in the event of dissolution thereof, go or be distributed to members, either for the reimbursement of any sum subscribed, donated, or contributed by such members or for any other purposes, provided that nothing herein shall prohibit the corporation from paying its just debts.

TENTH: (COOPERATIVE ONLY) In the event of dissolution of this cooperative, or in the event it shall cease to carry out the objectives and purposes herein set forth, all business, property, and assets of the cooperative, except members' patronage capital and membership fees, shall be used for providing low income rental housing or other purposes to promote the general welfare of the community. In no event shall any of the assets or property, in the event of dissolution thereof, go or be distributed to members, except that the membership fee and money accrued to members in their patronage capital accounts shall be paid to members prior to conversion or satisfaction of the Government's debt.

ELEVENTH: (COOPERATIVE ONLY) At any time prior to dissolution the member wishes to terminate membership in the cooperative, money which has accrued in the member's patronage capital account and the member's membership fee shall be paid to

the member provided the member's occupancy account is not delinquent and that any other charges to which the member is liable are paid.

TWELFTH: The duration of the existence of this corporation shall be perpetual. 1/

1/ Duration should be perpetual, or long enough to cover the period of the loan plus 5 years.

IN TESTIMONY WHEREOF, We have here unto subscribed our names
on _____ 19_____.

(Insert acknowledgement or other form if required by State law.)

(SAMPLE)

BYLAWS (Except Cooperative)

BYLAWS
OF

A NONPROFIT CORPORATION

ARTICLE I

Office.

Section 1.01. Principal Office.

The principal office of the corporation in the State of _____, shall be located at _____, County of _____

Section 1.02. Registers Office and Agent. The corporation shall have and continuously maintain in the State of _____ a registered office and a registered agent whose office is identical with such registered office.

ARTICLE II

Members.

Section 2.01. Eligibility for membership.

The corporation shall have one class of members. Members may be individual or organizations. Any legally competent person of good reputation who resides in the town of _____ or in the surrounding trade area, applies for membership, and pays the required membership fee shall be eligible.

Section 2.02. Approval of Applications.

All applications for membership shall be approved at (1) any special or regular meeting of the board of directors, when a quorum is present, by a majority vote of the board members or (2) by a majority vote of the existing membership present at any annual or special meeting in accordance with Article III herein.

Section 2.03. Voting Rights.

Each member shall be entitled to one vote on each matter submitted to a vote of the members.

Section 2.04. Termination of Membership.

A member may be suspended or expelled, for cause, by the vote of not less than three-fourths of the members present at a meeting of the members provided notice of such proposed action shall have been duly given in the notice of meeting and provided the member has been informed in writing of the charges preferred against the member at least ten days before such meeting. The members shall be given an opportunity to be heard at such meeting. The members of the board, by a majority vote of those present at any regularly constituted meeting, may terminate the membership of any member who becomes ineligible for membership and may suspend or expel any member who shall be in default with respect to any financial obligation to the corporation.

Section 2.05. Resignation.

Any member may resign by filing a written resignation with the secretary.

Section 2.06. Reinstatement.

Upon written request signed by a former member and filed with the secretary, the board may reinstate such former member to membership upon such terms as the board may deem appropriate.

Section 2.07. Transfer of Membership.

Membership in this corporation is not transferable or assignable.

Section 2.08. Membership - Fees.

The membership fee shall be \$_____ or such other amount as may be fixed by the members at any annual meeting or at any special meeting called for the purpose. No person shall attain membership before paying the treasurer the membership fee.

Section 2.09. Membership - Liability for Corporation's
Obligations.

Fully paid members shall not be liable for any debts or obligations of the corporation and shall not be subject to any assessment; but the members at any annual meeting or at any special meeting called for the purpose, may fix reasonable annual dues to become effective after not less than 30 days' notice to all members of such action.

Section 2.10. Membership - Minimum Number.

The board will make all reasonable efforts to maintain a board community-wide membership of not less than 25 members at any time.

Section 2.11. Membership - Residence.

A majority of the members shall be residents of the community where the housing is or will be located.

ARTICLE III

Meetings of Members.

Section 3.01. Annual Meeting.

An annual meeting of the members shall be held at _____,
on the _____ of the month of _____ each year,
beginning with the year 19__ at the hour of _____ o'clock, for the purpose
of electing directors and for the transaction of such other business as may
come before the meeting. If the day fixed for the annual meeting shall be a
legal holiday in said State, such meeting shall be held on the next succeeding
business day. If the election of directors shall not be held on the day
designated herein for any annual meeting, or at any adjournment thereof, the
board shall cause the election to be held at a special meeting of the members
as soon thereafter as convenient.

Section 3.02. Special Meetings.

Special meetings of the members may be called by the president, the
board or not less than one-tenth of the members.

Section 3.03. Place of Meeting.

The board of directors may designate any place within or not more than _____ miles from _____ as the place for an annual meeting or for any special meeting called by the board. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the registered office of the corporation in said State.

Section 3.04. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of members shall be delivered either personally or by mail, to each member entitled to vote at such meeting, not less than seven or more than thirty days before the date of such meeting, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting. In case of a special meeting or when required by statute of these bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at the address as it appears on the records of the corporation, with postage thereon prepaid.

Section 3.05. Informal Action by Members.

Any action required by law to be taken at a meeting of the members, or any action which may be taken at a meeting of the members, may be taken without a meeting upon written consent or approval of all the members, setting forth the action so taken.

Section 3.06. Quorum.

At such meeting, a quorum shall consist of 30 percent of the members, or twice the number of directors, whichever is greater. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

Section 3.07. Proxies.

(a) At any meeting of the members, a member entitled to vote may vote by proxy-executed in writing by the member. No proxy shall be valid after eleven months from the date of its execution. A proxy may be canceled by notice executed by the member with like formality and delivered to the secretary.

(b) At each meeting of the members, every member shall be entitled to vote in person or by proxy and shall be entitled to cast one vote. The votes for directors shall be by ballot. Only the person in whose name membership is standing in the books of the corporation on the day of such meeting shall be entitled to vote in person or by proxy.

(c) For any person to represent a member by proxy, such person must submit a power of attorney to the secretary of the board for examination at least one hour before the time of meeting. When the secretary has certified the power of attorney is in good order, the proxy holder shall have the right to do any and all things which might be done by the member were the member present in person, which right shall include the establishment of a quorum and the organizing of any meeting.

ARTICLE IV

Board of Directors.

Section 4.01. General Powers.

The affairs of the corporation shall be managed by its board of directors.

Section 4.02. Number, Tenure, and Qualifications.

The number of directors shall be _____. The directors elected at the annual meeting to succeed the directors named in the Articles of Incorporation shall be elected for staggered terms of three, two, and one year. As the terms of such directors expire, their successors shall be elected for terms of three years and until their successors are elected and have qualified. Directors shall be members of the corporation and residents of the community where the housing is or will be located. Of the total number of directors, at least five must be among the leaders in such community.

Section 4.03. Regular Meetings.

A regular annual meeting of the board shall be held, without other notice than these bylaws, immediately after and at the same place as the annual meeting of the members. The board may provide by resolution the time and place, within or not more than _____ miles from _____ for holding of additional regular meetings of the board without other notice than such resolution.

Section 4.04. Special Meetings.

Special meetings of the board may be called by or at the request of the president and shall be called by the secretary at the request of any two directors. The authorized person or persons calling a special meeting of the board may fix any place within or not more than _____ miles from _____ as the place for holding such meeting.

Section 4.05. Notice.

Notice of any special meeting of the board shall be given at least two days previously thereto by written notice delivered personally, or four days notice sent by mail or telegram, to each director at the director's address as shown by the records of the corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The business to be transacted at the meeting need not be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these bylaws.

Section 4.06. Quorum.

A majority of the board shall constitute a quorum for the transaction of business at any meeting of the board; but if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 4.07. Manner of Acting.

The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board, unless the act of a greater number is required by law or by these bylaws. The board may also act by written consent of all the directors of the corporation setting forth the action taken.

Section 4.08. Vacancies.

Any vacancy occurring in the board shall be filled by the board until the next meeting of the members and until a successor has been elected by the members to fill a vacancy. Such person shall be elected for the unexpired term of office of the predecessor in office.

Section 4.09. Compensation.

Directors shall not receive any compensation for their services as directors.

Section 4.10. Director - Absence from Meetings.

Any director who is absent from _____ consecutive meetings without excuse satisfactory to the board shall be deemed to have surrendered the office as director.

Section 4.11. Directors - Residuary Powers.

The board shall have the powers and duties necessary or appropriate for the administration of the affairs of the corporation. All powers of the corporation except those specifically granted or reserved to the members by law, the articles of incorporation, or these bylaws shall be vested to the board.

Section 4.12. Directors - Removal from Office.

A director may be removed from office, for cause, by the vote of not less than three-fourths of the members present at a meeting of the members, provided notice of such proposed action shall have been duly given in the notice of the meeting and provided the director has been informed in writing of the charges preferred against the director at least 10 days before such meeting. The director involved shall be given an opportunity to be heard at such meeting. Any vacancy created by the removal of a director shall be filled by a majority vote, which may be taken at the same meeting at which such removal takes place.

ARTICLE V

Officers.

Section 5.01. Officers.

The officers of the corporation shall be a president, a vice president, a secretary, and a treasurer. The board may elect or appoint such other officers as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the board. The offices of secretary and treasurer may be combined and held by one person.

Section 5.02. Election and Term of Office.

(a) The officers of the corporation specified in Section 5.01 shall be elected from the membership of the board by the board at its annual meeting or as soon thereafter as feasible. New offices may be created and filled at any meeting of the board. Each officer shall hold office until the next annual election of directors and until a successor shall have been duly elected and shall have qualified.

(b) The term of office shall be one year. Election of officers shall take place at the annual board meeting and shall be by ballot cast by qualified directors. A plurality of votes cast shall elect.

Section 5.03. Removal.

Any officer elected or appointed by the board may be removed by the board by two-thirds vote of the remaining directors whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section 5.04. Vacancies.

A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board by majority vote for the unexpired portion of the term.

Section 5.05. President.

The president shall be the principal executive officer of the corporation and shall in general supervise and control all the business and affairs of the corporation. The president shall preside at all meetings of the members and of the board. The president may sign, with attestation of the secretary or any other proper officer of the corporation authorized by the board, any deeds, mortgages, bonds, contracts, or other instruments which the board authorizes to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the board of these bylaws or statute to some other officer or agent of the corporation and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the board from time to time.

Section 5.06. Vice President.

In the absence of the president or in the event of an inability or refusal to act, the vice president shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all restrictions upon the president. Any vice president shall perform such other duties as from time to time may be assigned by the president of the board.

Section 5.07. Treasurer.

The treasurer shall give a bond for the faithful discharge of duties in such sum and with such surety or sureties as the board shall determine. The treasurer shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporation from any source whatsoever, deposit all such moneys in the name of the corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VIII of these bylaws; and in general perform all duties incident to the office of treasurer and such other duties as from time to time be assigned by the president or the board.

Section 5.08. Secretary.

The secretary shall keep the minutes of the meeting of the members and the board in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the

provisions of these bylaws; keep a register of the post office address of each member, which shall be furnished to the secretary by such member; and in general Perform all duties incident to the office of secretary and such other duties as from time to time may be assigned by the president or the board.

ARTICLE VI

Order of Business.

Section 6.01. Order of Business.

The order of business at any regular or special meeting of the members or the board shall be:

- (a) Reading and approval of any unapproved minutes.
- (b) Reports of officer and committees.
- (c) Unfinished business.
- (d) New business.
- (e) Adjournment.

Section 6.02. Parliamentary Procedure.

On questions of parliamentary procedure not covered in these bylaws, a ruling by the president shall prevail.

ARTICLE VII

Committee.

Section 7.01. Committees of Directors.

The board of directors, by resolution adopted by majority of the directors in office, may designate one or more committees, each of which shall consist of one or more directors, which committees, to the extent provided in said resolution shall have and exercise the authority of the board in the management of the corporation; but the designation of such committees and the delegation thereto of authority shall not operate to relieve the board, or any individual director, of any responsibility imposed upon the board, or any individual director, by law.

Section 7.02. Other committees.

Other committees not having and exercising the authority of the board in the management of the corporation may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the corporation, and the president of the corporation shall appoint the members thereof. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interest of the corporation shall be served by such removal.

Section 7.03. Term of Office.

Each member of a committee shall continue as such until the next annual meeting of the members of the corporation and until a successor is appointed, unless the committee shall be sooner terminated, or unless such member to be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Section 7.04. Chairman.

One member of each committee shall be appointed chairman by the persons authorized to appoint the members thereof.

Section 7.05. Vacancies.

Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 7.06. Quorum.

Unless otherwise provided in the resolution of the board of directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7.07. Rules.

Each committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the board of directors.

ARTICLE VIII

Contracts, Checks, Deposits, and Funds.

Section 8.01. Contracts.

The board may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation; and such authority may be general or confined to specific instance.

Section 8.02. Checks, Drafts, etc.

All checks, drafts, or orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the corporation shall be signed by the officer or officers, agent or agents of the corporation, and in a manner as shall from time to time be determined by resolution of the board. In the absence of determination by the board, these instruments shall be signed by the treasurer and countersigned by the president of the corporation.

Section 8.03. Deposits.

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the board may select.

Section 8.04. Gifts.

The board may accept on behalf of the corporation any contribution, gift, bequest, or devise for the general purposes or for any special purposes of the corporation.

ARTICLE IX

Certificates of Membership.

Section 9.01. Certificates of Membership.

The board may provide for the issuance, and determine the form of certificates evidencing membership in the corporation. Such certificates shall be signed by the president and the secretary, sealed with the seal of

the corporation, and consecutively numbered. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the corporation. If any certificate becomes lost, mutilated or destroyed, a new certificate may be issued upon such terms and conditions as the board may determine.

Section 9.02. Issuance of Certificates.

When a member has been elected to membership and has paid any dues that may then be required, a certificate of membership shall be issued in his or her name and delivered to the member by the secretary.

ARTICLE X

Books and Records.

The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, the board, and committees having any of the authority of the board of directors, and shall keep at the registered or principal office a record giving the names and addresses of the members. All books and records of the corporation may be inspected by any member, or member's agent or attorney, for any proper purposes at any reasonable time. The board shall cause an audit of the records of the corporation to be made each year by a competent auditor.

ARTICLE XI

Fiscal Year.

The fiscal year of the corporation shall begin on the first day of January and end on the last day of December in each year.

ARTICLE XII

Seal.

The board shall provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the corporation and the words, "corporate seal."

ARTICLE XIII

Waiver of Notice.

Whenever any notice is required to be given under the provisions of the statutes of said State or the articles of incorporation or the bylaws of the corporation, a waiver thereof in writing signed by the person or persons-entitled thereto, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIV

Repeal or Amendment of Bylaws.

Section 14.01. These bylaws may be repealed or amended by a majority vote of the members present at any annual meeting of the members, or at any special meeting of the members called for such purpose, at which a quorum is present: provided, however, no such action shall change the purposes of the corporation so as to impair its rights and powers under the laws of said State, or to waive any requirements of bond or any provision for the safety and security of the property and funds of the corporation or its members or to deprive any member without an express assent of rights, privileges, or immunities then existing. Notice of any amendment to be offered at any meeting shall be given not less than 7 nor more than 30 days before such meeting and shall set forth such amendment.

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned secretary of the corporation identified in the foregoing bylaws does hereby certify that the foregoing bylaws were duly adopted by the members of said corporation, as bylaws of said corporation, on the _____ day of _____, 19 ___ at a duly called and constituted meeting of the members, and that they do now constitute the bylaws of said corporation.

Secretary

(Corporate Seal)

oOo

(SAMPLE)

BYLAWS OF

(A NONPROFIT COOPERATIVE CORPORATION)

ARTICLE I

Office.

Section 1.01. Principal Office.

The principal place of business of the cooperative in the State of _____ shall be located at _____, County of _____.

Section 1.02. Registered Office and Agent.

ARTICLE II

Members.

Section 2.01. Eligibility for membership.

Any natural person who is approved by the cooperative under its rules and regulations by the board of directors shall be eligible for membership, provided that he/she executes a Subscription Agreement and Occupancy Agreement in the usual form employed by the cooperative covering a specific unit in the housing project.

Section 2.02. Approval of Applications for Membership after the Cooperative's Formation.

All applications for membership received after the cooperative has been established and in operation shall be approved at any special or regular meeting of the board of directors, when a quorum is present, by a majority vote of the board members.

Section 2.03 Membership Certificates.

The board may provide for the issuance, and determine the form of, certificates evidencing membership in the cooperative. Such certificates shall state that the cooperative is organized under the laws of the State of _____, the cooperative's lien rights against such membership as set forth in

these Bylaws, shall be signed by the president and the secretary, sealed with the seal of the cooperative, and consecutively numbered. The name and address of each member and the date of issuance of the certificate will be maintained by the cooperative. If a certificate becomes lost, mutilated, or destroyed, a new certificate may be issued upon such terms and conditions as the board may determine.

Section 2.04. Lien.

The cooperative shall have a lien on the outstanding memberships in order to secure payment of any sums which shall be due or become due from the holders for any reason whatsoever, including any sums due under any occupancy agreements.

Section 2.05. Voting Rights.

Each member shall be entitled to one vote on each matter submitted to a vote of the members. 1/

Section 2.06. Patronage Capital.

All funds accruing to the cooperative during the year, above and beyond the costs and expenses of operating the cooperative, shall be assigned to each member on the books of the cooperative as patronage capital at the end of each fiscal year. These patronage capital funds may not be removed from the patronage capital account except in payment to members upon termination of membership. Any member not wishing to renew the Occupancy Agreement will be entitled to receive the patronage capital assigned to the member on the books of the cooperative. Likewise, members terminated because of violation of these bylaws may receive his/her patronage capital pursuant to provisions of Section 2.07.

Section 2.07. Termination of Membership.

A member may be suspended or expelled, for violation of rules set forth in the Occupancy Agreement or these bylaws, by the vote of not less than a majority of the board of directors, provided the member has been informed in writing of the charges

1/ In the case of joint membership, each member shall be entitled to cast a one-half vote.

preferred against the member at least ten days before a meetings of the board. However, the cooperative shall not evict any member except by judicial action pursuant to State or local law and in accordance with the requirements of the Rural Development Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients. The member shall be given an opportunity to be heard at such meeting of the board. Upon termination of membership rights under the Occupancy Agreement, the member shall be required to deliver promptly to the cooperative his/her membership certificate and Occupancy Agreement endorsed as required by the cooperative. The retiring member then shall be entitled to receive the amount determined in accordance with the provisions of Section 2.10 less the following amounts (the determination of such amounts by the cooperative to be conclusive):

a. Any amounts due to the cooperative from the member under the Occupancy Agreement;

b. The cost or estimated cost of all deferred maintenance, including painting, redecorating, floor finishing, and such repairs and replacements as are deemed necessary by the cooperative to place the dwelling unit in suitable condition for another occupancy; and

c. Legal and other expenses incurred by the cooperative in connection with the default of such member. In the event the retiring member fails, within a 10-day period after demand, to deliver to the cooperative his endorsed membership certificate, the membership certificate shall be deemed to be canceled and may be reissued by the cooperative to a new member.

Section 2.08. Resignation.

Any member may choose not to renew the Occupancy Agreement by notifying the cooperative 4 months in advance of the renewal date.

Section 2.09. Transfer of Membership.

Membership in this cooperative is not transferable or assignable except to the cooperative unless, upon death of a member, his/her membership in the cooperative passes by will or intestate distribution to a member of the immediate family. This is conditioned upon the person's eligibility and approval for membership according to Rural Development regulations and by his/her

assuming in writing the terms of the Subscription Agreement and Occupancy Agreement within 60 days after member's death and payment of such debts.

Section 2.10. Transfer Value. Whenever a membership is transferred to the cooperative, the term "transfer value" shall mean the sum of:

- a. The membership fee paid by the member on the books of the cooperative, and
- b. The amount of the patronage capital which has accrued to the member during his/her period of membership as shown on the books of the cooperative.

Section 2.11. Subscription Fees.

All subscription funds shall be deposited promptly without deduction in a special account or accounts of the cooperative as escrow or trustee for the subscribers membership. These funds shall not be corporate funds, but shall be held solely for the benefit of the subscribers until transferred to the account of the cooperative as hereinafter provided. Such special account or accounts shall be established with a banking institution where deposits are insured by an agency of the Federal Government. Such funds shall be subject to withdrawal, or transfer to the account of the cooperative, or disbursed in a manner directed by the cooperative only upon certification by the president and secretary of the cooperative that:

- a. The subscription agreement of a named applicant has been terminated pursuant to its terms and such withdrawal is required to repay the amount paid by him under such agreement; or
- b. A sufficient number of applicants for _____ dwelling units has not been established and such withdrawal is required to repay established applicants the amounts paid by them; or
- c. Applicants for _____ dwelling units have signed subscription agreements, have been approved as to their eligibility by the board of directors, and have made at least a downpayment on their subscription (membership) fee. If these requirements have been met and the mortgage loan has been scheduled for closing, the entire amount of the funds in the subscription escrow account may be transferred to the cooperative which shall at that time deliver membership certificates to all members.

ARTICLE III

Meetings of Members.

Section 3.01. Annual Meeting.

An annual meeting of the members shall be held at _____
_____ on the _____ of the month of _____ each year,
beginning with the year 19____ at the hour of _____ o'clock, .m., for the
purpose of electing directors and for the transaction of such other business
as may come before the meeting. If the day fixed for the annual meeting shall
be a legal holiday in said State, such meeting shall be held on the next
succeeding business day. If the election of directors shall not be held on
the day designated herein for any annual meeting, or at any adjournment
thereof, the board shall cause the election to be held at a special meeting of
the members as soon thereafter as convenient.

Section 3.02. Special Meetings.

Special meetings of the members may be called by the president, the board
or not less than one-fourth of the members.

Section 3.03. Place of Meeting.

The board of directors may designate any place within or not more than
_____ miles from _____ as the place for an annual meeting
or for any special meeting called by the board.

Section 3.04. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting
of members shall be delivered either personally or by mail, to each member
entitled to vote at such meeting, not less than ten or more than twenty days
before the date of such meeting, by or at the direction of the president, or
the secretary, or the officers or persons calling the meeting. In case of a
special meeting or when required by statute of these bylaws, the purpose or
purposes for which the meeting is called shall be stated in the notice. If
mailed, the notice of a meeting shall be deemed to be delivered when deposited
in the United States mail addressed to the member at the address as it appears
on the records of the cooperative, with postage thereon

prepaid.

Section 3.05. Informal Action by Members.

Any action required by law to be taken at a meeting of the members, or any action which may be taken at a meeting of the members, may be taken without a meeting upon written consent or approval of all the members, setting forth the action so taken.

Section 3.06. Quorum.

At such a meeting a quorum shall consist of 40 percent ^{2/} of the members, or twice the number of directors, whichever is greater. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

Section 3.07. Proxies.

a. At any meeting of the members, a member entitled to vote may vote by proxy executed in writing by the member. No proxy shall be valid after eleven months from the date of its execution. A proxy may be cancelled by notice executed by the member with like formality and delivered to the secretary.

b. At each meeting of the members, every member shall be entitled to vote in person or by proxy and shall be entitled to cast one vote. The votes for Directors shall be by ballot. Only the person in whose name membership is standing in the books of the cooperative on the day of such meeting shall be entitled to vote in person or by proxy. If the membership is jointly owned, co-members are limited to one-half vote each.

c. For any person to represent a member by proxy, such person must submit a power of attorney to the secretary of the board for examination at least one hour before the time of meeting. When the secretary has certified the power of attorney is in good order, the proxy holder shall have the right to do any and all things which might be done by the member were the member present in person, which right shall include the establishment of a quorum and the organizing of any meeting.

2/ For large organizations, a smaller figure may be used if it will not result in a quorum of less than 20 members.

ARTICLE IV

Board of Directors.

Section 4.01. Powers and Duties. The board of directors shall have all the powers and duties necessary for the administration of the affairs of the cooperative and may do all such acts and things as are not by law or by these bylaws directed to be exercised and done by the members. The powers of the board of directors shall include but not be limited:

a. To accept or reject all applications for membership and admission to occupancy of a dwelling unit in the cooperative housing project, either directly or through an authorized representative;

b. To establish monthly occupancy charges, subject to approval of Rural Development, as provided for in the Occupancy Agreement and based on an operating budget formally adopted by the board;

c. To engage an agent or employees, subject to the approval of Rural Development, for the management of the project under such terms as the board may determine;

d. To authorize the recording of patronage capital assignments on the cooperative's books to members;

e. To terminate membership and occupancy rights for cause; and

f. To promulgate such rules and regulations pertaining to use and occupancy of the premises as may be deemed proper and are consistent with these bylaws and the Certificate of Incorporation and with any requirements of Rural Development while mortgagee.

The affairs of the cooperative shall be managed by its board of directors.

Section 4.02. Number and Qualifications.

The board of directors shall be composed of _____ persons, all of whom shall be members of the cooperative. 3/

3/ Number of directors must be not less than 5 and must be selected by a procedure that insures that the interest of minorities and women are adequately represented.

Section 4.03. Election and Term of Office. The term of the directors named in the Certificate of Incorporation shall expire when their successors have been elected at the first annual meeting or any special meeting called for that purpose. For a board of five (5) directors, the first annual meeting of the members the term of office of two (2) directors shall be fixed for two (2) years, and the term of office of one (1) director shall be fixed at (1) year. At the expiration of the initial term of office of each respective director, his/her successor shall be elected to serve a term of office for three (3) years.

The directors shall hold office until their successors have been elected and hold their first meeting. (If a larger board of directors is contemplated, the terms of office should be established in a similar manner so that they will expire in different years.) The term of any director who becomes more than 30 days delinquent in payment of his occupancy charges shall be automatically terminated and the remaining directors shall appoint his successor as provided in Section 4.11.

Section 4.04. Organization Meeting. The first meeting of a newly elected board of directors shall be held within ten (10) days of election at such place as shall be fixed by the directors at the meeting at which such directors were elected. No notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing a majority of the whole board shall be present.

Section 4.05. Regular Meetings. Regular meetings of the board of directors shall be held each month at such time and place within _____ miles of _____. Notice of regular meetings of the board of directors shall be given to each director, personally or by mail, telephone or telegraph, at least 5 days prior to the day named for such meeting.

Section 4.06. Special Meetings.

Special meetings of the board may be called by or at the request of the president and shall be called by the secretary at the request of any two directors on three days notice. Such notice shall be by mail, telephone or telegraph and shall state the time, place (as provided below) and purpose of meeting. The authorized person or persons calling a special meeting of the board may fix any place within or not more than _____ miles from _____ as the place for holding such meeting.

Section 4.07. Waiver of Notice.

Before or at any meeting of the board of directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the given of such notice. Attendance by a director at any meeting of the board shall be a waiver of notice by him/her of the time and place thereto. If all directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting.

Section 4.08. Quorum.

A majority of the board shall constitute a quorum for the transaction of business at any meeting of the board; but if less than a majority of the directors is present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 4.09. Fidelity Bonds. The board of directors shall require that all officers and employees of the cooperative handling or responsible for cooperative or trust funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the cooperative.

Section 4.10. Manner of Acting.

The act of a majority of the directors at a meeting at which a quorum is present shall be the act of the board, unless the act of a greater number is required by law or by these bylaws. The board may also act by written consent of all the directors of the cooperative setting forth the action taken.

Section 4.11. Vacancies.

Any vacancy occurring on the board shall be filled by the board until the next meeting of the members and until a successor has been elected by the members to fill a vacancy. Such person shall be elected for the unexpired term of office of the predecessor in office.

Section 4.12. Directors - Removal from Office.

A director may be removed from office for violation of these bylaws or rules set forth in the Occupancy Agreement, by the vote of not less than three-fourths of the members present at a

meeting of the members, provided notice of such proposed action shall have been duly given in the notice of the meeting and provided the director has been informed in writing of the charges preferred against the director at least 10 days before such meeting. The director involved shall be given an opportunity to be heard at such meeting. Any vacancy created by the removal of a director shall be filled by a majority vote, which may be taken at the same meeting at which such removal takes place.

Section 4.13. Compensation.

Directors shall not receive any compensation for their services as directors.

Section 4.14. Directors - Absence from Meetings.

Any director who is absent from _____ consecutive meetings without excuse satisfactory to the board shall be deemed to have surrendered the office of director.

Section 4.15. Directors - Residuary Powers.

The board shall have the powers and duties necessary or appropriate for the administration of the affairs of the cooperative. All powers of the cooperative except those specifically granted or reserved to the members by law, the Articles of Incorporation, or these bylaws shall be vested in the board.

Section 4.16 Adviser to the Board.

The adviser to the board will be a member (or members) of the community who is not a member of the cooperative. In that capacity, the individual will be responsible for maintaining regular contacts with the board as well as being available to respond to special needs of the board at mutually agreeable times. The adviser will guide the board in its role of self-manager until such time as the adviser and Rural Development determine that such close guidance is no longer necessary, usually not to exceed 2 years. At that time, the adviser will continue to counsel the board as appropriate. If it is apparent to the adviser, during this second phase of converting to self-management, that the cooperative is unable to assume such a responsibility, the adviser will again establish the close supervision required in the first phase of operation. The ultimate goal of the adviser and the board is to achieve self-management for the cooperative.

If this goal cannot be realized within a timeframe determined during the first, or subsequent, year of operation, then the management reserve funds will be used to hire professional management, thus relieving the adviser of his/her responsibilities.

ARTICLE V

Officers.

Section 5.01. Officers.

The officers of the cooperative shall be a president, a vice president, a secretary, and a treasurer. The board may elect or appoint such other officers as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the board. The offices of secretary and treasurer may be combined and held by one person.

Section 5.02. Election and Term of Office.

a. The officers of the cooperative specified in Section 5.01 shall be elected from the membership of the board by the board at its annual meeting or as soon thereafter as feasible. New officers may be created and filled at any meeting of the board. Each officer shall hold office until the next annual election of directors and until a successor shall have been duly elected and shall have qualified.

b. The term of office shall be one year. Election of officers shall take place at the annual board meeting and shall be by ballot cast by qualified directors. A plurality of votes cast shall elect.

Section 5.03. Removal.

Any officer elected or appointed by the board may be removed by the board by two-thirds vote of the remaining directors whenever, in its judgment, the best interests of the cooperative would be thereby served. Such removal shall be without prejudice to the membership rights, if any, of the officer so removed.

Section 5.04. Vacancies.

A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board by majority vote for the unexpired portion of the term.

Section 5.05. President.

The president shall be the principal executive officer of the cooperative and shall in general supervise and control all the business and affairs of the cooperative. The president shall preside at all meetings of the members and of the board. The president may sign, with attestation of the secretary or any other proper officer of the cooperative authorized by the board, any deeds, mortgages, bonds, contracts, or other instruments which the board authorizes to be executed. In some cases the signing and execution thereof shall be expressly delegated by the board or these bylaws or statute to some other officers or agent of the corporation and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the board from time to time.

Section 5.06. Vice President.

In the absence of the president or in the event of an inability or refusal to act, the vice president shall perform the duties of the president and, when so acting, shall have all the powers of and be subject to all the restrictions upon the president. Any vice president shall perform such other duties as from time to time may be assigned by the president of the board.

Section 5.07. Secretary.

The secretary shall keep the minutes of the meeting of the members and the board in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of and see that the seal of the cooperative is affixed to all documents, the execution of which is on behalf of the cooperative under its seal, is duly authorized in accordance with the provisions of these bylaws; keep a register of the post office address of each member, which shall be furnished to the secretary and such other duties as from time to time may be assigned by the president of the board.

Section 5.08. Treasurer.

The treasurer shall have charge and custody of and be responsible for all funds and securities of the cooperative; receive and give receipts for moneys due and payable to the cooperative, from any source whatsoever, deposit all such money in the name of the cooperative in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VIII of these bylaws; and in general perform all duties incident to the office of treasurer and such other duties as from time to time be assigned by the president of the board.

ARTICLE VI

Order of Business.

Section 6.01. Order of Business.

The order of business at any regular or special meeting of the members or the board shall be:

- a. Roll Call.
- b. Proof of notice of meeting or waiver of notice.
- c. Reading and approving of any unapproved minutes.
- d. Reports of officers and committees.
- e. Election of inspectors of election (when applicable)
- f. Election of directors (when applicable).
- g. Unfinished business.
- h. New business.
- i. Adjournment.

If present, a representative of Rural Development will be given an opportunity to address any regular or special meeting.

Section 6.02. Parliamentary Procedure.

On questions of parliamentary procedure not covered in these bylaws, a ruling by the president shall prevail.

ARTICLE VII

Committees.

Section 7.01. Committees of Directors.

The board of directors, by resolution adopted by majority of the directors in office, may designate one or more committees, each of which shall consist of one or more directors, which committees, to the extent provided in said resolution, shall have and exercise the authority of the board in the management of the cooperative; but the designation of such committees and the delegation thereto of authority shall not operate to relieve the board, or any individual director, of any responsibility imposed upon the board or any individual director by law.

Section 7.02. Membership Committees.

Other committees not having and exercising the authority of the board in the management of the cooperative will be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. At the first membership meeting the members will be solicited by the president to obtain voluntary commitments to serve on the various committees. As many members as possible should be encouraged to become involved in committee responsibilities. Any member may be removed from a committee by the president whenever in his/her judgment the best interest of the cooperative shall be served by such removal.

Section 7.03. Term of Office.

Each member of membership committees shall continue as such until the next annual meeting of the members of the cooperative when members may change from one committee to another. Additional members may join a committee at any time during the year.

Section 7.04. Chairperson.

One member of each membership committee shall serve as chairperson by decision of the members of the committee. The chairperson will report committee activities and receive direction from a designated member of the board.

Section 7.05. Vacancies.

Vacancies in the membership of any membership committee may be filled in the same manner as provided in the case of the original members.

Section 7.06. Quorum.

Unless otherwise provided in the resolution of the board of directors designating a committee, a majority of the whole

membership committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7.07. Rules.

Each membership committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the board of directors.

ARTICLE VIII

Contracts, Checks, Deposits, and Funds.

Section 8.01. Deposits.

All funds of the cooperative shall be deposited from time to time to the credit of the cooperative in such Federally insured banks, trust companies, or other Federally insured depositories as board may select.

Section 8.02. Gifts.

The board may accept on behalf of the cooperative any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the cooperative.

ARTICLE IX

Certificates of Membership.

Section 9.01. Issuance of Certificates.

When a person has been approved for membership and has paid any dues that may then be required, a certificate of membership shall be issued in his/her name and delivered to the member by the secretary.

ARTICLE X

Section 10.01. Books and Accounts.

The Treasurer of the cooperative shall keep correct and complete books and records of account and shall keep minutes of

the proceedings of its members, the board, and committees having any of the authority of the board of directors, and shall keep at the registered or principal office a record giving the names and addresses of the members. All books and records of the cooperative may be inspected by any member, or member's agent or attorney, or Rural Development for any proper purposes at any reasonable time.

Section 10.02. Auditing. At the close of each fiscal year, the books and records of the cooperative shall be audited by a Certified Public Accountant or other person acceptable to Rural Development whose report will be prepared and certified in accordance with the requirements of Rural Development. Based on such reports, the cooperative will furnish its members with an annual financial statement including the income and disbursements of the cooperative. The cooperative will also supply the members, as soon as practicable after the end of each calendar year, with a statement showing the amount assigned to each member's patronage capital account.

ARTICLE XI

Fiscal Year.

The fiscal year of the cooperative shall begin on the first day of January and end on the last day of December in each year, except that the first fiscal year of the cooperative shall begin at the date of incorporation.

ARTICLE XII

Seal.

The board shall provide a cooperative seal, which shall be in the form of a circle and shall have inscribed thereon the name of the cooperative and the words "Cooperative Seal." The seal will be kept by the secretary.

ARTICLE XIII

Waiver of Notice.

Whenever any notice is required to be given under the provisions of the statutes of said State or the Articles of Incorporation or the Bylaws of the cooperative, a waiver thereof in writing signed by the person or persons entitled thereto, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIV

Repeal of Amendment of Bylaws.

Section 14.01. Repeal of Amendment of Bylaws.

These bylaws may be repealed or amended by a majority vote of the members present at any annual meeting of the members, or at any special meeting of the members called for such purpose, at which a quorum is present provided that while Rural Development is mortgagee no amendment will become effective until it has received the written approval of Rural Development and provided no such action shall change the purposes of the cooperative so as to impair its rights and powers under the laws of said State, or to waive any requirements of bond or any provision for the safety and security of the property and funds of the cooperative or its members, or to deprive any member without an express assent of rights, privileges or immunities then existing. Notice of any amendment to be offered at any meeting shall accompany the notice of any regular or special meeting at which proposed amendment is to be voted upon.

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SUPPORT SERVICES FOR CONGREGATE HOUSING AND GROUP HOMES

I PURPOSE: This exhibit prescribes support services for congregate housing and group homes.

II GENERAL: The success of congregate housing and group homes will depend on the quality and affordability of the service component. Congregate housing applicants should explore the feasibility of providing services individually to ensure affordability by very low-income tenants. (Revised 08-30-93, SPECIAL PN.)

III EXISTING COMMUNITY SERVICES AND REQUIREMENTS: Applicants should check local service agencies to determine what services are already available in the community. Services can often be provided more inexpensively through local service agencies or other groups which assist in providing services. In many communities there are established volunteer groups that may be willing to provide volunteer assistance to congregate housing tenants. Volunteer groups with a history of assisting elderly people may be able to supplement the delivery of services and help keep the costs affordable. Applicants should explore the availability of volunteers from the Retired Senior Volunteer Program (RSVP), local church groups and other community organizations. If volunteer groups are used, an alternative method of service delivery must be addressed in case the availability of volunteers ceases in the future. Applicants must also verify State and local licensing and certification requirements and include relevant information in the loan request. (Revised 05-07-97, SPECIAL PN.)

IV SERVICE AGREEMENTS: Applicant must submit a service agreement(s) for services that will be provided by employees of the project. If services will be provided by employees of the project, the applicant must submit a separate budget for services and describe how tenants will be billed for services. Employees of congregate housing facilities who perform tasks for the management of the building and spend an appreciable amount of time in providing services to tenants should have their salaries prorated between the project's operation and maintenance budget and the services budget.

V SERVICES FOR CONGREGATE HOUSING: The following services must be made available to tenants of congregate housing projects:

A Meals. At least one nutritious meal a day 7 days a week, must be provided in accordance with §1944.224 (a)(5)(i) of this subpart. The following information concerning the meal service must be included with the loan request: (Revised 05-07-97, SPECIAL PN.)

1 Who will provide the meals (i.e., meals offered by a local agency with tenant contribution; supplied or conducted for by owner with charge to tenant)?

2 If the service will be provided by employees of the project, a proposed breakdown of costs for the meal service. The breakdown should include the cost of food, personnel and utilities needed to prepare and serve the meals. Information concerning the proposed staffing should be included.

3 The cost to the tenant. Will tenants pay by the meal or be charged a rate for a specified time?

4 A statement concerning the frequency of meals, including the number of meals to be served per week.

5 Information concerning how when and where the meals will be served (i.e., waiter style, buffet, tray service).

6 Any licensing requirement necessary for the service.

B Transportation. Adequate transportation must be provided to shopping, medical and other services to meet the needs of the tenants. Applicants are encouraged to locate congregate housing facilities so that tenants can use public services. In many cases, service is available and the applicant can arrange for the project to be included in the schedule established by the provider. The following information concerning the transportation service must be included with the loan request: (Revised 05-07-97, SPECIAL PN.)

1 Who will provide the service (i.e., transportation provided by a local agency with tenant contribution; vehicle leased or purchased by applicant with charge to tenant)?

2 If the service will be provided by employees of the project, a proposed breakdown of costs for the transportation service. The applicant should address the following costs: vehicle purchase or lease payment; personnel to operate the vehicle; fuel; maintenance; and insurance.

3 The cost to the tenant. Will tenants pay for each trip or will they be charged a monthly rate?

4 A typical proposed schedule.

C Housekeeping. Housekeeping services must be offered to assist congregate tenants with household tasks. The applicant must address the following concerning the housekeeping service:

1 Who will provide the service (i.e., housekeeping offered by a local agency with tenant contribution; supplied or contracted for by applicant with charge to tenant)?

2 If the service is provided by employees of the project, a proposed cost breakdown for the service which includes the cost of labor and supplies.

3 The type of tasks that will be offered (i.e., light housekeeping, laundry, shampooing carpeting). What is the planned frequency of the tasks?

4 The cost to the tenant.

D Personal services. Personal services include such items as assistance with personal hygiene, nutrition counseling and general health screening (blood pressure checks, etc.). The following information concerning the personal services must be submitted with the loan request: (Revised 05-07-97, SPECIAL PN.)

1 Who will provide the service (i.e., personal services offered by a local agency with tenant contribution; volunteer health services; contracted for by applicant with charge to tenant)?

2 If the service is provided by employees of the project, a proposed cost breakdown for the service which includes the cost of labor and supplies.

3 The type of tasks that will be provided.

4 The cost to the tenant.

5 Any licensing requirement necessary for the services.

E Recreational/social. Recreational and social activities must be offered to tenants to encourage interest in a variety of areas. The following areas could be considered: hobby and craft classes; dinners for holidays, birthdays, etc.; educational lectures; wellness and exercise programs; and a library. The applicant should encourage recreational/social activities which cause interaction between tenants, the project and the community. The following information concerning the recreational/social service must be included with the loan request:
(Revised 05-07-97, SPECIAL PN.)

1 Who will provide the service (i.e., recreational/social activities offered by a local agency with tenant contribution; supplied or contracted for by applicant with charge to the tenant)?

2 If the service is provided by employees of the project, a proposed cost breakdown which includes the cost of labor and supplies.

3 The types and frequency of recreational/social activities that will be offered.

4 The cost to the tenant.

VI SERVICES FOR GROUP HOMES: The following services must be made available to tenants of a group home:

A Meals. At least three nutritious meals a day, 7 days a week, must be provided if tenants are not capable of preparing their meals. If meals are provided, the budget may include only the cost of food if tenants assist a staff person in preparing meals. Tenants in some group homes may be able to prepare meals on their own with supervision from project personnel. In these cases, applicants must ensure that the tenants will be preparing nutritious meals.

B Transportation. Applicants must submit information on the transportation service as detailed in paragraph V B of this Exhibit.

C Housekeeping. Applicants must provide a narrative explaining how housekeeping will be accomplished. In many cases, group home tenants assist with housekeeping chores with little expense being borne by the project. Applicants should detail expenses that will be part of the service budget.

D Personal services. A higher percentage of tenants in a group home may require personal services. Applicants must detail the services to be offered and the cost to tenants.

E Recreational/social. In most cases, there will be little expense for recreational/social opportunities in a group home. Applicants should explain what will be offered to the tenants and the projected cost to tenants.

VII ADDITIONAL ITEMS NECESSARY FOR CONGREGATE HOUSING/GROUP HOMES THAT CANNOT BE FINANCED WITH Rural Development LOAN FUNDS: Congregate housing/group home projects require additional items that will not become affixed to the real estate. These items can include special portable equipment, furnishings, kitchen bars, dining ware, eating utensils, movable tables and chairs, steamtables, etc. In accordance with §1944.224(a)(3) of this subpart, loan funds cannot be used to finance these items. As a part of the loan request, applicants must include a proposed list of additional items that will be needed by the project and state how these items will be paid for. (Revised 05-07-97, SPECIAL PN.)

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QUALIFICATIONS OF AN ADVISER TO THE BOARD

In the Board's analysis of the talents and abilities of a person to handle the job of adviser, the first attribute most desirable is the capacity to be a friend. The definitions of a friend include (1) a person whom one knows, likes, and trusts; (2) one with whom one is allied in a struggle or cause; (3) one who supports, sympathizes with, or patronizes a group, cause, or movement.

The adviser must care about the person he or she is trying to help. That means having patience and understanding during the trial and error period of a new cooperative's operation and also when it becomes necessary to explain complicated regulations or legal documents more than just once to those who have had less educational opportunities than the adviser.

The adviser must teach a totally new housing concept to persons who have only had experience with a rental environment. This means that the adviser must be able to talk to each and every person who is interested in the cooperative housing and explain just what the person is facing. The adviser must also be able to listen to those who rely on someone's "being there" to hear their problems and ideas. The adviser must be someone who is able to work with low-income persons and one who both understands their particular circumstances and strives to improve their well-being. The adviser, in this regard, must be able to learn as well as to teach.

The adviser must be dedicated to those persons with whom he or she is associated as well as to have the capacity to work with city officials, Government officials, politicians, and other professionals to achieve the goal of housing the local citizens.

I. EDUCATIONAL BACKGROUND

- a. Experience in working with -
low-income people and with the
problems inherent within this group.
- b. Administrative background for -

1. setting up system for management, including detailed financial, personal, and activity records;
 2. setting up system for maintenance for buildings, grounds, and equipment.
- c. Training to -
1. accept the major responsibility of teaching and have the experience to carry this out.
 2. make certain that members are learning while doing, whatever the activity.
 3. know how to use group dynamics.
 4. be ready to assist individual members resolve problems.
 5. recognize a need for social casework when required, then be able to give or obtain that assistance. (Individual problems quickly affect cooperatives.)
 6. have knowledge of and make effective use of resources.
 7. handle the business of a cooperative while teaching members how to manage it themselves.
 8. understand complexity of management and maintenance.
 9. be able to understand, interpret, and teach the contents of documents from funding agencies.

Ideally, a background in social work would be the most logical experience, but others can be considered.

RELATIONSHIP OF ADVISER TO MEMBERS

I. The adviser must be able to teach the members and the members must be willing to learn management and maintenance of total Cooperative while they gradually assume more and more responsibilities, until the cooperative is completely self-managed.

II. In order to be effective, the adviser should have the ability to teach to members:

- a. The complete procedures and techniques of management and maintenance.
- b. A cooperative approach to everything involved while member lives in a cooperative.
- c. An ability to deal with persons in authority.
- d. Resources and how to use them.
- e. Board procedures and specific duties.
- f. Functions and responsibilities of Committees.
- g. Regulatory documents and their importance.
- h. Attitudes and procedures that will help member to:
 1. learn while doing.
 2. make payments on time.
 3. develop a willingness to do his or her fair share of the work and the decision-making.
 4. cultivate a concern for his or her neighbor.
 5. consider the good of the group, ahead of self-interest.
 6. use his or her vote and know it counts: within the cooperative for directors and officers of the board; outside for local, state, and national Government.
 7. cooperate with board and committees.

III. The adviser must be able to help the people understand that there are rules which must be followed. The adviser must make certain that the members realize that, by signing their occupancy agreement, they are agreeing to live up to all aspects of that agreement. In so doing, they are agreeing to abide by all of the funding agency's regulations pertaining to the cooperative. These regulatory documents must be taught over and over and consulted by the members in all major decisions. The adviser would also be expected to:

- a. work with families or individuals with specific problems.
- b. consider each activity as an opportunity for the members to learn - learning while doing must be the members' primary goal.
- c. become involved in the early planning stage of the cooperative.
- d. involve members in decision-making during the planning stage, including the selection of living unit.
- e. feel a part of the group of members and break down regulations and instructions into language understood by them.
- f. give members the freedom and encouragement to express ideas and to carry out ideas accepted by the majority unless they are contrary to Government regulations.
- g. interpret Government regulations and guidelines, being able to apply and teach them.

ADVISER RESPONSIBILITIES

- I. Responsibilities of the adviser to the board will include -
- a. serving as backup manager while teaching self-management and maintenance to the members.
 - b. assisting in organizing the board of directors and standing committees and meeting regularly with them.
 - c. assisting in continual evaluation and monitoring of operations.
 - d. developing an educational plan and being responsible for its implementation.
 - e. assisting in setting up systems and procedures for-
 - 1. management, including detailed financial, personal, and activity records;
 - 2. maintenance of buildings, grounds, and equipment.
 - f. assisting with financial questions that are not of sufficient complexity to require referral to an outside auditor.
 - g. advising in evaluation of new applicants for membership.

oOo

LIMITED EQUITY AGREEMENT

This Agreement, dated _____, by and between _____ (hereinafter referred to as the "Cooperative"), a corporation having its principal office and place of business at _____ and Rural Housing Service, United States Department of Agriculture (hereinafter referred to as RHS).

WITNESSETH WHEREAS

The purpose of the cooperative is to own and operate cooperative housing on behalf of its members, and the cooperative has applied to RHS for mortgage financing as authorized under Section 515 of the Housing Act of 1949, as amended.

The purpose of RHS is to provide long term housing financing for very-low, low-, and moderate-income persons and households, although initially eligible cooperative members may remain in occupancy after exceeding the income limit established for moderate income.

The additional purpose of RHS is to maintain the availability of units financed by RHS for very-low, low-, and moderate-income persons for as long as possible up to the 30-year maximum life of the loan. (Revised 01-22-98, SPECIAL PN.)

As a means for implementing and carrying out these purposes, the cooperative pledges to RHS that:

(a) Equity accumulated by the cooperative, other than through the appreciation in value of real estate, furnishings, and equipment of the cooperative, will be assigned on the cooperative's books equally to members at the end of its fiscal year and in accordance with the Internal Revenue Service ruling concerning patronage capital.

(b) The members will be notified, in writing, of the amount assigned to his or her patronage account each year after the assignment has been made.

(c) The officers, board of directors, and members of the cooperative may not act to dissolve the cooperative for the purpose of distributing equity, or for other reasons, except as necessary due to default or other circumstances beyond the cooperative's control, and

(d) Should it become necessary to dissolve the cooperative, all property and assets of the cooperative will be transferred to another nonprofit or such other municipal organization and be maintained for the same purposes for which it was started.

(e) Only membership fees and money accrued in the members' patronage capital accounts will be distributed to the members and represents the entire equity payment to which the members are entitled. The cooperative reserves the right to withdraw from the equity payment or membership fee any amount due the cooperative through member's delinquency in payment of occupancy charge or through damage to the premises.

In witness thereof, the parties hereto have caused this agreement to be signed and sealed the day and year first above written.

(Cooperative)

(Witness)

BY: _____ (Seal)
(Member)

This agreement will be filed with the member's record.

SUBSCRIPTION AGREEMENT

Dwelling Unit NO. _____

Date _____

1. Subscription Amount:

(a) I/We _____, a legal resident(s) of _____, hereinafter called "Subscriber," hereby subscribe for membership in _____, a cooperative housing corporation hereinafter called the "Cooperative," and hereby subscribe to a Membership Certificate in said Cooperative having a par value of \$_____.

(b) Subscriber hereby agrees to pay for the Membership Certificate, also referred to as Membership Fee, as follows:

- (1) \$_____ upon signing this Agreement.
- (2) \$_____ in monthly payments of \$_____ payable over _____ consecutive months (not to exceed 12 months).

2. Ratification of Other Provisions. Subscriber has read and agrees to be bound by all provisions of the articles of incorporation, bylaws, and occupancy agreement, copies of which are attached hereto and receipt of which is hereby acknowledged, and agrees to be bound by requirements of the Rural Development as long as it remains mortgagee.

3. Priority of Mortgage Lien. This agreement and all rights hereunder are and at all times shall be subject and subordinate to the lien of the mortgage and accompanying documents to be executed by the Cooperative to Rural Development and to any and all modifications, extensions, and renewals thereof; and to any mortgage or deed of trust which may at any time hereafter be placed on the property of the Cooperative or any part thereof.

4. Occupancy Agreement. Subscriber, if approved for membership, will be entitled to occupancy of the above numbered dwelling unit under provisions of the above-

mentioned occupancy agreement. Estimated initial charge per month for said unit will be established prior to signing the occupancy agreement. Future charges will be based on family income, as provided for in the occupancy agreement. I/We agree to execute the occupancy agreement on demand and to comply with all the terms thereof.

5. Cancellation Rights.

(a) The Cooperative reserves the right at any time before it has notified the Subscriber of his/her acceptability for membership, for reasons deemed sufficient by the Cooperative, and approved by Rural Development, to return the amount paid by the Subscriber under this Agreement. In the event the Subscriber shall have died prior to becoming a member, the Cooperative reserves the right to return the amount paid by the Subscriber under this Agreement to Subscriber's estate or legal representative, and thereupon all rights of the Subscriber shall cease and terminate without further liability on the part of the Cooperative.

(b) It is understood that the Subscriber's credit is subject to approval by Rural Development, and that said Subscriber's total household income must not exceed any limitations for initial occupancy established by Rural Development. In the event Rural Development determines that the Subscriber does not meet Rural Development credit, income limitation, or other eligibility requirements for participation in this project, the Cooperative shall return to Subscriber the sums paid hereunder. In the event Rural Development determines that the necessary loan to finance the Cooperative housing project cannot be made or insured by Rural Development, or the Cooperative withdraws its application for such loan, the Cooperative shall return to Subscriber all sums paid by Subscriber hereunder. Upon either determination by Rural Development and the return of the sums to Subscriber as provided in this paragraph (b), this agreement shall become null and void and all rights and liabilities hereunder of the parties shall cease and terminate.

(c) If the Subscriber within five (5) days after the execution of this subscription agreement, notifies the Cooperative in writing that he wishes to withdraw from the agreement, the amounts paid by the Subscriber under this agreement will be returned to the Subscriber and thereupon all rights and liabilities of the Subscriber hereunder shall cease and terminate. If, at the end of the five-day period, the Subscriber has not exercised this right to withdraw, the right will be terminated. If Rural Development determines that membership has not been achieved to the extent required by Rural Development, the Subscriber will again have the right to withdraw within a five-day period.

(d) If the Subscriber defaults in any obligation under this Agreement, and such default continues for fifteen (15) days after notice sent by registered mail by the Cooperative to the Subscriber at the address given below, then at the option of the Cooperative, the Subscriber shall lose any and all rights under this agreement. Any amount paid toward this subscription price at the option of the Cooperative may be retained by the Cooperative as liquidated damages or be returned, less the Subscriber's proportionate share of expenses incurred by the Cooperative as determined solely by the Cooperative. The Cooperative may, at its option, release the obligations of the Subscriber under this agreement in the event the Subscriber secures an assignee of this agreement who assumes the obligations herein contained and is satisfactory to the Cooperative and Rural Development while mortgagee. This Agreement is not otherwise assignable.

6. Oral Representation Not to be Relied Upon. This agreement will supersede any prior understandings and agreements and constitutes the entire agreement between the

Subscriber and the Cooperative, and no oral representation or statements shall be considered a part hereof.

WITNESS:

Subscriber

Subscriber

Address

Telephone

oOo

OCCUPANCY AGREEMENT

THIS AGREEMENT, dated _____, by and between _____ (hereinafter referred to as the "Cooperative"), at _____ and _____ (hereinafter referred to as "Member").

WITNESSETH: WHEREAS:

The purpose of the Cooperative is to acquire, own, and operate a cooperative housing project and its members shall have the right to occupy its dwelling units under the terms and conditions set forth in this agreement:

Member is the owner and holder of a certificate of membership of the Cooperative and intends to occupy a dwelling unit in the project as permanent residence; and

Member has certified to the accuracy of the statements in Member's application and agrees and understands that household income and other eligibility requirements are substantial and material requirements of his initial and continuing occupancy.

TO HAVE AND TO HOLD dwelling unit Number _____ on the terms and conditions set forth in this agreement, in the corporate charter, bylaws, and any other rules and regulations of the Cooperative. The term of this agreement shall be for a three-year period ending on _____, 19 __, 1/ renewable for successive three-year periods under the conditions provided for in this Agreement.

ARTICLE 1. OCCUPANCY CHARGES.

Section 1.01. Commencing at the time indicated in ARTICLE 2, the Member agrees to pay to the Cooperative a monthly sum referred to as the "Occupancy Charge." This amount will be equal to one-twelfth of the Member's proportionate share of the total amount required by the Cooperative, as estimated by its board of directors, to meet its annual expenses and the requirements of the Rural Development loan. These include but are not limited to, the following items:

1/ The termination date to be inserted should be three years from the date of the occupancy agreement. (These terms may be for periods longer than 3 years if mutually agreeable to the member and to the cooperative.)

- (a) Project operating expenses and cost of services furnished.
- (b) Necessary management reserve and administrative costs.
- (c) Taxes and assessments levied against the project or the Cooperative which it is required to pay.
- (d) Fire and extended coverage insurance on the project and any other insurance which the Cooperative may require.
- (e) The cost of furnishing any water, electricity, heat gas, garbage and trash collection, and other utilities, if furnished by the Cooperative.
- (f) Payments to other reserves set up by the board of directors.
- (g) Estimated costs of repairs, maintenance, and replacements of project property to be made by the Cooperative.
- (h) The amount of principal, interest, and any other required payments on any indebtedness of the Cooperative, including any loan made or insured by Rural Development, United States Department of Agriculture.
- (i) Any other expenses of the Cooperative approved by the board of directors and by Rural Development, while mortgagee, including operating deficiencies, if any, for prior periods.

Section 1.02. The board of directors shall determine the amount of the occupancy charges annually, but may do so at more frequent intervals should circumstances so require. No Member shall be charged with more than the appropriate share determined by the board of directors. That amount of the occupancy charge required for payment on the principal of mortgage of the Cooperative or any other capital expenditures shall be credited upon the books of the Cooperative as a capital contribution by the Members. Until further notice from the Cooperative, the monthly charge for the above-mentioned dwelling unit shall be \$_____.

ARTICLE 2. WHEN PAYMENT OF OCCUPANCY CHARGES TO COMMENCE.

Section 2.01. After thirty days' notice by the Cooperative that the dwelling unit is available for occupancy, or upon acceptance of occupancy, whichever is earlier, Member shall make a payment for occupancy charge covering the unexpired balance of the month. Thereafter, Member shall pay occupancy charge in

advance on the first day of each month. Dates of payments may be changed by mutual agreement of the Cooperative and Rural Development.

Section 2.02. The Member agrees to furnish to the Cooperative, each year, a certificate of income on which the Member's occupancy charge will be determined.

ARTICLE 3. PATRONAGE REFUNDS.

Section 3.01. The Board shall, on the books of the Cooperative, assign to Member in accordance with the Internal Revenue Service ruling concerning patronage capital, a proportionate share of money collected in excess of the amount needed for Cooperative expenses, including reserves designated as management reserve, and Members will be notified of the amount assigned each year.

ARTICLE 4. MEMBER'S OPTION TO RENEW.

Section 4.01. It is agreed that the term of occupancy shall be renewed for further periods of three years from the expiration of the initial term (or for a longer term as mutually agreed to by the member and the cooperative). Such renewals shall be based upon the same agreements as contained in this agreement unless: (1) notice of Member's decision not to renew is given to the Cooperative in writing at least 4 months prior to expiration of the current terms, and (2) Member, before expiration of said term, shall (a) endorse membership certificate for transfer to Cooperative and deposits same with the Cooperative, (b) meet all obligations and pay all amounts due under this Agreement before said expiration, and (c) vacate and leave the premises in good state of repair. Upon compliance with foregoing provisions (1) and (2), Member shall have no further liability under this agreement. If extenuating circumstances warrant, the Member's four-month notification of intention to vacate may be modified appropriately. The Member will be entitled to the patronage capital which has accrued and been assigned during the term of this agreement provided that provisions (1) and (2) have been met.

ARTICLE 5. PREMISES TO BE USED FOR RESIDENTIAL PURPOSES ONLY.

Section 5.01. Member shall occupy the dwelling unit covered by this agreement as a private dwelling unit for the Member and/or immediate household and for no other purpose. The Member

shall have use of all common community property and facilities of the project so long as Member continues to own a membership certificate of the Cooperative, occupies the assigned dwelling unit, and abides by the terms of this Agreement. Any sublessee of the Member, if approved pursuant to Article 7 hereof, may enjoy the rights to which Member is entitled under this Article 5, except that the sublessee will have no voting rights in the affairs of the Cooperative.

Section 5.02. Member shall not permit or suffer anything to be done or be kept upon said premises which will increase the rate of insurance on the building, or on its contents. Member will not obstruct or interfere with the rights of other occupants, or annoy them by unreasonable noises or otherwise permit any nuisance on the premises, or allow any illegal act to be committed. Member shall comply with all the requirements of the Board of Health and of all other governmental authorities with respect to the said premises. If, by reason of the occupancy or use of these premises by Member, the rate of insurance on the building is increased, Member shall become personally liable for the additional insurance premiums.

ARTICLE 6. MEMBER'S RIGHT TO PEACEABLE POSSESSION.

Section 6.01. In return for Member's continued fulfillment of the terms and conditions of this agreement, the Cooperative agrees that the Member may at all times while this agreement remains in effect, have and enjoy for the Member's sole use and benefit the dwelling unit and community facilities hereinabove described.

ARTICLE 7. NO SUBLETTING WITHOUT CONSENT OF CORPORATION.

Section 7.01. This agreement shall not be assigned nor Member's dwelling unit sublet without the written consent of the Cooperative and Rural Development, while mortgagee. Under this agreement the Member shall be liable for the conduct of the sublessee. Any unauthorized subleasing shall, at the option of the Cooperative and of Rural Development, while mortgagee, result in termination and forfeiture of Member's rights under this occupancy agreement.

ARTICLE 8. TRANSFERS.

Section 8.01. Neither this agreement nor Member's right of occupancy shall be transferable or assignable except as provided in the bylaws of the Cooperative for the transfer of membership.

ARTICLE 9. MANAGEMENT, TAXES AND INSURANCE.

Section 9.01. The Cooperative shall provide necessary management, operation, and administration of the project; pay or provide for the payment of all taxes or assessments levied against the project; procure and pay or provide for the payment of fire insurance and extended coverage, and other insurance as the Cooperative may deem advisable on property in the project. The Cooperative will not, however, provide insurance on Member's personal property.

ARTICLE 10. UTILITIES.

Section 10.01. The Cooperative shall arrange for utilities (water, electricity, heat, and gas) for common areas of the structure(s) in amounts which it deems reasonable and in conformance with Exhibit A-6 to Subpart E of Part 1944. (Strike out any of the foregoing items in this Article which are not applicable.) Each unit will be separately metered and Member shall pay directly to the supplier for the utilities billed to Member.

ARTICLE 11. REPAIRS.

Section 11.01. By Member. Member agrees to repair and maintain Member's dwelling unit at own expense as follows:

- (a) Any repairs or maintenance necessitated by Member's own negligence or misuse;
- (b) Any redecoration of own dwelling unit authorized, done or contracted for by Member;
- (c) Any repairs, maintenance, or replacements required on the following items: (Insert the items desired, subject to Rural Development approval.)

Section 11.02. By Cooperative. The Cooperative shall provide and pay for all necessary repairs, maintenance, and replacements except as specified in Section 11.01. Member agrees to the right of the officers of the Cooperative to authorize entrance to Member's dwelling unit in order to complete necessary repairs, maintenance, and replacements and to authorize entrance for such purposes by employees of any contractor, utility company, municipal agency, or others at any reasonable hour of

the day and upon reasonable notice. In the event of emergency, the unit may be entered at any time. Notification of entry will be left for the member by the person performing the maintenance or repair.

Section 11.03. Right of Cooperative to Make Repairs at Member's Expense. In case Member shall fail to effect and pay for the repairs, maintenance, or replacements specified in Section 11.01, in a manner satisfactory to the Cooperative, the board may do so and add the cost of repairs to Member's next month's occupancy charge payment.

ARTICLE 12. ALTERATIONS AND ADDITIONS.

Section 12.01. The Member shall not, without the written consent of the Cooperative make any structural alterations in the premises or in the water, gas or steampipes, electrical conduits, plumbing or other fixtures connected therewith, or remove any additions, improvements, or fixtures from the premises.

Section 12.02. If Member for any reason ceases to be an occupant of the premises, Member shall surrender to the Cooperative possession thereof, including any alterations, additions, fixtures, and improvements.

Section 12.03. Member shall not, without the prior written consent of the Cooperative install or use in dwelling unit any air conditioning equipment, electric heater, or power tools. Member agrees that the Cooperative or Rural Development, while mortgagee, may require the prompt removal of any such equipment at any time, and that failure to remove such equipment upon request shall constitute a default within the meaning of Article 13 of this agreement.

ARTICLE 13. DEFINITION OF DEFAULT BY MEMBER AND EFFECT THEREOF.

Section 13.01. If, at any time after the happening of any event specified in clauses (a) through (k) below, the Cooperative gives to Member a 30-day notice of expiration, this agreement and all Member's rights under this agreement will expire on the date specified in such notice. In the meantime the default may be cured in a manner deemed satisfactory by the Cooperative. After 10 days following such expiration of Member's rights, the Cooperative may reenter the dwelling unit and remove all persons

and personal property therefrom, by any means available to it by law, and may repossess the dwelling unit in its former state as if this agreement had not been made.

(a) If, during the term of this agreement, Member ceases to be the owner and legal holder of a membership of the Cooperative.

(b) If Member attempts to transfer or assign this agreement in a manner inconsistent with the provisions of the bylaws.

(c) If, during continuance of this agreement, Member is declared bankrupt under the laws of the United States so as to be released from any debt or obligation to the Cooperative or to interfere with his full exercise of his rights as Member and occupant.

(d) If, during continuance of this agreement, a receiver of Member's property is appointed under the laws of the United States or of any State.

(e) If, during continuance of this agreement, Member shall make a general assignment for the benefit of creditors.

(f) If, during continuance of this agreement, any of the membership rights in the Cooperative owned by Member are duly levied upon and sold under the process of any court.

(g) If Member fails to effect and/or pay for repairs and maintenance as provided for in Article 11.

(h) If Member fails to pay any sum due pursuant to Article 1.

(i) If default occurs with respect to any obligation of Member under this agreement.

(j) If, during the term of this agreement, Member fails to comply promptly with all requests by the Cooperative for information and certifications concerning the total current income of Member and Member's household or any other eligibility requirements for membership or occupancy.

(k) If, during the term of this agreement, limitations for continued occupancy are established from time to time by the Rural Development and are exceeded.

Section 13.02. Member hereby expressly waives any and all right to reenter the dwelling if the eviction is by judgment of any court or judge. The words "enter," "reenter," or "reentry" as used in this agreement are not restricted to their technical legal meaning. In the event of a breach by Member of the terms of this agreement, the Cooperative shall have the right of injunction and the right to invoke any remedy allowed at law or in equity, as if reentry, summary proceedings, and other remedies were not provided for.

Section 13.03. Failure by the Cooperative to avail itself of any remedy given under this agreement shall not waive or destroy any right of the Cooperative to avail itself of remedies for any similar or other breach or default by Member.

Section 13.04. Notice by the Cooperative under any of the conditions described in Article 13 shall be in writing. The cooperative shall not evict any member except by judicial action pursuant to State or local law and in accordance with the requirements of Subpart C of Part 1930.

ARTICLE 14. MEMBER TO COMPLY WITH ALL CORPORATE REGULATIONS

Section 14.01. Member agrees to preserve and promote the cooperative ownership principles on which the Cooperative has been founded and to abide by the charter, bylaws, rules and regulations of the Cooperative, and amendments. The Member agrees to make diligent effort in performing duties and accepting responsibilities either through volunteering or by assignment from the board of directors. By acts of cooperation with other members, Member will strive to bring about and maintain a high standard in home and community conditions. The Cooperative agrees to deliver to Member its rules and regulations and/or to distribute them in such other manner as to constitute adequate notice.

ARTICLE 15. EFFECT OF FIRE LOSS ON INTERESTS OF MEMBER

Section 15.01. In the event of loss or damage by fire or other casualty to Member's dwelling unit without fault or negligence of Member, the Cooperative shall determine (1) whether Rural Development to restore the damaged premises and, if not, to restore (2) the amount to be paid to Member to redeem membership and for reimbursement for any loss sustained by the Member.

Section 15.02. If, under such circumstances, the Cooperative decides to restore the premises, occupancy charges shall stop wholly or partially, as determined by the Cooperative, until the premises have been restored. If, on the other hand, the cooperative decides not to restore the premises, the occupancy charges shall cease from the date of such loss or damage.

ARTICLE 16. INSPECTION OF DWELLING UNIT

Section 16.01. Member agrees that the representatives of any mortgagee holding a mortgage on the property of the Cooperative, the officers of the Cooperative, or authorized representative of the Cooperative shall have the right to enter the dwelling unit of Member and make inspections and, with the approval of the Cooperative, the employees of any contractor, utility company, municipal agency, or others shall have the right to enter the dwelling unit of Member and make inspections at any reasonable hour of the day, upon reasonable notice, and at any time in the event of emergency.

ARTICLE 17. SUBORDINATION CLAUSE

Section 17.01. The Cooperative housing project of which Member's dwelling unit is a part is planned to be constructed by the Cooperative with the assistance of a loan to the Cooperative made or insured by the Rural Development. Therefore, this agreement and all rights, privileges, and benefits hereunder shall be at all times subject and subordinate to a first mortgage lien or any documents executed by the Cooperative to secure its obligations to Rural Development and to any extensions and removals and to any security instrument which may be made in replacement thereof or at any time hereafter be placed on the property of the corporation. Member hereby agrees to execute, at the Cooperative's request and expense, any instrument which the Cooperative or any lender or mortgagee may deem necessary or desirable to subordinate this Agreement to any such security instrument. Member hereby appoints the Cooperative and each and every officer thereof, and any future officer, as irrevocable attorney-in-fact during the term of the agreement to execute any such instrument on behalf of Member.

ARTICLE 18. LATE CHARGES AND OTHER COSTS IN CASE OF DEFAULT

Section 18.01. In addition to all other sums due or to become due under this agreement, Member shall pay to the

Cooperative a late charge, not to exceed \$10.00, at any time payment of occupancy charges, or part thereof, is more than 10 days late. This late fee may be waived, depending on the circumstances and at the discretion of the board.

Section 18.02. If, because of default by Member under any obligation in this agreement, the Cooperative obtains the services of an attorney, Member shall pay to the Cooperative all costs and fees involved, including reasonable attorney's fees and the costs of any resulting law suit, if such an action becomes necessary.

ARTICLE 19. NOTICES

Section 19.01. Whenever any bylaw of Cooperative, any law, or this agreement requires notice to be given to either party, any notice or demand by the Cooperative to Member shall be considered to have been duly given if the same is delivered to Member at Member's unit or to Member's last known address. Any notice or demand by Member to the Cooperative shall be considered to have been duly given if delivered to an officer of the Cooperative. Such notice may also be given by depositing same in the United States mails addressed to Member as shown on the books of the Cooperative, or to the president of the cooperative, as the case may be, and the time of mailing shall be the time of giving such notice.

ARTICLE 20. ORAL REPRESENTATION NOT BINDING

Section 20.01. No representation other than those contained in this Agreement and in the charter and the bylaws of the Cooperative shall be binding upon the Cooperative.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed and sealed the day and year first above written.

Cooperative

By: _____ (SEAL)

Member

TO BE DULY ACKNOWLEDGED

oOo

Cooperation with the Department of Housing and Urban Development (HUD) in
Determining Market Feasibility for Rural Rental Housing (RRH) Loans

I. This exhibit is to be used as a guide for establishing cooperation with HUD in determining market feasibility. This exhibit will also be used as a guide in cooperating with similar type rental housing assistance providers. The intended outcome is to foster better communications, obtain additional documentation to determine market feasibility, preclude overdevelopment of subsidized housing, and preclude adversely affecting proposals or existing units of HUD's or similar type rental housing assistance provider. This exhibit will be followed unless the State Director and the local HUD field office develop a State Supplement to this Exhibit and such State Supplement receives prior approval from the National Office. (Revised 05-07-97, SPECIAL PN.)

II. Upon selection of Section 515 loan requests for further processing, the servicing office will forward basic loan information regarding the loan request to the State Director with a request that it be forwarded to the applicable HUD field office. See Attachment A of this exhibit for a sample memorandum with the minimum information to be transmitted to HUD. States may include additional information as requested by their local HUD field offices. See Attachment B of this exhibit for a list of HUD field offices. (Revised 05-07-97, SPECIAL PN.)

III. Upon receipt of RHS' request, the HUD field office will determine if they have any pending, authorized or existing units in the market area, and may request further information from RHS to assist them with the review. The HUD field office will inform the State Director within 2 weeks of receipt of RHS' request if they have any comments, positive or negative, regarding the market area. When HUD has concerns over market feasibility or impact on existing or authorized HUD units, they will also provide documentation to support their concerns.

IV. Upon receipt of feedback from HUD, this information will be forwarded to the appropriate servicing office. The information will be carefully reviewed and considered in determining market feasibility. If HUD has no objections to the proposed RHS project, RHS will proceed as usual with loan processing.

V. HUD's review of the impact of the proposed units may encompass a broader area than the market area used in the applicant's market study. HUD's methods of determining and evaluating the market area vary from RHS' methods. This does not, however, invalidate HUD's data or conclusions. Regardless of the size/scope of the market area determined by HUD, their findings and recommendations will be given full consideration in RHS' final determination. For example, if HUD's market study encompasses an entire county, and the applicant's market study encompasses only a portion thereof, HUD's market data may be used, without modification, to support RHS's decision.

VI. If HUD questions or raises concern over market feasibility or impact on authorized or existing HUD units, the following actions will be taken:

A. If RHS' review also reflects inadequate market feasibility, the loan will be rejected for this and any other applicable reasons, and appeal rights provided in accordance with 7 CFR part 11. The decision letter will contain RHS' reasons for rejecting the proposal, as well as documentation of HUD's findings to support RHS's determination. If the applicant appeals the decision, HUD will be invited to participate in the appeal hearing.

B. HUD's findings should not be the sole basis for denying the proposal for market feasibility. Regardless of HUD's determination, the servicing and/or State Office must make a separate and independent determination of market feasibility. The market analysis must be reviewed and the findings documented in the casefile; Exhibit A-8 of this Instruction or a comparable checklist should be used. If necessary, the State Director may request authority to contract for a market study.

C. If RHS' review reflects an adequate market exists, and does not support HUD's findings, the servicing office will forward the casefile with his/her recommendations to the State Director. The State Director, or his/her designee, will carefully review the case. The State Director may request additional information from HUD, the servicing office, and/or market analyst. The State Director will determine whether to deny the loan request, or contrary to HUD's input, proceed with the RHS proposal. If RHS does proceed with the loan request, the casefile will be thoroughly documented. HUD will be informed in writing of the reasons for RHS's decision. (Revised 05-07-97, SPECIAL PN.)

VII. HUD has implemented a similar process and will seek RHS's input on all HUD proposals in rural communities. Neither agency will have the authority to override the decision of the agency in receipt of the request for assistance. State Directors are encouraged to meet with their local HUD field office to implement this policy and determine what other services each agency may be able to provide to further assist with prudent loan underwriting. We also encourage a similar proposal between RHS and other subsidized lenders in the State.

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SUBJECT: Notice of Receipt of Loan Request for Section 515
Assistance

TO: _____
Department of Housing and Urban Development (HUD)

The Rural Housing Service (RHS) has received the following request for Section 515 assistance and requests your input as to market feasibility and impact on authorized or existing HUD units in the market area:

1. Name of Project: _____
2. Total number of units: _____
3. Number of rental assistance units: _____
4. Project location:
City/town/township: _____
County: _____
State: _____
5. Number of units by bedroom size:
Zero bedroom (efficiency): _____
One bedroom: _____
Two bedrooms: _____
Three bedrooms: _____
Four or more bedrooms: _____
Total units: _____
6. Type of project:
Elderly: _____ Congregate: _____
Group home: _____ Family: _____
Mixed: _____ Cooperative: _____
7. Contact person to obtain copy of market study, if necessary:

RHS, United States Department of Agriculture

Phone: _____

Please address your response to the State Director, Rural Development, at:

Thank you for your cooperation in this matter.

STATE DIRECTOR

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(05-07-97) SPECIAL PN

HUD Field Office Jurisdictions

Alabama Housing Development Director
Birmingham Field Office
Beacon Ridge Tower
600 Beacon Parkway West
Suite 300
Birmingham, AL 35209
(205) 290-7648

=====
Alaska Housing Development Director
Anchorage Field Office
222 W. 8th Avenue, #64
Anchorage, AK 99513
(907) 271-4610

=====
American Samoa Housing Development Director
Honolulu Field Office
300 Ala Moana Boulevard, Room 3318
Honolulu, HI 96850
(808) 541-1332

=====
Arizona Housing Development Director
Phoenix Field Office
Two Arizona Center
400 N. 5th Street, Suite 1600
Phoenix, AZ 85004
(602) 379-6704

=====
Arkansas Housing Development Director
Little Rock Field Office
Lafayette Building
523 Louisiana, Suite 200
Little Rock, AR 72201
(501) 324-5961

=====
California

For the following counties: Alpine, Amador, Butte, Calaveras, Colusa, Eldorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba:

Housing Development Director
Sacramento Field Office
777 12th Street, Suite 200
Sacramento, CA 95814
(916) 551-1408

For the following counties: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernadino, San Diego, San Luis Obispo, Santa Barbara and Ventura:

Housing Development Director
Los Angeles Field Office
1615 W. Olympic Boulevard
Los Angeles, CA 90015
(213) 251-7030

=====
For all other counties:

Housing Development Director
San Francisco Regional Office
Phillip Burton Federal Bldg.
and U.S. Courthouse
P.O. Box 36003, 450 Golden Gate Avenue
San Francisco, CA 94102
(415) 556-9238

=====
Colorado

Housing Development Director
Denver Regional Office
Executive Tower Building
1405 Curtis Street
Denver, CO 80202
(303) 844-4959

=====
Connecticut

Housing Development Director
Hartford Field Office
330 Main Street, First Floor
Hartford, CT 06106
(203) 240-4569

=====
Delaware
Director

Housing Development

Philadelphia Regional Office
Liberty Square Building
105 S. 7th Street
Philadelphia, PA 19106
(215) 597-2374

=====
Florida
Director

Housing Development

Jacksonville Field Office
325 West Adams Street
Jacksonville, FL 32202
(904) 791-2811
=====

Georgia
Director

Housing Development

Atlanta Regional Office
Richard B. Russel Fed. Bldg.
75 Spring Street, SW.
Atlanta, GA 30303
(404) 331-4426

=====
Guam

Housing Development Director
Honolulu Field Office
500 Ala Moana Boulevard, Suite 500
Honolulu, HI 96850
(808) 541-1332

=====
Hawaii

Housing Development Director
Honolulu Field Office
500 Ala Moana Boulevard, Suite 500
Honolulu, HI 96850
(808) 541-1332

=====
Idaho

Housing Development Director
Portland Field Office
520 Southwest Sixth Avenue
Portland, OR 97204

=====
Illinois

Housing Development Director
Chicago Regional Office
Ralph H. Metcalfe Federal Building
77 West Jackson Boulevard
Chicago, IL 60606
(312) 353-5066

=====
Indiana

Housing Development Director
Indianapolis Field Office
151 North Delaware Street
Indianapolis, IN 46204
(317) 226-7058

=====
Iowa

Housing Development Director
Des Moines Field Office
Federal Building
210 Walnut Street, Room 239
Des Moines, IA 50309
(515) 284-4736

Kansas Housing Development Director
 Kansas City Regional Office
 Gateway Tower II
 400 State Avenue
 Kansas City, KS 66101
 (913) 236-3819

=====

Kentucky Housing Development Director
 Louisville Field Office
 P.O. Box 1044
 601 West Broadway
 Louisville, KY 40201
 (502) 582-6167

=====

Louisiana Housing Development Director
 New Orleans Field Office
 Fisk Federal Building
 1661 Canal Street
 New Orleans, LA 70112
 (504) 589-7222

=====

Maine Housing Development Director
 Manchester Field Office
 Norris Cotton Federal Building
 275 Chestnut Street
 Manchester, NH 03101
 (603) 666-7755

=====

Maryland
 For Montgomery and Prince Georges counties:
 Housing Development Director
 Washington, DC Field Office
 820 First Street, NE.
 Washington, DC 20002
 (202) 275-4726

=====

For all other counties:
 Housing Development Director
 Baltimore Field Office
 The Equitable Building
 10 North Calvert Street, 3rd Floor
 Baltimore, MD 21202
 (410) 962-0992

=====

Massachusetts Housing Development Director
Boston Regional Office
Thomas P. O'Neill, Jr. Fed. Bldg.
10 Causeway Street, Room 375
Boston, MA 02222
(617) 565-5154

=====
Michigan

For the following counties: Alger, Allegan, Antrim, Baraga, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Cheboygan, Chippewa, Clare, Clinton, Crawford, Delta, Dickinson, Eaton, Emmet, Gogebic, Grand Traverse, Gratiot, Hillsdale, Houghton, Ingham, Ionia, Iron, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Luce, Mackinac, Mantistee, Marquette, Mason, Mecosta, Menominee, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Ontonagon, Osceola, Otsego, Ottawa, Roscommon, St. Joseph, Schoolcraft, Van Buren, and Wexford:

Housing Development Director
Grand Rapids Field Office
2922 Fuller Avenue, NE.
Grand Rapids, MI 49505
(616) 456-2122

=====
For all other counties:

Housing Development Director
Detroit Field Office
Patrick V. McNamara Fed. Bldg.
477 Michigan Ave.
Detroit, MI 48226
(313) 226-7107

=====
Minnesota Housing Development Director
Minneapolis Field Office
220 Second Street, South
Minneapolis, MN 55401
(612) 370-3053

=====
Mississippi Housing Development Director
Jackson Field Office
Doctor A. H. McCoy Fed. Bldg.
100 West Capitol Street, Room 910
Jackson, MS 39269
(601) 965-4700

Missouri

For the following counties: Andrew, Atchison, Barry, Barton, Bates, Benton, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Chariton, Christian, Clay, Clinton, Dade, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, Linn, Livingston, McDonald, Mercer, Miller, Morgan, Newton, Nodaway, Pettis, Platte, Polk, Pulaski, Putnam, Ray, St. Clair, Saline, Stone, Sullivan, Taney, Vernon, Webster, and Worth:

Housing Development Director
Kansas City Regional Office
Gateway Tower II
400 State Avenue
Kansas City, KS 66101
(913) 236-3819

=====
For all other counties:

Housing Development Director
St. Louis Field Office
1222 Spuce Street
St. Louis, MO 63103
(314) 539-6260

=====
Montana

Housing Development Director
Denver Regional Office
Executive Tower Building
1405 Curtis Street
Denver, CO 80202
(303) 844-4959

=====
Nebraska

Housing Development Director
Omaha Field Office
10909 Mill Valley Road
Omaha, NE 68154
(402) 492-3112

=====
Nevada

Housing Development Director
San Francisco Regional Office
Phillip Burton Federal Bldg.
and U.S. Courthouse
P.O. Box 36003, 450 Golden Gate Avenue
San Francisco, CA 94102
(415) 556-9238
=====

New Hampshire Housing Development Director
 Manchester Field Office
 Norris Cotton Federal Building
 275 Chestnut Street
 Manchester, NH 03101
 (603) 666-7755

=====
New Jersey Housing Development Director
 Newark Field Office
 Military Park Building
 60 Park Place
 Newark, NJ 07102
 (201) 887-1779

=====
New Mexico Housing Development Director
 Fort Worth Regional Office
 1600 Throckmorton
 P.O. Box 2905
 Fort Worth, TX 76113
 (817) 885-5543

=====
New York

For the following counties: Bronx, Dutchess, Kings, Nassau, New York,
Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and
Westchester:

 Housing Development Director
 New York Regional Office
 26 Federal Plaza
 New York, NY 10278
 (212) 264-2960

=====
For all other counties:

 Housing Development Director
 Buffalo Field Office
 465 Main Street
 Lafayette Court
 Buffalo, NY 14203
 (716) 846-5732

=====
North Carolina Housing Development Director
 Greensboro Field Office
 415 North Edgeworth Street
 Greensboro, NC 27401
 (919) 333-5479

North Dakota Housing Development Director
 Denver Regional Office
 Executive Tower Building
 1405 Curtis Street
 Denver, CO 80202
 (303) 844-4959

=====
Ohio

For the following counties: Ashland, Ashtabula, Carroll, Columbiana, Crawford, Cuyahoga, Defiance, Erie, Fulton, Geauga, Hancock, Harrison, Henry, Holmes, Huron, Jefferson, Lake, Lorain, Lucas, Mahoning, Median, Ottawa, Paulding, Portage, Richland, Sandusky, Seneca, Stark, Summit, Trumbul, Tuscarawas, Wayne, Williams, Wood, and Wyandot:

 Housing Development Director
 Cleveland Field Office
 One Playhouse Square
 1375 Euclid Avenue, Room 420
 Cleveland, OH 44114
 (216) 522-4112

=====
For the following counties: Adams, Brown, Butler, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, and Warren:

 Housing Development Director
 Cincinnati Field Office
 Federal Office Building, Room 9002
 550 Main Street
 Cincinnati, OH 45202
 (513) 684-3126

=====
For all other counties:

 Housing Development Director
 Columbus Field Office
 200 North High Street
 Columbus, OH 43215
 (614) 469-2156

=====
Oklahoma Housing Development Director
 Oklahoma City Field Office
 Murrah Federal Building
 200 N.W. 5th Street
 Oklahoma City, OK 73102
 (405) 231-4745
=====

Oregon

For all counties in Oregon and the following counties in Washington:
Clark, Klickitat, and Skamania:

Housing Development Director
Portland Field Office
520 Southwest Sixth Avenue
Portland, OR 97204
(503) 326-2684

=====
Pennsylvania

For the following counties: Adams, Berks, Bradford, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York:

Housing Development Director
Philadelphia Regional Office
Liberty Square Building
105 S. 7th Street
Philadelphia, PA 19106
(215) 597-2374

=====
For all other counties:

Housing Management Director
Pittsburgh Field Office
Old Post Office Courthouse Bldg.
7th Avenue & Grant Street
Pittsburgh, PA 15219
(412) 644-6394

=====
Puerto Rico

Housing Development Director
Caribbean Office
New San Juan Office Building
159 Carlos E. Chardon Avenue
San Juan, PR 00918
(809) 766-5256

=====
Rhode Island

Housing Development Director
Providence Field Office
330 John O. Pastore Federal Building
and U.S. Post Office - Kennedy Plaza
Providence, RI 02903
(401) 528-5354

RD Instruction 1944-E
Exhibit K
Attachment B
Page 10

South Carolina Housing Development Director
 Columbia Field Office
 Strom Thurmond Federal Building
 1835 Assembly Street
 Columbia, SC 29201
 (803) 765-5922

=====

South Dakota Housing Development Director
 Denver Field Office
 Executive Tower Building
 1405 Curtis Street
 Denver, CO 80202
 (303) 844-4959

=====

Tennessee

For the following counties: Bedford, Benton, Cannon, Carroll, Cheatham,
Chester, Clay, Coffee, Crockett, Davidson, Decatur, Dekalb, Dickson, Dyer,
Fayette, Franklin, Gibson, Giles, Hardeman, Hardin, Haywood, Henderson, Henry,
Hickman, Houston, Humphreys, Jackson, Lake, Lauderdale, Lawrence, Lewis,
Lincoln, Macon, Madison, Marshall, Maury, McNairy, Montgomery, Moore, Obion,
Overton, Perry, Putnam, Robertson, Rutherford, Shelby, Smith, Stewart, Sumner,
Tipton, Trousdale,

Van Buren, Warren, Wayne, Weakley, White, Williamson, and Wilson:

 Housing Development Director
 Nashville Field Office
 251 Cumberland Bend Drive, Suite 200
 Nashville, TN 37228
 (615) 736-5365

=====

For all other counties:

 Housing Development Director
 Knoxville Field Office
 Third Floor
 John J. Duncan Federal Building
 710 Locust Street
 Knoxville, TN 37902
 (615) 549-9370

=====

Texas

For the following counties: Angelina, Austine, Brazoria, Brazos, Burleson, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Matagordo, Montgomery, Nacogdoches, Newton, Orange, Polk, Robertson, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Walker, Waller, Washington, and Wharton:

Housing Development Director
Houston Field Office
Norfolk Tower
2211 Norfolk, Suite 200
Houston, TX 77098
(713) 653-3289

=====
For the following counties: Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brooks, Burnet, Caldwell, Calhoun, Cameron, Comal, DeWitt, Dimmitt, Duval, Edwards, Fayette, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Hidalgo, Jackson, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kinney, Kleberg, La Salle, Lavaca, Lee, Live Oak, Llano, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Travis, Uvalde, Val Verde, Victoria, Webb, Willacy, Williamson, Wilson, Zapata, and Zavala:

Housing Development Director
San Antonio Field Office
Washington Square
800 Dolorosa Street
San Antonio, TX 78207
(512) 229-6898

=====
For all other counties:

Housing Development Director
Fort Worth Regional Office
1600 Throckmorton
P.O. Box 2905
Fort Worth, TX 76113
(817) 885-5543

=====
Trust Territories

Housing Development Director
Honolulu Field Office
500 Ala Moana Boulevard, Suite 500
Honolulu, HI 96850
(808) 541-1332

Utah Housing Development Director
 Denver Regional Office
 Executive Tower Building
 1405 Curtis Street
 Denver, CO 80202
 (303) 844-4959

=====
Vermont Housing Development Director
 Manchester Field Office
 Norris Cotton Federal Building
 275 Chestnut Street
 Manchester, NH 03101
 (603) 666-7755

=====
Virginia
 For the following counties: Alexandria, Arlington, Fairfax, Fairfax City,
 Falls Church City, Loudon, Manassas City, Manassas Park, and Prince William:
 Housing Development Director
 Washington DC Field Office
 820 First Street, NE.
 Washington, DC 20002
 (202) 275-4726

=====
 For all other counties and independent cities:
 Housing Development Director
 Richmond Field Office
 400 North 8th Street
 P.O. Box 10170
 Richmond, VA 23240
 (804) 771-2477

=====
Washington
 For all counties except Clark, Klickitat, and Skamania (which are to be sent
 to the Oregon Field Office):
 Housing Development Director
 Seattle Field Office
 Arcade Plaza Building
 1321 Second Avenue
 Seattle, WA 98101
 (206) 553-0209

=====
West Virginia Housing Development Director
 Charleston Field Office
 405 Capitol Street
 Suite 708
 Charleston, WV 25301
 (304) 347-7037
=====

Wisconsin Housing Development Director
 Milwaukee Field Office
 Henry S. Reuss Federal Building
 310 West Wisconsin Avenue, Suite 1380
 Milwaukee, WI 53203
 (414) 297-3156

=====

Wyoming Housing Development Director
 Denver Field Office
 Executive Tower Building
 1405 Curtis Street
 Denver, CO 80202
 (303) 844-4959

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BUILDING COST TRACKING SYSTEM

The latest version listed in the unnumbered letter issued periodically by the Assistant Administrator for Information Systems Management (AAISM) is to be used.

Part 1: Overview of System

This program was designed by the Program Support Staff to aid State Offices in maintaining a data base on Multifamily Housing projects and evaluating cost relationships. This program may be used by the State Office to produce reports, graphs, and comparisons. State Offices may also search the data base for a list of projects meeting specified design and cost criteria.

All necessary instructions and information will appear on the computer screen as needed by the user. The system is menu driven to be user friendly, and "help" is available throughout the system. Help is available on several levels, including:

- 1) a tutorial on using the system is included in the system,
- 2) an option for "Intense Help" for new users is available (this provides reminders on data entry before entering input or edit screens),
- 3) a help option appears on menus (describing the possible choices for that menu), and
- 4) each data entry field has "help" available on the type of data to be entered in that field.

The system performs checks on the data entered and displays error messages as necessary.

Although helpful, typing is not required to use this system. The system is predominantly menu driven.

All information in this Automation Supplement is available from the system.

Reports and data files generated through the system may be saved for use at a later date. For example, a graph file may be saved and used to produce a "tailor-made" graph through "Business Graphics". It is saved as a standard "Prelude" data base and can be manipulated using "Prelude" commands. Likewise, any report generated through this system can be saved - named by the user and stored in a central location. Reports are print files. As such, these reports can be printed using the "lp" command from the Unix prompt.

Part 2: Limitations of the System

The Building Cost Tracking System was designed for multiple users. More than one user may access the data at a time: adding new projects, editing existing projects, producing reports or graphs, searching the data base, etc. The only known limitation on multiple users is that two users may not edit the same project at the same time. As the system is designed for primary use by the State Architect/Engineer, the Multi-Family Housing Coordinator, and/or a clerk, it should be possible to organize work accordingly.

There is no limit on the number of projects which may be added to the data base within the system. The only limit would be the storage capacity of the minicomputer used (AT&T 3B2).

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