

CHAPTER 4: NOFA AND INITIAL APPLICATION PROCESS — STAGE 1

4.1 INTRODUCTION

The basic objective of the Multi-Family Housing program is to provide decent, safe, and sanitary affordable rental housing for very low-, low-, and moderate-income family, elderly, and handicapped households. The Agency has a limited amount of funds to achieve this objective and, therefore, must ensure that the best and most appropriate projects are placed in rural areas of greatest need. It is the Agency's goal to provide the maximum number of units possible without sacrificing the quality of the housing.

The Agency has determined that the best way to achieve this objective is to solicit initial applications for funding of projects in designated places through a public Notice of Funding Availability (NOFA). Each State submits their list of ranked proposals to the National Office for nationwide ranking. **Attachment 4-A** is the summary sheet that States must use to provide information to the National Office on applications received. The National Office will notify States of the top-ranked initial applications selected for further processing, and final applications will be solicited and processed by the States through Stage 2 of the application process. Exhibit 4-1 shows a sample timeline for this process.

This chapter discusses the procedures Loan Processing Staff will use in Stage 1, the first step in the loan origination process. Specifically, this chapter presents the Agency's procedures for:

- Publishing the NOFA;
- Accepting initial applications in response to the NOFA;
- Assessing preliminary eligibility of the initial applications;
- Forwarding application scores to the National Office;
- Assembling scores from all states to create a national ranking of initial applications;
and
- Conducting preliminary feasibility analysis of initial applications.

Key Origination Activities in Stage 1

- National Office publishes NOFA.
- States accept initial applications.
- States conduct preliminary eligibility review and score and rank initial applications.
- States forward applications to National Office.
- National Office assembles scores to create National ranking.
- National Office informs States of projects that may be selected for further processing.
- States conduct preliminary eligibility and feasibility review.

Exhibit 4-1 Loan Origination Sample Timeline <i>(Best Case Scenario)</i>	
November 1	NOFA published.
January 2 (60 days after NOFA published or as specified in NOFA)	Initial applications due.
January 3–31	State Office completes preliminary eligibility, scores and ranks applications, submits list of applications to the National Office, performs site visits, and begins to underwrite for feasibility. Attachment 4-A is a sample of the summary sheet that States use to describe the applications received.
February 1–28	National Office ranks applications nationwide and informs State Offices of which applications have been selected for further processing.
March 1	State Office sends out notification to applicants regarding status of initial applications
March 2–April 30	State Office continues underwriting process and orders appraisals.
May 1	State Office invites final applications.
June 1	Final applications and appraisals due.
August 1–15	National pooling of unused funds.
September 30	End of fiscal year; deadline for obligating funds occurs shortly before this date.

The procedures for submitting and reviewing the final loan application package, or Stage 2 of the loan application process, are described in Chapter 5.

While the loan origination process for farm labor housing is very similar to that for multi-family housing, some differences do exist. Chapter 12 details these differences and should be reviewed whenever a Farm Labor Housing loan or grant is being processed.

4.2 OVERVIEW OF STAGE 1, PROCESSING THE INITIAL APPLICATION

During this stage, the National Office publishes the NOFA in the *Federal Register* soliciting housing proposals and setting a deadline by which the initial application must be submitted. Initial applications must describe the loan applicant, the applicant’s financial status, evidence that the applicant is unable to obtain credit elsewhere, the applicant’s experience in operating rent housing and related business, incorporation information (if applicable), and identity-of-interest relationships. In addition, the applicant must provide economic justification for constructing the project with an analysis of the supply and demand for housing in the proposed location of the project, a brief description of the proposed project, a site description, and various disclosure and certifications.

The Loan Originator has 30 days from the published submission deadline to review NOFA responses for preliminary eligibility and then score and rank those responses. The Loan Originator faxes a list of ranked responses to the National Office by close of business on the thirtieth day, which is the deadline for National Office ranking. The National Office will notify the States which applications scored high enough to be considered for funding during this stage of the application process. The Loan Originator will notify the applicants that their initial applications may be considered for funding, and State Offices will conduct their preliminary feasibility reviews of the proposed projects.

SECTION 1: INVITING INITIAL APPLICATIONS

4.3 FUNDING AND RENTAL ASSISTANCE LIMITS

The amount of funds available for new construction and repair and rehabilitation, and rental assistance is established annually both in RD Instruction 1940-L sent to the states by the National Office, and as a NOFA published in the *Federal Register*. The National Office may set a limit on loan sizes in the NOFA. For example, the National Office may limit loan applications to \$1.5 million each. This does not mean that the total project cost would have to be limited to \$1.5 million. Using the same limits provided in the example, a loan applicant could propose a project with a total appraised value of \$3 million, but the Agency loan might fund only half of the project, with other financing funding the remaining \$1.5 million.

The National Office ranks all eligible loan applications submitted by the States nationwide to select applications for further processing.

4.4 STATE ACTIONS TO PREPARE FOR THE NOFA

The NOFA appears soon after the start of the fiscal year. Prior to the publication of the NOFA, States must take several steps, including:

- Reviewing and updating the State list of designated places and submitting it to the National Office for concurrence. This list must be available to interested loan applicants upon publication of the NOFA.
- Submitting to the National Office no later than September 1 any State initiatives for which the State wishes to provide points in prioritizing their funding. Such initiatives must be submitted by the State Director for approval by the National Office prior to publication of the NOFA.
- Preparing an initial application package, which includes:
 - ◇ The NOFA; and
 - ◇ A request for the items listed in Exhibits 4-6 and 4-7.

4.5 THE NOFA

The National Office publishes a NOFA in the *Federal Register* as soon after the start of the Federal fiscal year as possible. The exact timing of this publication depends on the date of Congressional appropriation of funds for the program and the time required to publish RD Instruction 1940-L. Generally, the NOFA should be published on or around November 1.

The NOFA indicates:

- Individual loan limits;
- The information that applicants must submit in their initial application;
- The criteria that the Agency will use to evaluate and rank proposals, including any special National Office initiatives;
- Subsequent information that will be required from any applicants who are invited to submit a final application;
- The deadline for submitting NOFA responses; and
- The State Office address, contact name, and phone number where the following information may be obtained:
 - ◇ A list of designated places for the State; and
 - ◇ A complete initial loan application package including:
 - ◆ A list of authorized loan uses (Exhibits 4-3 and 4-4);
 - ◆ Applicant eligibility requirements (Exhibit 4-5);
 - ◆ Any special conditions or limitations that are being applied on the amount of individual application packages or rental assistance requests;
 - ◆ Any special State Office initiatives that will be awarded points that have been approved by the National Office;
 - ◆ A listing of all of the information required from applicants (Exhibits 4-6 and 4-7); and
 - ◆ The address to which the initial application must be sent.

When the State Office receives a request for a loan application, Loan Processing staff will send the potential applicant a complete application package. *Handbook Letter 103 (3560)*, *Cover Letter to the Initial Application Package*, must include the information in Exhibit 4-2.

Exhibit 4-2

Items to be Included in Cover Letter to the Initial Application Package

- The maximum amount of funds available for the loan if the application is approved.
- A definition of a complete application. A complete application is one in which: (1) all information and forms requested by the initial application package are included, and (2) all necessary forms requested have been signed. The Loan Originator must make clear the effect of applications that are incomplete without acceptable explanation—they will be returned and not considered during the funding cycle. The loan applicant must be informed that if they are unable to provide the necessary information, they must provide with the initial application an acceptable explanation of why the information is not available. The State Director will consider the explanation and decide whether to make an exception to the completeness rule.
- Notice to the applicant that they must be in compliance on all of any other Agency-financed projects they may own or have been in compliance with a workout agreement for at least 6 consecutive months as of the date that the initial application is due. The letter should explain to the applicant that they need to determine their eligibility with respect to this criterion early on so that they do not expend resources developing an initial application only to learn that they are not eligible due to this factor.
- Notice to the applicant that they must submit all requested information within 60 days. The applicant must be warned that any late submissions will be returned and will not be considered in this funding cycle unless the State Director grants an exception due to circumstances beyond the applicant's control.
- A warning to the applicant not to incur any costs that the Agency will not cover and caution that if the application is not approved, none of the costs incurred will be covered.
- A deadline by which any applicant who plans to use other financing or funding must finalize a commitment for that financing or funding. This deadline must be far enough in advance of the National pooling date (generally 90 days beforehand).
- An invitation to the applicant to a preliminary meeting to discuss Agency requirements. The Loan Originator must set a specific time in the near future for the meeting to take place and ask the applicant to respond if the time is not convenient.
- An invitation to the applicant to a preliminary meeting to discuss Agency requirements. The Loan Originator must set a specific time in the near future for the meeting to take place and ask the loan applicant to respond if the time is not convenient.

The letter must include the following clauses:

- ◇ “The action taken herein is based upon representation 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. 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 difference.” *continued*

Exhibit 4-2 (cont.)

Items to be Included in Cover Letter to the Initial Application Package

- ◇ “This action should not be construed as a reservation of funds, the availability of funds, or loan approval.”
- ◇ “Loan processing will continue based upon a loan not to exceed the amount specified in this notice.”
- ◇ “If a complete initial application 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.”
- ◇ “You are advised against taking any actions or incurring any obligations which would either limit the range of alternatives to be considered or which would have an adverse effect on the environment. Satisfactory completion of the environmental review process in accordance with RD Instruction 1940-G must occur prior to loan approval. The issuance of this review action does not constitute site approval.”

4.6 LOAN PURPOSES

Agency funding may be provided to qualified applicants to supply affordable rural rental or rural cooperative housing to eligible households in designated places.

A. Eligible Loan Purposes [7 CFR 3560.53]

Loan funds may be used for the purposes established in 7 CFR 3560.53. Exhibit 4-3 outlines the types of allowable loan purposes. **Attachment 4-B** defines each eligible loan purpose in greater detail.

Exhibit 4-3

Eligible Loan Purposes

- A. New construction;
- B. Purchase and rehabilitation;
- C. Site acquisition and development;
- D. Necessary systems;
- E. Landscaping/site improvement;
- F. Tenant facilities;
- G. Management facilities;
- H. Customary equipment and appliances;
- I. Initial operating capital for nonprofits;
- J. Packaging fees for nonprofits;
- K. Fees incurred in the formation or incorporation of the loan applicant entity for nonprofits;
- L. Technical assistance by nonprofits to nonprofits;
- M. Builder's profit, overhead, and general requirements;
- N. Legal, technical, environmental, and professional services;
- O. Permit fees;
- P. Tax credit application;
- Q. Educational programs for cooperative boards;
- R. Interest and charges on interim financing;
- S. Purchase housing from an interim lender;
- T. Demonstration projects; and
- U. Section 502 conversions.

B. Prohibited Uses of Loan Funds [7 CFR 3560.54]

Prohibited uses of loan funds appear in 7 CFR 3560.54 and are summarized in Exhibit 4-4. A detailed description of prohibited loan uses is presented in **Attachment 4-C**.

C. Eligible Applicants [7 CFR 3560.55]

Applicant eligibility requirements appear at 7 CFR 3560.55 and are summarized in Exhibit 4-5.

Exhibit 4-4

Prohibited Uses of Loan Funds

- A. Housing for temporary or transient tenants (except for migrant labor housing);
- B. Nursing homes or assisted living facilities;
- C. Facilities not meeting program design requirements;
- D. Commercial space;
- E. Specialized equipment for training and therapy;
- F. Operating costs of a dining facility;
- G. Nonaffixed items (except in labor housing);
- H. Value of contributed land in excess of equity requirements;
- I. Refinancing debt;
- J. Fees for referrals;
- K. Payments to any members of the applicant entity;
- L. Obligations incurred before loan closing except as permitted by 7 CFR 3560.54(b); and
- M. Developer's fees.

Exhibit 4-5**Applicant Eligibility Requirements [7CFR 3560.55]**

To be eligible for Agency assistance, applicants must meet the following eligibility requirements:

- A. Be a U.S. citizen or qualified alien(s); a corporation; a state or local public Agency; an Indian tribe as defined in § 3560.11; or a limited liability company (LLC), nonprofit organization, consumer cooperative, trust, partnership, or limited partnership in which the principals are U.S. citizens or qualified aliens.
- B. Be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents.
- C. Possess the legal and financial capacity to carry out the obligations required for the loan.
- D. Be able to maintain, manage, and operate the Multi-Family Housing project for its intended purpose and in accordance with all Agency program requirements.
- E. With the exception of applicants who are nonprofit organizations, housing cooperative, or public bodies, be able to provide the equity contribution from their own resources (this contribution must be in the form of cash, or land, or a combination thereof).
- F. Have or be able to obtain a minimum of 2 percent of the total development costs for use as initial operating capital (for nonprofit organizations, cooperatives, or public bodies, this amount may be financed through the loan).
- G. Not be suspended, debarred, or excluded based on the “list of Parties Excluded from Federal Procurement and Non-procurement Programs.”
- H. Additional requirements for applicants with prior debt:
 1. The applicant must be in compliance with any existing loan agreements and with all legal and regulatory requirements or must have an Agency-approved workout agreement and have been in compliance with the provisions of the workout agreement for a minimum of 6 consecutive months as of the date the initial loan application is received.
 2. The applicant must be in compliance with the Civil Rights Act of 1964 and all applicable civil rights laws.
- I. Additional requirements for nonprofit organizations (in addition to meeting the requirements of A-H):
 1. The applicant must have received a tax-exempt ruling from the IRS designating them as a 501(c)(3) or 501(c)(4) organization.
 2. The applicant must include as part of their organization purposes the provision of decent, safe, and sanitary housing that is affordable to very low-, low-, and moderate-income persons.
 3. No part of the applicant’s earnings may benefit any of their members, founders, or contributors.
 4. The applicant must be organized under state and local law.
 5. The applicant’s board of directors should reflect the demography of the community and be composed of:
 - No more than one-third being representatives of the public sector.
 - The remaining two-thirds being unrestricted.

continued

Exhibit 4-5 (cont.)
Applicant Eligibility Requirements [7CFR 3560.55]

J. Additional requirements for limited partnerships:

1. The general partner must be able to meet the equity contribution requirements if the partnership is not able to do so at the time an initial application is submitted.
2. The general partners must maintain a minimum 5 percent financial interest in the residuals or refinancing proceeds of the partnership.
3. The partnership must agree that new general partners can be brought into the organization only with the prior written consent of the Agency.

K. Additional requirements for Limited Liability Companies (LLCs):

1. The authority of the members of the LLC must be limited, and an authorized agent to act on the LLC's behalf to bind the LLC must be appointed.
2. The management functions of the LLC must be the responsibility of a member who holds at least a 5 percent financial interest in the LLC.

The LLC must agree that any new members to be brought into the organization must have prior consent of the Agency.

3. A single member must commit to meet the equity contribution requirement if the LLC partnership is not able to do so at the time an initial application is submitted.

4.7 CONTENTS OF THE INITIAL APPLICATION PACKAGE

The initial application package must include the necessary forms for the applicant to complete and return and must specify the additional information required from the applicant (as listed in **Attachment 4-D**). Exhibit 4-6 lists the forms required and their purpose. Exhibit 4-7 lists the additional documentation that must be submitted by the applicant in the initial application.

Exhibit 4-6**Items Included in the Initial Application Package**

1. *Form SF 424, Application for Federal Assistance*, (include for construction) provides summary information about the project and the applicant, when completed.
2. *Form RD 1924-13, Estimate and Certificate of Actual Costs*, provides detailed cost estimates that the Loan Originator will review to judge reasonableness.
3. *Form RD 1940-20, Request for Environmental Information*, requests the applicant to provide specific environmental information about the proposed project. Instructions to the applicant are part of the form. The form will be used by the Agency to help it complete an environmental review of the proposed project.
4. *Form RD 3560-7, Multiple Family Housing Project Budget/Utility Allowance*, provides a schedule of proposed rents and utilities and anticipated operating and maintenance costs. The form will be used by the Loan Originator to conduct the project feasibility analysis and to determine whether the utility allowance is accurate.
5. *Form RD 3560-25, Initial Request for Rental Assistance or Operating Assistance*, must be completed by the applicant if rental assistance is required for the project.
6. *Form RD 1944-37, Previous Participation Certification*, describes an applicant's prior involvement with Federal assistance.
7. *Form RD 410-9, Statement Required by the Privacy Act*, (for individuals only), and *Form RD 410-7, Notification to Applicant on Use of Financial Information from Financial Institution* (for individuals only), will allow the Agency to verify information provided by a loan applicant.

Exhibit 4-7

Information Requested in the Initial Application Package

A. To establish applicant eligibility:

1. Current financial statements (within 6 months) with the following paragraph signed by someone with the legal authority to do so:

“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.”
2. A check in the amount of \$28 from all individual applicants or \$40 from all organizational applicants. This check must be made out to the United States Department of Agriculture, and is used by the Agency to pay for a credit report on the applicant.
3. Statement signed by applicant that they will pay any cost overruns.
4. Proposed limited partnership agreement and certificates of limited partners (if applicable). Agency requirements should be contained in one section of the agreement and their location identified by the applicant or their attorney in a cover sheet.
5. If a limited liability company:
 - Copy of the Articles of Incorporation and all amendments; and
 - Certified copy of the operating agreement and all amendments.
6. If a nonprofit organization:
 - Tax-exempt ruling from the IRS designating them as a 501(c)(3) or 501(c)(4) organization. If the designation is pending, a copy of the designation request must be submitted.
 - Purpose statement, including the provision of low-income housing.
 - Evidence of organization under State and local law, or copies of pending applications.
7. If a trust, organizational documents and attorney opinion letter that the trust is validly formed and identifying the authorized representative to act on the trust’s behalf.

B. To establish project feasibility:

1. Market feasibility documentation, including complete market study if required by the Agency. Exhibits 4-10 and 4-11 should be included for specific information on Agency requirements.
2. Location of project.
3. Brief description of nearby services and facilities.
4. Description of site and necessary improvements.
5. Project description (total number of units by bedroom size and square footage), including any related facilities, and development timeline.
6. Proposed rent structures and rental assistance requirements.
7. Evidence of site control.
8. Description of any anticipated environmental issues.
9. Schematic drawings:
 - Site plan, including contour lines;
 - Floor plan of each living unit type and other type spaces;
 - Building exterior elevations;
 - Typical building exterior wall section; and

- Plot plan.
10. Description and justification of related facilities, schedule of separate charges for related facilities.
 11. Type and method of construction (owner builder, negotiated bid, or contractor method).
 12. Estimated costs (applicant completes *Form RD 1924-13*).
 13. Statement of housing experience and proposed management.
 14. Congregate services package/plan (if applicable).
 15. Statement of support from other government services providers to the project (congregate housing only).
 16. Response to the Uniform Relocation Assistance Act, if applicable.
- C. To establish project financing:**
1. Description of the proposed financing:
 - Requested Agency loan amount;
 - Leveraging sources (amount, type, rates and terms);
 - Agency loan to value (percentage of security value that Agency loan represents);
 - Agency lien position;
 - Statement as to use of low-income housing tax credit (LIHTC); and
 - Statement of budget and cash flow (loan applicant completes *Form RD 3560-7*), including type of utilities and utility allowance, if applicable.
 2. Life-cycle cost analysis and reserve account funding.
 3. Proposed construction financing (interim or multiple advances; if interim financing, letter of interest from intended lender).
 4. Evidence of efforts to obtain leveraged sources, if applicable, including copies of tax credit or loan applications and grant requests.
 5. Congregate services charges, if applicable.
- D. To help establish environmental compliance:**
1. *Form RD 1940-20*.
 2. Evidence of compliance with Executive Order 12372, Intergovernmental Review, as applicable. Some States have no single point of contact for processing *SF 424*; in others, the process may have been assumed by regional planning commissions or similar organizations.
 3. Any additional forms or documentation, specific to the proposal in question that the Agency requires from the applicant to ensure that an environmental review can be completed.
 4. Compliance with historic and architectural laws, if applicable.
 5. Comments regarding relevant offsite conditions.
 6. Map showing location of support services.
- E. Any other information specified in the NOFA.**

4.8 PRELIMINARY MEETING WITH APPLICANT

The Loan Originator invites all applicants to meet to discuss the loan application process and borrowers' responsibilities under the Multi-Family Housing program. This invitation is formally extended in the NOFA with the initial application package. This meeting must take

place before the initial application submission deadline and is especially important for first-time loan applicants. It should take place in the Agency offices as a face-to-face meeting, unless the applicant has considerable prior experience with the program, in which case the meeting may take place by telephone.

During this preliminary meeting with the applicant, the Loan Originator covers the following topics:

- **Multi-Family Housing program requirements and application process.** The Loan Originator must explain in general terms the Multi-Family Housing program and the application process and provide the applicant with any clarifications they might request or from which they might benefit. The Loan Originator should take particular care to discuss the extent of the applicant's responsibilities for participation in the Agency's environmental review process. In addition, the key requirements of the market feasibility documentation should be discussed.
- **Loan applicant's responsibilities.** The Loan Originator must explain the applicant's responsibilities during the next stages of the application process. The contents of the initial application package must be reviewed and the importance of submitting a complete package by the deadline must be stressed.
- **Long-term commitments.** The Loan Originator must explain the applicant's long-term commitments as a borrower. First-time applicants, in particular, need to be made aware of the 30-year prepayment prohibition and the reporting requirements to the Agency. This meeting is also an opportunity for the applicant to consider the level of management required and special circumstances that might be involved in the ongoing operation of the project.
- **Availability of alternative financing.** The Loan Originator must ask the applicants whether they can find other financing that would result in the same affordable rents to the tenants as those provided by Agency financing. This inquiry is important because it is a statutory requirement of the program that loans be made only where alternative financing would not result in affordable rents to tenants in the market area. As a condition of loan eligibility, the Loan Originator must make a note in the running record that the applicant is unable to find financing elsewhere.

The Loan Originator must be careful to be consistent in the way these meetings with the applicants are conducted. All applicants must be provided the same information, given sufficient time to cover all issues and have all questions answered, and be treated the same way throughout the loan application process.

4.9 ACCEPTING INITIAL APPLICATIONS

A. Date Stamping Initial Applications

Loan applicants must submit their initial applications by the due date specified in the NOFA. The Loan Originator must date stamp all the initial applications when they are

received. Late applications must be returned to the loan applicant and will not be considered during the funding cycle.

B. 30-Day Agency Review

The Loan Originator must make an assessment of preliminary eligibility of the initial applications and prioritize them within 30 days following the initial application submission deadline. This review process must not begin until after the application submission deadline. The Loan Originator must not discuss any specific application with any applicants or any other outside parties until all initial applications have been reviewed and the National Office has advised the State of which initial applications may be selected for further processing.

SECTION 2: THE REVIEW PROCESS AND SCORING AND RANKING

4.10 OVERVIEW OF THE REVIEW PROCESS

The Loan Originator has 30 days following the initial application submission deadline in which to review the submitted initial applications, perform the required underwriting of the loans, and conduct site visits.

The Loan Originator may request additional supporting documentation from the applicant to establish feasibility, but may not request information that would make an otherwise ineligible application eligible. The Loan Originator must establish a deadline by which the loan applicant must submit this information, and the deadline may not cause the review process to extend beyond 45 days.

4.11 LOAN REVIEW COMMITTEES

The State Director must establish a Loan Review Committee. Loan Review Committees serve an oversight function and assist the Loan Originator in deciding which loan applications move through the loan origination process. The objective of these committees is to guarantee the fair and equitable review and scoring of initial applications.

The State Director appoints or approves members of the committee and determines its role. The Loan Review Committee is made up of at least three Federal employees, including the State staff member in charge of Multi-Family Housing, the staff person with primary responsibility for loan origination, and one or more additional Agency state staff with Multi-Family Housing underwriting experience, rotated annually where staffing permits. State Directors must not be members of this committee since they have the authority to approve all loans.

The role of the Loan Review Committee varies from state to state. In its simplest form, the Loan Review Committee only reviews the scoring and ranking of initial applications. In some states, it also supports or rejects the Loan Originator's recommendations at the following decision points in the loan review process:

- When reviewing initial applications;

- When inviting final applications; or
- When making recommendations for approval to the State Director.

Some states make greater use of their Loan Review Committees and have them actually perform some of the loan origination functions.

4.12 PRELIMINARY ASSESSMENT OF THE INITIAL APPLICATION *[7 CFR 3560.56(b)]*

The preliminary assessment of the initial application conducted by the Loan Review Committee is designed only to assess preliminary eligibility, not project feasibility. Initial applications should clearly and completely respond to the criteria set forth in the NOFA and must be rejected if preliminary eligibility cannot be established. Preliminary eligibility means:

- The initial application was received by the submission deadline;
- The initial application is complete as specified by the NOFA;
- The applicant is an eligible entity type and none of its members are currently debarred, suspended, or in noncompliance with existing Agency loans;
- The applicant indicates the ability to provide the necessary financial resources;
- The applicant shows site control; and
- The project is for an authorized purpose in a designated place.

A. Was the Initial Application Submitted on Time?

The Loan Review Committee refers to the date stamp on the initial application to determine whether the application was received by the submission deadline specified in the NOFA. If not, it must be returned to the applicant.

B. Is the Initial Application Complete?

As a first step in processing initial applications, the Loan Review Committee must establish that the applications are complete. The Loan Review Committee must confirm that the application includes:

- All forms listed in Exhibit 4-6;
- All information identified in Exhibit 4-7; and
- The applicant's signature on all of the required forms.

If any of these items are not included or incomplete, the applicant must provide an acceptable explanation of why this happened. Acceptable explanations are only those that describe circumstances beyond the applicant's control. The State Director will make

the final determination as to whether the explanation is acceptable and the completeness rule should be waived.

If during the review the Loan Review Committee finds items in the initial application that require clarification, these should be noted and identified to the applicant if and when the applicant is selected for further processing under Stage 1. These items must not be of a nature that would cause a project to be ineligible. For example, if a certain required partnership clause is missing from the partnership agreement, the applicant will be told in the conditional commitment letter to make sure the clause is inserted into the partnership agreement by a certain time. If the applicant does not meet that deadline and there is no acceptable explanation as to why the item is missing, the package must be considered incomplete and returned to the applicant.

ACCEPTING EXPLANATIONS FOR MISSING INFORMATION

Acceptable explanation for missing information:

- Applicant submitted a timely (i.e., immediately following receipt of notice to submit the initial application) request to another Agency for information and that Agency has not provided it as of the submission deadline.
- Natural disaster.

Unacceptable explanation for missing information:

- Computer broke down.
- Key staff member unavailable to develop application.

C. Establishing Applicant/Project Data

When an initial loan application is reviewed, the Loan Review Committee must take the following steps to establish applicant/project data on Automated Multi-Family Housing Accounting System (AMAS), using the following screens:

- Record Application Data [M1AA]; and
- Record Member Organization Data [M1AM].

D. Is the Applicant Eligible?

The Loan Review Committee must determine that:

- The applicant, or the principles of the applicant entity, is a U.S. Citizen or qualified alien; and
- If an organization, the applicant meets the definition in 7 CFR 3560.11; and
- No members of the applicant entity are debarred or suspended from any Federal programs or in noncompliance with existing Agency loans; and
- The applicant is not delinquent on any other Federal debt.

If any of the above criteria are not met, the applicant is not eligible for a loan, and the package must be returned to the applicant.

The following resources are available to establish the applicant's good standing with the Federal Government:

- The publication *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* provides a monthly listing of all suspended and debarred individuals and is available on the Internet at <http://www.epls.gov>. Once the site is entered, there are easy-to-follow instructions that will guide the user through the Excluded Parties List System (EPLS) and main menu. A hard copy of this publication is mailed to offices that are not hooked up to the Internet.
- The U.S. Department of Housing and Urban Development's (HUD) Credit Alert Interactive Voice Response System (CAIVRS), identifies all individuals with delinquent Federal debt. CAIVRS can be accessed by dialing 1-888-827-5605 and leaving requested information in the voice mail as prompted. If CAIVRS indicates that the applicant has a delinquent Federal debt, the Loan Review Committee must verify with the point of contact listed that the information regarding the applicant is current. If the information is indeed current and the applicant is delinquent, the Loan Review Committee must reject the applicant as ineligible. The applicant must be informed of the reason for their rejection and be provided with the telephone number CAIVRS lists as a point of contact. Also, the Agency should send *Form RD 1944-37* to HUD for review.

E. Does the Applicant Entity Have the Financial Resources to Commit to the Project?

The applicant must submit a financial statement of net worth and cash resources that indicates that they have the ability to provide the necessary financial resources to the project—either 3 or 5 percent of the loan as equity and, if not a nonprofit, up to 2 percent initial operating capital. For a limited partnership or LLC, if the applicant entity has not been established and funded, then the assets of the individual general partners must be able to meet these program requirements.

F. Does the Applicant Show Site Control?

The applicant must show documentation of site control. At this early stage of loan processing, site control is ideally in the form of an option to purchase from the owner of public record (since the applicant should not have purchased land in anticipation of a loan that may not be forthcoming), but can also be in the form of a deed (ownership), purchase contract, lease, or agreement to lease. Options for the site should be valid for 1 year with the option of extending for an additional sum. The applicant may use *Form RD 440-34, Option to Purchase Real Estate Property*, to show evidence of site control.

G. Is the Project for an Authorized Purpose and in a Designated Place?

The Loan Review Committee must make a preliminary determination regarding project eligibility, which involves a basic analysis of the project proposal to establish that:

- The project is for an authorized purpose; and
- The project is located in a designated place.

To make a determination of preliminary project eligibility, the Loan Review Committee must review the proposed uses of loan funds for the initial application and compare these to **Attachments 4-B** and **4-C**, describing the eligible and prohibited uses of loan funds. If any of the proposed uses in the project proposal are prohibited or not eligible, the initial application must be rejected, returned to the applicant, and not considered during the funding cycle.

The Loan Review Committee checks the list of designated places to make sure that the location in which the project is proposed is a designated place. If not, the housing proposal is not eligible and must be returned to the loan applicant.

H. The Site Review

During the site review, the Loan Originator and other Agency staff actually look at the site to establish eligibility, consider the environmental issues, and perform a civil rights impact analysis. In conducting the site review, the Loan Originator must make sure that the proposed project meets the environmental and site criteria of an Agency-funded project as described in Chapter 3. **Attachment 4-E** provides a checklist that can be used to evaluate a site.

The site review is conducted as soon as possible after the State Office has preliminarily ranked its housing proposals. The site review is conducted to determine that there are no eligibility issues that might prohibit a project from going forward. The major feasibility considerations are enumerated in Chapter 3 and are:

- Environmental factors;
- Costs of site development; and
- Location.

The Loan Originator must solicit the input of the State Architect or State Engineer and the State Environmental Coordinator (SEC) regarding the site and if possible, these individuals should participate in the physical site review. If a site does not meet the standards set forth by the Agency as described in Chapter 3, the initial application must be rejected. *ASTM Standard E-1528 (TSQ)* available through the State Environmental Coordinator, or **Attachment 3-A**, can be completed by Agency staff during the site review to alert them to any contamination issues about which they should be aware.

I. Environmental Review

Form RD 1940-20, completed by the applicant, provides specific environmental information about the proposed project. To begin preparation of the Agency's environmental review, the Loan Originator reviews the information provided with *Form RD 1940-20* and conducts a site visit to gather additional information. The TSQ may be used during the site visit to help the Loan Originator identify potential contamination of the site from hazardous substances, hazardous wastes, or petroleum products. Chapter 3 provides additional information on environmental requirements.

J. Is There a Market for the Project?

The need and demand analysis that the applicant must include as part of the initial application provides a narrative description of the market need and demand for the type of housing being proposed in the area. This analysis may be completed by the applicant personally through telephone surveys and face-to-face interviews. Alternatively, the applicant may hire an independent contractor to conduct the research. However, hiring an independent researcher to analyze the market is not required at this point. A complete market study or market feasibility documentation, depending upon the size of the project, will be required in the next stage of the application process, if the applicant is invited to proceed. Regardless of the method that is used to complete the need and demand analysis, the applicant must certify that they or their representative has visited the site and the market area.

The need and demand analysis should include enough information to provide the Loan Originator with information about the need for the type of project that is being proposed in the area and its sustainability. The Loan Originator should review this analysis carefully at this stage and discuss any concerns about it with the applicant if the applicant is invited to submit an initial application.

For more information about the required contents of a market analysis, refer to **Attachment 4-F**.

4.13 SCORING AND RANKING INITIAL APPLICATIONS

Based on the information contained in the initial application, the Loan Review Committee will score and then rank those proposals determined to be preliminarily eligible. Applicants must not be requested to submit additional information, and any additional information submitted after the deadline date must not be considered. Exhibit 4-8 provides an example of how initial applications are scored and ranked.

Initial applications must be scored in accordance with the priorities identified in the regulation and the NOFA. The Loan Review Committee must use its best judgment in applying points to proposals. In some cases, it may not be entirely clear whether the project or applicant will meet all of the criteria for awarding points. The Loan Review Committee must have some comfort level in applying points and must inform applicants who are invited to submit initial applications that they may be re-pointed and reranked if subsequent information proves that points were awarded inappropriately. For example, it may not be entirely clear that an applicant

meets all of the conditions necessary for points to be applied for donated land. The Loan Review Committee that gives such points must inform the applicant that the Agency reserves the right to rework them at a later date if necessary. The NOFA will identify some or all of the following factors and list the number of points that will be applied for each factor:

- Leveraged assistance;
- High-need communities;
- Agency initiatives; and
- Donated land.

A. Scoring Leveraged Assistance

1. Eligibility Requirements

Points will be given to initial applications that are enhanced through the use of other financing or which include value contributed by the applicant in excess of their required contribution, such as land value or tax credits. Leveraged assistance may benefit a project either through operating cost savings or through construction cost savings. Several conditions must be met for the points to be applied:

- The applicant must show evidence that application has been made for the additional funds or financing and that this leveraging is reasonably assured to be available by the time the applicant is in Stage 2 of the loan application process.
- Agency funds must only finance units for program income-eligible tenants. If the developer is building a mixed-income complex, only the portion of leveraged assistance that is being used to finance units for program income-eligible tenants will be considered in determining points.
- For those units that are financed by the Agency, the use of the leveraged assistance must not result in project rents that exceed Conventional Rents for Comparable Units (CRCU) in the area. The Agency may only approve rents above the CRCU under limited circumstances, as described in Chapter 3, paragraph 3.20 B.
- There must be reasonable assurance that any leveraged assistance in the form of rental subsidy to tenants will be available for the term of the loan. For example, a State-funded rental subsidy program that is expected to continue to be funded in future years would meet this requirement.
- Leveraged assistance in the form of operating cost savings must be for a minimum of 5 years.
- If the applicant uses value of land in excess of the required contribution as leveraged assistance, the applicant must be advised that if the appraisal shows the land value to be less than estimated, their ranking may be affected and they will have to provide to the project additional funds from their own resources to preserve their position.

2. Calculating the Percentage of Leveraged Assistance and Applying Points

Leveraged assistance is calculated differently, depending upon whether the cost savings are operational cost savings or construction cost savings.

- **Calculating operating cost savings and applying points.**

Operating cost savings, such as tax abatements, tenant subsidies, or donated services, are calculated as a per-unit cost savings for the term of the savings. Savings must be available for at least 5 years.

To calculate the savings, take the total amount of savings and divide it by the number of units in the project that will benefit from the savings to obtain the per unit cost savings. In a mixed income complex that will serve other than Agency income-eligible tenants, use only the number of units that will serve Agency income-eligible tenants. Round percentages to the nearest whole number, rounding up at 0.50 and above and down at 0.49 and below. For example, 25.50 becomes 26; 25.49 becomes 25.

Use the following table to apply points.

<u>Per-Unit Cost Savings</u>	<u>Points</u>
\$15,000 and above	20
\$10,001–\$15,000	18
\$7,501–\$10,000	16
\$5,001–\$7,500	12
\$3,501–\$5,000	10
\$2,001–\$3,500	8
\$1,000 –\$2,000	5

- **Calculating construction cost savings and applying points.**

Construction cost savings is calculated as a percentage of the total development cost (TDC), excluding any costs prohibited by the Agency as loan expenses. In a mixed income project that will serve other than Agency income-eligible tenants, use the TDC for only those units that will serve Agency income-eligible tenants and divide that by the number of units that will serve Agency income-eligible tenants. Round percentages to the nearest whole number, rounding up at .50 and above and down at .49 and below. For example, 25.50 becomes 26; 25.49 becomes 25.

Use the following table to award points for leveraged assistance:

<u>Percentage</u>	<u>Points</u>	<u>Percentage</u>	<u>Points</u>
75 or more	20	35–39	12
70–74	19	30–34	11
65–69	18	25–29	10
60–64	17	20–24	9
55–59	16	15–19	8

50–54	15	10–14	7
45–49	14	5–9	6
40–44	13	0–4	0

B. Scoring Other Factors

1. High-Need Communities

Projects to be developed in a colonia, tribal land, Empowerment Zones (EZs), Enterprise Communities (ECs), or Rural Economic and Area Partnership (REAP) communities, or in a place identified in the State Consolidated Plan or State needs assessment as a high need community for multi-family housing will receive points.

2. National Office Initiative

Initial applications that support a National Office initiative announced in the NOFA will receive points. When an initial application has been awarded MOU or National Office Initiative points, a copy of the MOU or other

documentation evidencing the applicant’s eligibility for the points must be maintained with the Section 515 Application Review Checklist and Point Score Sheet. These documents are contained in Attachment 2 of the Section 515 Processing UL for the current fiscal year, and are submitted to the National Office on or before the deadline stated in the UL on Processing Section 515 New Construction Loan Requests.

3. State Initiatives

Initial applications 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 will receive priority points. A factor thus developed cannot duplicate factors already included in the NOFA and must be approved by the National Office prior to the NOFA publication.

<p>Types of Leveraged Assistance</p> <p>The following types of leveraged assistance are eligible to receive points:</p> <ul style="list-style-type: none"> • Grants; • Loans from other sources, including from the applicant, that have an interest rate such that, when added to all funding sources in the project, results in rents that do not exceed the CRCU standard; • Contributions (including appraised value of land) from the applicant’s own resources above the required contribution indicated by the Sources and Uses Comprehensive Evaluation; • Non–Agency-financed rental subsidy; • Tax abatements or other savings in operating costs provided that, without the abatement, the basic rents in the project do not exceed the CRCU standard; • Tax credit proceeds applied to the project; and • Tenant subsidies, provided they are appropriate for tenant income levels and are for the term of the loan.
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4. *Donated Land*

For donated land to be eligible for priority points, all of the conditions listed below must be met. Some of these conditions may have to be confirmed at a later date; the Agency reserves the right to withdraw points if all of the following are not met.

- The land is donated by a State, unit of local government, public body, or a nonprofit organization.
- The land appears to be suitable and meeting Agency requirements.
- Site development costs do not exceed what they would be to purchase and develop an 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, for a total of \$35,000, donation of the site would not be cost effective or qualify for additional priority points.) Applicants must be informed that regardless of their investment in the site, the site may not be accepted if the Agency's environmental review indicates the potential for impact on protected resources or other important land uses, or if a potential for contamination exists from hazardous substances, hazardous wastes, or petroleum products.
- Operational costs are not increased by the land (such as would be the case if high insurance premiums for flood insurance were required).
- The overall cost of the project is reduced by the donation of the land.
- The donor of the site has owned it for at least one year. (The State Director may waive these criteria when it can be shown that the purchase was not made to circumvent the intent of this paragraph.)
- The applicant provides the value of the donated land, which must later be confirmed by the Agency. A return on investment (ROI) is not paid to the applicant for the value of the donated land nor is the value of the land considered as part of the applicant's contribution.

C. Ranking Initial Applications

Initial applications must be ranked in order of highest point score. When there are point score ties, the following rules apply:

- Preference must be given in the case of equally pointed initial applications to the applicant that qualifies as a nonprofit applicant according to the following requirements:
 - ◊ The applicant is a local nonprofit organization, public body, or Indian tribe whose principal purposes include the planning, development, and management of low-income housing.
 - ◊ The applicant is exempt from Federal income taxes under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

- ◇ The applicant is not wholly or partially owned or controlled by a for-profit or limited-profit type entity.
 - ◇ The applicant’s members, or the entity, do not share an identity-of-interest (IOI) with a for-profit or limited profit type entity.
 - ◇ The applicant is not co-venturing with another entity; and
 - ◇ The applicant entity or its members will not be receiving any direct or indirect benefits pursuant to the LIHTC.
- If the tying initial applications are both from nonprofit organizations who meet the description above, or if neither one is a nonprofit, a lottery must be held and preference given to the first drawn applicant. An acceptable form of selection by lottery would be to throw the names of all of the tying applicants into a hat and draw a name. The Loan Originator should only do this in the presence of the loan review committee so that no charges of favoritism can be leveled against the Loan Originator by any of the applicants who are not drawn first.

Exhibit 4-8			
Example of Scoring and Ranking NOFA Responses			
Project	Applicant and Project Description	Total Points	Ranking
Green Acres	Limited Partnership	65	1
	Leveraged Assistance:	20	
	EZ/EC:	20	
	Agency Initiative:	20	
	Donated Land:	5	
Belrose Place	Limited Partnership	55	2
	Leveraged Assistance:	15	
	EZ/EC:	20	
	Agency Initiative:	20	
Meyton Place	Limited Partnership	45	3
	Leveraged Assistance:	20	
	Agency Initiative:	20	
	Donated Land:	5	
Awesome Apartments	Nonprofit	40	4
	Agency Initiative:	20	
	EZ/EC:	20	
Delaplane Mews	Limited Partnership	40	5
	Leveraged Assistance:	20	
	Agency Initiative:	20	

D. Review of Highest Ranked Initial Applications

The Loan Originator must conduct a review of top-ranking initial applications to identify potential issues that will need to be specified as concerns in the letter notifying applicants that their applications have been considered for further processing. The following evaluations must be made:

- Does the applicant have some housing experience, and if not, are they proposing to hire someone who will help them? An applicant who does not have housing experience will not necessarily be disqualified. However, the Loan Originator must advise them that an Agency loan will be contingent upon their hiring someone who does have housing experience.
- Is there a market for the project at the rental rates projected? The market feasibility documentation provided by the applicant at this stage is only cursory; however, if the Loan Originator is familiar with the market and has any concerns about it, these must be raised with the applicant if they are invited to submit an initial application. The market must show the strongest need for the type of units proposed.
- Do rents seem reasonable, and will they cover projected costs? Rents must appear to be affordable to program-eligible applicants within the market area.
- Are there any known or suspected environmental problems that will need to be addressed in the development of the Agency’s environmental review?
- What are the other leveraging sources? Are they likely to be obtained and might there be some timing issues in coordinating these sources with Agency funding?
- Is the applicant planning to use the LIHTC? Use of LIHTC will affect the amount of equity required from the applicant.
- Are the proposed security and the Agency’s lien position acceptable?

E. Forwarding Initial Applications to National Office for National Ranking

Once the State Offices score and rank the initial applications, they forward their ranking lists with the required attachments to the National Office. The required attachments are those that are listed in the applicable fiscal year’s UL on Processing Section 515 New Construction Loan Requests. The National Office will then verify the scoring of each initial application, and then prepare a national ranking to determine which initial applications have the opportunity to move to the next stage of processing. The National Office will forward this list to the State Offices.

4.14 INFORMING THE APPLICANTS OF RESULTS OF INITIAL APPLICATION REVIEW

Once the NOFA responses have been scored and ranked and the National Office has advised States of the proposals selected for further processing, the Loan Originator must respond to all applicants with one of three types of letters:

- *Handbook Letter 106 (3560), Notice of Pre-Application Review Action.* These letters go to the applicants who have top-ranked, fundable projects that will be invited to go on to the next phase of processing. These letters will include a description of the Agency’s concerns about issues raised in the application, as described in paragraph 4.13 D.
- *Handbook Letter 107 (3560), A Letter Informing the Applicant of the Lack of Funds.* These letters go to applicants whose projects did not rank high enough to be considered in the current funding cycle. These applicants must be informed that they can resubmit their application in a future funding cycle. The original initial application must be returned to the applicant with the letter, and a copy of the initial application should be kept on file in the event of an appeal.
- *Handbook Letter 108 (3560), Letter Denying Funding due to Ineligibility.* These letters go to applicants who have submitted applications for an unauthorized purpose or who are ineligible applicants. Their initial applications must be returned to them with the reason(s) for their rejection specified, and the applicants must be given appeal rights in accordance with 7 CFR Part 11 (Appendix 2). A copy of the initial application must be retained by the Loan Originator in the event of an appeal.

SECTION 3: PROJECT FEASIBILITY REVIEW

4.15 UNDERWRITING THE PROPOSED PROJECT

Through the underwriting process, the Loan Originator evaluates an applicant’s circumstances and the value of the property to determine whether making a particular loan is a prudent use of Agency funds. Underwriting also identifies factors that may affect the performance of the loan over the term or at maturity.

Underwriting has both objective and subjective elements. For example, project eligibility is an objective factor—if the project is located in a floodplain zone with no insurance, the project is not eligible and the loan applicant cannot receive a program loan. On the other hand, analyzing an applicant’s financial statements and estimating the value of the property both involve some degree of judgment. The underwriter’s challenge is to make both objective and subjective decisions in a fair and impartial manner for all applicants.

This paragraph provides a broad overview of the key decisions and special considerations that the Loan Originator must make in the underwriting process. The remainder of this chapter goes into further detail about loan underwriting.

A. Key Decisions

The Loan Originator must make the following key underwriting decisions in evaluating the initial application:

- Is the applicant eligible?

- Is the project eligible?
- Does the project appear economically feasible?
- Do the project costs appear reasonable?
- Does the project comply with Agency environmental standards?
- Do the Agency's interests appear to be secure?

These questions, when answered in the affirmative, set the standards by which loans requests are evaluated. The questions are answered by analyzing the initial application package, conducting a site visit, and completing the environmental review. The Loan Originator reviews current credit reports and organizational documents to determine if the applicant is eligible, looks at preliminary plans and cost estimates to see if the project is feasible, analyzes market feasibility documents to determine that the project is needed, conducts a site visit, and completes the appropriate level of environmental review. The Agency staff will complete a civil right impact analysis as a further project eligibility test.

The environmental review process is a vital part of the underwriting process and may take longer to complete than any other component of the underwriting process. Chapter 3 provides further details on the environmental review process.

The Loan Originator does not have to reject an initial application that is weak in a particular area and requires some improvement. The Loan Originator must consider the results of the underwriting process as a whole to determine whether to move the initial application to the final application stage. However, should the results of a review show the answer to one of the five above-listed underwriting standards to be an unequivocal "no," meaning that the applicant cannot or will not correct the deficiency, then that initial application must be rejected.

B. Ordering the Appraisal

The Loan Originator must order the appraisal as soon as the applicant has submitted the schematic drawings for the proposed housing. The appraisal is important because it is used to determine the maximum loan limits for the proposed project.

The appraisal may be done by an in-house Agency appraiser. In all likelihood, however, the appraisal will have to be ordered either from a list of appraisers used by the state or by sending out a bid proposal to the known appraisers in the state. Chapter 7 provides the specifics on ordering and reviewing appraisals. Paragraph 3.13 of Chapter 3 provides additional guidance to appraisers regarding potential contamination from hazardous substances, hazardous wastes, and petroleum products.

C. Documenting Underwriting

The Loan Originator must provide documentation of the underwriting process to the Loan Approval Official or Loan Review Committee. This is the evidence of how and

why the Loan Originator reached a decision on whether to recommend funding a loan and at what level. The Loan Approval Official makes the final decision based on the information presented by the Loan Originator and the Loan Review Committee.

4.16 APPLICANT ELIGIBILITY [7 CFR 3560.55]

To be eligible for Agency assistance, the applicant must meet the following eligibility requirements:

A. U.S. Citizenship/Qualified Alien Status Requirements

Individual applicants and organizational applicants must provide to their attorney acceptable evidence of U.S. citizenship and/or qualified alien status. Acceptable evidence of U.S. citizenship may include a valid U.S. birth certificate, a valid U.S. Passport, a valid U.S. Certificate of Naturalization, or other acceptable evidence of U.S. citizenship proposed by the applicant and determined by the Agency. Acceptable evidence of qualified alien status may include valid documentation issued by the U.S. Citizenship and Immigration Services (USCIS), or other acceptable documentation of qualified alien status proposed by the applicant and determined by the Agency.

Attorney Certification. The applicant's attorney must review all applicable evidence to verify U.S. citizenship and/or qualified alien status, must certify that the Agency's U.S. citizenship and/or qualified alien status eligibility requirements are met by all applicants, and must submit the certification for Agency review.

The Loan Originator will review the attorney certification to ensure the outlined citizenship/qualified alien status requirements are met.

B. Organizational Requirements

In addition to meeting the above requirements, organizational entities have additional requirements that they must meet. Once the Loan Originator has established that the applicant entity's organizational documents appear to be in order, the Loan Originator submits the organizational documents to the Office of General Counsel (OGC) for final verification of their acceptability.

1. Limited Partnerships

The Loan Originator must determine whether the organizational requirements of limited partnerships are met by analyzing the partnership agreement, certificate of limited partnership, and applicant financial statements that must have been included in the initial application to ensure that they meet the criteria identified below. The partnership agreement and certificate of limited partnership must also be forwarded to the OGC for their review.

- **Partnership term.** The term of the partnership must be at least equal to the term of the mortgage that is, 30 years, or until the Agency debt is satisfied.
- **Five percent general partnership interest.** The terms of the limited partnership agreement must require that the general partners maintain a minimum of 5 percent financial interest in the residual or refinancing proceeds of the partnership. 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 is allowable.
- **Prior Agency consent.** The limited partnership agreement must contain a clause that provides for obtaining prior consent from the Agency when any of the following actions are taken:
 - ◇ Withdrawing a general partner;
 - ◇ Adding a general partner;
 - ◇ Substituting or deleting a general partner;
 - ◇ Amending the limited partnership agreement or the partnership's certificate of limited partnership;
 - ◇ Selling all or substantially all assets of the partnership;
 - ◇ Dissolving or terminating the partnership; and
 - ◇ Borrowing funds from general partners or third parties.
 - **Program contribution requirements.** Limited partnerships must deposit into an account the required 2 percent initial operating capital and the equity contribution requirement. The certified financial statements of the general partners must confirm that the assets of the general partners are sufficient to meet this contribution requirement. Paragraph 4.16 C provides further information on financial requirements.

2. Nonprofit Organizations

The Loan Originator must verify the status of any nonprofit organization applicants since they may have received a preference in ranking and are eligible to receive a larger loan that covers the 2 percent initial operating capital and the equity requirements for which other types of applicants are not eligible. A description of the information that a nonprofit applicant must submit as part of the initial application and guidance to the Loan Originator in reviewing this information to establish eligibility follows:

- **Tax-exempt ruling from the IRS designating the nonprofit as a 501(c)(3) or 501(c)(4) organization.** If the designation is pending, a copy of the letter requesting the designation must be submitted. The Loan Originator must verify that the request for designation has been submitted to the IRS if the designation has not already been received.
- **Purpose statement.** The Loan Originator must ensure that the nonprofit organization's purpose statement includes the provision of decent housing that is affordable to low- and moderate-income persons.

- **Evidence of organization under State and local law, such as articles of incorporation or copies of pending applications.** The Loan Originator must ensure that these are current and match the applicant entity.
- **List of Board of Directors.** The Loan Originator must verify that the loan applicant's Board of Directors reflects the demography of the community and is composed of:
 - ◇ No more than one-third being representatives of the public sector; and
 - ◇ The composition of the remaining two-thirds being unrestricted.

If the board is unable to satisfy these requirements, the nonprofit organization must provide a written explanation to the Loan Originator indicating why it is not feasible to meet these requirements. The Loan Originator will review the circumstances and the board's explanation and determine whether the board represents the best possible composition reflecting the community.

3. Limited Liability Companies (LLC)

The Loan Originator must review the LLC's proposed operating agreement to ensure that the following conditions are met:

- Individual members do not have the authority to act on behalf of the LLC. An authorized agent to act on the LLC's behalf to bind the LLC must be appointed.
- The management functions of the LLC are the responsibility of a member who holds at least a 5 percent financial interest in the LLC.
- The LLC has agreed that any new members may be brought into the organization only with prior consent of the Agency.
- The financial statement of the single member who has committed to meet the equity contribution requirements demonstrates that the person is financially able to do so.

4. Trusts

If the applicant entity is a trust, the Loan Originator must review:

- The trust's organizational documents to ensure that it is validly formed under federal and State law; and
- The opinion letter from the trust's attorney certifying that the trust is validly formed and identifying the representative of the trust who is authorized to act on its behalf.

C. Financial Requirements

The Loan Originator must review the individual financial statements and credit reports of the principals provided in the initial application to establish that the loan applicant is not a credit risk and has the financial ability to meet the requirements of the loan.

1. *The Credit Report*

Upon receipt of the initial application, the Loan Originator must immediately order a credit report on the individual applicant or the principals of a partnership, as appropriate.

Any indications of unacceptable credit must be explained by the applicant or the applicant must be rejected due to unacceptable credit. When this occurs, appeal rights in accordance with 7 CFR Part 11 (Appendix 2) must be given.

Exhibit 4-9 provides indicators of unacceptable credit.

2. *Analysis of Financial Documents*

The Loan Originator must verify that the loan applicant's financial documents show that the applicant possesses the financial capacity to carry out the following obligations:

- With the exception of nonprofit applicants, the applicant is able to provide the equity contribution from their own resources in the form of cash, land, or a combination thereof.
- With the exception of nonprofit applicants, the applicant has or is able to obtain a minimum of two percent of the total development costs for use as initial operating capital. Nonprofit organizations may have this amount funded through the loan.

3. *Assets*

In evaluating a corporation/partnership's assets, the Loan Originator must consider the assets of each member or stockholder. The partnership must have the financial ability to meet the program financial requirements (equity contribution and 2 percent initial operating capital); if the partnership is unable to do so at this point, the general partners must be able to meet this requirement.

Exhibit 4-9

Indicators of Unacceptable Credit

- A foreclosure that has been completed in the last 36 months.
- An outstanding IRS tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.
- Outstanding collection accounts with a record of irregular payments with no satisfactory

arrangement for repayment, or collection accounts that were paid in full within the last 6 months, unless the applicant had been making regular payments previously.

- Non–Agency debts written off within the last 36 months, unless the debt was paid in full at least 12 months ago. In situations where the Agency debt has been considered for debt settlement or a Rural Development property has been foreclosed on, the State Director may determine the applicant, including principals, in compliance if the file is documented to show that the borrowers 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.
- Agency debts that were settled within the past 36 months, or are being considered for debt settlement.
- Delinquency on a Federal debt.
- A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding or has been outstanding within the last 12 months, except when a bankruptcy occurred:
 - ◇ In which debts were discharged more than 36 months prior to the date of application;
 - ◇ Where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application; or
 - ◇ Where a judgment was satisfied more than 12 months before the date of application.

4. Cost Overruns [7 CFR 3560.63(f)]

As a final financial condition, the applicant must provide as part of the initial application package a statement agreeing to pay cost overruns after the maximum debt limit is reached at no cost to the project, and without pledging the project as security.

D. Compliance Requirements for Current or Previous Borrowers

1. Previous Participation Form

As a further indication of eligibility, the applicant must submit *Form RD 1944-37*. This form identifies any current or prior participation in Federal housing projects that the applicant may have had and identifies any problems such as defaults, noncompliance, or suspensions that may have occurred. The Loan Originator must send this form to the HUD for their review and comment.

The Loan Originator should also contact HUD staff directly to verify the applicant's status with HUD. If the applicant has had any problems with payment on a HUD loan or management of a HUD project, further explanation is required of the applicant. If the applicant is found to be in default, serious noncompliance, or suspended, the applicant must be rejected. In such a case, the loan applicant will be provided with appeal rights in accordance with 7 CFR Part 11.

2. Suspension or Debarment

Individuals who are suspended, debarred, or voluntarily excluded from participation in Federal programs are not eligible for assistance. Such applicants should have been rejected as a first step when the preliminary assessment of the initial application was made (see Paragraph 4.12). If applicants are found to be suspended or debarred at any stage of the process, their application must be rejected and they must be given appeal right in accordance with 7 CFR Part 11.

3. Complete Compliance or Workout Agreement

The applicant must be in compliance with any existing Agency debts in all states and in accordance with all legal and regulatory requirements and agreements. If not, the applicant must have an Agency-approved workout agreement and must have been in compliance with the provisions of the agreement for at least 6 months as of the date the initial application was due to the Agency. Loan Originators must telephone their Agency counterparts in other states where an applicant has projects to verify the applicant's status with their loans in those States. If the Loan Originator discovers noncompliance with the provisions of a workout agreement or that the applicant has been in compliance with a workout agreement for less than 6 months as of the due date of the initial application, the applicant must be rejected.

4. Compliance with Civil Rights Laws

For an applicant entity to be considered eligible to receive new loan funds from the Agency, the following must apply:

- The applicant, including the principal partners, must be in compliance with applicable civil rights laws in all projects where they are either a borrower or principal partner. For a borrower to be considered in noncompliance with civil rights laws for loan eligibility purposes, the borrower's project must be coded on the Multi-Family Housing Information System (MFIS) as being in nonmonetary default. In accordance with Agency policy a nonmonetary default on MFIS when the Loan Servicing Office has notified the borrower of a violation using the three servicing letter process, and the borrower has not addressed the violation to the satisfaction of the Loan Servicing Office within 60 days of the first servicing letter.
- For a borrower to be considered eligible to receive rehabilitation or equity funds, the project to be funded must either be in compliance, or be brought into compliance with applicable civil rights laws or physical accessibility standards with the receipt of loan funds.

4.17 PROJECT ELIGIBILITY [7 CFR 3560.58, 3560.59, and 3560.60]

The Loan Review Committee assesses the preliminary eligibility of the project by determining that the project is located in a designated place, and will be completed for an authorized purpose, and that the applicant shows true evidence of site control. The underwriting now goes a step further when the Loan Originator ensures that the applicant has submitted

adequate documentation to show that the project meets all applicable site and design requirements.

A. Civil Rights Impact Analyses

The Agency conducts civil rights impact analyses to determine whether proposed actions will negatively and disproportionately affect minorities, women, or persons with disabilities who are employees, program beneficiaries, or applicants for employment or program benefits in USDA-conducted or assisted programs, by virtue of their race, color, sex, national origin, religion, age, disability, or marital or familial status. At the time of the site visit, a trained staff member completes *Form RD 2006-38*. The State Civil Rights Coordinator and, as necessary, the State Environmental Coordinator, are consulted if problems are noted. RD Instruction 2006-P provides further guidance on these requirements.

B. Working with the State Historic Preservation Office (SHPO)

Applicants must work with the SHPO to determine the site's and/or building's archaeological or historical significance. Refer to RD Instruction 1940-G for further information.

C. Flood Hazard Determination

At this time, the Loan Originator must complete *Form FEMA 81-93*. This form documents whether the site is in a Special Flood Hazard Area (SFHA) identified by FEMA and, if so, states the availability of flood insurance for this property through FEMA's National Flood Insurance Program (NFIP). Property in a SFHA is not eligible for Federal financial assistance unless flood insurance is purchased through the NFIP. The information regarding floodplains on this form will assist in the preparation of the environmental review document.

D. Design Review

The Loan Originator must submit all project plans and drawings to the State Architect/Engineer who will review the design and determine if it meets program requirements. Paragraph 4.21 provides further details on the role of the State Architect.

E. Prohibited Conditions

In accordance with 7 CFR 3560.57(d), the Loan Originator at this point must confirm that no conditions that would prohibit the Agency from processing the loan request have developed in the area in which the project is being located. The existence of the following conditions would result in an application being rejected:

- The Agency has selected another Multi-Family Housing proposal in the designated place for processing. An exception may be made to this when a group home is being proposed for persons with disabilities in an area where the existing multi-family housing is insufficient or unavailable for their needs, or where there is a need for

additional multi-family housing and the housing proposed would provide a different type of housing than that already selected.

- A previously funded Agency, HUD, LIHTC or other similar assisted multi-family housing in the designated place has not been completed or has not reached projected occupancy level.
- Existing assisted multi-family housing in the designated place is experiencing high vacancy levels. High vacancy is considered to be 5 percent or higher. If a State wishes to apply a different standard for high vacancy rates, that standard must be published in a State notice.
- A Special Note Rent (SNR) or other loan servicing tool is pending or in effect for other assisted housing in the designated place; or
- The need in the market area is for additional rental assistance and not for additional units.

The Loan Originator must confirm that none of the above conditions exist by checking with the HUD Area Office, State agencies, and the local Field Office.

4.18 PROJECT FEASIBILITY

Project feasibility is determined by:

- Feasibility of security as evidenced by an appraisal that shows the Agency’s lien position is secure.
- Market feasibility as evidenced by specified data on the market that show a clear need and demand for the proposed units.
- Financial feasibility as evidenced by anticipated project income being sufficient to meet projected costs.

A. Feasibility of Agency’s Security

The Agency conducts an appraisal to establish whether the Agency’s loan will be secured by the real estate to be developed. If the appraisal shows the project to be of lower value than the total development cost, and therefore, does not support the Agency’s lien position, the Agency must inform the applicants that they must reduce their costs or find the funds to make up the difference between the appraised value and the total development cost. Chapter 7 provides additional details on appraisals and establishing security.

B. Market Feasibility

The applicant must provide market feasibility documentation that shows that the need and demand in the market area in which a project is located is greatest for the proposed

type of multi-family housing (i.e., elderly or family) and unit mix of bedroom sizes. The market area is considered to be the community in which a project is to be located and only those outlying rural areas that will be affected 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 similar subdivision).

The project type, number of units, and unit mix must be based on the housing need and demand from eligible prospective tenants who are permanent residents of the community. The market feasibility documentation must be based on information obtained from current census reports and other reliable sources such as state or county data centers, individual employers, local realtors, public housing agencies, and chambers of commerce.

1. Market Survey or Market Study?

Market feasibility documentation will consist of a professional market study for projects of 12 units or more.

The State Director may authorize a market survey, which is a less formal analysis, to document market feasibility in the following circumstances:

- There is an overwhelming market demand evidenced by waiting lists and a housing shortage confirmed by local housing agencies and realtors; or
- For projects of less than 12 units.

Market surveys can be prepared through the use of telephone inquiries, mailed or door-to-door surveys, and interviews, but, like a market study, must include a site visit by the applicant or their representative.

All USDA Multi-Family Housing properties with 50 or more units must comply with the HUD's Multifamily Accelerated Processing (MAP) guidelines when preparing a "Market Study". All properties with less than 50 units will comply with the current regulations as established and further defined in the handbooks.

2. Evidence of Reliable Markets

In looking at the market feasibility documentation, the Loan Originator must be able to answer the following questions in the affirmative in order to conclude that there is a reliable market for the project:

- Is there a demand in the area? For example, do other Multi-Family Housing projects in the area have waiting lists with names of people who are currently interested or have recently applied for housing, and are vacancy rates low?
- Is the greatest demand for the type of housing project proposed (i.e., family or elderly)?

- Does the market finding confirm the proposed unit mix of bedroom sizes?
- Is the vacancy rate of units in comparable housing within the State’s acceptable range?

3. Requirements of Market Feasibility Documentation

The market feasibility documentation for both market surveys and market studies must clearly show that the following requirements have been met or it will be rejected as unacceptable and the initial application will be rejected.

Market Study Methodology
<ul style="list-style-type: none"> • Mathematical calculations must not be expressed in percentages alone, but must be backed up by the actual numbers that resulted in those percentages. • Source references must be identified for each table or section of the market study. • A brief statement of the methodology used in the study must be included.

- **Site visit.** The results of the survey or study must be based on the analyst’s visit to the site and interviews with knowledgeable members of the community. There must be a list of names of people interviewed with a brief description of their qualifications as knowledgeable community members and a summary of the comments they made.
- **Conventional Rents for Comparable Units.** The analyst must address the CRCU and how they compare with the proposed unit rents for other housing projects in the immediate area. Chapter 3 provides further guidance on CRCU.
- **Single-family housing.** A discussion of the existing housing supply must include reference to the single-family housing rental and sale units available.
- **Low-income housing tax credits.** If the applicant is requesting LIHTC, the market feasibility documentation must provide the number of LIHTC units and the maximum LIHTC incomes and rents by unit size. If rental assistance is not being requested for use in the project, the study must show that there are tax credit-eligible households that could pay the rent without rental assistance.
- **Eligible permanent residents.** Since the intent of the Multi-Family Housing program is to provide housing for the eligible permanent residents of the community, temporary residents of a community, such as college students, military personnel, or others not claiming their current residence as their legal domicile, may not be included in determining need and project size.
- **Homeowners.** The market feasibility documentation 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.

Items Covered in Market Surveys. All market surveys must include those items listed in Exhibit 4-10 and a signed statement by the analyst indicating that:

- ◇ The information presented is accurate to the best of the analyst’s knowledge;

- ◇ Reliable sources were used to collect the information and data presented; and
- ◇ A site visit was made by the analyst or their representative.
- **Items Covered in Market Studies.** Market studies must include those items listed in Exhibit 4-11, a table of contents, and the following:
 - ◇ The analyst's statement of qualifications;
 - ◇ Certification as to the accuracy of the study;
 - ◇ Certification that the analyst visited the site;
 - ◇ Affirmation that the analyst will not receive any fees that are contingent upon approval of the project by the Agency; and
 - ◇ Certification that the analyst will have no interest in the project.

Attachment 4-F provides guidance on verifying that the market study and survey show these requirements are met.

Exhibit 4-10
Required Contents of a Market Survey

- A complete description of the proposed site and a map showing the site, location of services, and their distances from the site.
- Names and qualifications of members of the community interviewed during the site visit and a discussion of their comments.
- Major employers in the area and year established.
- Employment opportunities and rates for the area for the past 5 years.
- Services available in the area, including shopping, schools, and medical facilities as well as community services such as recreational, transportation, and day care that are available.
- Population by year plus the annual increase or decrease for the past 5 years.
- Population characteristics by age.
- Number of households by year and number of persons per household for the past 5 years.
- Historical breakdown of households by owners and renters.
- Households by income groups.
- A survey of existing or proposed rental housing, including complex name, location, number of units, bedroom mix, family or elderly type, year built, rent charges, vacancies, waiting lists, amenities, and the availability of RA or other subsidies.
- Available mobile homes, if part of housing stock.
- The existing vacancy rate of all available rental units in the community, including houses.
- Proportionate need for project type.
- Building permits issued per year for the last 3 years for single and multiple unit dwellings.
- For proposals where the applicant is requesting LIHTCs, 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 applicant for tax credits.
- The amount of RA necessary to ensure the project's success.

Exhibit 4-11
Required Contents of a Market Study

1. All of the items required for a market survey (see Exhibit 4-10).
2. Major employment data including the name, location, and date of establishment of any major employers within the community; the product or service of each employer; the number of employees; and salary range for each employer; and business permits issued.
3. Housing stock as defined by total number of units: one-unit buildings, two- or more unit buildings, mobile homes, and the number of these lacking some or all plumbing facilities (substandard housing).
4. Number of rent-overburdened households.
5. An expanded analysis of existing vacancy rates for all available rental units in the community, including mobile homes. The analysis must make a distinction between “owned properties,” “available for rent,” and “for sale—not available for rent,” as well as available apartments and other rental units.
6. Population characteristics by age.
7. A projection of housing demand based on:
 - (a) Household growth;
 - (b) Units constructed since the last U.S. Census;
 - (c) Number of owned and rented units;
 - (d) Number of replacements; and
 - (e) Number of households in the eligible-income range.
8. All market studies or market surveys must provide a summary of the sample of farm workers used to document the need for off-farm labor housing. This summary should quantify eligible tenants according to 7 C.F.R. part 3560 subpart L section 3560.577 within the farm worker demographics sample and provide the reference/source of the information.

C. Financial Feasibility

The Loan Originator must analyze sources and uses of funds identified in the initial application to make the following determinations:

- The income (i.e., rent stream) in a proposed project matches up with anticipated debt service and costs.
- The proposed project costs are reasonable. If too high, the loan applicant may be including unnecessary or ineligible items, and the project becomes unaffordable. If too low, the low costs might be due to inferior quality materials and could create deferred maintenance problems later on. Paragraph 4.21 provides further details on project costs and Chapter 3 of HB-2-3560 provide guidance on analyzing a budget.

- The availability of any proposed leveraged funds is realistic.
- The Agency will not be providing excess assistance to the project. This is determined by conducting a subsidy layering review at this stage, and then again at Stage 2 of the loan origination process. Paragraph 4.19 provides details on the subsidy layering review process.
- Construction financing has been arranged.

1. Will Project Income Cover Expenses?

The Loan Originator must review several items in the initial application to assess adequacy of project income and acceptable expenses. The primary document available to the Loan Originator that provides information to determine project feasibility is the project budget, *Form RD 3560-7*.

The operating budget must show a schedule of proposed rental rates for the first year and a typical year’s operation. The first year covers the period from the date of the loan closing to the end of the first year’s operation. This first year’s budget must show that the applicant has sufficient operating capital on hand to pay all operating costs and meet scheduled loan payments during the construction period and prior to occupancy. A typical year’s budget must show that once the project is fully operational, there is sufficient income to pay all operating costs, make loan payments, and accumulate reserves.

The first year’s budget may include an allowance of up to 10 percent for vacancies, nonpayment of rent, and contingency expenses for a new housing project. This allowance can be adjusted for future budgets based on past project history. The budget must also provide for accumulating a reserve equal to what the life-cycle capital needs analysis shows will be necessary (see discussion below). All real estate taxes, utility costs, and other operating expenses must be identified. The Loan Originator must carefully review *Form RD 3560-7* to establish that utility allowances and projected utility costs are reasonable.

2. Is the Contribution to the Reserve Account Appropriate and Adequate?

The loan applicant’s architect should include as part of the Stage 1 application submission a capital needs assessment (CNA) for use in determining annual contribution to the reserve account. The Loan Originator should send this assessment to the State Architect/Engineer for review.

The CNA will be reviewed to determine if the recommended reserves are sufficient to cover the expected needs without driving project rents above CRCUs. The Agency may grant exceptions to the CRCU in limited circumstances, as described in Chapter 3, paragraph 3.20 B.

Annual contributions to the reserve will be at a minimum of 1 percent of the total development cost and no more than the higher of the required amount as shown by the

CNA or that which brings rents up to the CRCU. The aggregate, fully funded reserve amount must equal at least 10 percent of the greater of the total development cost or appraised value. If the reserve contribution at 1 percent of total development cost results in rents that are above the CRCU standard as discussed in Chapter 3 and the applicant is unable to modify the proposal to meet the minimum reserve requirement without exceeding the CRCU standard, the project must be rejected as infeasible.

3. Are Rents Reasonable?

The Loan Originator must confirm that basic rents are not in excess of CRCU in the area. If they are, the project must be rejected as infeasible. Chapter 3 provides details on establishing CRCU.

Rents for a project must be proportionate, based on square footage. **Attachment 4-G** provides an example of how to establish whether rents are proportionate.

4. Is the Project Assured of Receiving Proposed Leveraged Funds?

The Loan Originator will have already given the applicants a deadline by which they must demonstrate their intent to apply for leveraged funds. The Loan Originator should verify with any other financing or funding sources known at present, if any, any information the applicants provide regarding the status of such funds and also begin to work with any other lender(s) to develop the participation, or intercreditor agreement. Chapter 6 provides additional guidance on working with other funding sources.

5. Has Construction Financing Been Arranged? [7 CFR 3560.71]

Applicants must describe in their initial application how they will finance the construction of the project. If using interim financing, the applicants must include in their initial application a letter of intent or a letter of interest from the interim lender that the applicants intend to use. The Agency requires the applicant to seek interim financing for any construction that will require more than one payment. Interim financing from an interim lender is the preferred method of construction because it minimizes the administrative burden to the Agency.

When interim financing is unavailable at reasonable rates from another lender and multiple advances are assessed to be in the best interest of the Government and are necessary to make the project feasible, the Agency may agree to provide multiple advances for construction financing.

When interim financing is used, the applicant must include in their final application a copy of the interim lender's commitment letter with evidence of the lender's license to do business in the state. The applicant entity or its IOI entities may not provide interim financing to its own project.

When multiple advances are used, the following requirements apply to protect the Agency's investment during the construction process:

- The Agency will provide financing at the market interest rate during construction. The borrower receives no interest credit until the construction is completed and the Agency loan has been closed.
- The Agency will withhold a percentage of the loan from the general contractor until construction is complete in accordance with the contract.

4.19 SUBSIDY LAYERING [7 CFR 3560.63]

The Agency has an obligation under law to make sure that the total funds provided to any project by all sources do not exceed the minimum amount necessary to make the project feasible.

A. Fee Norms

1. Acceptable Fee Norms

In evaluating the amount of financing that is necessary for a project, the Loan Originator must use the following fee norms:

- Builder's profit: Take up to 10 percent of the construction contract.
- General overhead: Take up to 4 percent of the construction contract.
- General requirements: Take up to 7 percent of the construction contract.
- Developer's fee: Take up to 15 percent of the total development costs for tax credit purposes for new construction and rehabilitation costs; up to 8 percent of the acquisition costs only for the acquisition rehabilitation costs.

These fee norms may differ if the State agency allocating LIHTCs and the Agency have agreed to different levels in the Memorandum of Understanding (MOU). (**Attachment 6-B** provides a sample of the MOU.) However, in no case may the builder's profit, general overhead, and general requirements total more than 21 percent of the construction contract.

In cases where there is no MOU with the State authority that allocates LIHTCs, housing tax credits, the above fee norms, or those used by the State, whichever are less, will be used in analyzing the amount of subsidy proposed for the project.

2. Deviation from Fee Norms

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 by the State Director to the National Office with

justification and documentation for the Administrator's review and concurrence. The Administrator will consider:

- An explanation of the data being used to justify the deviation;
- The applicability of the deviation (i.e., to the entire jurisdiction, or for specific markets, or for project types within a jurisdiction);
- Sources of conventional development information that support the deviation;
- The position of the State agency on the requested deviation;
- The effect of not granting the deviation; and
- The history of rental housing development in rural areas, developer's fee levels, and effect of developer's fees on development in the rural area of the state.

3. *Review of Fee Norms*

The Loan Originator must review the fee norms:

- Annually, if there is no MOU in place with the State agency allocating the LIHTC; or
- As needed if there is an MOU in place with the State agency allocating the LIHTC.

B. Excess Assistance

The Agency defines excess assistance to a project as allowable sources exceeding allowable uses by more than \$25,000. In all cases where the results of the analysis indicate that there will be excess assistance, the Loan Originator must consult with the applicant, as well as with the State agency, and reach an agreement for reducing the excess assistance by taking one of the following actions:

- Reduce the number of tax credit units requested;
- Reduce the level of assistance provided by one or more of the sources of funds;
- For participation loans, revise the uses to include additional costs that enhance the project, are allowed by participating partners, are consistent with the intent of the multi-family housing program, and will assist the resident population being served by the housing; or
- As a last resort, reduce the amount of equity contribution through the reduction of the loan amount. If the loan amount is reduced, the Loan Originator must provide the loan applicant with formal notification and inform the State agency and the National Office.

4.20 INITIAL APPLICATIONS WITH RENTAL SUBSIDY

Special consideration must be given to initial applications that include rental subsidy.

A. Agency-Funded Rental Assistance

Initial applications that include a request for Agency rental assistance must include market documentation that shows the need for such subsidy. The number of rental assistance units requested must be based on the market feasibility documentation, the proposed rental rates as reflected in the budget for the project, and the income levels of the prospective tenants.

B. Non–Agency Rental Subsidy

If non–Agency rental subsidy is to be provided with the project, the requirements of Chapter 8 in HB-2-3560 must be met.

As evidence of market feasibility for projects that are expected to use rental subsidy from sources other than the Agency, applicants are required to demonstrate that:

- The assistance will be provided for the term of the loan;
- A market exists for persons and families eligible for the assistance (the amount of rental subsidy to be provided must be considered when determining the number of families that would be income-eligible for the project); and
- During the term of the rental subsidy contract, the provider will make available the amounts required at least annually.

4.21 PROJECT COSTS

The Loan Originator must establish that the project meets economical development requirements and project costs are reasonable. Operating costs and debt service and the contribution to reserves must equate to rents that are at or below the CRCU standard for the market area, or the application must be rejected. Preliminary plans must be in conformance with Agency goals to contain costs without jeopardizing quality and causing increased maintenance in the long term. The initial application must also show that maximum consideration has been given to energy conservation. Loan Originators should refer to Paragraph 3.17 for additional guidance in evaluating project costs. Other technical resources, within the Agency, such as the State Architect/Engineer, may assist the Loan Originator in making these determinations.

A. The State Architect’s Role

The Loan Originator must submit all project drawings, specifications, cost estimates, and analysis to the State Architect/Engineer. The State Architect will:

- Complete an evaluation of a project’s preliminary planning documents and an evaluation of the proposed construction costs. During this evaluation, the architect

will compare the proposed construction costs to similar costs in the same geographic area and make a determination as to whether the proposed costs are reasonable and customary.

- Consult with the State Environmental Coordinator and Loan Originator if either have noted any issues of environmental concern.
- Send a written evaluation of the project to the applicant, with a copy to the Loan Originator for the case file.

B. Cost Databases

There are several databases available to Agency staff that are useful in determining reasonable construction costs. Exhibit 4-12 provides a brief explanation of these databases and how they can be used to assist in the underwriting process and in establishing reasonableness of cost.

Exhibit 4-12		
Tools Available to Assist in Underwriting		
NAME	FUNCTION	LOCATION
Marshall & Swift System 84 (New Construction)	PC-based construction cost database with information by zip code used to evaluate new construction costs.	The Agency Appraiser or the Agency Architect should have this program. It may be shared without restriction.
Sources and Uses Comprehensive Evaluation (SAUCE)	PC-based (Excel spreadsheet) underwriting tool used to evaluate the sources and uses of funds proposed for a project.	The State Office Specialist or Multi-Family Housing Coordinator has this disk. The program should be shared with developers and State housing finance agencies.
Automated Multi-Family Housing Accounting System (AMAS)	A database that contains construction cost information on all projects financed by the Agency.	Each Field Office has online access through the St. Louis Office. Contact AMAS Coordinator. Cost data may be used for analysis by Agency staff.
FOCUS	A database extracted from information stored in AMAS, which can be used to create reports. There are also several menu-driven reports for multi-family housing.	Each Field Office has online access to FOCUS.

C. Acceptable and Unacceptable Legal Costs

Loan applicants must have written contracts for any legal services that are to be paid for out of loan funds. This does not include the services provided by a title company. The Loan Originator must review these contracts to ensure that:

- All costs are for an authorized purpose;
- All costs are reasonable; and
- All costs match estimates.

D. Unacceptable Construction Costs

The results of these analyses can be used by the Loan Originator to talk with the applicant about any unacceptable proposed construction costs. Unacceptable costs may be costs that are too high or those that are too low. Projects must not come in using materials that are below average quality as defined by Marshall & Swift; doing so is likely to lead to excessive long-term maintenance costs.

Authorized Legal Costs

- Organizational costs for nonprofit applicants;
- Owners and mortgage title insurance premiums;
- Escrow fees;
- Appropriate attorney fees for loan closing;
- Recording fees;
- Construction contract reviews;
- UCC opinion;
- Interim loan closing costs;
- Waiver of mineral lease ownership; and
- Review of lease and certification that it meets the law.

Prohibited legal costs include:

- Services related to developing a loan application, except in the case of a nonprofit applicant;
- Services related to getting land zoned; and
- Tax credit consultation.

4.22 ADEQUATE SECURITY

The Loan Originator must not recommend for funding any applications that do not have adequate security. Security is determined by an appraisal, which the Loan Originator must order as one of the first steps in Stage 2 of the loan origination process. Chapter 7 covers security requirements in detail.

All initial applications for congregate housing, group homes, manufactured housing, and cooperative housing must be reviewed by the National Office to move on to the final application stage unless a statewide exception is authorized by the Deputy Administrator, Multi-Family Housing. Since this additional step means additional time may be required to process special property type applications, Loan Originators should process any special property type applications before others. The State Director must submit to the National Office the initial application for the special property type. The application must be accompanied by the State’s review comments and a written recommendation on the loan.

4.23 COMPLETING THE INITIAL APPLICATION REVIEW

A. Notifying Applicants of Their Status

Following the Loan Originator's 30-day review of the initial applications, loan applicants must be informed of the status of their loans. The Loan Originator will send one of three types of letters to the applicants:

- *Handbook Letter 106 (3560), Notice of Pre-application Review Action.* These letters go to applicants whose initial applications have been determined to be eligible and feasible. Once the environmental review is complete, this letter can be a letter of conditional commitment. This letter specifies the additional information and forms required in the final application and the deadline for submission of this information. Details on the letter inviting final applications appear in Chapter 5.
- *Handbook Letter 108 (3560), Letter Denying Funding due to Ineligibility.* These letters go to applicants whose initial applications are not eligible or feasible. Such letters will state the reason(s) for rejection and inform the applicant of their appeal rights under 7 CFR Part 11.
- *Handbook Letter 109 (3560), Letter Informing of National Office Review.* If the initial application for a special property type is still under review at the National Office after 30 days, the applicant must be informed that the application is under review at the National Office and that the applicant will be advised of the results of the review as soon as it is completed. The National Office should take no more than 30 days to complete its review of the initial application.

B. Returning Unused Funds

The State Office must notify the National Office immediately if funds are not going to be used so that the funds can be reallocated by the National Office in a timely manner.

C. Withdrawing and Rejecting Applications

The Loan Originator must reject any initial applications that do not meet the Agency's underwriting standards for eligibility and feasibility. The letter notifying the applicant of the rejection must specify the reasons for the rejection and offer the applicant appeal rights in accordance with 7 CFR Part 11.

Applicants may withdraw their initial applications at any time by notifying the Agency in writing.

4.24 CONDITIONAL LETTERS OF COMMITMENT

Loan applicants who are requesting a participation loan from the Agency may request *Handbook Letter 102 (3560), Letter of Conditions, Loan Approval, or Obligation of Funds* from the Agency to help them to obtain other financing or funding. Such a letter is often requested from the applicant by other lenders as a sign of the commitment of funds from the Agency and assurance that the Agency will actually make the loan and the project will go forward.

The Agency is unable to provide such a letter to the applicant until the environmental review has been completed. The letter must identify all mitigation measures required in the environmental review and addressed in designs and cost estimates. Where mitigation requires an ongoing effort, these measures shall be included in management agreements. However, an applicant may be helped by the letter sent to them by the Agency inviting them to submit the final application. This letter states the loan funds that the Agency has available to fund the particular project should all of the requirements for loan approval be met. Once the loan has been approved at Stage 2, the Agency will send to the loan applicant a conditional letter of loan commitment, stating the loan terms the Agency is offering and the conditions which must be met in order to go to loan closing. This conditional letter of loan commitment is discussed in Chapter 5, Paragraph 5.21.

Loan Originators will be assisted during Stage 1 by the Loan Review Committee and other key staff, such as the State Architect/Engineer. If the initial application is for a participation loan, the Loan Originator at this stage will begin working closely with the entity providing other funds or financing. Chapter 6 provides additional information about processing participation loans. Approved special property type applications, such as those for congregate housing, must be forwarded to the National Office for their review. Chapter 11 provides additional details on special property types.

ATTACHMENT 4-A
STATE NOFA RESPONSE SUMMARY SHEET

ATTACHMENT 4-B

ELIGIBLE LOAN PURPOSES

1. Construct new multi-family housing.
2. Purchase and rehabilitate existing buildings that have not been previously financed by the Agency. In such an event, the rehabilitation must meet the definition of either moderate or substantial rehabilitation as defined in RD Instruction 1924-A. The building or project to be rehabilitated must be structurally sound, and the improvements to the project must be necessary to meet the requirements of decent, safe, and sanitary living units. The TDC for the purchase and rehabilitation of existing buildings must not be more than the estimated TDC for construction of a similar type and unit size property in the same area.
3. Develop housing in a downtown area provided the project is part of the community's comprehensive plan.
4. Purchase and improve the project site. The amount of the loan funds used to purchase the site may not exceed the appraised market value of the site in its present condition. Loan funds may be used to purchase land in excess of what is needed only when:
 - The applicant cannot acquire only the needed land at a fair price and agrees to sell the excess land as soon as practical and apply proceeds to the loan; and
 - Program site density requirements are met in accordance with Chapter 3.
5. Develop and install necessary systems such as streets; a water supply; sewage disposal; heating and cooling systems, and electric, gas, solar, or other power sources for lighting and other features necessary for the housing. If such facilities are located offsite, the following additional requirements must be met:
 - The applicant will hold title to the facility or have a legal right to use the facility for a period of at least 50 percent longer than the life of the loan, and the title or right is transferable to any subsequent owner of the site.
 - The facilities will be provided for the exclusive use of the project. If not, Agency funds must be limited to the prorated part of the total cost of the facility according to the use and benefit to the project. In such cases, the applicant will agree in writing to apply, as extra payments on the loan, any subsequent collection by the loan applicant from other users or beneficiaries of the facility.
6. Landscaping and all site development related to the project such as lighting, walks, fences, parking areas, and driveways.
7. Tenant-related facilities which the loan applicant can document are needed by prospective tenants, such as a community room; central laundry facility; central cooking and dining in

congregate housing and group homes; and passive recreation or active facilities, such as outdoor seating for elderly and tot lots for family projects.

8. Management-related facilities such as a maintenance workshop, storage facilities, and office and living quarters for the resident manager and other operating personnel.
 9. Purchase and install equipment and appliances as customary and appropriate for the area in which the project is located.
 10. For farm labor housing Section 514/516 only, funds may be used to purchase household furnishings.
 11. Initial operating capital for any state or political subdivision thereof or Indian tribe or any broad-based public or private nonprofit applicant who is not receiving low income housing tax credits. Loan funds may be used to pay initial operating expenses up to 2 percent of the total development cost.
 12. Builder's profit, overhead, and general requirements as follows:
 - Builder's profit: up to 10 percent of the construction contract.
 - General overhead: up to 4 percent of the construction contract.
 - General requirements: up to 7 percent of the construction contract.
 13. Legal, technical, environmental and professional services related to the project.
 14. Application and permit fees related to the project. These include market studies; tax credit application and monitoring fees; legal (costs pertaining to the closing of the Agency loan only), archeological, architectural, engineering, environmental, and other appropriate technical and professional services.
 15. Reimbursement to nonprofit organizations and public bodies. Loan funds may be used to reimburse a nonprofit organization or public body, up to 2 percent of total development cost, for:
 - Development and packaging of a loan application and a multi-family housing proposal, including legal, technical and professional fees incurred in the applicant's formation or incorporation; or
 - Technical assistance from another nonprofit organization to assist in formation or incorporation and development and packaging of a loan application and multi-family housing proposal.
-

16. Educational programs. The National Office may approve, on a case-by-case basis, during the first year of a cooperative's housing operation, the use of loan funds to pay for the members of the cooperative to attend educational programs relative to the function and responsibilities of cooperatives.
17. Interest accrued and customary charges necessary to obtain interim financing, up to the maximum debt limit (MDL).
18. Purchase housing from an interim lender. Loan funds may be used to purchase housing from an interim lender that holds fee simple title to an Agency-financed project upon which construction had commenced and a letter of commitment had been issued by the Agency, but the original applicant for whom funds were obligated will not or cannot continue with the project. In order for the purchase to take place, there must be no unpaid obligations outstanding in connection with the project.
19. Relocation costs. Loan funds may be used to pay for necessary costs incurred to comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.
20. 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 when the Agency authorizes loan funds for this purpose. Such project applications must be forwarded to the National Office for its review.
21. Conversion of 502 properties. In accordance with program regulations, loan funds may be used to finance the conversion of real estate owned units originally financed under Section 502 single family homeownership program to Section 515 multi-family housing.
22. Expenses incurred before loan approval when the project is funded and the conditions listed in **Attachment 4-C**, item 11 are met.

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ATTACHMENT 4-C

PROHIBITED LOAN USES

1. Housing to serve primarily temporary and transient residents (except migrant farm labor housing), nursing homes, special care facilities, or institutional-type homes. Group homes are not included in this prohibition.
2. Facilities that are not consistent with the design requirements specified in Chapter 3.
3. Any costs associated with space in a project that is leased for commercial use or any commercial facilities except essential service-type facilities when otherwise not conveniently available.
4. Specialized equipment for training and therapy.
5. Operating expenses for a central dining facility, or items that do not become affixed to the property, except for the household furnishings permitted by farm labor housing.
6. Compensation to a for-profit loan applicant for value of land contributed in excess of the initial equity contribution.
7. Refinancing of an applicant's debt, except (a) to take out interim financing; or (b) when it is necessary to obtain a release of an existing lien on land owned by a nonprofit organization.
8. Payment of any fee, charge, or commission to a broker or anyone else for referral of a prospective applicant or solicitation of a loan.
9. Payment to any officer, director, trustee, stockholder, member, or agent of an applicant except for those payments made to a nonprofit organization providing technical assistance to another nonprofit applicant.
10. Developer's fees.
11. Obligations incurred before loan approval. Any expense incurred by an applicant prior to loan approval is at the applicant's own risk. Loan funds may be used for expenses incurred before loan approval only when the project is funded and all of the following conditions are met:
 - The debts were incurred for eligible loan purposes;
 - Contracts, materials, construction, and any land purchased meet Agency standards and requirements; and

- Payment of the debts will remove any liens that have been attached and any basis for liens that may be attached to the property on account of such debts.

12. In accordance with *RD Instruction 1924-A*, contractors will not be allowed to obtain a profit and overhead unless they are performing actual construction. “Actual construction” means “work” as defined in American Institute of Architects (AIA) documents: “. . . labor, materials, equipment, and services provided by the contractor to fulfill the contractor’s obligations.” Under this definition, contractors with an identity of interest with the applicant who choose to subcontract out construction of the project to another contractor will not obtain a builder’s fee (general overhead and profit) when:

- More than 50 percent of the contract sum in the construction contract is subcontracted to one subcontractor, material supplier, or equipment lessor, and/or
- Seventy-five percent or more with three or fewer subcontractors, material suppliers, and/or equipment lessors.

If two or more subcontractors have common ownership, they are considered as one subcontractor.

ATTACHMENT 4-D

CONTENTS OF INITIAL APPLICATION PACKAGE

Stage 1 - Forms to be Included in Initial Application Package

- A. *Form SF 424, Application for Federal Assistance* (when completed, this form provides the summary information about the project and the applicant);
- B. *Form RD 1940-20, Request for Environmental Information*;
- C. *Form RD 3560-7, Multiple Family Housing Project Budget/Utility Allowance*;
- D. *Form RD 1944-37, Previous Participation Certification*;
- E. *Form RD 1924-13, Estimate and Certificate of Actual Costs*;
- F. *Form RD 410-9, Statement Required by the Privacy Act* (for individuals only); and
- G. *Any other information specified in the NOFA.*

Stage 1 - Information Requested in Initial Application Package

- I. To establish applicant eligibility:
 - A. Current (within 6 months) financial statements with the following paragraph certified by someone with the legal authority to do so:

“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.”
 - B. Check for \$28 from individual applicants and \$40 from organizational applicants made out to United States Department of Agriculture. This will be used to pay for credit reports obtained by the Agency.
 - C. Statements signed by applicants that they will pay any cost overruns.
 - D. Proposed limited partnership agreement and certificates of limited partners, if applicable. (Agency requirements should be contained in one section of the agreement and their location identified by the applicants or their attorney in a cover sheet.)
 - E. If a nonprofit organization:

1. Tax-exempt ruling from the IRS designating them as a 501(c)(3) or 501(c)(4) organization. If the designation is pending, a copy of the designation request must be submitted.
 2. Purpose statement, including the provision of low income housing.
 3. Evidence of organization under state and local law, or copies of pending applications.
 4. List of Board of Directors.
- F. If a limited liability company, proposed operating agreement and the authorized agent who has the authority to complete the loan application and loan closing documents.
- G. If a trust, organizational documents and attorney opinion letter that the trust is validly formed and identifying the authorized representative to act on the trust's behalf.
- II. To establish project feasibility:
- A. Market feasibility documentation: Either a market study or a market survey, as appropriate.
 - B. Type of project and structures proposed (total number of units by bedroom size, size of each unit type, size and type of other facilities).
 - C. Schematic drawings:
 1. Site plan, including contour lines;
 2. Floor plan of each living unit type and other spaces, such as laundry facilities, community rooms, stairwells, etc.;
 3. Building exterior elevations;
 4. Typical building exterior wall section; and
 5. Plot plan.
 - D. Description and justification of related facilities, schedule of separate charges for related facilities.
 - E. Type and method of construction (owner builder, negotiated bid, or contractor method).
 - F. Estimated costs (*Form RD 1924-13*).
 - G. Statement of proposed management.
 - H. Congregate services package/plan (if applicable).
-

- I. Statement of support from other Government services providers to the project (congregate only).
 - J. Response to the Uniform Relocation Assistance Act (if applicable).
- III. To establish project financing:
- A. Statement of budget and cash flow (applicant completes *Form RD 3560-7*), including type of utilities and utility allowance, if applicable and contribution to reserves.
 - B. Congregate services charges (if applicable).
 - C. Status of efforts to obtain leveraged funds.
 - D. Proposed construction financing (interim or multiple advance; if interim financing, letter of interest from intended lender).
- IV. To understand environmental and site information:
- A. Environmental information (applicant completes *Form RD 1940-20*).
 - B. Evidence of compliance with Executive Order 12372 (A-95) (if applicable) *Form SF 424* is sent to a clearinghouse for intergovernmental review.
 - C. Phase I due diligence (Environmental Site Assessment; see Chapter 3).
 - D. Map showing location of support services.
 - E. Evidence of submission of project description to SHPO with request for comments.
 - F. Comments regarding relevant offsite conditions.

Stage 2 - Forms and List of Necessary Information Provided to Applicant in Initial Application Package, But Not Due Until Stage 2

- A. *Form RD 1924-13; Estimate and Certificate of Actual Costs;*
- B. *Form HUD-935.2, Affirmative Fair Housing Marketing Plan;*
- C. *Form RD 3560-30, No IOI;*
- D. *Form RD 3560-31, Identity of Interest Disclosure/Qualification Certificate;*
- E. *Form RD 1910-11, Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts;*
- F. *Form RD 3560-13, Owner's and Management Agent's Certification;*

- G. *Form AD 1047, Certificate Regarding Debarment;*
 - H. *Form RD 400-1, Equal Opportunity Agreement ;*
 - I. *Form RD 400-4, Assurance Agreement;*
 - J. Guide 1 of RD Instruction 1924-A;
 - K. Exhibit C of RD Instruction 1924-A;
 - L. Final planning, bidding, and contract documents;
 - M. Agreements/Documents: architectural/engineering, legal;
 - N. State or local approvals (zoning, utilities);
 - O. Confirmation of SHPO evaluation and comments;
 - P. Preliminary title report;
 - Q. Management plan with attachments;
 - R. Relocation plan (if relevant);
 - S. Schedule of charges for nonshelter services (congregate);
 - T. Services agreement (congregate);
 - U. Executed copy of a limited equity agreement (RCH; **Attachment 11-E**);
 - V. Completed subscription agreement (RCH; **Attachment 11-I**);
 - W. Disclosure of any change in financing;
 - X. Detailed operating budget showing a typical year's operation (shown on *Form RD 3560-7*), the first year's budget (also *Form RD 3560-7*) and use of 2 percent initial operating capital;
 - Y. Description of construction financing, including interim lender's commitment letter with evidence of license to do business in state;
 - Z. Land survey;
 - AA. Final organizational documents or Certificate of Good Standing, if existing organization;
and
 - BB. Attorney's opinion letter that entity is in conformance with program requirements.
-

ATTACHMENT 4-E

SITE EVALUATION CHECKLIST

DATE OF REVIEW: _____ REVIEWED BY: _____

PROJECT: _____

LOCATION: _____

INTENDED USE: ELDERLY _____ FAMILY _____ CONGREGATE _____ GROUP HOME _____
OFF-FARM LABOR HOUSING _____

PRESENT USE OF SITE: _____

REVIEWER'S DETERMINATION OF HIGHEST AND BEST USE OF SITE:

RELOCATION REQUIRED: YES _____ NO _____ IF YES, TYPE: _____ FAMILY
_____ BUSINESS

DIMENSIONS: _____ AREA: _____ SQ. FT. OR ACRES

ZONING (classification, uses, and densities permitted): _____

SITE IMPROVEMENTS: _____ Public Water _____ Private Well _____ Public Sewer
_____ Septic Tank _____ Storm Sewer _____ Sidewalk
_____ Curb _____ Gutters _____ Alley
_____ Street Lights _____ Electricity _____ Gas
_____ Underground Electricity & Telephone

PRESENT IMPROVEMENTS _____ DO _____ DO NOT CONFORM TO ZONING REGULATIONS

ACCESS BY: _____ Public Street _____ Private Road _____ Surface Street

MAINTAINED BY: _____ Municipality _____ Private Association (attach summary of association documents)

INGRESS AND EGRESS (adequacy and safety): _____

TOPOGRAPHY, VIEW AMENITY, LOT DRAINAGE, FLOOD CONDITION, SLOPES, ETC.:

Lot sketch showing lot dimensions, distance to nearest corner, and the location of any detrimental conditions:

EASEMENTS OR ENCROACHMENTS ON-SITE AND OFF-SITE (if any): _____

IS THE PROPERTY LOCATED WITHIN AN IDENTIFIED FLOOD HAZARD AREA? YES _____ NO: _____

FAVORABLE OR UNFAVORABLE CONDITIONS NOT MENTIONED ABOVE INCLUDING ANY
NONCONFORMING USE(S) OF PRESENT IMPROVEMENTS: _____

CONTIGUOUS LAND USE (Not Zoning)

NORTH: _____
SOUTH: _____
EAST: _____
WEST: _____

(NOTE: IF RESIDENTIAL UNITS, SPECIFY APPROXIMATE AGE, COST, ETC.)

SHOPPING

1. FOOD:

A. Type: Full service _____ Convenience _____

B. Distance: Full service _____ (Miles/Blocks)

Convenience _____ (Miles/Blocks)

C. Sidewalks to shopping: Yes _____ No _____

D. Controlled intersections: Yes _____ No _____

E. Excessive grades to food shopping: Yes _____ No _____

2. MAJOR:

A. Type: Mall _____ Central Business District _____ Strip _____ Other _____

B. Specify types of stores, etc. _____

C. Distance: _____ (Miles/Blocks)

D. Sidewalks to shopping: Yes _____ No _____

E. Controlled intersections: Yes _____ No _____

F. Excessive grades to major shopping: Yes _____ No _____

SCHOOLS (Family Projects Only)

1. Distance:

A. Elementary: _____ (Miles/Blocks) Name: _____

B. Middle: _____ (Miles/Blocks) Name: _____

C. Sr. High: _____ (Miles/Blocks) Name: _____

2. If within walking distance, is the route safe (i.e., sidewalks, controlled intersections, etc.)? Yes _____ No _____

If no, please explain: _____

3. If schools are not within safe walking distance, is school bus transportation available?

A. Elementary: Yes _____ No _____

B. Middle: Yes _____ No _____

C. Sr. High: Yes _____ No _____

TRANSPORTATION (PUBLIC)

1. Is public transportation available? Yes _____ No _____

2. If yes, distance from site: _____ (Miles/Blocks)

3. Must excessive grades be traversed to reach public transportation? Yes _____ No _____

4. Destinations of public transportation (check all that apply):

Food shopping _____ Medical facilities _____
Convenience shopping _____ Religious institutions _____
Other shopping _____
Recreational facilities _____

Recreational Facilities Available

1. _____ 2. _____
3. _____ 4. _____

Medical Facilities Available

1. _____ 2. _____
3. _____ 4. _____

Religious Institutions Available

1. Name: _____ Distance: _____ (Miles/Blocks)
2. Name: _____ Distance: _____ (Miles/Blocks)
3. Name: _____ Distance: _____ (Miles/Blocks)

DOES THE SITE ISOLATE THE ELDERLY? Yes _____ No _____

Adverse Environmental Conditions

1. Excessive noise: Yes _____ No _____ Cause: _____
2. P.O.L. storage: Yes _____ No _____ Distance: _____
3. R.R. tracks: Yes _____ No _____ Distance: _____
4. Highway: Yes _____ No _____ Distance: _____
5. Manufacturing: Yes _____ No _____
6. Substandard dwelling units: Yes _____ No _____

Does the site have good visibility from major roadway? Yes _____ No _____

Is the site located in an area of minority concentration? Yes _____ No _____

Is the site located in an area of high concentration of subsidized housing? Yes _____ No _____

If yes, specify type: _____

Does the site have residential character? Yes _____ No _____

Comments: _____

Recommendation: Accept site _____ Reject site _____

If rejection, reasons why: _____

ATTACHMENT 4-F

ANALYZING THE MARKET FEASIBILITY DOCUMENTATION

This checklist is an aid to the Loan Originator in understanding the market feasibility documentation. It is designed so that if all items are checked off, the Loan Originator should be confident that the market feasibility documentation was prepared properly and that there is a need and demand for the housing proposed.

PART I: Required Elements of Market Feasibility Documentation (MFD)

Complete Information:

1. __ The MFD includes all of the information as required by Exhibits 4-10 and 4-11.

Site and Services:

2. __ Services available in the area include shopping, schools, and medical facilities as well as community services such as recreational, transportation, and day care. Services appear to be appropriate for the project type and within reasonable proximity of the site.

Viability of the Community:

3. __ Building permits issued during the past 3 years and new employment opportunities show the community to be growing, rather than declining.
4. __ Major employers in the area provide employment opportunities sufficient to support a population base of renters for the proposed project.
5. __ Employment rates for the area have been high over the past 5 years.

Realistic Recommendations:

6. __ The analyst makes realistic recommendations supported by the statistical information provided:
 - _____ Population characteristics and household data for the community are stable or show an increase during the past 5 years.
 - _____ Population characteristics by age shows support for the type of project being proposed and the type of complex proposed reflects the greater proportionate need and demand of the community. To establish this, compare the share or percentage of the community's total rental units that are designated for the elderly (62 years or older or disabled) to the community's share of elderly households, and the share of total rental units for families to the share of family households in the community.

For mixed projects, the unit mix must reflect the proportionate need of each household type.

- _____ Statistical data showing households by income group shows that there are households in the eligible income group that could rent in the project.
- _____ Historical breakdown of households by owners and renters shows that there is a tradition of renters.
- _____ The MFD addresses the need for more than just one and two bedroom units.
- _____ The bedroom mix of the proposed units is proportional to the need in the market area based on renter household size and the bedroom mix of existing units.
- _____ The bedroom mix of fully accessible units (5 percent) is comparable to the bedroom mix of nonaccessible units.

Housing Demand:

- 7.____ The MFD shows evidence of need for the housing in that there are rent overburdened households and/or households in substandard housing.
- 8.____ A discussion of existing housing supply includes reference to the single-family housing rental and sale units available and shows these to be inadequate.
- 9.____ Temporary residents of a community, including college students, military personnel, or others not claiming their current residence as their legal domicile, have not been included in determining need and project size.
- 10._____ The MFD includes a discussion on the current market for single-family houses and how sales, or the lack of sales, will affect the demand for elderly rental units. If the market study discusses how elderly homeowners reinforce the need for rental housing, it does so only as a secondary market and not as the primary market.
- 11._____ The vacancy rates in existing rental housing, including available single-family housing and mobile homes, is 5 percent (or the State-approved vacancy standard, if different) or less, or there is an acceptable explanation where higher rates occur. Existing rental complexes should also show waiting lists.

Conventional Rents for Comparable Units:

- 12._____ The CRCU shown is less than or equal to the rents proposed for the project.

Low Income Housing Tax Credit:

- 13._____ For proposals where the applicant is requesting LIHTCs, the number of LIHTC units and the maximum LIHTC incomes and rents by unit size are provided. Statistical
-

data provided show that there are households in the tax credit-eligible income group to rent in the project. If not, rental assistance is requested.

Rental Assistance:

14. _____ The MFD makes clear the amount of RA that is necessary to ensure the project's success.

COMMENTS ON MISSING OR INCOMPLETE ITEMS:

PART II: Certifications

For both surveys and studies, the analyst certifies that:

_____ The information presented is accurate to the best of the preparer's knowledge;

_____ Reliable sources were used to collect the information and data presented (for a study, the analyst has included a statement of qualifications); and

_____ A site visit was made by the preparer or their representative.

For studies, the analyst also certifies that:

_____ The analyst will not receive any fees that are contingent upon approval of the project by the Agency; and

_____ The analyst will have no interest in the project.

COMMENTS ON MISSING OR INCOMPLETE ITEMS:

Part III: Methodology for Market Studies

_____ A brief statement of the methodology used in the study has been included.

_____ All mathematical calculations are expressed in actual numbers, including percentages.

_____ Source references are identified for each table or section of the market study.

COMMENTS ON MISSING OR INCOMPLETE ITEMS:

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ATTACHMENT 4-G

**EXAMPLE OF INTEREST CREDIT DETERMINATION
FOR RURAL RENTAL HOUSING**

\$260,000 LOAN - APPROVED DURING 1987 FISCAL YEAR

PROJECT CONTAINS FOUR 1-BEDROOM UNITS (600 SQ. FT. EACH)

AND FOUR 2-BEDROOM UNITS (700 SQ FT. EACH)

TOTAL FLOOR AREA = 5200 SQ. FT.

<u>BUDGET FOR NOTE RATE RENT** -a/</u>	<u>BUDGET FOR BASIC RENT**</u>
Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable \$10,560	Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable \$10,560
Loan repayment at 9 1/2% interest	Loan repayment at 1% interest
\$260 M x \$95.88 b/ \$24,929	\$260 M x \$25.44 b/ \$6,615
TOTAL ANNUAL COST \$35,489	TOTAL ANNUAL COST \$17,175
\$35,489 /. 12 = \$2958*	\$17,175 /. 12 = \$1432*
cost/month	cost/month
One bedroom rent:	One bedroom rent:
600/5200=.1154x2958=341.35	600/5200=.1154x1432=165.25
Two bedroom rent:	Two bedroom rent:
700/5200=.1346x2958=398.15	700/5200=.1346x1432=192.75
(341.35x4)+(398.15x4)=\$2,958	(165.25x4)+(192.75x4)=\$1432
monthly income	monthly income
\$35,489 /. 12 = \$2958* cost/mo.	\$17,175 /. 12 = \$1432* cost/mo.

a/ One budget form reflecting two rent levels must be prepared; one level for the note rate rent and another level for the basic rent. (The expense items in the budgets shown in this illustration are only for illustration purposes and are not itemized.)

b/ Annual amount using monthly amortization factor for 50 years. If the regular installment on the note was amortized using a factor for less than 50 years, substitute the appropriate factor for a corresponding number of years.

* Rounded to the nearest dollar.

** In cooperatives, the term "rent" shall mean "occupancy charge."