



**BILLING CODE: 3410-XV-U**

**DEPARTMENT OF AGRICULTURE**

**Rural Housing Service**

Notice of Solicitation of Applications for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2019

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Rural Housing Service (RHS) announces the timeframe to submit pre-applications for Section 514 Farm Labor Housing (FLH) loans and Section 516 FLH grants for the construction of new off-farm FLH units and related facilities for domestic farm laborers and for the purchase and substantial rehabilitation of non-FLH property. The intended purpose of the loans and grants is to increase the number of available housing units for domestic farm laborers. This Notice describes the method used to distribute funds, the application process, and submission requirements.

The amount of funding available can be found at the following link: <https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas>. Expenses incurred in developing applications will be at the applicant's risk.

**DATES:** The agency deadline for receipt of all applications in response to this Notice is

5 P.M., local time to the appropriate Rural Development State Office by August 30, 2019. Rural Development will not consider any application that is received after the deadline unless the date and time are extended by another Notice published in the **Federal Register**. Applicants mailing applications must provide sufficient time to permit delivery on or before the deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

**ADDRESSES:** Applicants wishing to submit an application in response to this Notice must contact the Rural Development State Office serving the State of the proposed off-farm FLH project in order to receive further information and copies of the application package. You may find the addresses and contact information for each State Office at, <http://www.rd.usda.gov/contact-us/state-offices>. Rural Development will date, and time stamp incoming applications to evidence timely receipt, and will provide the applicant with a written acknowledgment of receipt upon request.

**FOR FURTHER INFORMATION CONTACT:** Mirna Reyes-Bible, Senior Finance and Loan Analyst, Preservation and Direct Loan Division, STOP 0781 (Room 1263-S), USDA Rural Development, 1400 Independence Avenue, SW, Washington, D.C. 20250-0781, telephone: (202) 720-1753 (this is not a toll-free number), or via e-mail: [mirna.reyesbible@usda.gov](mailto:mirna.reyesbible@usda.gov).

**SUPPLEMENTARY INFORMATION:**

Priority Language for Funding Opportunities

The Agency encourages applications that will help improve life in rural America. See information on the Interagency Task Force on Agriculture and Rural Prosperity found at [www.usda.gov/ruralprosperity](http://www.usda.gov/ruralprosperity). Applicants are encouraged to consider projects that provide measurable results in helping rural communities build robust and sustainable economies through strategic investments in infrastructure, partnerships and innovation. Please note that this Notice of Solicitation Applications (NOSA) does not award points for these strategies. Key strategies include:

- Achieving e-Connectivity for Rural America
- Developing the Rural Economy
- Harnessing Technological Innovation
- Supporting a Rural Workforce
- Improving Quality of Life

To encourage investments in rural properties, the Agency also will award points to projects located in rural Opportunity Zones where projects should provide measurable results in helping communities build robust and sustainable economies. An Opportunity Zone is an economically-distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment. Localities qualify as Opportunity Zones if they have been nominated for that designation by the State and that nomination has been certified by the Secretary of the U.S. Treasury via his delegation of authority to the Internal Revenue Service. See <https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions> for more information.

To focus investments in areas where the need for increased prosperity is greatest, the Agency will set aside 10 percent of the funds available through this fiscal year's NOSA for applications that will serve persistent poverty counties. Persistent poverty counties are areas where at least 20 percent of the population is living in poverty over the last 30 years (measured by the 1980, 1990, 2000 and 2010 decennial censuses and 2007–2011 American Community Survey 5-year estimates) according to American Community Survey census tract data. Information on which counties are considered persistent poverty counties can be found through the United States Department of Agriculture's (USDA) Economic Research Service (ERS) (<http://ers.usda.gov/>). ERS is the main source of economic information and research for USDA and a principal agency of the U.S. Federal Statistical System located in Washington, D.C. Set-aside funds will be awarded in the order of receipt of complete pre-applications. Once the set-aside funds are exhausted, any further set-aside applications will be evaluated and ranked with the other applications submitted in response to this Notice. If, by September 6, 2019, the Agency does not receive enough eligible applications to fully utilize the 10 percent set aside in the service of these areas, the Agency will award any unused set aside funds to other eligible applicants.

#### Overview

*Federal Agency:* Rural Housing Service.

*Funding Opportunity Title:* Notice of Solicitation Applications for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year (FY) 2019.

*Announcement Type:* Solicitation of pre-applications from qualified applicants for FY 2019.

*Catalog of Federal Domestic Assistance Numbers (CFDA):* 10.405 and 10.427.

**A. Federal Award Description**

Pre-applications will only be accepted through the date and time listed in this Notice. All awards are subject to availability of funding. The maximum award per selected project may not exceed \$3 million (total loan and grant).

A State will not receive more than 30 percent of FLH funding appropriated for FY 2019, unless there are remaining Section 514 and Section 516 funds after all eligible applications nationwide have been funded. In this case, funds will be awarded to the next highest-ranking eligible applications among all of the remaining unfunded applications submitted to the National Office by the State Offices. The National Office will allocate the awarded funds to the States for obligation, and the allocation of these funds may result in a State or States exceeding the 30 percent limitation.

Section 516 off-farm FLH grants may not exceed 90 percent of the total development cost (TDC) of the housing as defined in 7 CFR 3560.11. Section 514 off-farm labor loans may not exceed the limits set forth in 7 CFR 3560.562(b).

If leveraged funds are going to be used and are in the form of tax credits, the applicant must include in the pre-application written evidence that a tax credit application has been submitted and accepted by the Housing Finance Agency (HFA). All applications that receive any leveraged funds must have firm commitments in place within 18 months of the issuance of a "Notice of Pre-Application Review Action," Handbook Letter 106 (3560). Applicants without written evidence that a tax credit

application has been submitted and accepted by a HFA must certify in writing they will apply for tax credits to a HFA and obtain a firm commitment within 18 months of the issuance of a “Notice of Pre-Application Review Action.” Those applicants that do not obtain a firm commitment for tax credits from a HFA within 18 months of the issuance of a “Notice of Pre-Application Review Action” will be deemed to have an incomplete application and will be notified in writing that funds will be de-obligated.

Rental Assistance (RA) and operating assistance will be available for new construction in FY 2019. Operating assistance is explained at 7 CFR 3560.574 and may be used in lieu of tenant-specific RA in off-farm FLH projects that serve migrant farm workers as defined in 7 CFR 3560.11, that are financed under Section 514 or Section 516(h) of the Housing Act of 1949, as amended (42 U.S.C. 1484 and 1486(h) respectively), and otherwise meet the requirements of 7 CFR 3560.574.

In order to maximize the use of the limited supply of FLH funds, the Agency may contact eligible NOSA responses selected for an award in point score order starting with the higher scores, with proposals to modify the transaction’s proportions of grant and loan funds. In addition, if funds remain after the highest scoring eligible NOSA responses are selected for awards, we may contact those eligible responses not selected for awards, in point score order starting with the highest scores, to ascertain whether those respondents will accept the remaining funds.

## **B. Eligibility Information**

### *1. Eligibility*

Housing Eligibility – housing that is constructed with FLH loans and/or grants must meet Rural Development’s design and construction standards contained in 7 CFR

part 1924, subparts A and C. Once constructed, off-farm FLH must be managed in accordance with 7 CFR part 3560. In addition, off-farm FLH must be operated on a non-profit basis and tenancy must be open to all qualified domestic farm laborers, regardless at which farm they work. Section 514(f) (3) of the Housing Act of 1949, as amended (42 U.S.C. 1484(f) (3)) defines domestic farm laborers to include any person regardless of the person's source of employment, who receives a substantial portion of his/her income from the primary production of agricultural or aqua cultural commodities in the unprocessed or processed stage, and also includes the person's family.

Tenant Eligibility – tenant eligibility is limited to persons who meet the definition of a “disabled domestic farm laborer,” or a “domestic farm laborer,” or “retired domestic farm laborer,” as defined in Section 514(f)(3) of the Housing Act of 1949, as amended (42 U.S.C. 1484(f)(3)).

Section 514(f)(3)(A) of the Housing Act of 1949 (42 U.S.C. 1484(f)(3)(A)) has been amended to extend FLH tenant eligibility to agricultural workers legally admitted to the United States and authorized to work in agriculture. It is important to note, that persons admitted legally for agricultural work remain ineligible for Rental Assistance (RA) as set forth in 7 CFR 3560.254(c). In addition, under no circumstance may any currently eligible FLH tenants be displaced from their homes as a result of this statutory change.

Applicant Eligibility –

(a) To be eligible to receive a Section 516 grant for off-farm FLH, the applicant must meet the requirements of 7 CFR 3560.555 and be a broad-based non-profit organization, including community and Faith-Based organizations, a non-profit

organization of farm workers, a Federally recognized Indian tribe, an agency or political subdivision of a State or local Government, or a public agency (such as a housing authority). The applicant must be able to contribute at least one-tenth of the TDC. An off-farm labor housing loan (514) financed by RHS may be used to meet this requirement. Limited partnerships in which a general partner is a non-profit entity are eligible for Section 514 loans but are not eligible for Section 516 grants.

(b) To be eligible to receive a Section 514 loan for off-farm FLH, the applicant must meet the requirements of 7 CFR 3560.555 and be a broad-based non-profit organization, including community and Faith-Based organizations, a non-profit organization of farm workers, a Federally recognized Indian tribe, an agency or political subdivision of a State or local Government, a public agency (such as a housing authority), or a limited partnership which has a non-profit entity as its general partner, and

- (i) Be unable to provide the necessary housing from its own resources;
- (ii) Evidence that the applicant is unable to obtain credit from other sources.

Letters from credit institutions which normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided. (Note: not required from State or local public agencies or Indian tribes.)

(iii) Broad-based non-profit organizations must have a membership that reflects a variety of interests in the area where the housing will be located.

2. *Cost Sharing or Matching* – Section 516 grants for off-farm FLH may not exceed 90 percent of the TDC as provided in 7 CFR 3560.562(c)(1).

3. *Other Requirements* – the following requirements apply to loans and grants made in response to this Notice:

(a) 7 CFR part 1901, subpart E, regarding equal opportunity requirements;

(b) For grants only, 2 CFR Parts 200 and 400, which establishes the uniform administrative and audit requirements for grants and cooperative agreements to State and local Governments and to non-profit organizations;

(c) 7 CFR part 1901, subpart F, regarding historical and archaeological properties;

(d) 7 CFR section 1970.11, Environmental review process. Please note, the Agency must conclude the environmental review process before a FLH award is obligated. It is incumbent on an applicant to work closely and to coordinate with the corresponding State Office during the environmental review process.

(e) 7 CFR part 3560, subpart L, regarding the loan and grant authorities of the off-farm FLH program;

(f) 7 CFR part 1924, subpart A, regarding planning and performing construction and other development;

(g) 7 CFR part 1924, subpart C, regarding the planning and performing of site development work;

(h) For construction financed with a Section 516 grant, the provisions of the Davis-Bacon Act (40 U.S.C. 276(a)-276(a)-5) and implementing regulations published at 29 CFR parts 1, 3, and 5;

(i) A check for \$24 from the applicant made out to the United States Department of Agriculture. This check will be used to pay for credit reports obtained by the Agency;

(j) Borrowers and grantees must take reasonable steps to ensure that tenants receive the language assistance necessary to afford them meaningful access to USDA programs and activities, free of charge. Failure to provide this assistance to tenants who can effectively participate in or benefit from Federally-assisted programs or activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. section 2000d et seq. and Title VI regulations against national origin discrimination

(k) All other requirements contained in 7 CFR part 3560, regarding the Sections 514/516 off-farm FLH programs; and

(l) Please note that grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain registration in the Central Contractor Registration (CCR) prior to submitting a pre-application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in the CCR database at all times during which it has an active Federal award or an application or plan under consideration by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

### **C. Application and Submission Information**

#### *1. Pre-Application Submission*

The application process will be in two phases: the initial pre-application (or proposal) and the submission of a final application. Only those pre-applications or

proposals that are selected for further processing will be invited to submit final applications. In the event that a proposal is selected for further processing and the applicant declines, the next highest ranked unfunded pre-application will be selected for further processing. All pre-applications for Sections 514 and 516 funds must be filed with the appropriate Rural Development State Office and must meet the requirements of this Notice. Incomplete pre-applications will not be reviewed and will be returned to the applicant. No pre-application will be accepted after the deadline unless date and time are extended by another Notice published in the **Federal Register**.

Pre-applications can be submitted either electronically using the FLH Pre-Application form found at: <http://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants> or in hard copy to the appropriate Rural Development Office where the project will be located. Follow the link to find the appropriate Rural Development State Office address for requesting and submitting a pre-application at: <http://www.rurdev.usda.gov/StateofficeAddresses.html>. Applicants are strongly encouraged; but not required, to submit the pre-application electronically. The electronic form contains a button labeled "Send Form." By clicking on the button, the applicant will see an e-mail message window with an attachment that includes the electronic form the applicant filled out as a data file with a .pdf extension. In addition, an auto-reply acknowledgement will be sent to the applicant when the electronic Loan Proposal form is received by the Agency unless the sender has software that will block the receipt of the auto-reply e-mail. The State Office will record pre-applications received electronically by the actual date and time when all attachments are received at the State Office.

Submission of the electronic Section 514 Loan Proposal form *does not* constitute submission of the entire proposal package which requires additional forms and supporting documentation as listed within this Notice. You may use one of the following options for submitting the entire proposal package comprising of all required forms and documents. On the Loan Proposal form you can indicate the option you will be using to submit each required form and document.

(a) Electronic Media Option. Submit all forms and documents as read-only Adobe Acrobat files on electronic media such as CDs, DVDs or USB drives. For each electronic device submitted, the applicant should include a Table of Contents of all documents and forms on that device. The electronic media should be submitted to the Rural Development State Office listed in this Notice where the property is located. Any forms and documents that are not sent electronically, including the check for credit reports, must be mailed to the Rural Development State Office.

(b) E-Mail Option. On the Loan Proposal form you will be asked for a submission e-mail address. This e-mail address will be used to establish a folder on the USDA server with your unique e-mail address. Once the Loan Proposal form is processed, you will receive an additional e-mail notifying you of the e-mail address that you can use to e-mail your forms and documents. **Please Note:** all forms and documents must be e-mailed from the same submission e-mail address. This will ensure that all forms and documents you send will be stored in the folder assigned to that e-mail address. Any forms and documents that are not sent via the e-mail option must be submitted on an electronic media or in hard copy to the Rural Development State Office.

(c) Hard Copy Submission to the Rural Development State Office. If you are unable to send the proposal package electronically using either of the options listed above, you may send a hard copy of all forms and documents to the Rural Development State Office where the property is located. Hard copy pre-applications received on or before the deadline will receive the close of business time of the day received as the receipt time. Assistance for filing electronic and hard copy pre-applications can be obtained from any Rural Development State Office.

For electronic submissions, there is a time delay between the time it is sent and the time it is received depending on network traffic. As a result, last-minute submissions sent before the deadline date and time could be received after the deadline date and time because of the increased network traffic. *Applicants are reminded that all submissions received after the deadline date and time will be rejected, regardless of when they were sent.*

If a pre-application is accepted for further processing, the applicant must submit a complete, final application, acceptable to Rural Development prior to the obligation of Rural Development funds. If the pre-application is not accepted for further processing the applicant will be notified of appeal rights under 7 CFR part 11.

## 2. *Pre-Application Requirements*

(a) The pre-application must contain the following:

(1) A summary page listing the following items. This information should be double-spaced between items and not be in narrative form.

i. Applicant's name.

ii. Applicant's Taxpayer Identification Number.

- iii. Applicant's address.
- iv. Applicant's telephone number.
- v. Name of applicant's contact person, telephone number, and address.
- vi. Amount of loan and/or grant requested.
- vii. For grants of Federal financial assistance (including loans and grants,

cooperative agreements, etc.), the applicant's DUNS number and registration in the CCR database in accordance with 2 CFR part 25. As required by OMB, all grant applicants must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at (866) 705-5711 or via the internet at: <http://www.dnb.com/>. Additional information concerning this requirement can be obtained on the Grants.gov website at [www.grants.gov](http://www.grants.gov). Similarly, applicants may register for the CCR at: <https://www.uscontractorregistration.com/> or by calling (877) 252-2700.

(2) Awards made under this Notice are subject to the provisions contained in the Consolidated Appropriations Act, 2019 (Public Law 116-6) sections 745 and 746 regarding felony convictions and corporate Federal tax delinquencies. To comply with these provisions, applicants that are or propose to be corporations will submit form AD-3030, "Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants," as part of their pre-application. Form AD-3030 can be found here: <http://www.ocio.usda.gov/document/ad3030>.

(3) A narrative verifying the applicant's ability to meet the eligibility requirements stated earlier in this Notice. If an applicant is selected for further processing, Rural Development will require additional documentation as set forth in a

Conditional Commitment in order to verify the entity has the legal and financial capability to carry out the obligation of the loan.

(4) Standard Form 424, “Application for Federal Assistance,” can be obtained at: <http://www.grants.gov> or from any Rural Development State Office listed in Section VII of this Notice.

(5) For loan pre-applications, current (within 6 months of pre-application date) financial statements with the following paragraph certified by the applicant’s designated and legally authorized signer:

“I/we certify the above is a true and accurate reflection of 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.”

(6) For loan pre-applications, a check for \$24 from applicants made out to the United States Department of Agriculture. This will be used to pay for credit reports obtained by Rural Development.

(7) Evidence that the applicant is unable to obtain credit from other sources. Evidence may include but is not limited to a denial from a credit institution which normally provide real estate loans in the area. (**Note:** not required from State or local public agencies or Indian tribes.)

(8) If an FLH grant is desired, a statement concerning the need for an FLH grant. The statement should include preliminary estimates of the rents required with and without a grant.

(9) A statement of the applicant's experience in operating labor housing or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience (*i.e.*, obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization which is experienced in rental management and will be available on a continuous basis).

(10) A brief statement explaining the applicant's proposed method of operation and management (*i.e.*, on-site manager, contract for management services, etc.). As stated earlier in this Notice, the housing must be managed in accordance with the program's management regulation, 7 CFR part 3560.

(11) Provide your entity's projected Return on Investment (ROI) for the requested funds to demonstrate the effectiveness and efficiency of your proposal. Please include the methodology and assumptions you used in the ROI calculation. Also include a detailed examination of outputs and outcomes.

(12) Applicants must also provide:

(i) A copy of, or an accurate citation to, the special provisions of State or Tribal law under which they are organized, a copy of the applicant's charter, Articles of Incorporation, and by-laws;

(ii) The names, occupations, and addresses of the applicant's members, directors, and officers; and

(iii) If a member or subsidiary of another organization, the organization's name, address, and nature of business.

(13) A preliminary market survey or market study to identify the supply and demand for farm labor housing in the market area. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn for the proposed project. Documentation must be provided to justify a need within the intended market area for the housing of domestic farm laborers. The documentation must consider disabled and retired farm workers. The preliminary survey should address or include the following items:

(i) The annual income level of farmworker families in the area and the probable income of the farm workers who will likely occupy the proposed housing;

(ii) A realistic estimate of the number of farm workers who remain in the area where they harvest and the number of farm workers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (*i.e.*, single individuals as opposed to families);

(iii) General information concerning the type of labor-intensive crops grown in the area and prospects for continued demand for farm laborers;

(iv) The overall occupancy rate for comparable rental units in the area and the rents charged and customary rental practices for these units (*i.e.*, will they rent to large families, do they require annual leases, etc.);

(v) The number, condition, adequacy, rental rates and ownership of units currently used or available to farm workers;

(vi) A description of the units proposed, including the number, type, size, rental rates, amenities such as carpets and drapes, related facilities such as a laundry room or

community room and other facilities providing supportive services in connection with the housing and the needs of the prospective tenants such as a health clinic or day care facility, estimated development timeline, estimated TDC, and applicant contribution; and

(vii) The applicant must also identify all other sources of funds, including the dollar amount, source, and commitment status. (**Note:** a Section 516 grant may not exceed 90 percent of the TDC of the housing.)

(14) The applicant must submit a checklist, certification, and signed affidavit by the project architect or engineer, as applicable, for any energy programs the applicant intends to participate in.

(15) The following forms are required:

(i) A prepared HUD Form 935.2A, “Affirmative Fair Housing Marketing Plan (AFHM) Multi-Family Housing,” in accordance with 7 CFR 1901.203(c). The plan will reflect that occupancy is open to all qualified “domestic farm laborers,” regardless of which farming operation they work and that they will not discriminate on the basis of race, color, sex, age, disability, marital or familial status or National origin in regard to the occupancy or use of the units. The form can be found at:

<http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.PDF>.

(ii) A proposed operating budget utilizing Form RD 3560-7, “*Multiple Family Housing Project Budget/Utility Allowance*,” can be found at:

<http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-7.PDF>.

(iii) An estimate of development cost utilizing Form RD 1924-13, “*Estimate and Certificate of Actual Cost*,” can be found at:

<http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1924-13.PDF>.

(iv) Form RD 3560-30, “*Certification of no Identity of Interest (IOI)*,” can be found at: <http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-30.PDF> and Form RD 3560-31, “*Identity of Interest Disclosure/ Qualification Certification*,” can be found at:

<http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-31.PDF>.

(v) Form HUD 2530, “*Previous Participation Certification*,” can be found at: <http://portal.hud.gov/hudportal/documents/huddoc?id=2530.pdf>.

(vi) If requesting RA or Operating Assistance, Form RD 3560-25, “*Initial Request for Rental Assistance or Operating Assistance*,” can be found at:

<http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-25.PDF>.

(vii) Form RD 400-4, “*Assurance Agreement*,” can be found at:

<http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD400-4.PDF>.

(viii) Evidence of compliance with Executive Order 12372. The applicant must send a copy of Form SF-424, “*Application for Federal Assistance*,” to the applicant’s State clearinghouse for intergovernmental review. If the applicant is located in a State that does not have a clearinghouse, the applicant is not required to submit the form. Applications from Federally recognized Indian tribes are not subject to this requirement.

(ix) Evidence of site control, such as an option contract or sales contract. In addition, a map and description of the proposed site, including the availability of water, sewer, and utilities and the proximity to community facilities and services such as shopping, schools, transportation, doctors, dentists, and hospitals.

(x) Preliminary plans and specifications, including plot plans, building layouts, and type of construction and materials. The housing must meet Rural Development’s

design and construction standards contained in 7 CFR part 1924, subparts A and C and must also meet all applicable Federal, State, and local accessibility standards.

(xi) A supportive services plan, which describes services that will be provided on-site or made available to tenants through cooperative agreements with service providers in the community, such as a health clinic or day care facility. Off-site services must be accessible and affordable to farm workers and their families. Letters of intent from service providers are acceptable documentation at the pre-application stage. RA may not fund a direct service provision.

(xii) A Sources and Uses Statement which shows all sources of funding included in the proposed project. The terms and schedules of all sources included in the project should be included in the Sources and Uses Statement.

(xiii) A separate one-page information sheet listing each of the “Pre-Application Scoring Criteria,” contained in this Notice, followed by a reference to the page numbers of all relevant material and documentation that is contained in the proposal that supports the criteria. Applicants are encouraged, but not required, to include a checklist of all of the pre-application requirements and to have their pre-application indexed and tabbed to facilitate the review process.

(xvi) Evidence of compliance with the requirements of the applicable State Housing Preservation Office (SHPO), and/or Tribal Historic Preservation Officer (THPO). A letter from the SHPO and/or THPO where the off-farm FLH project is located, signed by their designee will serve as evidence of compliance.

(xv) Environmental information in accordance with the requirements in 7 CFR 1970.

**D. Pre-Application Review Information**

1. *Selection Criteria.* Section 514 FLH loan funds and Section 516 FLH grant funds will be distributed to States based on a national competition, as follows:

(a) Rural Development State Office will accept, review, and score pre-applications in accordance with this Notice.

(1) Points will be allocated for applications that leverage other funds based on the leverage funds percentage of RD's total investment. This is calculated as follows:

Rural Development Leverage funds equals the sum of all permanent third-party project investments plus Rural Development's allowed value of donated land. The value of the donated land will be calculated in accordance with Rural Development's Handbook HB-1-3560. The amount of permanent third-party project investments is limited to third-party funds from equity, grants, loans, and deferred developer fees. To obtain the percentage from which the leverage points are derived, this leverage fund amount is divided by Rural Development's investment, which equals the total amount of approved Section 516 grants and/or Section 514 loans. For example:

$$\begin{array}{r} \$15 \text{ million third-party funds} + \$500,000 \text{ Rural Development value of donated land} \\ \hline \$3 \text{ million Section 514 loan} \\ \hline = \text{leverage percentage of } \mathbf{516.67 \text{ percent}} \end{array}$$

The score points for leverage in this section will be calculated by multiplying the leverage percentage by 10. Using the above percentage, this would be 516.67 percent (or 5.1667) x 10, which equates to 51.67 score points for leverage.

A score point for leverage of more than zero but less than one will be rounded to one (1) point. A score point for leverage of zero or less will not receive any points. There is no maximum amount of score points for leverage. All score points for leverage will be rounded to two decimal places.

(2) The presence of operational cost savings, such as tax abatements, non-Rural Development tenant subsidies or donated services are calculated on a per-unit cost savings for the sum of the savings. Savings must be available for at least 5 years and documentation must be provided with the application demonstrating the availability of savings for 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. For non-Rural Development tenant subsidy, if the value changes during the 5-year calculation, the applicant must use the lower of the non-Rural Development tenant subsidy to calculate per-unit cost savings. For example, a 10-unit property with 100 percent designated farm labor housing units receiving \$20,000 per year non-Rural Development subsidy yields a cost savings of \$100,000 (\$20,000 x 5 years); resulting to a \$10,000 per-unit cost savings (\$100,000/10 units).

Use the following table to apply points:

Per-Unit Cost Savings	Points
Above \$15,000_____	50
\$10,001 - \$15,000_____	35
\$7,501 - \$10,000_____	20
\$5,001 - \$7,500_____	15
\$3,501 - \$5,000_____	10

\$2,001 - \$3,500\_\_\_\_\_5

\$1,000 - \$2,000\_\_\_\_\_2

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 of the USDA Multi-Family Housing Loan Origination Handbook (HB-1-3560) provides details on the subsidy layering review process. A subsidy layering review will be required prior to funding.

(3) Ten (10) points will be awarded to projects in Opportunity Zones. An Opportunity Zone is an economically-distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment. Localities qualify as Opportunity Zones if they have been nominated for that designation by the State and that nomination has been certified by the Secretary of the U.S. Treasury via his delegation of authority to the Internal Revenue Service. See <https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions> for more information.

(4) Points will be allocated for the presence of tenant services. Two (2) points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. Plans must detail how the services are to be administered, who will administer them, and where they will be administered. All tenant service plans must include letters of intent that clearly state the service that will be provided at the project for the benefit of the residents from any party administering each service, including the applicant. These services may include, but are not limited to, transportation related services, on-site English as a Second Language classes, move-in funds, emergency

assistance funds, homeownership counseling, food pantries, after school tutoring, and computer learning centers. RA may not be used to pay for these services.

(5) Points will be allocated for Energy initiatives (the aggregate points for all the Energy Initiative categories may not exceed 20 points).

Properties may receive points for energy initiatives in the categories of energy conservation, energy generation, water conservation and green property management. Depending on the scope of work, properties may earn “energy initiative” points in either one of two categories: 1) New Construction or 2) Purchase and Rehabilitation of an Existing Non-Farm Labor Housing Building. Projects will be eligible for one category of the two, but not both.

Energy programs including Council’s Leadership in Energy and Environmental Design (LEED) for Homes, Green Communities, etc., will each have an initial checklist indicating prerequisites for participation in its energy program. The applicable energy program checklist will establish whether prerequisites for the energy program’s participation will be met. All checklists must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable, and the project has been enrolled in these programs if enrollment is applicable to that program. In addition, projects that apply for points under the energy generation category must include calculations of savings of energy. Compare property energy usage of three scenarios: 1) property built to required code of State with no renewables, to 2) property as-designed with commitments to stated energy conservation programs without the use of renewables and 3) property as-designed with commitments to stated energy conservation programs and the use of proposed renewables. Use local average metrics for weather and utility

costs and detail savings in kWh and dollars. Provide payback calculations. These calculations must be done by a licensed engineer or credentialed renewable energy provider. Include with application, the provider/engineer's credentials including qualifications, recommendations, and proof of previous work. The checklist, affidavit, calculations, and qualifications of engineer/energy provider must be submitted together with the loan application.

Enrollment in EPA Portfolio Manager Program. All projects awarded scoring points for energy initiatives must enroll the project in the EPA Portfolio Manager program to track post-construction energy consumption data. More information about this program may be found at: <http://www.energystar.gov/buildings/facility-owners-and-managers/existing-buildings/use-portfolio-manager>.

(i) Energy Conservation for New Construction or Purchase and Rehabilitation of an Existing Non-Farm Labor Housing Building. Projects may be eligible for scoring points when the pre-application includes a written certification by the applicant to participate and achieve certification in the following energy efficiency programs.

The points will be allocated as follows:

- Participation in the EPA's Energy Star for Homes V3 program. (2 points)

[http://www.energystar.gov/index.cfm?c=bldrs\\_lenders\\_raters.pt\\_bldr](http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.pt_bldr).

**OR**

• Participation in the Green Communities program by the Enterprise Community Partners. (4 points) <http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities>.

**OR**

- Participation in one of the following two programs will be awarded points for certification.

Note: Each program has four levels of certification. State the level of certification that the applicant plans will achieve in their certification:

- LEED for Homes program by the United States Green Building Council (USGBC): <http://www.usgbc.org>.

- Certified Level (2 points), OR
- Silver Level (4 points), OR
- Gold Level (6 points), OR
- Platinum Level (8 points)

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its pre-application.

**OR**

- Home Innovation's and The National Association of Home Builders (NAHB) ICC 700 National Green Building Standard TM: <http://www.nahb.org/>.

- Green-Bronze Level (2 points), OR
- Silver Level (4 points), OR
- Gold Level (6 points), OR
- Emerald Level (8 points).

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its pre-application.

**AND**

- Participation in the Department of Energy's Zero Energy Ready program. (2 points) <http://www.energy.gov/eere/buildings/zero-energy-ready-home>.

**AND**

- Participation in local green/energy efficient building standards. Applicants who participate in a city, county or municipality program (2 points).

(ii) Energy Conservation for Rehabilitation. Pre-applications for the purchase and rehabilitation of non-program MFH and related facilities in rural areas may be eligible for scoring points when the pre-application includes a written certification by the applicant to participate in one of the following energy efficiency programs. Again, the certification must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable. Points will be award as follows:

- Participation in the Green Communities program by the Enterprise Community Partners (3 points) <http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities>. At least 30 percent of the points needed to qualify for the Green Communities program must be earned under the Energy Efficiency section of Green Communities.

**AND**

- Participation in local green/energy efficient building standards. Applicants who participate in a city, county or municipality program (2 points). The applicant should be aware of and look for additional requirements that are sometimes embedded in the third-party program's rating and verification systems.

(iii) Energy Generation. Pre-applications for new construction or purchase and rehabilitation of non-program multi-family projects which participate in the above-

mentioned programs and receive scoring points for installation of on-site renewable energy sources. Energy analysis of preliminary building plans using industry-recognized simulation software must document the projected total energy consumption of all of the building components and building site usage. Projects with an energy analysis of the preliminary or rehabilitation building plans that propose a 10 percent to 100 percent energy generation commitment (where generation is considered to be the total amount of energy needed to be generated on-site to make the building a net-zero consumer of energy) will be awarded points as follows:

- 0 to 9 percent commitment to energy generation - 0 points
- 10 to 20 percent commitment to energy generation - 1 point
- 21 to 40 percent commitment to energy generation - 2 points
- 41 to 60 percent commitment to energy generation - 3 points
- 61 to 80 percent commitment to energy generation - 4 points
- 81-100 percent or more commitment to energy generation - 5 points

Projects may participate in Power Purchase Agreements or Solar Leases to achieve their on-site renewable energy generation goals provided that the financial obligations of the lease/purchase agreements are clearly documented and included in the application, and qualifying ratios continue to be achieved.

An additional 1 point will be awarded for off-grid systems, or elements of systems, provided that at least 5 percent of on-site renewable system is off-grid. See [www.dsireusa.org](http://www.dsireusa.org) for State and local specific incentives and regulations of energy initiatives.

(iv) Water Conservation in Irrigation Measures. Projects may be awarded

1 point for the use of an engineered recycled water (gray water or storm water) for landscape irrigation covering 50 percent or more of the property's site landscaping needs.

(v) Property Management Credentials. Projects may be awarded 1 point if the designated property management company or individuals that will assume maintenance and operations responsibilities upon completion of construction work have a Credential for Green Property Management. Credentialing can be obtained from the National Apartment Association (NAA), National Affordable Housing Management Association, The Institute for Real Estate Management, U.S. Green Building LEED for Operations and Maintenance, or another source with a certifiable credentialing program.

Credentialing must be illustrated in the resume(s) of the property management team and included with the pre-application.

#### **E. Federal Award Administration Information**

##### **1. Federal Award Notices**

Applicants must submit their pre-applications by the due date specified in this Notice. Once the pre-applications have been scored and ranked by the State Office, the pre-applications must be reviewed and concurred with for funding by the National Office. The National Office will rank by score, highest to lowest, eligible pre-applications approved by State Offices. Based on available funding and the 30 percent limitation per State, the National Office will determine which pre-applications can be funded starting with the highest scoring pre-application. Thereafter, the National Office will notify the State Offices of pre-applications it concurred with for funding and further processing. Upon National Office notification, State Offices will notify applicants with pre-applications found eligible and selected for further processing. The selected applicants

must submit a final application to their respective State Offices as soon as possible, but no later than 90 calendar days from the date of the selection letter (deadline). The State Office will deem an application not submitted on or before the deadline incomplete and a withdrawal by the applicant from consideration under this Notice. The applicant may re-submit its pre-application under a subsequent Notice.

Pre-applications will be notified if there are insufficient funds available for the proposal and such notification is not appealable.

Pre-applications found ineligible, State Offices will send notices of ineligibility that provide appeal rights under 7 CFR part 11, as appropriate.

The National Office will rank all pre-applications nationwide and distribute funds to States in rank order, within funding and RA limits. When proposals have an equal score and not all pre-applications can be funded, preference will be given first to ***Indian tribes*** as defined in §3560.11, then ***local non-profit organizations or public bodies whose principal purposes include low-income housing*** that meet the conditions of §3560.55(c), and the following conditions:

- Is exempt from Federal income taxes under section 501(c)(3) or 501(c)(4) of the Internal Revenue Service code;
- Is not wholly or partially owned or controlled by a for-profit or limited-profit type entity;
- Whose members, or the entity, do not share an identity of interest with a for-profit or limited-profit type entity;
- Is not co-venturing with another entity; and

- The entity or its members will not be receiving any direct or indirect benefits pursuant to Low Income Housing Tax Credits.

If after all of the above evaluations are completed there are two or more pre-applications that have the same score, and all cannot be funded, a lottery will be used to break the tie. The lottery will consist of the names of each application with equal scores printed onto a same size piece of paper, which will then be placed into a receptacle that fully obstructs the view of the names. The Director of the Preservation and Direct Loan Division, in the presence of two witnesses, will draw a piece of paper from the receptacle. The name on piece of paper drawn will be the applicant to be funded.

If insufficient funds or RA remain for the next ranked proposal, that applicant will be given a chance to modify their pre-application to bring it within the remaining available funding. This will be repeated for each next ranked eligible proposal until an award can be made or the list is exhausted.

## 2. *Administrative and National Policy*

All FLH loans and grants are subject to the restrictive-use requirements contained in 7 CFR 3560.72(a) (2).

## 3. *Reporting*

Borrowers must maintain separate financial records for the operation and maintenance of the project and for tenant services. Tenant services will not be funded by Rural Development. Funds allocated to the operation and maintenance of the project may not be used to supplement the cost of tenant services, nor may tenant service funds be used to supplement the project operation and maintenance. Detailed financial reports regarding tenant services will not be required unless specifically requested by Rural

Development, and then only to the extent necessary for Rural Development and the borrower to discuss the affordability (and competitiveness) of the service provided to the tenant. The project audit, or verification of accounts on Form RD 3560-10, "*Borrower Balance Sheet*," together with an accompanying Form RD 3560-7, "*Multiple Family Housing Project Budget Utility Allowance*," must allocate revenue and expense between project operations and the service component.

**F. Guidance to Agency Staff for Processing Section 514/516 Farm Labor Housing (FLH) New Construction Loan and Grant Requests**

**General Processing Guidelines –**

Submitted applications should be reviewed for completeness using the requirements listed in this NOSA. Complete applications received by the deadline listed in this NOSA will be reviewed and scored based upon the factors listed therein by Agency staff. States Offices that need assistance with the review or the processing of FLH pre-applications should contact Mirna Reyes-Bible of the Multi-Family Housing Preservation and Direct Loan Division's Farm Labor Housing Program at (202) 720-1753 or at [mirna.reyesbible@usda.gov](mailto:mirna.reyesbible@usda.gov).

The following are tasks that will be completed by Agency staff:

- State Offices will conduct the site visit and conduct the environmental review, and civil rights impact analysis. States Offices should refer to the 7 CFR part 1970 Instructions for guidance on how to conduct environmental reviews. RD Instructions for 7 CFR part 1970 can be found at: <https://www.rd.usda.gov/publications/regulations-guidelines/instructions>.

- State Offices will conduct preliminary eligibility assessment on each application received. Based on the preliminary eligibility, feasibility review, and application scoring, State Offices fax or e-mail a final list of their scored and ranked pre-applications and a copy of the preliminary market study submitted by the applicant to the National Office.
- The State Office will include in the National Office list every pre-application determined incomplete or ineligible along with the reason for that determination, and receive National Office concurrence, prior to notifying the applicant. Pre-applications will be notified by the State Office if there are insufficient funds available for the proposal and such notification is not appealable. The Agency will notify the applicants of their ability to challenge the lack of appealability decision. State Offices will send all other notices of ineligibility and provide appeal rights under 7 CFR part 11.
- State Offices will issue letters of condition and state when acceptance must be returned by applicant.

**Preliminary Eligibility Assessment:**

The State Office shall make a preliminary eligibility assessment using the following criteria:

1. The pre-application was received by the submission deadline specified in the NOSA;
2. The pre-application is complete as specified by the NOSA;
3. The applicant is an eligible entity and is not currently debarred, suspended, or delinquent on any Federal debt; and
4. The proposal is for authorized purposes.

**Final Applications:**

The National Office will notify the State Offices which pre-applications have been selected for further processing. State Offices should then follow Chapter 5 of HB-1-3560 for the processing of final applications. Final applicants will need to follow the bidding process as set forth in 7 CFR part 1924.

**Equal Opportunity Survey:**

State Offices should provide applicants the voluntary OMB 1890-0014 form, “Survey on Ensuring Equal Opportunity for Applicants”, (or other forms currently being used by Rural Development) and ask the applicant to complete it and return it to the State Office.

**Substantial Portion of Income from Farm Labor:**

The NOSA restates the requirement that domestic farm laborers must receive a substantial portion of their income from “farm labor”. Further explanation of this requirement can be found in the regulation at 7 CFR 3560.576(b)(2) and Chapter 6, attachment 6-H of HB-2-3560. The term “farm labor” is defined at 7 CFR 3560.11 and further clarification is provided by Chapter 12, Attachment 12-A-of HB-1-3560.

**Obligation of funds and Documentation of Underwriting and Costs:**

All loan requests must be analyzed at the feasibility stage and again prior to obligation to determine the minimum amount of assistance that is needed for the proposal. The Multi-Family Housing Underwriting Request Form considers the sources and uses of all assistance proposed, i.e., all loans, grants, equity, and any other assistance. State Offices must obligate funds by the announced deadline. Form RD 1940-1,

*“Request for Obligation of Funds”*, should refer to assistance codes “322” for loans and “323” for grants. When obligating funds, the estimated development costs must be entered into the Automated Multi-Family Housing Accounting System (AMAS) using the M5V screen. Once construction is completed, the actual development costs must be entered into AMAS using the M5VA screen. Guidance can be found in Chapter 2 of the AMAS manual (Stock #66, pages 9-15).

Questions regarding this letter may be directed to Mirna Reyes-Bible of the Multi-Family Housing Preservation and Direct Loan Division, at (202) 720-1753.

#### **G. Equal Opportunity and Non-Discrimination Requirements**

In accordance with Federal civil rights law and United States Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program. Political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of a complaint form, call, (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) Mail: United States Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW.  
Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) E-mail at: [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

Bruce W. Lammers,  
Administrator,  
Rural Housing Service.  
[FR Doc. 2019-14390 Filed: 7/5/2019 8:45 am; Publication Date: 7/8/2019]