



DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS-21-MFH-0004]

Notice of Solicitation of Applications for Section 514 Off-Farm Labor Housing Loans and Section 516 Off-Farm Labor Housing Grants for New Construction for Fiscal Year 2021

AGENCY: Rural Housing Service, United States Department of Agriculture.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS), an agency of the United States Department of Agriculture (USDA), announces that it is soliciting competitive pre-applications for Section 514 Off-Farm Labor Housing (Off-FLH) loans and Section 516 Off-FLH grants for the construction of new Off-FLH units for domestic farm laborers, retired domestic farm laborers, or disabled domestic farm laborers. The program objective is to increase the supply of affordable housing for farm laborers. This Notice describes the method used to distribute funds, the pre-application and final application process, and submission requirements.

DATES: Eligible pre-applications submitted to the Production and Preservation Division, Processing and Report Review Branch, for this Notice will be accepted until November 1, 2022, 12:00 P.M., Eastern Standard Time. See the **SUPPLEMENTARY INFORMATION** section for additional information.

ADDRESSES: Applications to this Notice must be submitted electronically to the Production and Preservation Division, Processing and Report Review Branch. Specific instructions on how to submit applications electronically are

provided below within this Notice under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jonathan Bell, Branch Chief, Processing and Report Review Branch 1, Production and Preservation Division, Multifamily Housing Programs, Rural Development, United States Department of Agriculture, via e-mail: MFHprocessing1@usda.gov or phone at: 254-742-9764.

SUPPLEMENTARY INFORMATION: The amount of program dollars available will be determined by yearly appropriations. Available loan and grant funding amounts can be found at the following link:

<https://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants>. Expenses incurred in developing pre-applications and final applications will be at the applicant's sole risk.

Application Submission Deadlines

There will be three rounds of pre-application submissions and selections set forth below. Pre-applications that are deemed eligible but are not selected for further processing for each individual fiscal year that this Notice is open, will be withdrawn from processing. The applicant may reapply in a future funding round. RHS will not consider any application that is received after the established deadlines unless the date and time are extended by another Notice published in the Federal Register. RHS may at any time supplement, extend, amend, modify, or supersede this Notice by publishing another Notice in the Federal Register.

The application deadlines are as follows:

First Round

1. Available loan and grant funding posted to the RHS website by February 5, 2021.
2. Pre-applications must be submitted by April 1, 2021, 12:00 P.M., Eastern Standard Time.
3. RHS notification to applicants by June 1, 2021.
4. Pre-application selections posted to the RHS website by July 1, 2021.
5. Final applications must be submitted by August 2, 2021, 12:00 P.M., Eastern Standard Time.
6. Funds must be obligated by September 30, 2021.

Second Round

1. Available loan and grant funding posted to the RHS website by August 2, 2021.
2. Pre-applications will be accepted after September 1, 2021.
3. Pre-applications must be submitted by November 1, 2021, 12:00 P.M., Eastern Standard Time.
4. RHS notification to applicants by January 4, 2022.
5. Pre-application selections posted to the RHS website by March 1, 2022.
6. Final applications must be submitted by May 2, 2022, 12:00 P.M., Eastern Standard Time.
7. Funds must be obligated by September 30, 2022.

Third Round

1. Available loan and grant funding posted to the RHS website by August 1, 2022.

2. Pre-applications will be accepted after September 1, 2022.
3. Pre-applications must be submitted by November 1, 2022, 12:00 P.M., Eastern Standard Time.
4. RHS notification to applicants by January 2, 2023.
5. Pre-application selections posted to the RHS website by March 1, 2023.
6. Final applications must be submitted by May 1, 2023, 12:00 P.M., local time.
7. Funds must be obligated by September 29, 2023.

Priority Language for Funding Opportunities

RHS encourages applications that will help advance equity and improve outcomes in rural America. To encourage investments in rural properties, RHS 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, RHS will set aside 10 percent of the available funds for applications that will serve persistent poverty counties for each individual fiscal year that this Notice is open. 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 five-year estimates) according to the American Community Survey census tract data. Information on which counties are considered persistent poverty counties can be found through the 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 pre-applications. Once the set-aside funds are exhausted for each individual fiscal year that this Notice is open, any further set-aside applications will be evaluated and ranked with the other applications submitted in response to this Notice. If, after the preapplications are reviewed, RHS does not receive enough eligible applications to fully utilize the 10 percent set-aside in the service of these areas in each individual fiscal year that this Notice is open, RHS will award any unused set-aside funds to other eligible applicants.

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Notice of Solicitation of Applications for Section 514 Off-Farm Labor Housing Loans and Section 516 and Off-Farm Labor Housing Grants for New Construction for Fiscal Year 2021.

Announcement Type: Solicitation of applications from qualified applicants for Fiscal Year 2021.

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

A. FEDERAL AWARD DESCRIPTION

Pre-applications will only be accepted through the dates and times listed in this Notice. All awards are subject to the availability of funding. The maximum award per selected project may not exceed \$5 million (total loan and grant).

A state will not receive more than 30 percent of the Off-FLH funding for each fiscal year that this Notice is open, 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 within the applicable application round. The allocation of these funds may result in a state or states exceeding the 30 percent limitation.

Section 516 Off-FLH grants may not exceed 90 percent of the total development cost (TDC) of the housing. TDC is defined in 7 CFR 3560.11. Section 514 Off-FLH 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 Low-Income Housing Tax Credits (LIHTC), the applicant must include in the pre-application, written evidence that a LIHTC application has been submitted and accepted by the Housing Finance Agency (HFA). Applicants without written evidence that a tax credit application has been submitted and accepted by an HFA must certify in writing within the pre-application that they will apply for tax credits to an HFA, obtain a firm commitment letter, and include the commitment letter within their final application submission, if available. The firm commitment letter from the HFA must be submitted prior to the approval of the final application. If the applicant is unable to secure a firm commitment letter from the HFA in order to submit it to RHS by September 30th of the relevant fiscal year, the application will be deemed incomplete and the applicant will be notified in writing that the application will not be

considered for funding.

Pre-applications that propose the use of other forms of leveraged funds must submit firm commitment letters within their final application, if available. If the applicant is unable to secure a firm commitment letter from the funding source in order to submit it by September 30th of the relevant fiscal year, the application will be deemed incomplete and the applicant will be notified in writing that the application will not be considered for funding.

A firm commitment letter is defined as a lender's unqualified pledge to the borrower that they have passed their underwriting guidelines and they are willing to offer the borrower a loan and/or grant under specified terms. The letter validates that the borrower's financing has been fully approved and that the lender is prepared to close the transaction. Preliminary commitment letters, term sheets, or any other letter from the lender that does not meet the definition above will not be considered a firm commitment letter and will not meet the requirements specified in this Notice.

Rental Assistance (RA) and Operating Assistance (OA) will be available for this Notice. OA is described in 7 CFR 3560.574 and may be used in lieu of tenant-specific RA in Off-FLH projects financed under Section 514 or Section 516(i) of the Housing Act of 1949 (U.S.C. 1486(i)) as amended (42 U.S.C. 1484 and 1486(h) respectively), that serve migrant farmworkers as defined in 7 CFR 3560.11.

In order to maximize the use of the limited supply of FLH funds, RHS may contact eligible applicants selected for an award in point score order starting with the highest score, with proposals to modify the transaction's proportions of loan and grant funds for each individual fiscal year that this Notice is open. In addition, if funds remain after the highest scoring eligible

applications are selected for awards, we may contact those eligible applicants selected for the awards, in point score order, starting with the highest score, to ascertain whether those respondents will accept the remaining funds for each individual fiscal year that this Notice is open.

In order to enhance customer service and the transparency of this program, RHS will publish a list of awardees, the loan and/or grant amounts of their respective awards, the self-score provided by the applicant, and the final score as computed by RHS in accordance with the dates listed in this Notice. This will be done for each funding round. This information can be found at: <https://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants>. RHS reserves the right to post all information submitted as part of the pre-application and final application package, which is not protected under the Privacy Act, on a public website with free and open access to any member of the public.

B. Eligibility Information

1. Eligibility

Housing Eligibility – housing that is constructed with FLH loans and/or grant funds must meet RHS’s design and construction standards contained in 7 CFR part 1924, subparts A and C. Once constructed, Off-FLH must be managed in accordance with 7 CFR part 3560. In addition, Off-FLH must be operated on a non-profit basis and tenancy must be open to all qualified domestic farm laborers, regardless of 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 “domestic farm laborer,” or a “disabled domestic farm laborer,” or a “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. In addition, under no circumstance may any currently eligible FLH tenants be displaced from their homes as a result of this statutory change.

Owners are responsible for verifying tenant income eligibility. Only very-low or low-income households are eligible for the operating assistance rents. Households with incomes above the low-income limits must pay the full rent.

In accordance with 7 CFR 3560.554, off-farm labor housing may be used to serve migrant farmworkers. Migrants or migrant agricultural laborer is a person (and the family of such person) who receives a substantial portion of his or her income from farm labor employment and who establishes a residence in a location on a seasonal or temporary basis, in an attempt to receive farm labor employment at one or more locations away from their home base state, excluding day-haul agricultural workers whose travels are limited to work areas within one day of their residence.

Seasonal housing is housing that is operated on a seasonal basis, typically for migrants or migrant agricultural laborers as opposed to year-

round. Off-FLH loan and grant funds may be used to provide facilities for seasonal or temporary residential use with appropriate furnishings and equipment. A temporary residence is a dwelling which is used for occupancy, usually for a short period of time, but is not the legal residence for the occupant.

The design and construction requirements established in §3560.60 apply to all applications for Off-FLH loans and grants except that seasonal Off-FLH that will be occupied for eight months or less per year by migrant farmworkers while they are away from their residence, may be constructed in accordance with Exhibit I of 7 CFR part 1924, subpart A.

For Off-FLH operating on a seasonal basis, the management plan must establish specific opening and closing dates. During the off-season, Off-FLH may be used as defined in 7 CFR part 3560, subpart A, under short-term lease provisions. Where rents are charged on a per-unit basis and family income qualifies the household for rental assistance, rental assistance may be used.

Off-FLH is subject to the tenant contribution and rental unit rent requirements for Plan II housing established under 7 CFR part 3560, subpart E, except where seasonal housing will be occupied for less than a three-month period. In such instances the best available and practical income verification methods may be used with prior approval of RHS.

Actual dollars earned from farm labor by domestic farm laborers other than migrant farmworkers must equal at least 65 percent of the annual income limits indicated for the Standard Federal regions as published by RHS for their particular region of the country. For migrant farmworkers living in seasonal housing the actual dollars earned from farm labor by a domestic farm laborer must equal at least 50 percent of annual income limits indicated

for the Standard Federal regions, as published by RHS.

Applicant Eligibility –

(a) To be eligible to receive a Section 514 loan for Off-FLH, the applicant must meet the requirements of 7 CFR 3560.555(a) and be a broad-based non-profit organization of farmworkers, a Federally recognized Indian tribe, a community organization, or an Agency or political subdivision of state or local Government, and must meet the requirements of §3560.55, excluding §3560.55(a)(6). A broad-based non-profit organization is a non-profit organization that has a membership that reflects a variety of interests in the area where the housing will be located; or a limited partnership with a non-profit general partner which meets the requirements of §3560.55(d).

(b) To be eligible to receive a Section 516 grant for Off-FLH, the applicant must meet the requirements of 7 CFR 3560.555(b) and be a broad-based non-profit organization of farmworkers, a federally recognized Indian tribe, a community organization, or an agency or political subdivision of State or local Government, and must meet the requirements of §3560.55, excluding §3560.55(a)(6). A broad-based non-profit organization is a non-profit organization that has a membership that reflects a variety of interests in the area where the housing will be located; and be able to contribute at least one-tenth of the total farm labor housing development cost from its own or other resources. The applicant's contribution must be available at the time of the grant closing. An Off-FLH loan financed by RHS may be used to meet this requirement, however, an RHS grant cannot be used to meet this requirement. Limited partnerships with a non-profit general partner are eligible for Section 514 loans; however, they are not eligible for Section 516 grants.

(1) The applicant must be unable to provide the necessary housing from the applicant's own resources and be unable to obtain credit from any other source upon terms and conditions which the applicant could reasonably be expected to fulfill.

(2) Provide evidence that the applicant is unable to obtain credit from other sources.

(3) In order to demonstrate the applicant meets the requirement at 7 CFR 3560.55(a)(2), at least two letters from two separate credit institutions which normally provide real estate loans in the area must be obtained and these letters must indicate the rates and terms upon which a loan might be provided. (Note: not required from State or local public agencies or Indian tribes.) If two letters from two separate credit institutions that indicate the rates and terms upon which a loan might be provided is not submitted within the pre-application, the pre-application will be considered incomplete and will not be considered for funding.

(4) 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* – the amount of any Off-FLH grant must 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 1970.11, Timing of the environmental review process.

Please note, the environmental information must be submitted by the applicant to RHS. RHS must review and determine that the environmental information is acceptable before the obligation of funds;

(e) 7 CFR part 3560, regarding the loan and grant authorities of the Off-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 credit report fee of at least \$24 will be charged to the applicant and paid to the United States Department of Agriculture. This fee is used to pay credit reports obtained by RHS;

(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. 2000d et seq. and Title VI regulations against national origin discrimination.

(k) In accordance with 7 CFR 3560.60, the housing must be economical to construct, operate, and maintain and must not be of elaborate design or materials.

(l) System for Awards Management. All program applicants must be registered in the System for Awards Management (SAM) prior to submitting an application, unless determined exempt under 2 CFR 25.110. Federal award recipients must maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration by the Agency. The applicant must ensure that the information in the database is current, accurate, and complete. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

C. Pre-application and Submission Information

1. Pre-application Submission

The application process will be in two phases, for each individual fiscal year that this Notice is open: the initial pre-application and the submission of a final application. Only those pre-applications that are selected for further processing will be invited to submit a final application. In the event that a pre-application is selected for further processing and the applicant declines, the next highest ranked pre-application will be selected for further processing in each individual fiscal year that this Notice is open. All pre-applications for Section 514 and Section 516 funds must meet the requirements of this Notice. Incomplete pre-applications will be rejected and returned to the applicant. No pre-application will be accepted after the deadline in a given round unless the date and time is extended by another Notice published in the Federal Register.

Pre-applications should be submitted electronically. The process for submitting an electronic application to RHS is as follows:

(a) At least two business days prior to the application deadline for the applicable funding round, the applicant must e-mail RHS a request to create a shared folder in CloudVault. The e-mail must be sent to the following address: Off-FLHapplication@usda.gov. The e-mail must contain the following information:

(1) Subject line: “Off-FLH Application Submission.”

(2) Body of e-mail: Borrower Name, Project Name, Borrower Contact Information, Project State.

(3) Request language: “Please create a shared CloudVault folder so that we may submit our application documents.”

Once the e-mail request to create a shared CloudVault folder has been received, a shared folder will be created within two business days. When the shared CloudVault folder is created by RHS, the system will automatically send an e-mail to the applicant’s submission e-mail with a link to the shared folder. All required application documents in accordance with this Notice must be loaded into the shared CloudVault folder. When the submission deadline is reached for each applicable funding round, the applicant’s access to the shared CloudVault folder will be removed. Any document uploaded to the shared CloudVault folder after the application deadline, for each applicable funding round, will not be reviewed or considered.

The applicant should upload a Table of Contents of all of the documents that have been uploaded to the shared CloudVault folder. Last-minute requests and submissions may not allow adequate time for the submission process to take place prior to the deadline. *Applicants are*

reminded that all submissions must be received by the deadline, for each applicable funding round, and the application will be rejected if it is not received by the deadline date and time, regardless of when the application was submitted.

(b) Prior to the submission of a pre-application, the applicant is encouraged to schedule a concept meeting with RHS to discuss the application process, the specifics on the proposed project, and the borrower's responsibilities under the Off-FLH program, among other topics. Requests for concept meetings can be sent to the following e-mail address: MFHprocessing1@usda.gov.

(c) If a pre-application is accepted for further processing, the applicant must submit a final application, acceptable to RHS, prior to the obligation of funds. If the pre-application is not accepted for further processing due to being incomplete or ineligible, the applicant will be notified of appeal rights under 7 CFR part 11. Pre-applications that are deemed eligible but are not selected for further processing for each individual fiscal year that this Notice is open will be withdrawn from processing. The applicant may reapply in a future funding round.

2. Pre-application Requirements

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

(1) An executed and dated Executive Summary on the applicant's letterhead that must include at least the following:

(i) Brief description of the proposed project. Be sure to address if the project will be used year-round or seasonally and to what standards the housing will be built.

(ii) Document the need for the project. The applicant must document that the housing and related facilities will fulfill a pressing need in the area in which the project will be located.

(iii) Description of the proposed ownership structure with an organizational chart.

(iv) Narrative verifying the applicant's ability to meet the eligibility requirements stated earlier in this Notice.

(v) 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).

(vi) Description of the applicant's legal and financial capability to carry out the obligation of the loan and/or grant.

(vii) Proposed management. 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 regulations, 7 CFR part 3560.

(viii) Description of established site control.

(ix) Proposed Return to Owner (RTO), if applicable.

(x) Any financial commitments, financial concessions, or other economic benefits proposed to be provided by RHS.

(xi) Third-party funding, if applicable. For each third-party funding source or leveraged funds, discuss briefly the funding provider, funding amount, including terms, commitment status, timing issues, any restrictions that will be applicable to the project, and whether any accommodation from RHS is proposed, such as a subordination in lien position. The desired lien position of any third-party funding source must be clearly disclosed as well as any proposal for RHS to subordinate its lien position.

(xii) Any proposed compensation to parties having an identity of interest with either the seller, purchaser, consultant, or Technical Assistance (TA) provider, etc.

(xiii) Any proposed construction financing, for example, a construction or bridge loan or the use of multiple advances.

(xiv) Type and method of construction such as owner builder, negotiated bid, or contractor method.

(xv) If a FLH grant is desired, a statement concerning the need for a FLH grant. The statement must include estimates of the rents required with a grant and rents required without a grant. Documentation to demonstrate how the rent figures were computed must be provided. Documentation must be in the form of a completed Form RD 3560-7 "Multiple Family Housing Project Budget/Utility Allowance" completed as if a grant were received and another form completed as if a grant would not be received. RHS will review each budget to determine that the income and expenses are reasonable and customary for the area. RHS will then verify that the proposed rental rates provided on the budget that considers rents without a grant, are at or above market rate rents or at a level that would overburden the intended residents based on the average income

of eligible FLH workers in the primary market area as provided in the market study.

(xvi) If RA or OA is desired, a statement concerning the need for the RA or OA and a statement concerning the specific number of units of RA or OA that is needed. Strong and detailed justification must be provided for requests of 100 percent RA or OA.

(xvii) Statement by the applicant that they will pay any cost overruns.

(xviii) Estimated development timeline to include estimated start and end date as well as any other important milestones.

(xix) Description of any required site development such as building roads, obtaining easements, installing utilities, verification that there is proper site access, and any state or local approvals such as zoning.

(xx) Description of the required and intended applicant contribution.

(xxi) Any other pertinent information that the applicant feels should be disclosed as part of this proposal, if applicable.

(2) Standard Form 424 "Application for Federal Assistance" which can be obtained at: <https://www.grants.gov/>.

(3) Current (within six months of this Notice's pre-application submission due date of the applicable funding round) financial statements for each entity within the ownership structure 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.’’

(4) A check for \$24 made out to the United States Department of Agriculture. This will be used to pay for credit reports obtained by RHS. The check must be mailed to the following address and received prior to the application deadline for the applicable funding round. If the check is not received by the application deadline for the applicable funding round, the application will be considered incomplete and will not be considered for funding.

Tonya Boykin, Management Assistant
United States Departments of Agriculture
1400 Independence Avenue, SW., Room 1263-S, STOP 0782
Washington, D.C. 20250

(5) Evidence that the applicant is unable to obtain credit from other sources. At least two letters from two separate credit institutions which normally provide real estate loans in the area must be obtained and these letters must indicate the rates and terms upon which a loan might be provided. RHS will review each letter to verify that the applicant is only able to obtain market rate financing, which would include a market rate interest rate and term of less than 30 years.

(6) Letter from the IRS indicating the applicant’s tax identification number.

(7) Documentation verifying the applicant’s DUNS number, if applicable.

(8) 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.)

(9) If a non-profit organization:

(i) 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.

(ii) Purpose statement, including the provision of low-income housing.

(iii) Evidence of organization under Tribal, state and local law, or copies of pending applications and a copy of the applicant's charter, Articles of Incorporation, and by-laws.

(iv) List of Board of Directors including their names, occupations, phone numbers, and addresses.

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

(10) Market feasibility documentation to identify the supply and demand for Off-FLH in the primary market area. A market study must be submitted. 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 primary market area for the housing of domestic farm laborers. The documentation must also consider disabled and retired farm workers and adjusted medium incomes of very-low, low, and moderate. The market study must include all of the content in Exhibit 4-10 and Exhibit 4-11. These exhibits are located in HB-1-3560, Chapter 4, Section 4.18. The market study must also include documentation of all the elements in Attachment 4-F,

located in HB-1-3560, Chapter 4. The provider must include a copy of Attachment 4-F within the report and provide the page number of the report where it contains the information that satisfies each element of Attachment 4-F. The market study must be obtained from, and performed by, an independent third-party provider that has no identity of interest with the property owner, management agent, applicant or any other principle or affiliate. The market study must also include the following:

(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 households 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) Information on any proposed new construction of housing units within the primary market area. The building permit information and pending tax credit applications must be checked for the primary market area;

(vii) Documentation verifying that interviews were conducted with farms and other agricultural businesses within the primary market area to inquire if they are in need of additional housing for their employees or if they plan to expand and hire additional employees that will need housing; and

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

(11) Evidence of site control, such as an executed 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. Off-FLH projects must comply with the site requirements in 7 CFR 3560.558 with the exception of the requirement that the property be located in a designated place.

(12) 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. A map showing the location of supportive services must be included. Letters of commitment from service providers are acceptable documentation. The plan must describe how the services will be funded. RA may not fund supportive services.

(13) Preliminary plans and specifications, including a plot plan, site plan with contour lines, floor plan for each living unit type and other spaces,

such as laundry facilities, community rooms, stairwells, etc., building exterior elevations, typical building exterior wall section, building layouts, and type of construction and materials. The housing must meet RHS'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 and be in compliance with all building codes. Also, applications for Off-FLH loans and grants must meet the design requirements in 7 CFR 3560.559.

(14) Provide a description of the proposed interior/exterior washing facilities. Applicants should consider incorporating interior/exterior washing facilities for tenants, as necessary to protect the asset and the tenants from excess dirt and chemical exposure. Such facilities might include a boot washing station or hose bibs, among others.

(15) Description and justification of related facilities and a schedule of separate charges for the related facilities.

(16) 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.

(17) 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. (Note: Section 516 grants may not exceed 90 percent of the TDC of the project).

(18) Evidence of the submission of the project description to the applicable State Housing Preservation Office (SHPO), and/or Tribal Historic Preservation Officer (THPO) with the request for comments.

(19) 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. However, evidence that the State does not have a clearinghouse must be submitted. Applications from Federally recognized Indian tribes are not subject to this requirement.

(20) Phase I Environmental Site Assessment, ASTM E-1527 (Phase I ESA).

(22) FEMA Form 81-93, Standard Flood Hazard Determination.

(23) Comments regarding relevant offsite conditions.

(24) The following forms are required to be submitted with the pre-application:

(i) Awards made under this Notice are subject to the provisions contained in the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) 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 at: <http://www.ocio.usda.gov/document/ad3030>.

(ii) A prepared Form HUD-935.2A, “Affirmative Fair Housing Marketing Plan (AFHMP)- Multifamily Housing” in accordance with 7 CFR 1901.203(c). The AFHMP will reflect that occupancy is open to all qualified “domestic farm laborers,” regardless of which farming operation they work for, 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 AFHMP must include all attachments and supporting documentation. The form can be found at:

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

Indian Tribes, including instrumentalities of such Indian Tribes, are not required to comply with certain aspects of the AFHMP guidelines above, and may allow members of Indian Tribes to be given preference for housing. The Native American Housing Enhancement Act of 2005 (NAHEA), Public Law No. 109-136, Codified at 25 U.S.C. 4101 et seq., amended Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) which created the housing programs administered by the United States Department of Agriculture, Rural Housing Service. The NAHEA excludes Indian Tribes, including instrumentalities of such Indian Tribes, from the requirement to comply with Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968, allowing members of Indian Tribes to be given preference for housing in accordance to the Native American Housing Assistance and Self Determination Act of 1996 (25 U.S.C. 4101 et seq.).

The NAHEA does not exempt Indian Tribes from complying with other laws that apply to recipients of Federal financial assistance. Therefore, federally recognized Indian Tribes must continue to comply with Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title IX of the Education Amendments Act of 1972, where applicable. The NAHEA also did not exempt Indian Tribes from complying with the accessibility requirements of the Fair Housing Amendments Act (FHAA) of 1988. This Act amended Title VIII of the Fair Housing Act of 1968, to include disability and familial status. Therefore, the NAHEA did not

specifically exempt Indian Tribes from the accessibility requirements of the FHAA. The requirements to construct multi-family housing properties accessible to, or adaptable for, persons with disabilities are to be followed. This requirement shall be consistent with RD Instructions 7 CFR part 3560, § 3560.60, Design Requirements.

(iii) A proposed post-construction 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>.

RHS will review the budget to determine that the income and expenses are reasonable and customary for the area. RHS will also verify that the budget reflects the correct and estimated RHS debt service, number of units, unit mix, and proposed rents. Overall, RHS will review the budget for feasibility, accuracy, and reasonableness.

(iv) An estimate of development costs 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>.

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

(vi) Form RD 3560-31, “Identity of Interest Disclosure/Qualification Certification” if applicable, can be found at: <http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-31.PDF>.

An IOI is defined in 7 CFR 3560.11. RHS will review *Form RD 3560-30 and Form RD 3560-31*, as applicable, to determine if they are completed in accordance with the Forms Manual Insert and to determine that all IOI’s have been disclosed. TA will

not be funded by RHS when an IOI exists between the TA provider and the loan or grant applicant.

(vii) Form HUD 2530, “Previous Participation Certification” can be found at: <https://www.hud.gov/sites/dfiles/OCHCO/documents/2530.pdf>.

(viii) If requesting RA or OA, 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>.

(ix) Form RD 400-4, “Assurance Agreement” can be found at:
<http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD400-4.PDF>.

(x) RD Instruction 1940-Q, Exhibit A-1, “Certification for contracts, grants and loans,” can be found at: <https://www.rd.usda.gov/files/1940q.pdf>.

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 to include a checklist of all of the application requirements in accordance with this Notice and to have their electronic application submission documents indexed in the order of this Notice to facilitate the review process. If any of the required items listed above are not submitted within the pre-application in accordance with this Notice or are incomplete, the pre-application will be considered incomplete and will not be considered for funding.

RHS will not consider information from an applicant after the pre-application deadline for the applicable funding round. RHS may contact the applicant to clarify items in the application. RHS will uniformly notify applicants of each curable deficiency. A curable deficiency is an error or

oversight that if corrected it would not alter, in a positive or negative fashion, the review and rating of the application. An example of a curable (correctable) deficiency would be inconsistencies in the amount of the funding request.

D. Pre-application Review Information

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

(a) RHS 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 ratio of leveraged funds to RHS's total investment. This is calculated as follows:

The leverage ratio equals the sum of all permanent third-party project investments plus RHS's allowed value of donated land. The value of the donated land will be calculated in accordance with RHS's 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 ratio from which the leveraged funds points are derived, the leveraged fund amount is divided by RHS's investment, which equals the total amount of approved Section 514 loans and/or Section 516 grants. For example:

\$15 million third-party funds + \$500,000 RHS value of donated land

\$3 million Section 514 loan

= leverage ratio of 5.167 percent

The leverage ratio is multiplied by 10 to determine the points value for this section. Using the above leverage ratio, this would be 5.167×10 , 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 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.

Donated land must meet the requirements of 7 CFR 3560.56(c)(1)(iv). Land that has been donated and received points in the scoring process as donated land may not be considered an equity contribution nor may a return on the value of the land be allowed.

(2) The presence of operational cost savings, such as tax abatements, non-RHS 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 five years and documentation must be provided within the pre-application demonstrating the availability of savings for five 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-RHS tenant subsidy, if the value changes during the five-year calculation, the applicant must use the lower of the non-RHS 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-RHS subsidy yields a cost savings of \$100,000 ($\$20,000 \times 5$ years); resulting in 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

Documentation must be provided within the pre-application that verifies the presence of operational cost savings. RHS will not be providing excess assistance to the project. This is determined by conducting a subsidy layering review and underwriting prior to the obligation of funds.

(3) Ten 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 IRS. See <https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions> for more information. Documentation must be provided within the pre-application that verifies the property is within an Opportunity Zone.

(4) Points will be allocated for the presence of tenant supportive services. Two points will be awarded for each tenant service included in the tenant supportive services plan up to a maximum of 10 points. The plan must describe the proposed supportive services, including a description of the public or private funds that are expected to fund the proposed services as well as the way the services will be delivered, 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. The proposed supportive services plan must describe how the services will meet the identified needs of the tenants and how the services will be provided on a consistent, long-term basis to support the tenants. The plan must clearly state how the services will be funded. 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. Properties may earn “energy initiative” points for new construction.

National energy programs including the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED (National Association of Homebuilders 2020 ICC 700 National Green Building Standard, U.S. Department of Energy (DOE) Zero Energy Ready Homes, International Living Future Institute’s Living Building Challenge, U.S. Environmental Protection Agency (EPA) Energy Star for Homes, Passive House Institute’s PHIUS +, Enterprise Community Partners Green Communities, and local energy conservation programs, 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. These programs

evolve and newer versions are published, sometimes annually. Projects must participate in the current version of the programs and must consult with the program provider for the most current, applicable and available programs for their project location. 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 the application, the provider/engineer's credentials including qualifications, recommendations, and proof of previous work. The checklist, affidavit, calculations, and qualifications of the engineer/energy provider must be submitted together with the pre-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. 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 Multifamily New Construction Certification Process (5 points).

https://www.energystar.gov/partner_resources/residential_new/homes_prog_reqs/multifamily_national_page

OR

- Participation in the Green Communities program by the Enterprise Community Partners (2020 Criteria). (7 points) <https://www.enterprisecommunity.org/solutions-and-innovation/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's plans will achieve in their certification:

- LEED Residential BD&C program by the United States Green Building Council (USGBC): <http://www.usgbc.org> - Certified Level (6 points), **OR**- Silver Level (7 points), **OR**- Gold Level (8 points), **OR**- Platinum Level (9 points)

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

OR

- The National Association of Home Builders (NAHB) 2020 ICC 700 National Green Building Standard: <https://www.nahb.org/>

- Green-Bronze Level (6 points), **OR**

- Silver Level (7 points), **OR**- Gold Level (8 points), **OR**- Emerald Level (9 points). Applicant must state the level of certification that the applicant's plans will achieve in their certification in the pre-application.

OR

- Participation in the DOE Zero Energy Ready Homes program. (9 points) <https://www.energy.gov/eere/buildings/zero-energy-ready-homes>

OR

- PHIUS+ Passive Building Standard (2018) (10 points)

<https://multifamily.phius.org/service-category/phius-within-reach>

OR

- International Living Future Institute Living Building Challenge (11 points)

<https://living-future.org/lbc/>

AND

• Participation in local green/energy efficient building standards. Applicants who participate in a city, county or municipality programs (1 points).

(ii) Energy Generation. Projects that commit to participate in the above-mentioned programs in section i) also will 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 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 get the building a net-zero or net positive consumer/ producer 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 pre-application, and qualifying ratios continue to be achieved.

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

(iii) Water Conservation in Irrigation Measures. Projects may be awarded one point (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.

(iv) Property Management Credentials. Projects may be awarded one point (1 point) if the designated property management company or individuals that will assume maintenance and operation 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, USGBC 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.

(6) Market. The applicant must provide the required market study as described above in Section C, Pre-application and Submission Information, number 11 and will be awarded points as follows:

Need. Applications will be rated on the absorption ratio. The absorption ratio is computed by dividing the number of units in the proposed project by the number of income eligible and farm labor eligible households within the primary market area.

- Evidence of Strong Need (4 points). An absorption ratio of 15 percent or less.
- Evidence of Need (2 points). An absorption ratio greater than 15 percent and less than 30 percent.
- No Evidence of Need (0 points). An absorption ratio 30 percent or greater.

Neighborhood and Context. Applicants must demonstrate that the location of the site supports farm labor housing. The applicant must identify the location, the proximity, and ease of access of the project site to amenities important to the residents that supplement the services provided on-site. The site location will be rated on the following:

- Health care and social services (hospital, medical clinic, social service organization that offers services to farm workers) (2 points);
- Grocery stores (e.g., supermarket or other store that sells produce and meat) (2 points);
- Recreational facilities (e.g., parks and green space, community center, gym, health club, or family entertainment venue, library) (2 points);
- Civic facilities (e.g., place of worship, police or fire station, post office) (2 points);
- Other neighborhood-serving amenities (e.g., apparel store, convenience store, pharmacy, bank, hair care, and restaurants) (2 points).

Applicants must describe how residents could reasonably access critical amenities. Amenities will generally be considered readily available if they are within one-half mile walking distance or they can be accessed by public transportation (within one-quarter walking mile) including accessible public transportation option, and/or affordable private door-to-door shuttle/van service that is reliable and accessible.

Applicants may commit to providing such transportation services if the nature of the commitment and the financing of the commitment is adequately described. Project funds cannot be used for this purpose.

To score the maximum number of points on this factor, applicants must make a compelling argument that the location of the proposed project is well suited with respect to proximate amenities to meet the needs of farm workers. Documentation must be provided that clearly outlines the project site and its proximity to the applicable amenities.

(7) **Owner capacity.** This factor addresses the extent to which the applicant, or a member of the applicant's team, has the experience and organizational resources to successfully implement the proposed activities in a timely manner. In this rating factor, RHS will consider the extent to which the application demonstrates the applicant's ability to develop and operate FLH on a long-term basis. In the case of co-sponsored applications, the rating will be based upon the combination of the experience of all co-sponsors in the area under review.

A firm resume must be provided for the applicant and all Sponsors/Co-Sponsors. Each resume must include evidence of development experience and services experience, as applicable. In addition, the resume should include a description of all similar projects that the applicant and Sponsors/Co-Sponsors have been involved with, to include whether they were Federal housing projects, and information regarding the success of the projects.

Development Experience. Applicants should demonstrate how the scope, extent, and quality of the Sponsor's and/or their consultant team's recent experience in developing and operating housing is consistent with the details of the proposed project. The evaluation will consider experience with LIHTC, FLH with RHS funds, and other complex financing development transactions to the extent such expertise is relevant to the proposal, experience that shows familiarity with FLH and experience operating Federally

assisted housing, which may be demonstrated by providing supporting data related to actual performance. The description or firm resumes must include any rental housing projects and supportive services facilities that the applicant sponsored, owns or operates.

RHS will make a determination on the level of experience of the applicant and all Sponsors/Co-Sponsors, if applicable, based on the information and documentation presented within the pre-application. Points will be awarded as follows:

- No development experience (0 points)
- Low level of development experience (2 points)
- Medium level of development experience (5 points)
- High level of development experience (10 points)

To score the highest number of points for this factor, applicants must describe significant previous experience in providing housing to farm laborer's generally and significant previous experience implementing development activities with the type of financing proposed.

Supportive Services Experience. Applicants should demonstrate how the scope, extent, and quality of the applicant's experience and/or the experience of committed partners, including property managers, in providing services is consistent with the details of the proposed supportive services plan. The description and firm resumes must identify specific services provided. Applicants must explain their experience in RHS subsidy administration and/or their partners' experience in providing property management and coordinating supportive services.

RHS will make a determination on the level of experience of the applicant and all Sponsors/Co-Sponsors, if applicable, based on the information and documentation presented within the pre-application. Points will be awarded as follows:

- No supportive services experience (0 points)
- Low level of supportive services experience (1 point)
- Medium level of supportive services experience (3 points)
- High level of supportive services experience (6 points)

To score the highest number of points for this factor, applicants and/or committed partners must describe and provide evidence of significant previous experience in providing and coordinating supportive services to farm laborers.

E. Federal Award Administration Information

1. Federal Award Notices

Applicants must submit their pre-applications by the due dates specified in this Notice. RHS will rank by score, highest to lowest, eligible and complete pre-applications. Based on available funding, the 10 percent persistent poverty counties set-aside, and the 30 percent limitation per state, RHS will determine which pre-applications will be selected for further processing starting with the highest scoring pre-application. RHS will notify applicants with pre-applications found eligible and selected for further processing.

Applicants will be notified if there are insufficient funds available for the proposal and such notification is not appealable. For applications found ineligible or incomplete, RHS will send notices of ineligibility that provide appeal rights under 7 CFR part 11, as appropriate.

RHS will rank all pre-applications nationwide. 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 LIHTC.

If after all of the above evaluations are completed and 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 pre-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 Production and Preservation Division, in the presence of two witnesses, will draw a piece of paper from the receptacle. The name on the piece of paper drawn will be the applicant to be funded.

If insufficient funds or RA/OA 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).

A FLH grant agreement, prepared by RHS, must be dated and executed by the applicant on the date of closing, if applicable. The form of loan resolution to be adopted by the applicant must contain policy and procedural requirements that should be read and be fully understood by the applicant's Board of Directors and officers. The grant agreement will remain in effect for so long as there is a need for FLH and will not expire until an official determination has been made by RHS, if applicable.

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 RHS. 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 RHS, and then only to the extent necessary for RHS 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 expenses between project operations and the tenant services component.

F. Preliminary Eligibility Assessment

RHS shall make a preliminary eligibility assessment using the following criteria:

1. The pre-application was received by the applicable submission deadlines specified in the Notice;
2. The pre-application is complete as specified by the Notice;
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.

G. Final Application and Submission Information

1. *Final Application Submission*

The pre-applications that are selected for further processing will be invited to submit final applications. In the event that a pre-application is selected for further processing and the applicant declines, the next highest ranked pre-application will be selected for further processing in each individual fiscal year that this Notice is open. The final applications will be due by the dates specified in this Notice for the applicable funding round.

All final applications must be filed with RHS and must meet the requirements of this Notice. Incomplete final applications will be rejected and returned to the applicant. No final applications will be accepted after the deadline in a given round unless the date and time are extended by another Notice published in the Federal Register.

A final application in accordance with this Notice must be submitted and approved by RHS prior to the obligation of funds.

The final application submission process will be the same as previously explained and outlined for the pre-application submission process in Section C (1), “Pre-Application and Submission Information.”

2. *Final Application Requirements*

(a) The final application must contain the following in addition to the pre-application documents that were previously submitted:

(1) Description of any changes from the pre-application submission including funding, scope of work, etc.

(2) If any document that was submitted within the pre-application has since changed or needs to be updated with the final application, please submit the updated form(s) with the final application.

(3) Final Standard Form 424, “Application for Federal Assistance.”

(4) Final proposed Form RD 1924-13, “Estimate and Certificate of Actual Cost.”

(5) Final proposed post-construction operating budget utilizing Form RD 3560-7, “Multiple Family Housing Project Budget/Utility Allowance.”

(6) Updated financial statements, if applicable (must be within six months of this Notice’s final application submission due date of the applicable funding round).

(7) Form RD 1910-11, “Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts” can be found at:

<https://forms.sc.egov.usda.gov//efcommon/eFileServices/eForms/RD1910-11.PDF>.

(8) Form RD 400-1, “Equal Opportunity Agreement” can be found at:

https://forms.sc.egov.usda.gov/eForms/searchAction.do?pageAction=BrowseForms&_MenuAction=Yes.

(9) Form RD 400-6, “Compliance Statement” can be found at:

https://forms.sc.egov.usda.gov/eForms/searchAction.do?pageAction=BrowseForms&_MenuAction=Yes.

(10) Form AD-1047, “Certification Regarding Debarment, Suspension, and

Other Responsibility Matters Primary Covered Transactions,” can be found at:

https://www.ocio.usda.gov/sites/default/files/docs/2012/AD1047_PrimaryCoveredTransactions_final.pdf. This form is only required for applicants exempt under 2 CFR 25.110 (i.e. individual applicants).

(11) Form AD-1048, “Certification of Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions” if applicable, can be found at:

https://www.ocio.usda.gov/sites/default/files/docs/2012/AD1048_LowerTierCoveredTransactions_final.pdf. This form is only required for applicants exempt under 2 CFR 25.110 (i.e. individual applicants).

(12) Form AD-1049, “Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I – For Grantees Other Than Individuals,” can be found at:

https://www.ocio.usda.gov/sites/default/files/docs/2012/AD1049_Alt1_GranteesOtherThanIndividuals_v2_final.pdf.

(13) Form RD 3560-13, “Multi-Family Project Borrower’s/Management Agent’s Management Certification” if applicable, can be found at:

<https://forms.sc.egov.usda.gov//efcommon/eFileServices/eForms/RD3560-13.PDF>.

(14) Management plan with all attachments including the proposed record keeping system, the proposed lease with an attorney’s certification, if applicable, and the proposed occupancy rules.

(15) Management Agreement, if applicable.

(16) Final organizational documents or Certificate of Good Standing.

(17) Attorney Certification. Letter from the applicant’s attorney certifying the legal sufficiency of the organizational documents. The attorney

must certify:

- (i) The applicant's legal capacity to successfully operate the proposed project for the life of the loan and/or grant.
- (ii) The organizational documents comply with RHS regulations.
- (iii) For partnership purchasers, that the term of the partnership extends at least through the latest maturity of all proposed RHS debt.
- (iv) That the organizational documents require prior written RHS approval for any of the following: withdrawal of a general partner/managing member, admission of a general partner/managing member, amending the organizational documents, and selling all or substantially all of the assets of the purchaser.

(18) Acceptable appraisal. Applicants should contact RHS to discuss the appraisal requirements including the Statement of Work (SOW) prior to engaging an appraiser. Appraisals prepared for any other participants or lenders may not satisfy RHS SOW requirements and may require the applicant to incur additional costs. Please contact RHS at MFHprocessing1@usda.gov to obtain a SOW prior to ordering the appraisal.

(19) An acceptable Post Construction Capital Needs Assessment (CNA). The minimum requirements for a CNA acceptable to RHS can be found in Attachment B, CNA SOW. This is supplemented by Attachment C, Fannie Mae Physical Needs Assessment Guidance to the Property Evaluator. The CNA report must be obtained by the CNA recipient from an independent third-party CNA provider that has no identity of interest with the property owner, management agent, applicant or any other principle or affiliate. The CNA recipient will contract with the CNA provider and is therefore, the client of the provider. However, the CNA recipient must consult with RHS, before

contracting with a CNA provider to review Guidance Regarding Contracting for a CNA. The RHS CNA reviewer will evaluate a proposed agreement or engagement letter between the CNA recipient and the CNA provider using Attachment D, CNA Guidance to the Reviewer, prior to reviewing any CNA report. Unacceptable CNA proposals, contracts or reports will be returned to the CNA recipient for appropriate corrections before they will be used for any underwriting determinations. The CNA reviewer will also review the cost of the CNA contract. In most cases, the CNA service contract amount has not exceeded \$3,500 based on RHS's most recent cost analysis. Borrowers and applicants are encouraged to obtain multiple bids in all cases. However, there is no RHS requirement to select the "low bidder." All of the information and requirements, including the CNA Template that the CNA must be submitted on, can be found at: <https://www.rd.usda.gov/programs-services/multi-family-housing-direct-loans>.

(20) Final plans and specifications along with the proposed manner of construction, if available. The housing must meet RHS'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 and be in compliance with all building codes. The final plans and specifications along with the proposed manner of construction must be submitted prior to the approval of the final application.

(21) Final construction planning, bidding, and contract documents, including the construction contract and architectural agreement, etc., if available. The final construction planning, bidding, and contract documents, including the construction contract and architectural agreement, etc., must be submitted prior to the approval of the final application.

(22) Environmental information in accordance with the requirements in 7 CFR part 1970. The applicant should consult with RHS to determine the appropriate level of environmental review and to obtain publicly available resources at the earliest possible time for guidance in identifying all relevant environmental issues that must be addressed and considered during early project planning and design throughout the process. Requests for consult meetings can be sent to the following email address:

MFHprocessing1@usda.gov. The applicant is responsible for preparing and submitting the environmental review document in accordance with the format and standards provided by RHS in 7 CFR part 1970. Applicants may employ a design or environmental professional or technical service provider to assist them in the preparation of their environmental review documents at their own expense. The levels of review are as follows:

(i) Categorical Exclusion without an Environmental Report (7 CFR 1970.53).

This level of review is generally required for proposals for financial assistance that involve minimal alternations in the physical environment and typically occur on previously disturbed land.

(ii) Categorical Exclusion with an Environmental Report (7 CFR 1970.54).

This level of review is generally required for proposals for financial assistance that require an applicant to submit an environmental report with their application to facilitate RHS's determination of extraordinary circumstances. This level of review would apply to proposals where site development activities for rural development purposes would impact not more than 10 acres of real property and would not cause a substantial increase in traffic.

(iii) Environmental Assessment (7 CFR part 1970, subpart C).

This level of review is generally required for proposals for financial assistance that do not fall within the categories listed in §1970.53 or §1970.54.

The information above applies generally and cannot be used as official guidance, as stated above, please contact RHS to determine the appropriate level of environmental review before developing the report.

(23) The environmental information must include 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-FLH project is located signed by their designee will serve as evidence of compliance.

(24) If leveraged funds are going to be used and are in the form of LIHTC, the applicant must include in the final application a firm commitment letter from the HFA, if available. The firm commitment letter from the HFA must be submitted prior to the approval of the final application. If the applicant is unable to secure a firm commitment letter from the HFA in order to submit it to RHS to meet the deadlines stated in this Notice, the application will be deemed incomplete and the applicant will be notified in writing that the application will not be considered for funding. Additionally, the applicant will be required to submit a letter of intent or commitment from the investor or syndicator for the purchase of the LIHTC prior to the approval of the final application.

(25) All applications that propose the use of any leveraged funds must submit firm commitment letters within their final application, if available. This includes any interim lender commitment letters with evidence of license to do business in the applicable state. If the applicant is unable to

secure firm commitment letters from the funding sources in order to submit them to RHS to meet the deadlines stated in this Notice, the application will be deemed incomplete and the applicant will be notified in writing that the application will not be considered for funding.

(26) Current Preliminary title insurance commitment/binder.

(27) Land survey with flood plain certification.

(28) Description of how the applicant will meet the equity contribution requirement as applicable.

(29) Description of how the applicant will provide the two percent initial operating and maintenance reserve requirement.

(30) Signed statement from the applicant agreeing to pay cost overruns.

Final Applications:

RHS will follow this Notice for the processing of final applications. Final applications will need to follow the bidding process as set forth in 7 CFR part 1924.

Documentation of Underwriting and Costs:

All final applications including the loan and/or grant requests will be analyzed using an underwriting template that RHS has developed. A complete analysis and underwriting of the proposed transaction will be completed to ensure all regulatory requirements are met and to ensure overall project feasibility as well as to determine the minimum amount of assistance that is needed for the proposal.

Once the loan and/or grant funds have been obligated, the applicant should be prepared to close the transaction and complete construction within 12-18 months. Off-FLH loans and/or grants must be liquidated not more than three years from the date the loan and/or grant funds were obligated. Annually, if the loan and/or grant funds have not been fully liquidated, the applicant must submit an obligation extension request to RHS.

Questions regarding this Notice may be directed to Jonathan Bell, Branch Chief, Processing and Report Review Branch 1, Production and Preservation Division, Multifamily Housing Program, Rural Development, United States Department of Agriculture, or e-mail: MFHprocessing1@usda.gov or phone at: 254-742-9764.

Technical Assistance Providers:

Please be aware that TA services may not be used to reimburse a non-profit or public body applicant for technical services provided by a non-profit organization, with housing and/or community development experience, to assist the non-profit applicant entity in the development and packaging of its loan/grant docket and project. In addition, TA will not be funded by RHS when an identity of interest exists between the TA provider and the loan or grant applicant. Identity of interest is defined in 7 CFR 3560.11.

Equal Opportunity Survey:

RHS should provide applicants the voluntary OMB 1890-0014 form, "Survey on Ensuring Equal Opportunity for Applicants," (or other forms currently being used by RHS) and ask the applicant to complete it and return it to RHS.

Substantial Portion of Income from Farm Labor:

The Notice 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). The term "farm labor" is defined in 7 CFR 3560.11.

H. Equal Opportunity and Non-Discrimination Requirements

In accordance with federal civil rights law and USDA civil rights regulations and policies, 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, audiotope, 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, 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.

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

Chadwick Parker,
Acting Administrator,
Rural Housing Service.

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