

UNNUMBERED LETTERS ISSUED FOR THE AUGUST OF 2011

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08-08-11	Fiscal Year 2011 Section 515 Rural Rental Housing Incentive Funding	S/D
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Dated	Subject	Distribution
08-31-11	Financial Management Division Reviews Fiscal Year 2012	S/D

August 5, 2011

TO: State Directors, Rural Development
ATTN: Business Programs Directors
SUBJECT: Fiscal Year 2011 Business and Cooperative Programs' Goals

The purpose of this unnumbered letter (UL) is to update the Business Programs goals for fiscal year (FY) 2011. The updated FY 2011 State goals are provided below and attached to this UL.

The initial goals based on projected funding levels were provided by the UL dated January 12, 2011. The updated goals are based on actual program loan and grant levels and State Office allocations. It is appropriate to update the goals incorporated into the Elements and Standards of all State Business Programs Directors and Area Directors responsible for the cited programs.

The importance of program performance cannot be overstated. Performance related to these goals is highly visible and goal accomplishment is critical to the overall performance rating achieved by Rural Development and USDA. Secretary Vilsack's top priority is for USDA to help rural communities create wealth so they are self-sustaining, repopulating, and thriving economically. In addition, Agency performance planning and budget documents include goals associated with program utilization, such as jobs created and saved.

There is continued emphasis on leveraging limited Business and Industry (B&I) Guaranteed Loan Program funds, resolving delinquent loans and overall portfolio management. The timely resolution of all problem accounts is imperative to maintaining a sound portfolio.

Goal Number 1 - B&I Guaranteed Loans

Obligate 100 percent of the State's initial allocation.

EXPIRATION DATE:
September 30, 2011

FILING INSTRUCTIONS:
Community/Business Programs

Goal Number 2 - B&I Leveraging

Leverage at least 40 percent of the funds obligated. In other words, for every \$100,000 of B&I obligation, there should be an average of at least \$40,000 in other funding. This is based on the average of all the B&I loans funded in the State, rather than to each project. Agency records indicate that an average of 24.4 percent leveraging was accomplished in the B&I loans obligated in FY 2010.

The “other funding” includes any other funds that reduce the amount of B&I funds needed to fund the project (e.g. loans guaranteed by other Federal Agencies, such as the Small Business Administration, non-guaranteed loans, vendor financing, loans for working capital, lines of credit, state and local grants, venture capital, borrower contribution, etc.). Existing borrower debt should not be considered leveraging. Please refer to leveraging guidance posted to SharePoint and the Administrative Notice on the subject to be posted shortly.

The borrower contribution is the amount of cash contribution or value of real estate or other assets contributed by the owner(s) to the project financed with the B&I loan, or cash taken from the borrower operation that reduces the amount of B&I financing required for the project.

The Guaranteed Loan System (GLS) will be utilized to determine the amount of leveraging achieved. Therefore, it is imperative that the “Use of Funds” section of GLS be completed accurately. When multiple B&I loans are included in a financing package, avoid duplicate reporting of leveraging by entering the use and source of funds data at the Facility Level in GLS. In addition, because this GLS data cannot be revised once the loan is obligated, verify the accuracy at obligation. Then, thoroughly document any significant changes in the sources or uses of funds between obligation and loan closing in the Project Summary. The accuracy of GLS data will be verified during Business and Cooperative Programs Assessment Reviews (BCPAR) and other testing activities.

Goal Number 3 - Rural Energy for America Program (REAP)

Obligate 100 percent of the State’s initial allocation of grants of \$20,000 or less, and at least 25 percent of the State’s initial loan allocation.

The grant portion of loan-grant combinations where the grant is \$20,000 or less, will be considered in determining whether the (grants of \$20,000 or less) goal is met. Feasibility Studies for Renewable Energy Systems and Energy Audits and Renewable Energy Development Assistance will not be considered. The loan-only projects will be considered in determining whether the loan utilization goal is met.

Goal Number 4 - B&I/REAP Delinquency

Meet the State-specific delinquency goal which is based on an analysis of each State's B&I and REAP portfolios. This goal is based on the number of borrowers (rather than loans) as of October 1, 2010, and excludes cases in bankruptcy.

The resolution of each delinquent loan is important, but States should prioritize efforts on those loans that have been delinquent for more than 1 year, but also focus on resolving any new delinquent accounts that may appear throughout the year.

In the event the State cannot meet the delinquency goal established by this UL, the State Director may submit a written request and justification for consideration of an adjustment by the Administrator.

Goal Number 5 - Intermediary Relending Program (IRP), Rural Microentrepreneur Assistance Program (RMAP)

Submit at least one IRP loan request and at least one RMAP project to the National Office for funding (loan or grant-only) while closely monitoring the State IRP portfolio to avoid increases in the delinquency rate. States are receiving an allocation of IRP funds. A National competition will be utilized for RMAP.

Goal Number 6 - Rural Economic Development Loan and Grant (REDLG) Program

Conduct outreach meetings with at least three eligible Rural Utility Service (RUS) electric or telecommunications borrowers (intermediaries). The list of eligible REDLG intermediaries is posted to SharePoint. States with three or fewer eligible intermediaries will contact all those that are eligible. Provide a report of the meetings to the regional coordinators in the format as posted to SharePoint. A National competition is being utilized for REDLG, rather than State allocations.

Goal Number 7 - Value Added Producer Grants (VAPG)

Obligate at least one VAPG award. A National competition is being utilized for VAPG, rather than State allocations.

If you have any questions, please contact the applicable program area in the National Office. For B&I, contact Fred Kieferle, Processing Branch Chief, at (202) 720-7818 or fred.kieferle@wdc.usda.gov; or David Lewis, Servicing Branch Chief, at (202) 690-0797 or david.lewis@wdc.usda.gov.

For REAP, contact Kelley Oehler, Processing Branch Chief, at (202) 720-6819 or kelley.oehler@wdc.usda.gov. For REDLG and IRP, contact Ken Hennings, Branch Chief, at (202) 690-3809 or ken.hennings@wdc.usda.gov. For VAPG, contact Andy Jermolowicz, Acting Deputy Administrator, Cooperative Programs, at (202) 690-0361 or andy.jermolowicz@wdc.usda.gov.

(Signed by Judith A. Canales)

JUDITH A. CANALES
Administrator
Business and Cooperative Programs

Attachment

Attachment

State	B&I Allocation & GOAL	B&I Delinquency GOAL	REAP Grants of ≤\$20,000 Allocation & GOAL	REAP Guaranteed Mandatory Loan Allocation	REAP Loan GOAL
Alabama	\$27,302,000	0	\$477,045	\$1,579,000	\$394,750
Alaska	7,975,000	2	94,733	300,000	75,000
Arizona	16,335,000	3	192,154	626,000	156,500
Arkansas	19,674,000	1	329,918	1,087,000	271,750
California	28,948,000	21	436,293	1,443,000	360,750
Colorado	13,459,000	2	152,653	493,000	123,250
Delaware	6,901,000	1	51,825	156,000	39,000
Maryland	11,308,000	1	145,084	468,000	117,000
Florida	28,247,000	5	359,206	1,185,000	296,250
Virgin Islands	5,000,000	3	20,000	100,000	25,000
Georgia	35,138,000	3	553,867	1,836,000	459,000
Hawaii	7,225,000	0	61,859	190,000	47,500
W. Pacific Terr.	5,000,000	1	20,000	100,000	25,000
Idaho	10,417,000	0	143,901	464,000	116,000
Illinois	23,590,000	4	346,674	1,142,000	285,500
Indiana	24,186,000	4	353,496	1,166,000	291,500
Iowa	16,392,000	2	253,548	831,000	207,750
Kansas	12,531,000	1	181,614	590,000	147,500
Kentucky	28,127,000	4	505,556	1,674,000	418,500
Louisiana	19,024,000	8	339,483	1,119,000	279,750
Maine	13,001,000	1	184,221	599,000	149,750
Massachusetts	8,592,000	2	103,767	330,000	82,500
Connecticut	8,781,000	1	79,762	250,000	62,500
Rhode Island	5,562,000	1	35,721	102,000	25,500
Michigan	34,386,000	2	503,848	1,669,000	417,250
Minnesota	20,577,000	0	293,107	963,000	240,750

State	B&I Allocation & GOAL	B&I Delinquency GOAL	REAP Grants of ≤\$20,000 Allocation & GOAL	REAP Guaranteed Mandatory Loan Allocation	REAP Loan GOAL
Mississippi	25,041,000	1	442,287	1,463,000	365,750
Missouri	24,510,000	4	403,250	1,332,000	333,000
Montana	10,184,000	1	133,937	431,000	107,750
Nebraska	10,334,000	3	127,077	408,000	102,000
Nevada	9,329,000	1	62,222	191,000	47,250
New Jersey	8,537,000	2	109,379	349,000	87,250
New Mexico	10,692,000	1	183,363	596,000	149,000
New York	27,361,000	6	476,604	1,578,000	394,500
North Carolina	38,390,000	10	667,000	2,215,000	553,750
North Dakota	7,652,000	2	84,212	264,000	66,000
Ohio	33,743,000	6	512,545	1,698,000	424,500
Oklahoma	18,096,000	6	306,542	1,008,000	252,000
Oregon	14,343,000	5	206,606	674,000	168,500
Pennsylvania	31,887,000	12	546,620	1,812,000	453,000
Puerto Rico	10,023,000	2	207,544	677,000	169,250
South Carolina	25,278,000	7	383,430	1,266,000	316,500
South Dakota	8,903,000	0	107,756	343,000	85,750
Tennessee	30,827,000	2	480,967	1,592,000	398,000
Texas	38,390,000	11	667,000	2,215,000	553,750
Utah	8,368,000	4	90,931	287,000	71,750
Vermont	9,087,000	0	96,754	306,000	76,500
New Hampshire	9,547,000	1	107,343	342,000	85,500
Virginia	24,344,000	3	400,260	1,322,000	330,500
Washington	16,678,000	3	274,859	902,000	225,500

State	B&I Allocation & GOAL	B&I Delinquency GOAL	REAP Grants of <\$20,000 Allocation & GOAL	REAP Guaranteed Mandatory Loan Allocation	REAP Loan GOAL
West Virginia	14,539,000	2	293,651	965,000	241,250
Wisconsin	22,105,000	5	339,883	1,120,000	280,000
Wyoming	6,938,000	1	68,717	213,000	53,250

August 8, 2011

TO: State Directors
Rural Development

ATTN: Program Directors and Coordinators
Multi-Family Housing

FROM: Tammye Treviño *(Signed by Tammye Treviño)*
Administrator
Housing and Community Facilities Programs

SUBJECT: Fiscal Year 2011 Section 515 Rural Rental Housing
Incentive Funding

The purpose of this Unnumbered Letter (UL) is to announce available funding for prepayment prevention incentives during FY 2011. A total of \$3 million will be available for incentive rental assistance. The first priority for the use of those funds will be for sales to non-profits on the Agency's incentive waiting list that have been processed under 7 CFR 3560, section 3560.659. There will not be funding available this fiscal year for the \$50,000 advance for non-profit organizations and public bodies as described in Section 3560.659(h). Finally \$10 million in Section 515 loan funds will be available for equity loans. The \$10 million will be bifurcated as follows:

- \$5 million will be set aside for sales to non-profits on the Agency's Incentive Waiting List that have been processed under 7 CFR 3560, section 3560.659.
- \$5 million will be set aside for borrowers who will retain ownership of their property who are currently seated on the Incentives Waiting List.

Questions concerning this UL should be addressed to Cynthia Johnson, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division (MPDL) at (202) 720-1940 or e-mail at cynthial.johnson@wdc.usda.gov or Tiffany Tietz also of MPDL at (616) 942-4111, extension 126 or e-mail at tiffany.tietz@usda.gov.

EXPIRATION DATE:
August 31, 2012

FILING INSTRUCTIONS:
Housing Programs

August 9, 2011

TO: All Rural Development Employees

FROM: Clyde Thompson (Signed by Clyde Thompson)
Deputy Administrator
Operations and Management

SUBJECT: Federal Travel Regulations Amended to Include
Domestic Partners

The Office of the Chief Financial Officer issued the attached memorandum dated May 12, 2011, same subject, that includes information about the General Services Administration amendment to the Federal Travel Regulation (FTR). The amendment to the FTR extends certain travel and relocation benefits to Domestic partners of Federal employees.

The key changes included the addition of definitions for *Dependant*, *Domestic partner*, and *Domestic partnership*, and revising the definition of the *Immediate family* to include Domestic partner and children, dependant parents, and dependant brothers and sisters of the *Domestic partner* as named members of the employee's household. This change is not applicable to house-hunting trips and relocation taxes.

If you have any questions, please contact one of the Travel Unit staff: Julie Railey, (202) 692-0227, or Lisa Washington, (202) 692-0030. You may also e-mail the Travel Unit at ssd.travel@wdc.usda.gov.

Attachment

EXPIRATION DATE:
August 31, 2012

FILING INSTRUCTIONS:
Administrative/Other Programs

Sent by electronic mail on August 10, 2011 at 8:30 am by Support Services Division. No further distribution of this communication will be required.



United States
Department of
Agriculture

MAY 12 2011

Office of the Chief
Financial Officer

1400 Independence
Avenue, SW

Washington, DC
20250

TO: Agency Heads

FROM: Jon M. Holladay
Deputy Chief Financial Officer

John G. Brewer
for

SUBJECT: Federal Travel Regulations Amended to Include Domestic Partners

On March 3, 2011, in response to the President's memorandum of June 2, 2010, the General Services Administration (GSA) amended the Federal Travel Regulation (FTR) to extend certain travel and relocation benefits to Domestic partners of Federal employees. The key changes were adding terms and definitions for *Dependant*, *Domestic partner* and *Domestic partnership*, and by revising the definition of *Immediate family* to include *Domestic partner* and children, dependant parents, and dependant brothers and sisters of the Domestic partner as named members of the employee's household. Attached is a copy of the FTR Glossary of Terms. This change is not applicable to househunting trips and relocation taxes. A complete copy of the rule can be found on the GSA website at http://www.gsa.gov/graphics/ogp/FTRAmend_2010-06_Order.pdf

The Agriculture Travel Regulation and the USDA Relocation Allowance Regulation conform to the FTR and are therefore effective immediately. OCFO will update the appropriate travel policies in the near future to reflect the changes.

If you have any questions, please feel free to contact me or have your staff contact Teresa Maguire at (202) 690-0290.

Attachment

cc: Chief Financial Officers
Deputy Administrators for Management
Travel Policy User Group Representatives

AMENDMENT 2010-06 MARCH 3, 2011

Chapter 300—General
Part 300-3—Glossary of Terms

§300-3.1

PART 300-3—GLOSSARY OF TERMS

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); 49 U.S.C. 40118; 5 U.S.C. 5738; 5 U.S.C. 5741-5742; 20 U.S.C. 905(a); 31 U.S.C. 1353; E.O. 11609, as amended; 3 CFR, 1971-1975 Comp., p. 586, OMB Circular No. A-126, revised May 22, 1992.

§300-3.1 What do the following terms mean?

Actual expense—Payment of authorized actual expenses incurred, up to the limit prescribed by the Administrator of GSA or agency, as appropriate. Entitlement to reimbursement is contingent upon entitlement to per diem, and is subject to the same definitions and rules governing per diem.

Agency—For purposes of Chapter 302 agency means:

(1) An executive agency as defined in Title 5 U.S.C. 105 (an executive department an independent establishment, the Government Accountability Office, or a wholly owned Government corporation as defined in section 101 of the Government Corporation Control Act, as amended (31 U.S.C. 9101), but excluding a Government controlled corporation);

- (2) A military department;
- (3) A court of the United States;
- (4) The Administrative Office of the United States Courts;
- (5) The Federal Judicial Center;
- (6) The Library of Congress;
- (7) The United States Botanic Garden;
- (8) The Government Printing Office; and
- (9) The District of Columbia.

Aircraft management office—An agency component that has management control of Federal aircraft used by the agency or of aircraft hired as commercial aviation services (CAS).

Approved accommodation—Any place of public lodging that is listed on the national master list of approved accommodations. The national master list of all approved accommodations is compiled, periodically updated, and published in the Federal Register by FEMA. Additionally, the approved accommodation list is available on the U.S. Fire Administration's Internet site at <http://www.usfa.fema.gov/hotel/index.htm>.

Automated-Teller-Machine (ATM) services—Government contractor-provided ATM services that allow cash withdrawals from participating ATMs to be charged to a Government contractor-issued charge card.

Commercial Aviation Services (CAS)—Commercial aviation services (CAS) include, for the exclusive use of an executive agency—

- (1) Leased aircraft;
- (2) Chartered or rented aircraft;
- (3) Commercial contracts for full aviation services (*i.e.*, aircraft plus related aviation services) or acquisition of full

services through inter-service support agreements (ISSA) with other agencies; or

(4) Related services (*i.e.*, services but not aircraft) obtained by commercial contract or ISSA, except those services acquired to support Federal aircraft.

Common carrier—Private-sector supplier of air, rail or bus transportation.

Commuted Rate—A price rate used to calculate a set amount to be paid to an employee for the transportation and temporary storage of his/her household goods. It includes cost of line-haul transportation, packing/unpacking, crating/uncrating, drayage incident to transportation and other accessorial charges and costs of temporary storage within applicable weight limit for storage including handling in/out charges and necessary drayage.

Conference—A meeting, retreat, seminar, symposium or event that involves attendee travel. The term "conference" also applies to training activities that are considered to be conferences under 5 CFR 410.404.

Continental United States (CONUS)—The 48 contiguous States and the District of Columbia.

Contract carriers—U.S. certificated air carriers which are under contract with the government to furnish Federal employees and other persons authorized to travel at Government expense with passenger transportation service. This also includes GSA's scheduled airline passenger service between selected U.S. cities/airports and between selected U.S. and international cities/airports at reduced fares.

Crewmember—A person assigned to operate or assist in operating an aircraft. Performs duties directly related to the operation of the aircraft (*e.g.*, as pilots, co-pilots, flight engineers, navigators) or duties assisting in operation of the aircraft (*e.g.*, as flight directors, crew chiefs, electronics technicians, mechanics). If a crewmember is onboard for the purpose of travel, (*i.e.*, being transported from point to point) he/she must be authorized to travel in accordance with rules in 41 CFR [301-10.260](#) through [301-10.266](#) and 41 CFR [301-70.800](#) through [301-70.903](#).

Dependent—An immediate family member of the employee.

Domestic partner—An adult in a domestic partnership with an employee of the same-sex.

Domestic partnership—A committed relationship between two adults of the same sex, in which they—

- (1) Are each other's sole domestic partner and intend to remain so indefinitely;
- (2) Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle);

AMENDMENT 2010-06 MARCH 3, 2011

§300-3.1

FEDERAL TRAVEL REGULATION

(3) Are at least 18 years of age and mentally competent to consent to contract;

(4) Share responsibility for a significant measure of each other's financial obligations;

(5) Are not married or joined in a civil union to anyone else;

(6) Are not a domestic partner of anyone else;

(7) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the U.S. jurisdiction in which they reside;

(8) Are willing to certify, if required by the agency, that they understand that willful falsification of any documentation required to establish that an individual is in a domestic partnership may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification, as well as constitute a criminal violation under 18 U.S.C. 1001, and that the method for securing such certification, if required, shall be determined by the agency; and

(9) Are willing promptly to disclose, if required by the agency, any dissolution or material change in the status of the domestic partnership.

Employee with a disability (also see Special Needs)—

(a) An employee who has a disability as defined in paragraph (b) of this definition and is otherwise generally covered under the Rehabilitation Act of 1973, as amended (29 U.S.C. 701-797b).

(b) "Disability," with respect to an employee, means:

(1) Having a physical or mental impairment that substantially limits one or more major life activities;

(2) Having a record of such an impairment;

(3) Being regarded as having such an impairment; but

(4) Does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(c) "Physical or mental impairment" means:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organ, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(2) Any mental or psychological disorder (e.g., mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities).

(3) The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and orthopedic, visual, speech and hearing impairments.

(d) "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(e) "Has a record of such an impairment" means the employee has a history of, or has been classified as having, a

mental or physical impairment that substantially limits one or more major life activities.

(f) "Is regarded as having such an impairment" means the employee has:

(1) A physical or mental impairment that does not substantially limit major life activities but the impairment is treated by the agency as constituting such a limitation;

(2) A physical or mental impairment that substantially limits major life activities as a result of the attitudes of others toward such an impairment; or

(3) None of the impairments defined under "physical or mental impairment", but is treated by the employing agency as having a substantially limiting impairment.

E-Gov Travel Service (ETS)—The Government-contracted, end-to-end travel management service that automates and consolidates the Federal travel process in a self-service Web-centric environment, covering all aspects of official travel, including travel planning, authorization, reservations, ticketing, expense reimbursement, and travel management reporting. The eTS provides the services of a Federal travel management program as specified in §301-73.1(a), (b), and (c) of this title.

Executive agency—An entity of the executive branch that is an "executive agency" as defined in section 105 of title 5 U.S.C.

Extended Storage—Storage of household goods while an employee is assigned to an official station or post of duty to which he/she is not authorized to take or unable to use the household goods or is authorized in the public interest. Also referred to as nontemporary storage.

Family (see Immediate family)

Federal traveler—For the purposes of 41 CFR 301-10.260-301-10.266 and 301-70.800-301-70.910, a person who travels on a Government aircraft and who is either—

(1) A civilian employee in the Government service;

(2) A member of the uniformed or foreign services of the United States Government; or

(3) A contractor working under a contract with an executive agency.

Foreign air carrier—An air carrier who is not holding a certificate issued by the United States under 49 U.S.C. 41102.

Foreign area (see also *non-foreign area*)—Any area, including the Trust Territories of the Pacific Islands, situated both outside CONUS and the non-foreign areas.

Full coach fare—The price of a coach fare available to the general public on a scheduled air carrier between the day that the travel was planned and the day the travel occurred.

Furnished meal—A meal provided to an employee, either directly from the Government or as a result of the Government paying a registration fee or other cost which allows the employee to attend a conference or other event. If the Government has already paid for a meal, the employee must deduct the allocated amount when filing their travel voucher.

Government aircraft—An aircraft that is operated for the exclusive use of an executive agency and is a—

AMENDMENT 2010-06 MARCH 3, 2011

Chapter 300—General
Part 300-3—Glossary of Terms

§300-3.1

(a) Federal aircraft, which an executive agency owns (*i.e.*, holds title to) or borrows for any length of time under a bailment or equivalent loan agreement. See 41 CFR 102-33.20 for definition of all terms related to Federal aircraft, or

(b) Commercial aircraft hired as commercial aviation services (CAS), which an executive agency—

(1) Leases or lease-purchases with the intent to take title,

(2) Charters or rents, or

(3) Hires as part of a full-service contract or inter-service support agreement (ISSA).

Government contractor-issued individually billed charge card—A Government contractor-issued charge card used by authorized individuals to pay for official travel and transportation related expenses for which the contractor bills the employee.

Government-furnished automobile—An automobile (or “light truck,” as defined in 41 CFR 101-38 including vans and pickup trucks) that is:

(a) Owned by an agency,

(b) Assigned or dispatched to an agency from the GSA Interagency Fleet Management System, or

(c) Leased by the Government for a period of 60 days or longer from a commercial source.

Government-furnished vehicle—A Government-furnished automobile or a Government aircraft.

Government Transportation Request (GTR) (Standard Form 1169)—A Government document used to procure common carrier transportation services. The document obligates the Government to pay for transportation services provided.

Household Goods (HHG)—Property, unless specifically excluded, associated with the home and all personal effects belonging to an employee and immediate family members on the effective date of the employee’s change of official station orders (the day the employee reports for duty at the new official station) that legally may be accepted and transported by a commercial HHG carrier.

(1) HHG also includes:

(i) Professional Books, papers and equipment (PBP&E);

(ii) Spare parts of a POV (see definition of POV) and a pickup truck tailgate when removed);

(iii) Integral or attached vehicle parts that must be removed due to high vulnerability to pilferage or damage, (e.g., seats, tops, wench, spare tire, portable auxiliary gasoline can(s) and miscellaneous associated hardware);

(iv) Consumable goods for employees assigned to locations where the Department of State has determined that such goods are necessary;

(v) Vehicles other than POVs (such as motorcycles, mopeds, jet skies, snowmobiles, golf carts, boats (e.g., boat, sailboat, canoe, skiff, rowboat, dinghies, sculls and kayak, mounted or unmounted on trailers)) of reasonable size.

(vi) Ultralight Vehicles (defined in 14 CFR part 103 as being single occupant, for recreation or sport purposes, weighing less than 155 pounds if unpowered or less than 254 pounds if powered, having a fuel capacity NTE 5 gallons, air-speed NTE 55 knots, and power-off stall speed NTE 24 knots.

(2) HHG does not include:

(i) Personal baggage when carried free on tickets;

(ii) Automobiles, trucks, vans and similar motor vehicles, mobile homes, camper trailers, and farming vehicles;

(iii) Live animals including birds, fish, reptiles;

(iv) Cordwood and building materials;

(v) HHG for resale, disposal or commercial use rather than for use by employee and immediate family members;

(vi) Privately owned live ammunition; and

(vii) Propane gas tanks.

(3) Federal, State and local laws or carrier regulations may prohibit commercial shipment of certain articles not included in paragraph (2) of this definition. These articles frequently include:

(i) Property liable to impregnate or otherwise damage equipment or other property (e.g., hazardous articles including explosives, flammable and corrosive material, poisons);

(ii) Articles that cannot be taken from the premises without damage to the article or premises;

(iii) Perishable articles (including frozen foods) articles requiring refrigeration, or perishable plants unless;

(a) Shipment is to be transported not more than 150 miles and/or delivery accomplished within 24 hours from the time of loading,

(b) No storage is required, and

(c) No preliminary or en route services (e.g., watering or other preservative method) is required of the carrier.

Household Goods-Weight Additive—A weight, per linear foot of a specific item, added to the net weight of the household goods shipment to compensate for the excessive van space used by the item. The item must be stated in the Household Goods tariff as qualifying for a weight additive before a charge can be assessed. Weight additives do not apply if an article is capable of being conveniently hand-carried by one person and/or transported in a standard moving carton.

Immediate family—Any of the following named members of the employee’s household at the time he/she reports for duty at the new permanent duty station or performs other authorized travel involving family members:

(1) Spouse;

(2) Domestic partner;

(3) Children of the employee, of the employee’s spouse, or of the employee’s domestic partner, who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support. (The term “children” shall include natural offspring; stepchildren; adopted children; grandchildren, legal minor wards or other dependent

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§300-3.1

FEDERAL TRAVEL REGULATION

children who are under legal guardianship of the employee, of the employee's spouse, or of the domestic partner; and an unborn child(ren) born and moved after the employee's effective date of transfer.);

(4) Dependent parents (including step and legally adoptive parents) of the employee, of the employee's spouse, or of the employee's domestic partner; and

(5) Dependent brothers and sisters (including step and legally adoptive brothers and sisters) of the employee, of the employee's spouse, or of the employee's domestic partner, who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support.

Interviewee—An individual who is being considered for employment by an agency. The individual may currently be a Government employee.

Invitational travel—Authorized travel of individuals either not employed or employed (under 5 U.S.C. 5703) intermittently in the Government service as consultants or experts and paid on a daily when-actually-employed basis and for individuals serving without pay or at \$1 a year when they are acting in a capacity that is directly related to, or in connection with, official activities of the Government. Travel allowances authorized for such persons are the same as those normally authorized for employees in connection with TDY.

Lodgings-plus per diem system—The method of computing per diem allowances for official travel in which the per diem allowance for each travel day is established on the basis of the actual amount the traveler pays for lodging, plus an allowance for meals and incidental expenses (M&IE), the total of which does not exceed the applicable maximum per diem rate for the location concerned.

Mandatory mobility agreement—Agreement requiring employee relocation to enhance career development and progression and/or achieve mission effectiveness.

Mobile Home—Any type of house trailer or mobile dwelling constructed for use as a residence and designed to be moved overland, either by self-propulsion or towing. Also, a boat (houseboat, yacht, sailboat, etc.) when used as the employee's primary residence.

Non-Federal traveler—For the purposes of 41 CFR 301-10.260 through 301-10.266 and 41 CFR 301-70.800 through 301-70.910, an individual who travels on a Government aircraft, but is not a Federal traveler. Dependents and other family members of Federal travelers who travel on Government aircraft are considered to be non-Federal travelers within this regulation.

Non-foreign area—The States of Alaska and Hawaii, the Commonwealths of Puerto Rico, Guam and the Northern Mariana Islands and the territories and possessions of the United States (excludes the Trust Territories of the Pacific Islands).

Official station—An area defined by the agency that includes the location where the employee regularly performs his or her duties or an invitational traveler's home or regular place of business (see §301-1.2). The area may be a mileage radius around a particular point, a geographic boundary, or any other definite domain, provided no part of the area is more than 50 miles from where the employee regularly performs his or her duties or from an invitational traveler's home or regular place of business. If the employee's work involves recurring travel or varies on a recurring basis, the location where the work activities of the employee's position of record are based is considered the regular place of work.

Official travel—Travel under an official travel authorization from an employee's official station or other authorized point of departure to a temporary duty location and return from a temporary duty location, between two temporary duty locations, or relocation at the direction of a Federal agency.

Passenger—In relation to use of Government aircraft, a passenger is any person who flies onboard a Government aircraft, but who is not a crewmember or qualified non-crewmember.

Per diem allowance—The per diem allowance (also referred to as subsistence allowance) is a daily payment instead of reimbursement for actual expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate from transportation expenses and other miscellaneous expenses. The per diem allowance covers all charges and services, including any service charges where applicable. Lodging taxes in the United States are excluded from the per diem allowance and are reimbursed as a miscellaneous expense. In foreign locations, lodging taxes are part of the per diem allowance and are not a miscellaneous expense. The per diem allowance covers the following:

(a) *Lodging*. Includes expenses, except lodging taxes in the United States, for overnight sleeping facilities, baths, personal use of the room during daytime, telephone access fee, and service charges for fans, air conditioners, heaters and fires furnished in the room when such charges are not included in the room rate.

(b) *Meals*. Expenses for breakfast, lunch, dinner and related tips and taxes (specifically excluded are alcoholic beverage and entertainment expenses, and any expenses incurred for other persons).

(c) *Incidental expenses*. (1) Fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships, and hotel servants in foreign countries;

(2) Transportation between places of lodging or business and places where meals are taken, if suitable meals cannot be obtained at the TDY site; and

(3) Mailing cost associated with filing travel vouchers and payment of Government sponsored charge card billings.

Place of public accommodation—Any inn, hotel, or other establishment within a State that provides lodging to transient guests, excluding:

- (a) An establishment owned by the Federal Government;
- (b) An establishment treated as an apartment building by State or local law or regulation; or
- (c) An establishment containing not more than 5 rooms for rent or hire that is also occupied as a residence by the proprietor of that establishment.

Post of duty—An official station outside CONUS.

Privately owned aircraft—An aircraft that is owned or leased by an employee for personal use. It is not owned, leased, chartered, or rented by a Government agency, nor is it rented or leased by an employee for use in carrying out official Government business.

Privately owned automobile—A car or light truck (including vans and pickup trucks) that is owned or leased for personal use by an individual.

Privately Owned Vehicle (POV)—Any vehicle such as an automobile, motorcycle, aircraft, or boat operated by an individual that is not owned or leased by a Government agency, and is not commercially leased or rented by an employee under a Government rental agreement for use in connection with official Government business.

Professional Books, Papers and Equipment (PBP&E)—Includes, but is not limited to, the following items in the employee's possession when needed by the employee in the performance of his/her official duties:

- (1) Reference material;
- (2) Instruments, tools, and equipment peculiar to technicians, mechanics and members of the professions;
- (3) Specialized clothing (e.g., diving suits, flying suits, helmets, band uniforms, religious vestments and other special apparel); and
- (4) Communications equipment used by the employee in association with the MARS (see DoD 4650.2, Military Affiliate Radio System (MARS) which is available electronically from the world wide web at <http://web7.whs.osd.mil>).

Qualified non-crewmember—A person flying onboard a Government aircraft whose skills or expertise are required to perform or are associated with performing the non-travel related Governmental function for which the aircraft is being operated (qualified non-crewmembers may be researchers, law enforcement agents, firefighters, agricultural engineers, biologists, etc.). If a qualified non-crewmember is onboard for the purpose of travel (i.e., being transported from point to point) in addition to performing his/her duties related to the non-travel related Governmental function for which the aircraft is being operated (e.g., when a scientist conducts an experiment at the same time he/she is also on the aircraft for the purpose of traveling from point to point), he/she must be authorized to travel in accordance with rules in 41 CFR parts 301-10 and 301-70.

Reduced per diem—Your agency may authorize a reduced per diem rate when there are known reductions in lodging and meal costs or when your subsistence costs can be determined in advance and are lower than the prescribed per diem rate.

Required use travel—Travel by Federal travelers that requires use of a Government aircraft to meet bona fide communications needs (e.g., 24-hour secure communications), security requirements (e.g., highly unusual circumstances that present a clear and present danger), or exceptional scheduling requirements (e.g., a national emergency or other compelling operational considerations) of an executive agency. Required use travel must be approved according to §301-10.262(a) and §301-70.803(a) of this title.

Senior Federal official—An individual who is paid according to the Executive Schedule established by 5 U.S.C. 53, Subchapter II, including Presidential appointees who are confirmed by the Senate; employed in the U.S. Government's Senior Executive Service or an equivalent "senior" service; who is a civilian employee of the Executive Office of the President; who is appointed by the President to a position under section 105(a)(2)(A), (B), or (C) of title 3 U.S.C. or by the Vice President to a position under section 106(a)(1)(A), (B), or (C) of title 3 U.S.C.; or who is a contractor working under a contract with an executive agency, is paid at a rate equal to or more than the minimum rate for the Senior Executive Service, and has senior executive responsibilities. The term senior Federal official, as used in the Federal Travel Regulation does not mean an active duty military officer.

Space available travel—Travel in space available on a Government aircraft that is already scheduled for an official purpose.

Special conveyance—Commercially rented or hired vehicles other than a privately owned vehicle and other than those owned or under contract to an agency.

Special needs (also see Employee with a disability)—Physical characteristics of a traveler not necessarily defined under disability. Such physical characteristics could include, but are not limited to, the weight or height of the traveler.

Subsistence expenses—Expenses such as:

- (a) Lodging and service charges;
- (b) Meals, including taxes and tips; and
- (c) Incidental expenses (see incidental expenses under the definition of per diem allowance).

Temporary duty (TDY) location—A place, away from an employee's official station, where the employee is authorized to travel.

Temporary Storage—Storage of HHG for a limited period of time at origin, destination or en route in connection with transportation to, from, or between official station or post of duty or authorized alternate points. Also referred to as storage in transit (SIT).

Transit system—A form of transportation (e.g., air, rail, bus, ship, etc.) used between authorized locations in the performance of official travel.

Travel advance—Prepayment of estimated travel expenses paid to an employee.

Travel authorization (Orders)—Written permission to travel on official business. There are three basic types of travel authorizations (orders):

(a) *Unlimited open*. An authorization allowing an employee to travel for any official purpose without further authorization.

(b) *Limited open*. An authorization allowing an employee to travel on official business without further authorization under certain specific conditions, i.e., travel to specific geographic area(s) for specific purpose(s), subject to trip cost ceilings, or for specific periods of time.

(c) *Trip-by-trip*. An authorization allowing an individual or group of individuals to take one or more specific official

business trips, which must include specific purpose, itinerary, and estimated costs.

Travel claim (Voucher)—A written request, supported by documentation and receipts where applicable, for reimbursement of expenses incurred in the performance of official travel, including permanent change of station (PCS) travel.

Travel Management Service (TMS)—A service for booking common carrier (e.g., air, rail, and bus confirmations and seat assignments), lodging accommodations, and car rental services; fulfilling (i.e. ticketing) reservations; providing basic management information on those activities; and meeting other requirements as specified in §301-73.106 of this title. A TMS may include a travel management center (TMC), Commercial Ticket Office (CTO), an electronically available system, other commercial methods of arranging travel, or an in-house system.

United States—The 48 contiguous States, the District of Columbia and the States and areas defined under the term “Non-Foreign Area.”

August 12, 2011

TO: State Directors
Rural Development

ATTN: Community Programs Directors

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Program

SUBJECT: Community Facilities Guaranteed Loan Program
Guidance on the Estimated Loss Claim in Liquidation Cases

The purpose of this unnumbered letter is to provide guidance to the Rural Development Community Programs Director and staff for actively pursuing submission of an estimated loss claim when a loss is expected to occur in connection with liquidation of a loan. Early payment of the estimated loss claim reduces the amount of accrued interest, due to the reduction of principal, if a final loss claim is paid. It improves case management and recovery on the debt through periodic evaluations and facilitates needed modifications to the liquidation plan.

It is the nature of community facility type loans that lenders participating in the program may only be financing one or two projects. While they may be active in other agency programs, they may not be familiar with Rural Development regulations as it pertains to the Community Facilities (CF) program. It is the agency's responsibility to educate the lender in anticipation of intensive servicing situations. The agency should build a working relationship with the lender by meeting frequently and discussing the lender's and the agency's responsibilities under the CF program.

Section 3575.94 of RD Instruction 3575-A authorizes the payment of an estimated loss claim based on the collateral value in a liquidation situation. Payment of the estimated loss claim will be based upon the fair market value of the collateral determined by a current appraisal of the collateral and only after the lender's liquidation plan has been submitted and approved by the Agency.

EXPIRATION DATE:
August 31, 2012

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The lender's liquidation plan includes some important components that include obtaining a current valuation or appraisal and providing an estimate of expenses to be incurred in a liquidation situation. A guide to assist in the development of a liquidation plan is attached to this unnumbered letter as "Attachment A". The lender's liquidation plan is required within 30 days after the lender and Rural Development agree to liquidate the guaranteed loan. The lender and the agency should be able to recognize at that time, the possibility of the collateral being acquired by the lender. The liquidation plan must adequately address that possibility and include an aggressive marketing strategy to resell the acquired collateral. A more thorough discussion of the liquidation plan is contained in RD Instruction 3575-A, Section 3575.81(c).

When the lender has submitted and obtained approval of their liquidation plan, they may submit their estimated report of loss claim to the agency for processing. Payment of the estimated loss claim to the lender should be made within 10 days of receipt of the claim.

The time period between payment of the estimated loss claim and submission of the final loss is critical to successful resolution of a problem loan. The agency's relationship with the lender must be intensified to avoid drift and insure that the lender is moving forward according to their liquidation plan. The lender must actively market the collateral for a reasonable period of time, but no less than 6 months. The liquidation plan should be revisited as often as necessary, but no less than every 90 days, by the lender and the state servicing official and amended, if necessary. If after a reasonable period of time, but no less than 6 months, the lender is unable to sell the collateral, then consideration should be given to holding discussions with the lender regarding submission of a final loss claim to the agency based on the fair market value of the collateral prior to its ultimate disposition. The final loss claim will be based upon the lender's actual expense of acquiring, maintaining and marketing the property.

The loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement provided, the lender proceeds expeditiously with the liquidation plan approved by the Agency. Prompt payment of the estimated loss claim will substantially reduce the amount of any final loss claim paid.

Please distribute this unnumbered letter to your participating lenders. If you have any questions concerning this issue, please contact Kendra Doedderlein at (202) 720-1503.

Attachment

GUIDE FOR DEVELOPING A LIQUIDATION PLAN

This guide was developed to assist in the interpretation of the requirements of RD Instruction 3575-A, Section 3575.81(c). This format may not be all inclusive of information necessary to a liquidation plan. The agency must determine for each loan situation the additional information required in the liquidation plan.

- 1) Such proof as the Agency requires to establish the lender's ownership of the guaranteed loan notes and related security instruments, a copy of the payment ledger or other documentation which reflects the outstanding loan balance and accrued interest to date, and the method of computing the interest.

The lender should provide as an attachment to the liquidation plan, a copy of the executed notes; copies of mortgages or deeds of trusts showing recordation in the appropriate jurisdiction; and the transaction history for the loan, showing the application of interest for each transaction based on when the payment was received. If the interest rate was a variable rate, the lender must include documentation of changes in the selected base rate and when the changes in the loan rate became effective. If any special accommodation was made to the borrower such as payment deferrals or interest only payments, they should be explained in this section and supported with copies of any executed agreements between the lender and the borrower.

- 2) A complete list of collateral.

The lender must identify the real property and personal property pledged as collateral.

- 3) The recommended liquidation methods for making the maximum collection possible on the indebtedness and the justification for such methods, including the recommended action for acquiring and disposing of all collateral.

The lender and the agency should have discussed prior to submission of this plan the best method for maximizing collection on the loan. This may include a voluntary transfer to an eligible or ineligible applicant or foreclosure by the lender to obtain title with extensive marketing to other interested parties. The lender should discuss why a particular method may be preferable, which may be due to cost, the amount of time it may take to accomplish or the unique nature of the project or situation.

- 4) Necessary steps for preservation of the collateral.

The lender should identify any additional cost or security requirements to protect the real or personal property from physical damage, theft or vandalism. There may also be expenses for utilities or continued maintenance to insure preservation.

- 5) Copies of the borrower's latest available financial statements.

The lender must provide the borrower's latest financial statements with the lender's written analysis as an attachment to the liquidation plan. If the financial statements are old, the lender should have been in contact with the borrower and can provide in a written discussion on the financial condition of the borrower.

- 6) An itemized list of estimated liquidation expenses expected to be incurred and justification for each expense.

The lender should have obtained estimates by attorneys, auctioneers and any other professionals with whom they will need to contract to maximize recovery on the loan. The expenses may not be limited to transfer or foreclosure on the property, but could include the cost of legal representation to protect our joint interest in bankruptcy or receivership. If bankruptcy or receivership is a consideration, then the agency should obtain guidance for their Regional Office of General Counsel.

- 7) A schedule to periodically report to the Agency on the progress of the liquidation.

The periods between payment of the estimated loss claim, foreclosure or transfer and the submission of the final loss claim is very critical. Now that the agency has paid the estimated loss claim, the lender must still move forward expeditiously to recover on the loan. The agency must maintain frequent contact with the lender and amend the liquidation plan, if necessary, due to a change in circumstances.

- 8) Estimated protective advance amounts with justification

Protective advances include, but are not limited to, advances made for taxes, annual assessments, ground rent, hazard and flood insurance premiums affecting the collateral (including any other expenses necessary to protect the collateral). The lender must provide written identification of any advances necessary to maintain services or address unique situations, and why the advance was necessary. If the lender has advanced funds without

agency approval previously during the life of this loan, a written explanation should be provided, even though such expenditures or loans will not be guaranteed.

- 9) Proposed protective bid amounts on collateral to be sold at auction and a discussion of how the amounts were determined.

The lender should provide a detailed explanation of how protective bids were calculated. Copies of current appraisals or valuations must be attached to the liquidation plan and any deductions made to the fair market value of the collateral explained.

- 10) If a voluntary conveyance is considered, the proposed amount to be credited to the guaranteed debt.

The lender must provide a written discussion of the proposed amount to be credit to the guaranteed debt. This is especially important if the credit is for less than the outstanding balance on the loan.

- 11) Legal opinions, as needed.

Most often the lender will rely on their counsel to initiate foreclosure proceedings and to protect the lender's interest in other legal proceedings. The attorney, in preparation for any legal proceeding will verify lien positions which will show the priority of liens and encumbrances against the property. He will often provide a written legal opinion to the lender. The lender must provide a copy of their counsel's legal opinion as an attachment to the liquidation plan.

- 12) If the outstanding balance of principal and interest is less than \$250,000, the lender will obtain an estimate of fair market and potential liquidation value of the collateral. If the outstanding balance of principal and interest is \$250,000 or more, the lender will obtain an independent appraisal report on all collateral securing the loan which will reflect the fair market value and potential liquidation value. The independent appraiser's fee will be shared equally by the Agency and the lender.

The lender must provide a copy of the appraisal or valuation as an attachment to the liquidation plan. If the outstanding balance (principal & interest) is less than \$250,000 and the lender is providing a valuation, the lender should discuss how the valuation was determined and the expertise of the individual that is providing the valuation.

Revised 7/1/09

August 12, 2011

TO: State Directors
Rural Development

ATTN: Community Programs Directors

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Programs

SUBJECT: Servicing Requirements for Community Facilities Guaranteed Loans

The overall success rate for Community Facilities Guaranteed Loans continues to be high, but there have been significant losses that are impacting the program. Guidance is being provided to effectively manage the loan servicing aspect of program operations.

We recognize that the primary responsibility for servicing rests with the lender pursuant to the Lender's Agreement, and reasonable and prudent lending standards. In monitoring our servicing activities over the past year, however, there are several areas that need emphasizing in order to strengthen our overall servicing efforts, maintain a high success rate in our portfolio and reduce the potential for losses in the program.

Loan Reporting By Lender

The lender must report to the Agency the outstanding principal and interest balance on each guaranteed loan semiannually by use of Form RD 1980-41, "Guaranteed Loan Status Report". The Deputy Chief Financial Office (DCFO) will contact the lender by e-mail to complete the form on-line or the form will be mailed directly to the lender. If the form has not been completed on-line, the lender will complete the form and mail it back to the Rural Development state servicing office.

The Community Programs staffs are to insure that the reports are submitted timely, that the reported loan balances are accurately entered into the Guaranteed Loan System (GLS); and, that a report has been submitted for all outstanding guaranteed loans in their state.

Financial Reports

The lender must obtain the financial statements required by the Loan Agreement. The borrower's annual financial statements must be submitted by the lender to the Agency servicing office within 120 days of the end of the borrower's fiscal year. The lender must analyze the financial statements and provide the Agency servicing office with a written summary of the lender's analysis and

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conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the borrower. Additionally, when applicable, the lender will require an audit in accordance with Office of Management and Budget (OMB) circulars (available in any Agency office).

Community Programs staff will review the financial statements and lender analysis to insure appropriate remedial action is taken, if necessary. This is a very critical aspect of servicing our portfolio. Appropriate follow-up is necessary to assure this aspect of servicing is fully met.

Requirements for Defaulted Guaranteed Loans

The lender must immediately notify the Agency when a borrower is placed on a watch list by the lender or other indicator of an intensive servicing situation, is 30 days past due on a payment, has not met its responsibilities of providing the required financial statements, or is otherwise in default. If a monetary default exceeds 30 days, the lender will arrange a meeting with the borrower within forty-five (45) days of the default to resolve the default. The lender will provide a written summary of the meeting and any decisions or actions agreed upon within ten (10) days of the meeting, to the Agency. The lender will continue to provide the Agency, at least on a quarterly basis, a written summary to include the cause of default, amount of default, and the remedial action necessary and being taken to cure the default. The lender will also report bimonthly using the "Guaranteed Loan Borrower Default Status" Form RD 1980-44, until such time as the loan is no longer in default.

DCFO Notification

The State Director will notify the DCFO of any change in payment terms such as reamortizations or interest rate adjustments and effective dates of any changes resulting from servicing actions.

The State Director will also report quarterly to the National Office on all delinquent and problem loans, to include the cause of default, amount of default and the remedial action necessary to cure the default. The report will be in the suggested format shown as "Exhibit A," on the attachment.

Bankruptcy

The lender will inform the Agency immediately upon notification of a bankruptcy case and keep the Agency adequately and regularly informed, in writing, of all aspects of the proceedings, at a minimum, on a quarterly basis.

With your continued support and servicing efforts, we expect to see an improvement in the default rates and losses for the Community Facilities Guaranteed Loan Program. Please provide a copy of this unnumbered letter to your participating lenders. If you have any questions regarding the above, please contact Kendra Doedderlein, Senior Loan Specialist at 202-720-1503.

Attachment

Please submit this report to Kendra Doedderlein by the 20th day of January, April, July and October.

Revised 9/24/09

ATTACHMENT A

**QUARTERLY DELINQUENCY REPORT
FOR NATIONAL OFFICE**

<u>BORROWER ID NO.:</u>	<u>BORROWER NAME:</u>		
_____	_____		
<u>LOAN AMOUNT:</u>	<u>LENDER:</u>		
_____	_____		
<u>GUARANTEED PERCENTAGE:</u>	<u>LOAN BALANCE:</u>	<u>TOTAL AMT. DELINQUENT:</u>	<u>TOTAL MONTHS DELINQUENT:</u>
_____ %	\$ _____	\$ _____	\$ _____

(If additional space is required to fully discuss the following items, please attach a separate sheet of paper.)

REASON FOR DELINQUENCY:

PLAN TO CURE DELINQUENCY:

ESTIMATED TIME TO CURE DELINQUENCY:

OTHER RELEVANT INFORMATION:

COMMUNITY PROGRAMS DIRECTOR:

Signature

Date

STATE OFFICE:

STATE DIRECTOR:

Signature

Date

August 12, 2011

TO: State Directors
Rural Development

ATTN: Community Programs Directors

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Programs

SUBJECT: Guidance on Preparation of Financial Feasibility Evaluations of Community Facilities
Projects

INTRODUCTION:

The purpose of this unnumbered letter is to provide guidance and information to State Offices to assist them in the financial feasibility evaluation of proposals for financing under the Community Facilities Guaranteed and Direct Loan Programs. RD Instruction 3575-A, section 3575.47 and RD Instruction 1942-A, section 1942.17(h) establishes the requirements for financial feasibility. These sections address the requirement for a financial feasibility evaluation on all projects. For smaller, less complex projects, an analysis may be appropriate, while for larger, more complex projects, requiring a financial feasibility report is necessary. Attachment "A" to this memorandum provides examples of projects that require either a financial feasibility analysis or a full financial feasibility report prepared by an independent consultant.

Additionally, based upon the number of dockets reviewed by the National Office for concurrence, it has been concluded that the overall quality of the financial feasibility reports for larger health care facilities is less than desirable. A major concern is that the financial evaluation is not supported by an examination opinion. It is the examination opinion, backed by the consultant's professional liability insurance that is relied upon when making a Community Facilities loan or guarantee. An examination opinion in accordance with the standards of attestation of the American Institute of Certified Public Accountants (AICPA) is required on community facility projects. In some cases, compilations of financial information provided by the applicant are being erroneously accepted in lieu of a Certified Public Accountant's (CPA) examination opinion. Familiarity with the various types of CPA engagements or services is necessary to understand the reliability of the financial analysis. Attachment "B" to this memorandum describes the type of financial engagement services that we are typically seeing.

It is intended that staff have a solid grasp of the professional standards used by project consultants. Sound financial feasibility will support a project that will be of true benefit to the community and one that has the ability to properly meet its financial obligations.

If you have any questions concerning this issue, please contact Kendra Doedderlein at (202) 720-1503.

Attachments

EXPIRATION DATE:
August 31, 2012

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**FINANCIAL FEASIBILITY ANALYSES
and
FINANCIAL FEASIBILITY REPORTS**

Financial Feasibility Analysis

Rural Development regulations require a financial feasibility analysis on facilities providing fire and rescue services, facilities that are not dependent upon facility revenues, loans of less than \$500,000, and similar facilities that have been operated by the borrower successfully. The analysis may be prepared by the borrower, lender or other qualified consultant based upon agency guidelines in Exhibit A of RD Instruction 3575-A entitled "Financial Feasibility Report (General)"; and, for the Community Facilities Direct Loan Program, Guide 5 to RD Instruction 1942-A, and RD Instruction 1942-C. On utility projects, the consulting engineer may complete the analysis. These types of facilities do not require the in-depth study that start-ups and larger, more complex projects or projects of a unique nature require.

Financial Feasibility Report

A financial feasibility report is required on community facility projects that involve the start-up of a new facility, an expansion, improvement or renovation that will result in a substantial change in scope, a larger more complex project, or a project of a unique nature. The financial feasibility report will address the adequacy of equity, cash flow from reliable sources, security, history, management capabilities of the applicant, need for the facility and competition. The report is complimented by a technical report, such as the preliminary architectural report. The financial feasibility report is to be prepared by an independent consultant with the necessary experience, qualifications and expertise to perform the study. RD personnel should verify the consultant's professional expertise to perform the work, as well as, requiring the consultant to declare any other relationship held with the applicant prior to commencing work, a written qualification statement showing the consultant's credentials and experience in completing financial feasibility reports and active professional liability insurance coverage. Examples are as follows:

<u>Project</u>	<u>History</u>	<u>Evaluation Needed</u>	<u>Reason</u>
Medical Equipment for Public Clinic	\$200,000 loan request 5 year operating history	Financial feasibility analysis	Successful history Below \$500,000
Renovation of assisted living center	\$900,000 20 year operating history	Financial feasibility analysis	Successful history No change in scope of operations
Dinosaur museum	\$2,800,000 loan request Start-up	Financial feasibility report	Start-up No history
Critical access hospital, new location & services	\$17,000,000 50 year operating history	Financial feasibility report	Change in scope, size and complexity
Emergency services equipment & bldg.	\$3,500,000 New facility revenue bond security w/tax revenue	Financial feasibility analysis	Assured income to cover debt
Community theater	\$8,000,000 loan request Established theater group Solid fund raising Campaign	Financial feasibility report	Start-up Lack of successful history

FINANCIAL FEASIBILITY
ENGAGEMENTS

An Examination Opinion in Accordance with the Standards of Attestation of the American Institute of Certified Public Accountants

A very important component of the financial feasibility report is the financial analysis. The examination in accordance with the standards of attestation of the American Institute of Certified Public Accountants of the financial information provided by the applicant will culminate in an examination opinion on the reliability of the applicant’s financial statements and management’s underlying assumptions. A Certified Public Accountant’s written opinion is held with confidence and supported by the reputation of the Certified Public Accountant and/or firm and further backed by professional liability insurance.

A Compilation Report of Financial Information Provided by Management

A compilation is a presentation of financial statements provided by applicant’s management in the form of a report. An opinion is not rendered, nor is assurance provided on the statements or the underlying assumption. The compilation report cannot be relied upon to support the viability of a community facilities project.

A Compilation Report with Agreed Upon Procedures

At the time of the engagement of services the client specifies the procedures to be used in reviewing and testing the financial information provided by management. This form of engagement is accepted, where the scope of the engagement is not sufficient to express an opinion. The compilation report with agreed upon procedures cannot be relied upon to support the viability of a community facilities project.

August 15, 2011

TO: State Directors
Rural Development

ATTENTION: Program Directors and Coordinators
Multi-Family Housing

FROM: Tammye Treviño *(Signed by Tammye Treviño)*
Administrator
Housing and Community Facilities Programs

SUBJECT: Processing Section 515 Pre-Application Loan Requests
Fiscal Year 2011

This Unnumbered Letter (UL) provides information, guidance, and a timeline to process Section 515 pre-application loan requests. The UL is in accordance with 7 CFR Part 3560, and the Notice of Funds Availability (NOFA): Section 515 Rural Rental Housing Program for New Construction or Purchase and Rehabilitation of Existing Rural Multi-Family Properties for Fiscal Year (FY) 2011. The NOFA was published in the Federal Register July 13, 2011. This UL replaces the former UL dated May 25, 2010, entitled "Processing Section 515 New Construction Loan Requests Fiscal Year 2010".

Pre-applications may be submitted for Section 515 Non-Restricted Funds, Set-Aside for non-profits, Set-Aside for Underserved Counties and Colonias, with the deadline for receipt of these applications on August 29, 2011. Also, pre-applications may be submitted for Rural Economic Area Partnership (REAP).

Pre-applications will be reviewed and scored based upon the factors listed in the Section 515 NOFA and Section 3560.56. Additional guidance is provided in the Multi-Family Housing Loan Origination Handbook (HB-1-3560).

Individual loan requests may not exceed \$1 million. This applies to Section 515 non-restricted funds and Section 515 set-aside funds. The Administrator may make an exception to this limit in cases where a State's average total development costs (TDC) exceed the National average by 50 percent or more. States may not set loan requests or set-aside limits lower than the \$1 million National limit.

EXPIRATION DATE:
August 31, 2012

FILING INSTRUCTIONS:
Housing Programs

States may receive a maximum combined total of \$2.5 million from Section 515 non-restricted funds and set-aside funds. The designated reserve for States with Rental Assistance (RA) programs is not included in this cap.

PROCESSING TIMELINE

The following timeframes will be followed for pre-application processing:

- August 29 2011: Deadline for receipt of Section 515 new construction pre-applications. Pre-applications must be received by 5:00 PM local time in the applicable USDA Rural Development State Office. No pre-application will be accepted after 5:00 PM on the application deadline.
- September 6, 2011: Deadline for States to submit the final Pre-Application Summary (Attachment 1) to the National Office. The list of scored and ranked pre-applications must meet the preliminary eligibility and feasibility requirements in accordance with Section 3560.56(c)(1). Attachment 1 must be updated to include both the ranking number and point score. For pre-application scores that are equal in number of points, the ranking must be established in accordance with Section 3560.56(c) (2) and HB-1-3560 Chapter 4, paragraph 4.13.C. Pre-applications eligible for more than one funding category should be listed in each eligible category of the Pre-Application Summary. Please list any incomplete, ineligible or not feasible applications on a separate page. Do not score or rank pre-applications which are incomplete, ineligible or not feasible. Please e-mail or fax the following pre-application information to melinda.price@wdc.usda.gov or 614-255-2563 by September 6, 2011.
 - NOFA Pre-Application Summary (Attachment 1)
 - Point Score Summary Sheet (Attachment 2)
 - Point Calculation Worksheet (Attachment 3)
 - Calculation of Leveraged Assistance Worksheet (Attachment 4)
 - Pre-Application Document Checklist (Attachment 6)
- September 13, 2011: Deadline for National Office to rank pre-applications nationwide and notify States of selections.
- September 20, 2011: Deadline for States to obligate funds or obtain National Office approval for an extension of obligation.
- September 27, 2011: Deadline for the National Office to identify any unused set-aside funds that need to be reverted to non-restricted funds. Pre-applications with points that score next highest in non-restricted status will be selected and States notified accordingly.
- September 30, 2011: Deadline for obligation of FY 2011 Section 515 NOFA funds.

PRE-APPLICATION SCORING FACTORS

Pre-applications are submitted to the States in accordance with 7 CRF section 3560.56 and the FY 2011 Section 515 NOFA. Pre-applications are assigned points and scored based upon the certain criteria. The pre-applications are then ranked on a National basis and selected for further processing in rank order. Pre-applications will receive points for the following items. Points should be calculated on the Pre-Application Point Calculation Worksheet (Attachment 3).

- A. Energy initiatives. (0 to 42 points)
- B. Leveraged assistance. (0 to 30 points)
- C. Colonia, tribal land, or REAP community. (20 points)
- D. Special Initiatives and Memorandum of Understanding (MOU). (20 points)
- E. Donated land. (5 points)
- F. 2011 Presidentially declared area. (10 points)

A. Energy Initiatives

Properties may receive a maximum of 42 points for energy initiatives. Properties will be classified into two categories for the purposes of scoring: New Construction or Purchase and Rehabilitation. Points can only be earned under one of these categories. Properties in either category also may receive points for Energy Generation and Green Property Management.

1. Energy Conservation for New Construction (maximum 32 points)

New construction projects may be eligible for up to 32 points when the pre-application includes a written certification by the applicant to participate in the following energy efficiency programs. The points will be allocated as follows:

- (i) Participation in the Department of Energy's Energy Star for Homes program. (10 points).
- (ii) Participation in the Green Communities program by the Enterprise Community Partners. (10 points)
- (iii) Participation in one of the following two programs will be awarded points for certification.
 - (a) LEED for Homes program by the United States Green Building Council (USGBC):
 - (1) Certified Level (4 points), OR
 - (2) Silver Level (6 points), OR
 - (3) Gold Level (8 points), OR
 - (4) Platinum Level (10 points), OR
 - (b) The National Association of Home Builders (NAHB) ICC 700-2008 National Green Building Standard TM:
 - (1) Bronze Level (4 points), OR
 - (2) Silver Level (6 points), OR
 - (3) Gold Level (8 points), OR
 - (4) Emerald Level (10 points),

(iv) Participation in local green/energy efficient building standards; applicants, who participate in a city, county or municipality program, will receive an additional 2 points. (2 points)

2. Energy Conservation for Purchase and Substantial Rehabilitation of an Existing Multifamily Property

Pre-applications for the purchase and substantial rehabilitation of non-program MFH and related facilities in rural areas may be eligible to receive 32 points for the following initiatives.

NOTE: If the applicant is participating in (i) the Green Communities program, he may not receive additional points for items listed under (ii). The applicant may participate in (i) and (iii) **or** (ii) and (iii), but not all 3:

i. Participation in the Green Communities program by the Enterprise Community Partners will be awarded 30 points for any project that qualifies for the program. (30 points) At least 30 percent of the points needed to qualify for the Green Communities program must be earned under the Energy Efficiency section of the Green Communities qualification program.

OR,

ii. Energy conservation points can be awarded for the following energy conservation measures only when the applicant is not enrolled in Green Communities and conservation measures are listed in the preliminary plans for substantial rehabilitation. (maximum 20 points)

- a. Replacement of heating, ventilation and air conditioning (HVAC) equipment with Energy Star qualified HVAC equipment. (3 points)
- b. Replacement of windows and doors with Energy Star qualified windows and doors. (3 points)
- c. Additional insulation. Two points will be awarded if all exterior walls exceed insulation code and 1 point will be awarded if attic insulation exceeds code for a maximum of 3 points. (3 points total)
- d. Reduction in building shell air leakage by at least 15 percent. (3 points)
- e. 100 percent of installed appliances and exhaust fans are Energy Star qualified. (2 points)
- f. 100 percent of installed water heaters are Energy Star qualified. (2 points)
- g. 100 percent of toilets with flush capacity of more than 1.6 gallon flush capacity are replaced with new toilets with 1.6 gallon capacity or less, with Environmental Protection Agency (EPA) Water Sense label. (1 point)
- h. 100 percent of showerheads are replaced with new showerheads with EPA Water Sense label. (1 point)
- i. 100 percent of faucets are replaced with new faucets with EPA Water Sense label. (1 point)
- j. 100 percent Energy-efficient lighting including Energy Star qualified fixtures, compact fluorescent replacement bulbs in standard incandescent fixtures, and Energy Star Ceiling Fans. (1 point)

AND,

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

3. Energy Generation (maximum 5 points)

Pre-applications which participate in the Green Communities program by the Enterprise Community Partners or receive at least 8 points for Energy Conservation measures are eligible to earn additional points for installation of on-site renewable energy sources.

Points are awarded as follows:

- a. 0 to 9 percent commitment to energy generation receives 0 points;
- b. 10 to 29 percent commitment to energy generation receives 1 point;
- c. 30 to 49 percent commitment to energy generation receives 2 points;
- d. 50 to 69 percent commitment to energy generation receives 3 points;
- e. 70 to 89 percent commitment to energy generation receives 4 points; and
- f. 90 percent or more commitment to energy generation receives 5 points.

To receive more than 1 point for this energy generation section, an accurate energy analysis prepared by an engineer must be submitted with the pre-application.

4. Property Management Credentials (5 points)

Projects may be awarded 5 points if the designated property management company or individuals assigned to maintenance and operations responsibilities upon completion of construction work have a Credential for Green Property Management. Credentialing must be illustrated in the resume(s) of the property management team and included with the pre-application. (5 points)

B. Leveraged Assistance (maximum 30 points)

All leveraged assistance must meet the provisions of section 3560.66. The presence and extent of leveraged assistance for the units that will serve the U.S. Department of Agriculture (USDA) Rural Development income-eligible tenants at basic rents, as defined in 7 CFR Section 3560.11, comparable to those rents if USDA Rural Development provided full financing, computed as a percentage of the USDA Rural Development TDC. Each of the environmental conservation programs mentioned in the FY 2011 Section 515 NOFA under VI(A) may include grants and additional funding. This funding is also considered leveraged assistance and can receive points under this section. Loan proposals that include leveraged/secondary funds which have been requested, but have not yet been committed, will be processed as follows: the proposal will be scored based on the requested secondary funds, provided (1) the applicant includes evidence of a filed application for the secondary funds; and (2) the funding date of the requested secondary funds will permit processing of the loan request in the current funding cycle, or, if the applicant does not receive the requested funds, will permit processing of the next highest ranked proposal in the current year. Points will be awarded in accordance with the following table. Percentages will be rounded to the next higher whole number.

Additional guidance can be found in the NOFA and HB-1-3560 Chapter 4, paragraph 4.13 A.

Number of Points	Description Percent of Leveraging
30	150 percent or more
25	100 - 149 percent
20	50 - 99 percent
15	1 - 49 percent

C. Colonia, tribal land, or REAP community (20 points)

The units to be developed are in a colonia, tribal land, or REAP community, or in a place identified in the State Consolidated Plan or State Needs Assessment as a high need community for Multi-Family Housing (MFH).

D. Special Initiatives and Memorandum of Understanding (MOU) (20 points)

Pursuant to 7 CFR section 3560.56 (c)(1)(iii), a National Office initiative will provide points to loan requests that meet the selection criteria as follows: in States where USDA Rural Development has an on-going formal working relationship, agreement, or MOU with the State to provide state financial resources (State funds, State RA, HOME funds, Community Development Block Grant (CDBG) funds, or Low-Income Housing Tax Credits (LIHTC)) for USDA Rural Development proposals; or where the State provides preference or points to USDA Rural Development proposals in awarding such State resources, 20 points will be provided to loan requests that include such State resources in an amount equal to at least 5 percent of the TDC. Native American Housing and Self Determination Act (NAHASDA) funds may be considered a State resource if the tribal plan for NAHASDA funds contains provisions for partnering with USDA Rural Development for MFH. The applicant can contact their USDA Rural Development State Office to determine whether a particular State falls into this initiative.

E. Donated Land (5 points)

The loan request includes donated land meeting the provisions of 7 CFR section 3560.56(c)(1)(iv). HB-1-3560 Chapter 4, paragraph 4.13 B.4, provides additional guidance on donated land.

F. 2011 Presidentially Declared Disaster Area (10 points)

Points will be awarded if the property will be constructed or rehabilitated in a Presidentially declared disaster area. The area must have been declared a disaster area in 2011. For further information on presidentially declared disasters, see <http://www.rurdev.usda.gov/rd/disasters>.

PLEASE NOTE: DOCUMENTATION TO SUPPORT APPLICANT'S ELIGIBILITY FOR POINTS MUST BE MAINTAINED IN FILE. ATTACHMENTS 1, 2, 3, 4 AND 6 OF THIS LETTER MUST BE SUBMITTED TO THE NATIONAL OFFICE FOR REVIEW, CONCURRENCE AND SELECTION FOR FINAL APPLICATION.

ADDITIONAL GUIDANCE FOR PROCESSING 515 LOAN REQUESTS

Applications - State Response to Requests for Pre-applications:

When the State Office receives a pre-application, the staff will send a complete loan package to the potential applicant including:

- a. The recommended cover letter for the application package is HB-1-3560, Appendix 4, Handbook Letter 103 (3560). The cover letter must include all information listed in HB-1-3560, Chapter 4, and Ex. 4-2.
- b. A list of authorized loan uses. (HB-1-3560, Chapter 4, Ex. 4-3 and 4-4.)
- c. Applicant eligibility requirements. (HB-1-3560, Chapter 4, Ex. 4-5.)
- d. A listing of all information required from the applicant. (HB-1-3560, Chapter 4, Ex. 4-6 and 4-7.)
- e. Any special conditions or limitations being applied on the amount of individual application packages or rental assistance requests.
- f. Any special State Office initiatives, approved by the National Office, that award points.
- g. The address to which the loan application must be sent.

HB-1-3560, Chapter 4 "NOFA and Initial Application Process" should be referred to for additional information.

Applicants with Prior Debt, Monetary and Non-Monetary Deficiencies:

Prior debt requirements apply to an applicant or managing partner of a borrower, or an affiliated entity having 10 percent or more ownership interest, which have prior or existing Agency debt. Compliance with 7 CFR 3560.55(b) is required, and pertains to both monetary and non-monetary deficiencies.

Borrower Contribution, Determining Return on Investment (ROI) and Project Feasibility:

Borrower contributions, including equity contributions above the required 3 or 5 percent of the Housing and Community Facilities Programs loan that meet the conditions of 7 CFR 3560.63(c) are potentially eligible to earn a ROI. Borrower contributions must be from the borrower's own resources and cannot exceed the security value of the project, in accordance with 7 CFR 3560.68(b). However, meeting these conditions does not automatically entitle the borrower to an ROI. Paying an ROI on amounts above the required 3 percent or 5 percent contribution must also be considered in terms of project feasibility and the impact on basic rents and Rental Assistance (RA). Please refer to Section 3 of Chapter 5, of HB-1-3560 for detailed guidance.

RA may only be provided on units where the basic rent does not exceed the amount of rents with full Housing and Community Facilities Program financing. (If RA is being provided, and paying

the ROI on the additional investment would cause basic rents and RA costs to exceed the amount of rent and RA cost if the project had received full Housing and Community Facilities Programs financing, the ROI cannot be allowed.) (see section 3560.66(b) (2)). The borrower may wish to provide additional funds without the ROI or to accept a reduced ROI, if feasible in terms of basic rents and Rental Assistance (RA). If RA is not being provided, the ROI must not cause basic rents to exceed Conventional Rents for Comparable Units (CRCU) in the market.

Capital Needs Assessment (CNA):

A CNA performed by the applicant's architect should be included in the initial application in order to determine the long term physical needs of the project over a 20-year period. The CNA will be used to determine the amount of the annual contribution to the reserve account. The annual contribution to the reserve account will be a minimum of one percent of the TDC and not more than the higher of the amount required by the CNA or that which brings rents up to CRCU. The aggregate, fully funded reserve amount must equal at least 10 percent of the greater of the total development cost or appraised value. If the reserve contribution at one percent of TDC results in rents that are above the CRCU standard as discussed in HB-1-3560 Chapter 3, paragraph 3.20 and the applicant is unable to modify the proposal to meet the minimum reserve requirement without exceeding the CRCU standard, the project must be rejected as infeasible.

Community Rooms:

States are reminded to encourage community rooms in Section 515 complexes. Community rooms provide a place for resident and community meetings, special activities and services which may aid residents in improving social skills, job skills or education.

Conventional Rents for Comparable Units:

CRCU describes a standard by which a benchmark is established to maintain the affordability of program units, and to avoid situations where project rents are in excess of established local market rents. In no case may basic rents exceed CRCU for a market area by more than 50 percent. However, the Agency may grant an exemption to CRCU for exceptional circumstances. HB-1-3560, Chapter 3, paragraph 3.20 contains guidance regarding the CRCU standard.

Life Cycle Cost Analysis (LCCA):

The Agency's policy on cost containment includes the use of LCCA analyses to determine whether a project's design and its components make sense economically. This may mean funding projects with higher initial costs that will result in long-term operation and maintenance cost savings. The components normally include exterior wall finishes, roofing, paving, and energy source items. HB-1-3560 Chapter 3, paragraph 3.17 B will provide more information regarding LCCA.

Limited English Proficiency (LEP):

Borrowers and grantees must ensure that LEP persons will receive instructions and documents in the language necessary to afford them meaningful access to USDA programs free of charge. Failure to take reasonable steps to ensure that LEP persons 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 and Title VI regulations against national origin discrimination.

Loan Security:

To protect its interest in the project, the Agency shall seek first or parity lien position on a property. A junior lien position is acceptable only if the Government's financial interests are adequately protected. HB-1-3560, Chapters 6, paragraph 6.5 A and Chapter 7, paragraph 7.6, provide guidance on loan security.

Non-profit Applicants Including Faith-Based Organizations:

The additional requirements for non-profit organizations have been revised, in accordance with 7 CFR 3560.55(c). The non-profit entity is no longer required to have at least one-third representatives of the low-income community and no more than one-third representatives from the public sector.

An organization qualifies as a Non-profit Organization when:

- a. The applicant received a tax-exempt ruling from the Internal Revenue Service designating the applicant as a 501(c)(3) or 501(c)(4) organization;
- b. The applicant must have in its charter the provision of affordable housing;
- c. No part of the applicant's earnings may benefit any of its members, founders or contributors; and
- d. The applicant must be legally organized under State and local laws.

Rental Assistance:

New Construction RA will be available for FY 2011 for new construction projects only. New construction RA may not be used in conjunction with a transfer or subsequent loan for repairs or rehabilitation, preservation purposes or inventory property sales. The governing provisions for RA can be found at 7 CFR 3560.66(b) and 7 CFR 3560, subpart F.

State Director's Approval Limit:

The State Director's approval limit is \$3 million per project. The outstanding Rural Development loan balance of a single project, whether existing or proposed, may not exceed \$3 million. Prior approval from the National Office **must** be sought should the balance of a single project exceed \$3 million.

Questions regarding this UL may be directed to Melinda Price, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division at melinda.price@wdc.usda.gov or 614-255-2403.

Attachments

FY 2011 SECTION 515 PRE-APPLICATION AND POINT SCORE SUMMARY SHEET

Applicant information:

Applicant Name: _____	Date and time received: _____
Project Name: _____	Applicant type: _____
City: _____ County: _____	Number of units: ____ RA units ____
	Congressional District: _____

Pre-application threshold requirements: Application meets preliminary threshold requirements of HB-1-3560 Ch. 4.12; received by COB, August 29, 2011, contains all requirements of HB-1-3560 Attachment 4-D; and is for an eligible purpose. (Yes/No): _____ Comments: _____

Pre-application scoring: (Please refer to NOFA for further explanation)

- | | |
|---|-----------|
| 1. Energy Conservation for New Construction. (maximum 32 points) | _____ |
| 2. Energy Conservation for Existing MFH Property. (maximum 32 points) | _____ |
| 3. Energy Generation. (maximum 5 points) | _____ |
| 4. Property Management Credentials. (maximum 5 points) | _____ |
| 3. Leveraged Assistance. (maximum 30 points) | _____ |
| 4. Colonia, tribal land, or REAP community. (20 points) | _____ |
| 5. Special initiative and MOU. (20 points) | _____ |
| 6. Donated land. (5 points) | _____ |
| 7. Presidentially declared disaster area in 2011. (10 points) | _____ |
|
Total Point Score |
_____ |

Estimated funding:

RHS loan amount	\$ _____
Leveraged funds: Source _____	\$ _____
Source _____	\$ _____
Source _____	\$ _____
Source _____	\$ _____
Total Development Cost:	\$ _____

Review comments:

Reviewer: _____ Date of Review: _____

National ranking results: Selected for further processing based on National ranking
(Yes/No): _____ Date: _____

FY 2011 SECTION 515 PRE-APPLICATION POINT CALCULATION WORKSHEET

APPLICANT _____

SELECTION PROCESS (Please refer to NOFA for complete information)	PRE-APP POINTS	GRAND TOTAL
A. ENERGY INITIATIVES (maximum 42 points)		
1. Energy Conservation for new construction (maximum 32 points)		
i. DOE Energy Star for Homes (10 points)		
ii. Green Communities by Enterprise Community Partners (10 points)		
iii. Participation in one of the following programs: (maximum 10 points)		
(a) LEED		
(1) LEED certified (4 points), or		
(2) LEED Silver (6 points), or		
(3) LEED Gold (8 points), or		
(4) LEED Platinum (10 points), or		
(b) NAHB		
(1) NAHB Bronze (4 points), or		
(2) NAHB Silver (6 points), or		
(3) NAHB Gold (8 points), or		
(4) NAHB Emerald (10 points)		
iv. Local green/energy building standard (2 points)		
TOTAL ENERGY CONSERVATION FOR NEW CONSTRUCTION		
2. Energy Conservation for Purchase and Substantial Rehabilitation of Existing MFH Property (maximum 32 points)		
i. Green communities by Enterprise Community Partners (maximum 30 points) or		
ii. Energy conservation plans not in Green Communities (maximum 20 points)		
(a). Replace HVAC equipment (3 points)		
(b). Windows and doors (3 points)		
(c). Insulation (3 points)		
(d). Building shell (3 points)		
(e). Appliances and exhaust fans (2 points)		
(f). Water heaters (2 points)		
(g). Toilets (1 point)		
(h). Showerheads (1 point)		
(i). Faucets (1 pt)		
(j). Lighting and ceiling fans (1 point)		
iii. Local green energy efficient building standards (2 points)		
TOTAL ENERGY CONSERVATION FOR EXISTING MFH PROPERTY		
3. Energy Generation (maximum 5 points only if 8 points earned under Energy Conservation) Projects propose 10 percent or more energy generation		
(a) 0-9 percent (0 point)		
(b) 10-29 percent (1 point)		
(c) 30-49 percent (2 points)		
(d) 50-69 percent (3 points)		
(e) 70-89 percent (4 points)		
(f) 90 percent or more (5 points)		
TOTAL ENERGY GENERATION		
4. Property Mgmt Credentials (5 points)		
B. Leverage Assistance		
150 percent or more (30 points)		

100 - 149 percent (25 points)	
50 - 99 percent (20 points)	
1 - 49 percent (15 points)	
TOTAL LEVERAGE ASSISTANCE	

C. Colonia, tribal land, or REAP (20 points)
D. Special Initiatives and MOU (20 points)
E. Donated Land (5 points)
F. Presidentially Declared Disaster Area in 2011 (10 points)
GRAND TOTAL POINTS

**SECTION 515
CALCULATION OF LEVERAGED ASSISTANCE WORKSHEET**

Applicant Name: _____ Project Name: _____

1. Borrower total development cost (TDC)	\$ _____
2. Non-eligible costs such as audit reserve, developer's fee, organizational or accounting fees.	\$ _____
3. Adjusted TDC (line 1 minus line 2)	\$ _____
4. Multiply by percentage of units that will serve Section 515 income eligible tenants _____ percent =	
5. Section 515 eligible TDC	\$ _____
6. Applicant funds and leveraged assistance. Include all applicant funds and leveraged assistance such as loans, grants, land, tax abatements, etc., meeting the provisions of § 3560.56 and § 3560.66.	
<i>Source:</i>	<i>Amount:</i>
Section 515 loan requested*	_____
_____	_____
_____	_____
_____	_____
7. Total funds for TDC plus operating cost savings	\$ _____
8. Minus ineligible costs from line 2 (\$ _____) =	\$ _____
9. Multiply by percentage of units that will serve Section 515 income eligible tenants _____ percent	\$ _____
10. Subtract Section 515 loan and required borrower contribution based on 95, 97 or 100 percent of Section 515 loan	\$ _____
11. Leveraged assistance eligible for points	\$ _____
12. Percentage of leveraged assistance (line 11 divided by line 5)	_____ percent
13. Points for leveraging based on the following chart: (Round up for .50 and above; round down for .49 and below. For example, 59.49 becomes 59; and 59.50 becomes 60.)	_____
<i>Percentage:</i>	<i>Points:</i>
150 percent or more	30
100 - 149 percent	25
50 - 99 percent	20
1 - 49 percent	15

Reviewer: _____ Date: _____

Note: Cannot exceed smaller of Section 515 eligible TDC or appraised value X 95, 97, or 102 percent, OR the \$1 million National cap. When the appraised value is established, it may be necessary to adjust the Section 515 loan.

**SECTION 515
CALCULATION OF LEVERAGED ASSISTANCE WORKSHEET**

Applicant Name: _____ Project Name: _____

1. Borrower total development cost (TDC)	\$ 2,500,000
2. Non-RHS eligible costs such as audit reserve, developer's fee, organizational or accounting fees).	\$ 400,000
Adjusted TDC (line 1 minus line 2)	\$ 2,100,000
4. Multiply by percentage of units that will serve RHS income eligible tenants <u>100 %</u>	
5. RHS TDC	\$ 2,100,000
6. Applicant funds and leveraged assistance. Include all applicant funds and leveraged assistance such as loans, grants, land, tax abatements, etc., meeting the provisions of § 3560.56 and § 3560.66.	
<i>Source:</i>	<i>Amount:</i>
RHS loan requested*	\$ 1,000,000
HOME loan	250,000
HOME grant	150,000
20-yr tax abatement	500,000
applicant funds/LIHTC	1,100,000
7. Total funds for TDC plus operating cost savings	\$ 3,000,000
8. Less ineligible costs from line 2 (\$400,000) =	\$ 2,600,000
9. Multiply by percentage of units that will serve RHS income eligible tenants <u>100 percent</u>	\$ 2,600,000
10. Subtract RHS loan and required borrower contribution based on 95, 97 or 100 percent of RHS loan (1,000,000/.95)	\$ 1,052,632
11. Leveraged assistance eligible for points	\$ 1,547,368
12. Percentage of leveraged assistance (line 11 divided by line 5)	74 %
13. Points for leveraging based on the following chart: (Round up for .50 and above; round down for .49 and below. For example, 59.49 becomes 59; and 59.50 becomes 60.)	20
<i>Percentage:</i>	<i>Points:</i>
150% or more	30
100 - 149%	25
50 - 99%	20
1 - 49%	15

Reviewer: _____ Date: _____

Note: Cannot exceed smaller of Section 515 eligible TDC or appraised value X 95, 97, or 102 percent, OR the \$1 million National cap. When the appraised value is established, it may be necessary to adjust the Section 515 loan.

CHECKLIST FOR PRE-APPLICATION DOCUMENTS

APPLICANT NAME: _____

Each pre-application shall include the information, documentation, forms and exhibits required by 7 CFR section 3560.56, and the provisions of the NOFA. Documents and information required in the pre-application package are described as follows:

1. Documents to establish applicant eligibility:

- _____ i. Form SF 424, "Application for Federal Assistance."
- _____ ii. Form RD 410-9, "*Statement Required by Privacy Act* (for individuals)".
- _____ iii. Form RD 400-4, "*Assurance Agreement*."
- _____ iv. Form HUD 2530, "*Previous Participation Certification*".
- _____ v. Current (within 6 months) financial statements
- _____ vi. Check for \$28 from individual applicants, and \$40 from entity applicants.
- _____ vii. Statement signed by applicants that they will pay any cost overruns.
- _____ viii. If an entity applicant is selected for further processing, the Agency 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 obligations of the loan.

2. Documents to establish project feasibility:

- _____ i. Market feasibility documentation: Either a market study or a market survey, as appropriate.
- _____ ii. Type of project and structures proposed (total number of units by bedroom size, size of each unit type, size and type of other facilities).
- _____ iii. Schematic drawings.
 - _____ (a) Site plan, including contour lines; floor plan of each living unit type and other spaces, such as laundry facilities, community rooms, stairwells, etc.;
 - _____ (b) Building exterior elevations;
 - _____ (c) Typical building exterior wall section; and
 - _____ (d) Plot plan.
- _____ iv. Description and justification of related facilities, and a schedule of separate charges for related facilities.

- _____ v. Type and method of construction
- _____ vi. Statement of estimated costs (Form RD 1924-13, “*Estimate and Certificate of Actual Costs*”). The selection of the contractor must be done through the process established in 7 CFR part 1924.
- _____ vii. Statement of proposed management.
- _____ viii. Congregate services package/plan (if applicable).
- _____ ix. Statement of support from other Government services providers to the project (congregate housing only).
- _____ x. Response to the Uniform Relocation Assistance Act (if applicable).
- _____ xi. In order to receive points for energy initiatives, the pre-application must include resumes of qualified professionals, plans for an initial design charette and post-construction operations, and maintenance training for property managers, site managers and tenants.

3. Documents for project financing:

- _____ i. Statement of budget and cash flow (applicant completes Form RD 3560-7, “*Multiple Family Housing Project Budget/Utility Allowance*”).
- _____ ii. Congregate services charges (if applicable).
- _____ iii. Status of efforts to obtain leveraged funds.
- _____ iv. Proposed construction financing (interim or multiple advance; if interim financing, letter of interest from intended lender).

4. Documents for environmental and site information:

- _____ i. Form RD 1940-20, “Request for Environmental Information.”
- _____ ii. Evidence of compliance with Executive Order 12372 (A-95) (if applicable).
- _____ iii. A copy of the American Society for Testing and Materials (ASTM) Phase I Environmental Site Assessment to cover environmental due diligence. The ASTM Phase I Environmental Site Assessment will be obtained from the company or person who performs the environmental site assessment.
- _____ iv. Map showing location of community services.
- _____ v. Evidence of submission of the project description to the State Housing Preservation Office with request for comments.

_____ vi. The applicant's comments regarding relevant offsite conditions that may impact the project.

_____ vii. The applicant's explanation of any proposed energy efficiency components.

August 16, 2011

TO: State Directors
Rural Development

ATTN: Housing Program Directors

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Programs

SUBJECT: Nationwide State Internal Review Summary Report
Weakness Trends in Direct Single Family Housing

As outlined in RD Instruction 2006-M, Section 2006.605 (f) (8), State Directors should use the Financial Management Division's (FMD) Nationwide State Internal Review (SIR) Summary Report of Weakness Trends when developing their state's annual training plan.

While we appreciate that resources are limited, the training of staff to overcome weaknesses observed during the SIR and other control reviews appears to be wanting.

The table below is a compilation of the SIR Summary Reports of Weakness Trends for Fiscal Year (FY) 2008 through FY 2010. With the exception of those issues that were bolded, most weaknesses saw little or no improvement during this three-year period.

Looking at this table, it is clear that special training is needed on verifying, documenting, and calculating income types and repayment ability as well as how to properly handle the construction process.

In general, State Directors must strive to eliminate observed reoccurring SIR weaknesses in their state through timely, targeted and relevant staff training. To this end, states with recurring SIR weaknesses in the SFH Direct programs should develop a training plan that addresses those weaknesses by October 1, 2011, and submit that plan to the National Office at SFHDIRECTPROGRAM@wdc.usda.gov. Enter "Training Plan to Address SIR Weaknesses" in the email's subject line.

EXPIRATION DATE:
August 31, 2012

FILING INSTRUCTIONS:
Housing Programs

States should also email the resulting staff training materials to the National Office at SFHDIRECTPROGRAM@wdc.usda.gov so that a SharePoint file can be maintained as a resource to all. In the email's subject line, please enter "SFHDLD Staff Training: [enter the primary topic areas]". These efforts will help ensure that loans made under the program are regulatory compliant and are an appropriate use of taxpayer dollars.

	% of states where the weakness occurred.		
	FY 2008	FY 2009	FY 2010
Application Processing	29%	20%	23%
Credit	38%	40%	39%
Income/Repayment Ability	44%	49%	50%
General Application Processing	44%	47%	41%
Separation of Duties	42%	27%	23%
Loan Closing Issues Pertaining to 502/504 Loans and 504 Grants	24%	22%	(< 20% / didn't appear on report)
Loan Closing Issues Pertaining to 502/504 Loans	40%	49%	41%
Loan Closing Issues Pertaining to 502/504 Loans More Than \$7,500	31%	29%	20%
Loan Closing Issues Pertaining to 502 Loans Only	42%	33%	39%
Loan Closing Issues Pertaining to 504 Loans and Grants	24%	24%	23%
Construction/Repair Loans/Grants	60%	60%	61%
Property Requirements	36%	47%	39%

If you have any questions regarding this memorandum, please contact Brooke Baumann of the Single Family Housing Direct Loan Division at (202) 690-4250.

August 16, 2011

TO: State Directors
Rural Development

ATTN: Program Directors and Coordinators
Multi-Family Housing

FROM: Tammye Treviño *(Signed by Tammye Treviño)*
Administrator
Housing and Community Facilities Programs

SUBJECT: Processing Section 514/516
New Construction Loan and/or Grant Requests
Fiscal Year 2011

The purpose of this Unnumbered Letter (UL) is to provide information and guidance on processing Section 514/516 new construction loan requests. This UL is in accordance with 7 CFR 3560 and the "Notice of Funds Availability (NOFA) for the Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2011" published in the Federal Register (July 7, 2011, Pages: 39813-39820). This UL is for Section 514/516 New Construction and Substantial Rehabilitation Loan and Grant request for FY 2011.

Complete applications received by the deadline listed below will be reviewed and scored based upon the factors listed in the NOFA. Submitted applications should be reviewed for completeness using the requirements listed in the NOFA.

PROCESSING TIMEFRAMES:

States needing assistance in reviewing or processing Farm Labor Housing (FLH) pre-applications should advise the National Office, Multi-Family Housing Preservation and Direct Loan Division.

August 7, 2011: Last day to begin environmental review, to assure completion prior to September.

EXPIRATION DATE:
August 31, 2012

FILING INSTRUCTIONS:
Housing Programs

August 22, 2011: Deadline for receipt of Section 514 loan and Section 516 grants is 5 p.m., local time to the appropriate Rural Development State Office.

August 23, 2011: State Offices conduct preliminary eligibility assessment on each application received. The State Office collects a check for \$40 from the applicant made out to the U.S. Department of Agriculture (USDA). This check will be used to pay for credit reports obtained by Rural Development. Based on the preliminary eligibility, feasibility review, and application scoring, State Offices will fax a final list of scored and ranked pre-applications to the National Office, attention Mirna Reyes-Bible at (202) 690-3444. Include ALL requests. In the case of applications determined incomplete or ineligible, indicate the reason for that determination.

The National Office then ranks pre-applications nationwide. As soon as possible, thereafter, the National Office notifies States of pre-applications selected for further processing. Upon National Office notification, States immediately notify selected applicants to submit a formal application within 15 days. Applicants will be advised to submit organizational documents immediately after receiving notification in order to allow time for review by the Office of General Counsel (OGC). At the same time, State Offices conducts the site visit and begin the environmental review, appraisal, and civil rights impact analysis.

September 12, 2011: Pooling date for Section 514/516 funds and deadline for receipt of final application from applicant.

September 14, 2011: Deadline for obtaining National Office written extension, for documents required in final application.

September 23, 2011: Deadline for issuing letters of condition and acceptance by borrower. Deadline for State Office completion of the environmental review (including the public notification requirements), appraisal, civil rights impact analysis and for loan and/or grant approval and the obligation of funds.

FUNDING LIMITS:

Individual requests may not exceed \$3 million (this includes the combined total of loans and grants). New construction Rental Assistance (RA) and Operating Assistance will be available this fiscal year.

Limited partnerships in which the general partner is a non-profit entity are eligible for Section 514 loans, but are not eligible for Section 516 grants. Such partnerships which are receiving benefits from Low-Income Housing Tax Credits (LIHTC) may not receive Section 514 loans that exceed 95 percent of the project's total development cost (TDC) as defined in 7 CFR 3560.11, or the security value, whichever is less.

To be eligible for off-farm labor housing grants, applicants must be a broad-based non-profit organization, a non-profit organization of farm workers, a Federally recognized Indian tribe, a community organization which can include a faith-based organization, or an agency or political subdivision of State or local Government, and must meet the requirements of §3560.55. 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 the applicant must be able

to contribute at least one-tenth of the total FLH development cost from its own or other resources. The applicant's contribution must be available at the time of grant closing. An off-farm labor housing loan financed by Rural Development may be used to meet this requirement.

PRE-APPLICATION REQUIREMENTS:

Applicants must be provided with a copy of the NOFA and each of the required forms that are listed in the NOFA.

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 NOFA;
2. The pre-application is complete as specified by the NOFA;
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.

If the State Office has concerns in conducting the preliminary applicant eligibility assessment, the applicant's organizational documents should be forwarded to OGC for further review. The official response from OGC to the State Office should address all eligibility concerns, the extent to which these concerns are curable, and actions needed to cure them. If applicant eligibility concerns are deemed easily curable, the State Office shall give the applicant sufficient time (at least 10 business days) to rectify the problem.

ELIGIBLE ENTITIES:

1. Broad-based non-profit organizations.
2. Non-profit organizations of farmworkers.
3. Federally recognized Indian tribes.
4. Agencies or political subdivisions of a State or local Government or public agencies (such as housing authorities).
5. Limited partnerships which have a non-profit entity as their sole general partner (limited partnership's are not eligible for grants).

A "community organization" may be eligible only if they are organized in such a way that they meet the definition of one of the entities listed in the NOFA, such as a "broad-based non-profit organization". Except for State and local public agencies and Indian tribes, applicants must be unable to obtain similar credit elsewhere that would allow for units within the payment ability of eligible residents. Although a limited liability company is an eligible entity for a Section 515 loan, they are not eligible for a Section 514 loan or a Section 516 grant unless organized according to (5) above.

CONSTRUCTION OF NEW UNITS:

As stated in the NOFA, the intended purpose of these loans and grants is to fund new construction and to increase the number of available housing units for domestic farm laborers.

Applicants who received new construction funding obligations in previous fiscal years, but who now need additional funding prior to construction because of devaluation of third-party funding sources, may apply through the State Office for additional funding from the Administrator’s Reserve Account. Consideration will be provided on a case-by-case basis as funds are available.

Pre-application processing will be performed in an automated format as described in the NOFA. For now, we anticipate that the forms attached to this UL will be automated shortly.

Ranking List:

The National Office will rank all pre-applications nationwide and distribute funds to States in rank order. A lottery will be used for applications with tied point scores when they all cannot be funded. For example:

<u>Rank</u>	<u>Score</u>	<u>Name</u>
1	16	Pre-application E (rank order determined by lottery)
2	16	Pre-application D
3	15	Pre-application A
4	10	Pre-application C (rank order determined by lottery)
5	10	Pre-application B (rank order determined by lottery)

Rental Assistance:

RA is only available with Sections 514 loans and Section 514/516 loan/grant combinations. Projects without a labor housing loan cannot receive RA. Before submitting a loan request that needs RA, the State Office must review every Section 514/516 property in their State to determine whether there is any underutilized RA that is available. If so, you should make the National Office aware of the number of RA units that are available for new applications when submitting Attachment 1.

LEVERAGED ASSISTANCE:

In order to be eligible for leverage selection criteria points, a commitment for the leveraged funds must be submitted with the pre-application. Applications that require leveraged funding must have firm commitments in place for all the leveraged funding. This requirement must be included in the letter of conditions of all applications that are approved for funding.

REQUESTING FINAL APPLICATIONS:

The National Office will notify the State Offices concerning 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. To comply with the regulation, applicants should provide documentation of a competitive process of selection of any of the following: Construction Manager, Design/Builder, General Contractor or Multiple Prime Contractors. If the project delivery method is anything other than Design-Bid-Build, the builder will be involved with the project at early stages. In order to assure maximum open and free competition, there should be a request for qualifications process that is advertised publicly. Selection of a contractor based on this initial determination of qualifications must include price as a significant factor. While a guaranteed maximum price would not be established in early schematic design phase, there should be project cost estimates based on industry standard data, such as RS Means, to substantiate the proposed pricing and fees. There must be a commitment to development of a firm fixed price, within a proposed, narrow range, at the end of design development. Evaluation of qualified candidates should include this pricing and the proposed fees for design stage work and proposed fees for construction phase work as a primary criteria.

SURVEY ON EQUAL OPPORTUNITY:

Please make sure that each of the applicants is provided the voluntary OMB 1890-0014 form, “*Survey on Ensuring Equal Opportunity for Applicants*”, (or other forms currently being used by Rural Development) and ask that they complete it and return it to your office.

TENANT ELIGIBILITY:

As stated in the NOFA and in 7 CFR Section 3560, tenant eligibility is limited to persons who meet the definition of a “domestic farm laborer,” a “retired domestic farm laborer,” or a “disabled domestic farm laborer,” as those terms are defined in 7 CFR Section 3560.11. A domestic farm laborer must be either a citizen of the United States, Puerto Rico, or the Virgin Islands or reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence. Farmworkers who are admitted to this country on a temporary basis, such as under the H2A guest worker program, are not eligible to occupy Section 514/516 FLH. Documentation that the applicant provides to justify a need for the housing must not include ineligible persons as potential tenants. You are advised to read the NOFA very carefully.

SUBSTANTIAL PORTION OF INCOME FROM FARM LABOR:

The NOFA restates the requirement that domestic farm laborers must receive a substantial portion of their income from “farm labor”. 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.

TENANT PRIORITY:

Tenant priorities were simplified at 7 CFR 3560.577 by eliminating the preference based on the percentage of income that was derived from farm work. The Asset Management HB-2-3560 has not yet been revised to reflect this change. The tenant priority, as listed in the regulation, should be followed rather than the priority shown in the handbook.

LIMITED ENGLISH PROFICIENCY (LEP):

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.

Executive Order 13166 requires each agency providing Federal financial assistance, including USDA, to draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice (DOJ). Each agency is then required to submit its specific guidance to DOJ for review and approval. Following DOJ approval, each agency is to publish its guidance document in the Federal Register for public comment. At this point, USDA's guidance document has not been approved by DOJ.

Until such time as USDA's guidance document has been approved by DOJ and published in the Federal Register, recipients are encouraged to follow guidance that was published by DOJ on June 18, 2002, for recipients of Federal financial assistance (specifically for DOJ recipients). This guidance and additional information can be found at <http://www.justice.gov/crt/lep/index.htm>.

OBLIGATION OF FUNDS AND DOCUMENTATION OF UNDERWRITING AND COSTS

To assure that all FLH new construction transactions are consistently underwritten, all loan and grant recipients should complete the Multi-Family Housing Underwriting Template Request Form prior to closing. This form can be located at

<https://mfhdemoteam.sc.egov.usda.gov/Admin/Lists/Underwriting%20Template%20Request%20Form/Front%20Page.aspx>.

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, LIHTC, and any other assistance. As stated at 7 CFR 3560.562, the amount of any Off-Farm Labor housing grant must not exceed the lesser of (1) 90 percent of the TDC, or (2) that portion of the TDC which exceeds the sum of any amount provided by the applicant from their own resources plus the amount of any loans approved for the applicant, considering the capacity of the applicant to amortize the loan. When making this determination, you must consider the ability of the applicant to raise rents in order to pay for a greater debt service.

Please make every attempt to obligate funds by the required timeframe. 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 Automated Multi-Family 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).

If you have questions regarding the Net Zero Energy or Green Generation Conditions please contact Carlton Jarratt, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division at (804) 287-1524 or via e-mail: carlton.jarratt@wdc.usda.gov.

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

Attachments

FARM LABOR HOUSING PRE-APPLICATION REVIEW CHECKLIST AND POINT SCORE SHEET - FY 2011

Applicant information:

Date and time received: _____

Applicant Name: _____ Applicant Type: NP NPLP PB IT AF AFW

Project Name: _____ # Units ____ # RA Units ____ # Mig Units ____

City: _____ County: _____ Congressional District: _____

If Mixed Use:
 Designated FLH Units _____% Designated Non-FLH Units _____%

NP=Non-Profit NPLP=Non-Profit Limited Partnership PB=Public Body IT=Indian Tribe AF=Assoc. of Farmers AFW=Assoc. of Farmworkers

Application threshold requirements: Application meets preliminary threshold requirements (received by closing date established in NOFA, contains all of the items listed in the NOFA, an estimate of development cost (Form RD 1924-13 Estimate and Certificate of Actual Cost), and a proposed operating budget (Form RD 3560-7 Multiple Family Housing Project Budget/Utility Allowance), is an eligible applicant, and is for an eligible purpose).
 (Yes/No): _____ Comments: _____

Pre-Application scoring: (Please refer to NOFA for further explanation)

1. Construction Cost Leveraged Assistance (maximum 20 points) _____
2. Operational Cost Saving Leverage Assistance (maximum 20 points) _____
3. For FY 2011, National Office initiative will be based on the presence of and extent to which a tenant services plan exists that clearly outlines services that will be provided to the residents of the proposed project. Two points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. _____
4. Seasonal, temporary, or migrant housing: _____
 Enter number and percent of units that will serve seasonal, temporary, or migrant farm workers: Number _____ and _____%
 (Enter 5 points for up to 50 percent of units; 10 points for 51percent or more) _____
5. Energy Generation (maximum 5 points) _____
6. Property Management Credentials (maximum 5 points) _____
7. Energy Conservation for New Construction (maximum 32 points) _____
8. Energy Conservation for Substantial Rehab existing non-FLH property (maximum 32 points) _____

Total point score _____

Estimated funding:

RHS loan amount _____ + grant amount _____: \$ _____

Leveraged funds: Source _____ \$ _____

Source _____ \$ _____

Source _____ \$ _____

Source _____ \$ _____

Total Development Cost: \$ _____

Review comments: _____

Reviewer: _____ Date of Review: _____

National ranking results: Selected for further processing based on National ranking
 (Yes/No): _____ Date: _____

**FARM LABOR HOUSING LEVERAGED ASSISTANCE
CALCULATION OF CONSTRUCTION COST SAVINGS WORKSHEET**

Applicant Name: _____ Project Name: _____

1. RHS total development cost (excludes non-RHS eligible costs): \$ _____

2. Leveraged Assistance (Include all eligible leveraging meeting the provisions of the NOFA such as loans, grants, land, tax abatements, etc.)

<i>Source:</i>	<i>Amount:</i>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. Total leveraged assistance \$ _____

4. Percent of Leveraged Assistance (line 3 divided by line 1) _____%

5. If mixed-use property, multiply the designated percent of FLH units (attachment 2) by line three (3) above then divide by line one (1) to determine leverage points according to the chart below.

6. Points for leveraging based on the following chart: _____
(Round up for .50 and above; round down for .49 and below.
For example, 59.49 become 59; 59.50 become 60.)

<i>Percentage:</i>	<i>Points:</i>
150 or more	30
100-149	25
50-99	20
1-49	15

Donated land in proposals with less than 10 percent total Leveraged Assistance

**FARM LABOR HOUSING LEVERAGED ASSISTANCE
CALCULATION OF CONSTRUCTION COST SAVINGS WORKSHEET**

Percentage	Points
75 or more	20
60-74	18
50-59	16
40-49	12
30-39	10
20-29	8
10-19	5
0-9	0

**FARM LABOR HOUSING LEVERAGE ASSISTANCE
CALCULATION OF TAX ABATEMENTS AS A PORTION OF
OPERATING COST SAVINGS**

1. Identify the applicable property tax rate (or mil rate) from your local taxing jurisdiction. Attach documentation of this rate with your application. Acceptable forms of documentation include a signed letter from the taxing official in your district or a print out of the tax rate table from the taxing official or the taxing official's website.
2. Calculate the approximate property tax liability by multiplying the tax rate (identified in Step 1) by Line 44 of Form 1924-13. Line 44 represents the Total Construction Cost of the development. The resulting number is an estimate of property tax the development would be responsible for, if there were no tax abatement.
3. Identify the amount of property tax abatement the development will realize. Attach documentation supporting the legal basis by which the property tax abatement is realized. If tax abatement is less than 100 percent of the total property tax then apply the applicable percentage.
4. If a development is a mixed-use development, only the pro-rata share of property tax abatement for program eligible tenants may contribute toward the calculation of the total cost savings.

Sample

Assume 20 unit FLH Development

Step 1	Tax Rate:	\$10 per \$1,000	10/1000
Step 2	1924-13 Line 44:	\$2,500,000	
Step 3	Estimated Property Tax:	\$25,000	step1 *step2
Step 4	100% Tax abatement:	\$25,000	Step3 *Percent
	If less than 100 % apply applicable percent here.		
Step 5	5-years of abatement	\$125,000	step4* 5
Step 6	abatement per unit over 5 YR	\$6,250	Step5/*unit

*units -designated FLH units.

FARM LABOR HOUSING LEVERAGE ASSISTANCE
CALCULATION OF OPERATING COST SAVINGS
NON-RURAL DEVELOPMENT TENANT SUBSIDY

The presence of operational cost leveraging, such as non-rural development tenant subsidies, are also calculated on a per unit cost savings. According to Chapter 4, paragraph 4.13 A.2 of HB-1-3560, such saving must be available for five years. If the non-Rural Development subsidy value changes during the five-year calculation the applicant must use the lowest 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 receives \$20,000 for two and \$30,000 for the remaining three years, the \$20,000 should be used to calculate the cost savings. Thus the \$20,000 per year non-Rural Development subsidy yields a cost savings of \$100,000 ($\$20,000 \times 5$ 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
\$15,000 and above	20
\$10,001- \$15,000	18
\$7,501- \$10,000	16
\$5,001-\$7,500	12
\$3,501-\$5,000	10
\$2,001-\$3,500	8
\$1,000-\$2,000	5

FY 2011 SECTION 515 PRE-APPLICATION POINT CALCULATION WORKSHEET

SELECTION PROCESS (Please refer to NOFA for complete information)		PRE-APP POINTS	GRAND TOTAL
VII. ENERGY CONSERVATION			
A. Energy Conservation for new construction (maximum 32 points)			
a. DOE Energy Star for Homes (10 points)			
b. Green Communities by Enterprise Community Partners (10 points)			
c. Participation in one of the following programs (maximum 10 points)			
LEED			
i. Certified Level (4 points), or			
ii. Silver Level (6 points), or			
iii. Gold Level (8 points), or			
iv. Platinum Level (10 points), OR			
NAHB			
v. Bronze Level (4 points), or			
vi. Silver Level (6 points), or			
vii. Gold Level (8 points), or			
viii. Emerald Level (10 points)			
d. Local green/energy efficient building standard (2 points)			
TOTAL ENERGY CONSERVATION FOR NEW CONSTRUCTION			
B. Energy Conservation for Purchase and Substantial Rehab of Existing MFH Property (Maximum 32 points)			
a. Green communities by Enterprise Community Partners (maximum 30 points) OR			
b. Energy conservation plans not in Green Communities (maximum 20 points)			
i. Replace HVA and water heaters (3 points)			
ii. Windows and doors (3 points)			
iii. Insulation (3 points)			
iv. Building shell (3 points)			
v. Appliances and exhaust fans (2 points)			
vi. Water heaters (2 points)			
vii. Toilets (1 point)			
viii. Showerheads (1 point)			
ix. Faucets (1 point)			
x. Lighting and ceiling fans (1 point)			
c. Local green energy efficient building standards (2 points)			
TOTAL ENERGY CONSERVATION FOR EXISTING MFH PROPERTY			
VIII. Energy Generation (max 5 points; only projects of Green Communities Program or at least 16 points in energy conservation)			
i. 0-9% (0 point)			
ii. 10-29% (1 point)			
iii. 30-49% (2 points)			
iv. 50-69% (3 points)			
v. 70-89% (4 points)			
vi. 90% or more (5 points)			
TOTAL ENERGY GENERATION			

August 16, 2011

TO: State Directors
Rural Development

ATTN: Program Directors
Multi-Family Housing

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Programs

SUBJECT: Guidance on the Use of the Section 538 Guaranteed Rural Rental Housing
Program with Section 515 Properties

The intent of this Unnumbered Letter (UL) is to clarify issues concerning the use of Section 538 loan guarantees with existing affordable housing properties financed with Section 515 direct loans, and to provide guidance when using the Section 538 program in the revitalization and preservation of these Section 515 properties. It is written for the sole use of State Office staff and area offices involved in processing Section 538 guaranteed loan applications for existing Section 515 properties.

The use of the Section 538 program as a third-party funding source for Section 515 Multi-Family Preservation and Revitalization (MPR) Program revitalizations increased significantly in recent funding cycles. In fiscal year 2010 over 45 percent of Section 538 obligations were used to support Section 515 MPR revitalizations. The use of the Section 538 program enhances Rural Development's capacity to attract private capital to support the Section 515 portfolio's revitalization. The Section 515 MPR program and the Section 538 Guaranteed Rural Rental Housing Program have different regulatory frameworks and this UL intends to reconcile the procedural differences between the two programs.

This paragraph will describe the Matrix attached to this UL. Attachment "A" titled "SECTION 538/515 PROGRAM REQUIREMENTS MATRIX," contains four columns. Column A contains several program requirements that are addressed in this UL. Column B contains an overview of the program requirement from the Section 538 perspective. Column C contains an overview of the program requirement from the Section 515 perspective. It should be noted that both Column B and Column C are only summary statements. Reviewers should rely on the respective regulations and handbooks for each program for detailed program guidance. Column D outlines the program requirements

EXPIRATION DATE:
August 31, 2012

FILING INSTRUCTIONS:
Housing Programs

Rural Development staff should utilize for each program requirement contained in Column A. The guidance provided generally directs the user to utilize the guidance from either the Section 538 or the Section 515 program.

If you have any questions regarding this UL, please contact Tammy S. Daniels of the Multi-Family Housing Guaranteed Loan Division at (202) 720-0021 or tammy.daniels@wdc.usda.gov.

Attachments

ATTACHMENT “A”
SECTION 538/SECTION 515 PROGRAM REQUIREMENTS MATRIX

COLUMN A Program Requirements	COLUMN B Section 538 Requirements	COLUMN C Section 515 Requirements	COLUMN D Section 538/515 Projects Recommended Approach
1. Equity Contribution	<p>For profit – the greater of 10% of the Total Development Cost (TDC) or of the appraised value</p> <p>Non Profit – the greater of 3% of the TDC or of the appraised value</p> <p>Cash or/and land value meet the equity requirement (other Agency approved sources may be considered)</p>	<p>For profit – 3% not receiving LIHTC</p> <p>For profit – 5% if receiving LIHTC</p> <p>Non-Profit – 0%; can loan 100%</p> <p><i>Waived for properties in the MPR</i></p> <p>Cash, land value or principal reduction can be used to meet this requirement</p>	<p>Section 515 processes will be used for determining owner equity and eligible distributions.</p> <p>Prior to the issuance of the Agency’s conditional commitment, the lender certifies in its application that Section 538 program’s equity requirements were met and Agency personnel verify lender’s calculations. Prior to the issuance of a permanent guarantee, an appraisal (unless waived) of the project once construction is completed must confirm the lender’s equity contribution certification.</p>
2. Lease-up Reserve	<p>Lease-up reserve in lieu of 90/90</p> <ul style="list-style-type: none"> • Required only if the permanent guarantee is to be issued prior to achievement of 90% occupancy for 90 continuous days (90/90 test) • Lender and/or developer must elect to use a lease-up reserve prior to the start of construction • Borrower funded with a non-mortgagable cash contribution • Reserve must be fully funded prior to issuance of permanent guarantee • Reserve must be at least 2% of the greater of appraised value or TDC <p>Unused funds are transferred to the Section 538 O&M reserve account and may be returned to the borrower as a cash distribution at the end of the year and if the requirements of HB-1-3565, Paragraph 7.6 E have been met</p>	<p>Operating Deficit Account</p> <p>Generally not required for MPR projects involving rehabilitation. When underwriting an MPR transaction, the underwriter may recommend using MPR funds to fund an Operating Deficit Account (ODE) when the need is documented</p>	<p>When the lender and/or developer opt to use the lease-up reserve in lieu of the 90/90 requirement, the lease up reserve will be managed pursuant to Section 538 requirements.</p> <p>When lenders elect to use a Section 538 lease-up reserve, the lender will control the account and its distributions.</p> <p>If a Section 538 lease up reserve is not used, the project must meet the 90/90 test in the 120-day period immediately prior to the issuance of the permanent guarantee.</p> <p>For Option 3 Continuous Guarantees, the lease-up reserve is fully funded on or before the issuance of the guarantee.</p>

ATTACHMENT “A”
SECTION 538/SECTION 515 PROGRAM REQUIREMENTS MATRIX

COLUMN A Program Requirements	COLUMN B Section 538 Requirements	COLUMN C Section 515 Requirements	COLUMN D Section 538/515 Projects Recommended Approach
3. Construction Contingency Reserve	<ul style="list-style-type: none"> • At least 2% of total construction costs • Borrower funds reserve with a non-mortgagable cash contribution. The lender may release unused construction contingency reserves to the borrower anytime after completion of construction and achievement of the 90/90 test. All other reserve accounts must be fully funded prior to the release of any unused construction contingency funds • May accept letter of credit (LOC) in lieu of cash 	<ul style="list-style-type: none"> • Required for all Section 515 transactions • 7%-10% and may be funded with Section 515/MPR funds • Unused funds deposited into projects capital reserve account 	<p>For projects using the Section 538 Construction Guarantee, Section 538 requirements apply.</p> <p>For projects financed without a Section 538 construction guarantee, Section 515 requirements will govern the amount and use of the construction contingency regardless of the source of the funds for the construction/rehabilitation. Lender will have primary construction oversight responsibility as outlined in 7CFR 3560 and HB-3-3560. Lender will not delegate this responsibility to the Agency.</p> <p>State Offices must approve all change orders for Section 515/538 construction contracts.</p>
4. Occupancy & Rent Restrictions	<ul style="list-style-type: none"> • At initial occupancy, tenancy restricted to individuals and families whose incomes do not exceed 115% of area median income 	<ul style="list-style-type: none"> • At initial occupancy, and at least annually, must qualify as a very low- low or moderate income household 	<p>The most restrictive occupancy and rent restrictions (typically Section 515) will be used.</p> <p>In the event that Section 515 income requirements and/or rent levels exceed the Section 538 levels, the State Office will refer the matter to the National Office for resolution.</p>

ATTACHMENT “A”
SECTION 538/SECTION 515 PROGRAM REQUIREMENTS MATRIX

COLUMN A Program Requirements	COLUMN B Section 538 Requirements	COLUMN C Section 515 Requirements	COLUMN D Section 538/515 Projects Recommended Approach
	<ul style="list-style-type: none"> At rent up and on a continuing basis, rents including tenant utility allowances may not exceed 30 percent of 115 percent of area median income adjusted for family size Average rent for all units in a project cannot exceed 30% of 100% of area median income adjusted for family size 	<ul style="list-style-type: none"> At approval of new loans and servicing actions, transfers, prepayments, etc. rents cannot exceed the Conventional Rents for Comparable Units (CRCU) standard Ongoing basis, rents remain budget based. CRCU standard does not apply to annual budget submissions 	
5. Construction Monitoring, Inspections, Payouts	<ul style="list-style-type: none"> New construction, rehabilitation, modular and manufactured structures must meet RD Instruction 1924-A Actual work inspected by or on behalf of the lender Minimum three inspections In addition to the three inspections; lender inspections must be done prior to each payment to the contractor Lender must coordinate final inspection Agency must approve all change orders 	<ul style="list-style-type: none"> Agency to inspect all work completed and materials suitably stored on site Minimum three inspections at key times In addition to the three required inspections; Agency encouraged to make monthly inspections if time and resources permit Prior Agency concurrence in each pay request and proposed change order 	<p>For Section 515/538 projects financed with a Section 538 construction guarantee, follow the applicable provisions of HB-1-3565 for construction monitoring. If time and resources permit, State offices are encouraged to monitor the construction through on-site reviews/inspections. State Office staff should review, but not sign, the contractor’s payment requests.</p> <p>For projects financed without a Section 538 construction guarantee, State staff will follow the applicable provisions of 7 CFR part 1924, subpart A. Lender will have primary construction oversight responsibility as outlined in 7CFR 3560 and HB-3-3560. Lender will not delegate this responsibility to the Agency.</p>
6. Mortgage Terms	Term of not less than 25 years and not more than 40 years	Third-party loans must: <ul style="list-style-type: none"> be fully amortized; or have a maturity date that is after the Rural Development/Section 515 debt matures; or include a written agreement with third-party lender to extend scheduled maturity through re-amortization or whatever means available to them on terms that do not require rents to exceed CRCU 	In Section 515 transactions the Section 538 loan term must exceed the term of the Section 515 subordinate financing. The minimum term of the Section 538 loan will be 25 years or the term of the Section 515 subordinate debt whichever is greater. The maximum term of the Section 538 loan is 40 years.

ATTACHMENT “A”
SECTION 538/SECTION 515 PROGRAM REQUIREMENTS MATRIX

COLUMN A Program Requirements	COLUMN B Section 538 Requirements	COLUMN C Section 515 Requirements	COLUMN D Section 538/515 Projects Recommended Approach
7. Debt Service Coverage (DSC)	Requires DSC of at least 1.15 unless Agency approves lower DSC	No published standard; currently underwriting for a 1.10 DSC	All transactions will be underwritten with a DSC of 1.15. In the event that rents needed to achieve the 1.15 DSC exceed CRCU, the project will be submitted to the National Office for a waiver.
8. Interest Credit	If available, generally limited to 250 basis points applied to the loan’s first \$1.5 million	Reduction in the effective interest rate for the Agency’s entire loan down as low as 1%	Interest eligibility, availability and limitations for Section 515/538 transactions will be published in the annual Notice of Funds Availability.
9. O&M Reserve/ Initial Operating Capital (IOC)	<p>O&M Reserve</p> <ul style="list-style-type: none"> • All borrowers must contribute from their own resources at least 2% of the loan amount • Funds may be provided in cash or LOC • For Options 1 and 2 Guarantees, the O&M Reserve is funded on or before the closing of the permanent loan. For Option 3 Continuous Guarantee, the O&M Reserve is funded no later than 30 days before the issuance of the first certificate of occupancy is anticipated 	<p>Initial Operating Capital Account</p> <ul style="list-style-type: none"> • See #2 above • Working Capital - Section 515 does not require a separate working capital account and an Initial Operating Account; Only require an Initial Operating Capital Account (IOC) for new construction or a subsequent loan to complete the original project; not required for subsequent loans to repair or improve an existing housing project 	<p>O&M Reserve for a Guaranteed Loan is not required when State Office multi-family staff concurs that the Section 515 General Operating Account (GOA) is sufficient to cover projected expenses.</p> <p>When Section 538 O&M Reserve is required (i.e. when the Section 515 GOA is not sufficient to cover projected expenses) the lender will control the account and its distributions.</p>
10. Credit Enhancements During Construction	<p>Per 3565.303 (c) (2) acceptable credit enhancements include:</p> <ul style="list-style-type: none"> • Surety bonding or performance and payment bonding acceptable to the Agency; • An irrevocable letter of credit acceptable to the Agency; or • A pledge to the lender of collateral that is acceptable to the Agency 	<p>Acceptable credit enhancements include:</p> <ul style="list-style-type: none"> • Surety bonding or a P&P Bond (preferred) • An irrevocable LOC, Rural Development is named as Beneficiary – 100% of contract • Cash deposit in amount of contract 	<p>For projects financed with a Section 538 construction guarantee, follow the applicable provisions of 3565.303 (c) (2).</p> <p>For projects financed without a Section 538 construction guarantee, follow the Section 515 requirements.</p>

ATTACHMENT “A”
SECTION 538/SECTION 515 PROGRAM REQUIREMENTS MATRIX

COLUMN A Program Requirements	COLUMN B Section 538 Requirements	COLUMN C Section 515 Requirements	COLUMN D Section 538/515 Projects Recommended Approach
11. Developer Fee	<ul style="list-style-type: none"> • Developer fee is an eligible use of loan proceeds • Deferred developer fee can be repaid from surplus cash at year end. 	<ul style="list-style-type: none"> • Allow reasonable developer fee for Section 538 loans <i>only</i> used with existing Section 515 properties • Deferred developer fees cannot be repaid except as part of the approved annual Return on Investment 	<p>Developer fee will be an allowed cost with Section 538 loan proceeds. The developer fee will be disbursed at closing.</p> <p>The disbursement of a deferred developer fee will be subject to Section 515 limitations on annual distributions.</p>
12. Reserve Accounts	<ul style="list-style-type: none"> • Lender holds funds • Lender approves all release of funds • Deposits based on Capital Needs Assessment (CNA) • At least every five years the lender must review the CNA as part of adjusting the replacement reserve deposit 	<ul style="list-style-type: none"> • Funds required to be held in a supervised account • Agency concurrence required to release funds • Prior Agency approval required – for emergency situations post approval may be requested • Minimum two bids required when costs are more than \$3,500; when IOI involved bid submitted directly to State Office prior to requesting bids from other firms • Currently, the reserve account is to be sized to meet the 20-year inflated needs of the property as determined by an approved CNA • Agency may require a new CNA be commissioned at five years or later 	<p>The Section 538 guaranteed lender will hold the funds. Release of funds will require approval of Agency, lender and borrower.</p> <p>The project will maintain initial and ongoing reserve levels at the greater of the Section 515 or 538 requirements.</p> <p>Lender may comingle funds. State Office concurrence is required for disbursements. This will ensure consistency with 3560 regulatory requirements.</p> <p>Suggest that an inter creditor agreement is drawn up describing how funds will be disbursed.</p>
13. Surplus Cash Distribution	Lender may release surplus cash to borrowers annually with no restrictions on the amount	There is no statutory authority in the 515 program to allow for a distribution of surplus cash	<p>Use 515 program requirements to define amount of the annual distributions. Lender will maintain any surplus funds from owner funded reserves (construction contingency, lease up and O&M reserve) in an 538 Surplus Reserve Account separate from the 515 General Operating Account.</p> <p>Lender may release unused funds in this Surplus Reserve Account only if the requirements of Handbook 3565 Paragraph 7.6 E. have been met.</p>

ATTACHMENT “A”
SECTION 538/SECTION 515 PROGRAM REQUIREMENTS MATRIX

COLUMN A Program Requirements	COLUMN B Section 538 Requirements	COLUMN C Section 515 Requirements	COLUMN D Section 538/515 Projects Recommended Approach
14. Definition of Total Development Cost	Total cost of project construction cost, financing fees, professional fees and profit	The cost of construction, purchasing, improving, altering or repairing Multi-Family Housing (MFH) and related facilities, and purchasing or improving the necessary land, including architectural, engineering, or legal fees and charges and other technical and professional fees and charges, but excluding fees, charges or commissions such as payments to brokers, negotiators or other persons for the referral of prospective applicants or solicitations of loans	Use the Section 515 definition.
15. Use Restrictions			Both the Section 515 and Section 538 use restrictions will be recorded. In general, Section 515 use restrictions are more restrictive than the Section 538 restrictions and will control during the term of the Section 515 loan. When the term of the Section 538 use restrictions are greater than the term of the Section 515 restrictions, they will survive the Section 515 restrictions.
16. Subordination of Section 515 loan		Section 515 Properties selected into the MPR Program must use the Restrictive Use Subordination Agreement approved by OMB No. 0575-0190 which is posted to the MPR Website	For Section 515/538 Properties participating in the MPR program, both the Subordination Agreement in HB -3-3560 dated 12/17/08 PN 425 and any updates will be used along with the Restrictive Use Subordination Agreement approved by OMB No. 0575-0190.
17. Appraisal	Appraisal must be completed within the 12 months prior to the issuance of the loan guarantee. Refer to 3565.303 (d) (4) for appraisal exemption guidance	In Section 515/MPR Program transactions, whenever an appraisal is required, the appraisal must be completed prior to approval and obligation of the loan	Appraisals will be completed in accordance Section 538’s 3565.303.
18. Cost Certification	A cost certification is required that represents the actual cost of the work performed in connection with the construction. However, if a cost certification is prepared for any other funding source (e.g., an agency providing	Actual construction costs must be reported. In the instance of an IOI contractor the costs must be certified and audited as outlined on Form RD 1924-13, Estimate and Certificate of Actual Cost	For projects with any Section 538 guarantee, use the Section 538 program cost certification requirements. However if there is a IOI contractor the certified and audited costs will be presented in the format contained on Form RD 1924-13, Estimate and

ATTACHMENT “A”
SECTION 538/SECTION 515 PROGRAM REQUIREMENTS MATRIX

COLUMN A Program Requirements	COLUMN B Section 538 Requirements	COLUMN C Section 515 Requirements	COLUMN D Section 538/515 Projects Recommended Approach
	Low-Income Housing Tax Credits), then a copy of that cost certification is acceptable. An audited cost certification is required from identify of interest (IOI) contractors		Certificate of Actual Cost.
19. Single Asset Entity	Borrowers must operate as a single asset ownership entity	There is no restriction that borrowers must operate as a single asset ownership entity	For Section 515 projects using Section 538 guaranteed loan funds, the Single Asset Entity restriction is waived
20. Rural Area Designation (Grandfathering)	A Section 538 project for which a subsequent loan will be used to make necessary repairs or improvements to the property or to avert prepayment may be located in an area that has changed from rural to non-rural	A project for which a subsequent loan will be used to make necessary repairs or improvements to the property or to avert prepayment may be located in an area that has changed from rural to non-rural	For subsequent loans in a Section 515 project whose acquisition and/or repair are financed by the Section 538 program, the “grandfathered” rule applies.
21. Underwriting Requirements			Lenders are required to submit a matrix summarizing any differences between Section 515 underwriting and Section 538 underwriting.
22. Reporting Requirements: a) Annual Financial Reports b) Affirmative Fair Housing Marketing Plan	a) The lender must obtain from the borrower, on an annual basis, an audited annual financial statement conducted in accordance with generally accepted government auditing standards b) The borrower must prepare and comply with the Affirmative Fair Housing Marketing Plan and all other Fair Housing requirements	a) Borrowers must submit annual financial reports in the form of the MFH Project Budget (with actual expenditures) and the MFH Balance Sheet b) Borrowers with housing projects that have four or more rental units must prepare and maintain an Affirmative Fair Housing Marketing Plan (AFHMP) as defined in 24 CFR part 200, subpart M	The lender must obtain from the borrower, on an annual basis, an audited annual financial statement conducted in accordance with generally accepted government auditing standards. Lenders may use the same approved AFHMP that the borrower is currently using for the project.

August 23, 2011

TO: State Directors, Rural Development

ATTN: Business Programs Directors

SUBJECT: Rural Business Enterprise Grant Program
Native American Earmark Selections
Fiscal Year 2011

We have recently completed the fiscal year 2011 Native American earmark funding cycle. The National Office received 42 requests for funds totaling \$4,923,949. We are pleased to announce that 32 projects were selected for \$3,258,483. Attached is the list of awardees.

This completes the Native American funding cycle established in RD Instruction 1940-L. Projects selected under the Native American earmark must use the type of assistance code "310" when obligating. All earmarked funds allocated must have an obligation date of no later than September 30, 2011. Any funds not obligated by that date will be carried over to the next fiscal year.

PANDOR H. HADJY
Deputy Administrator
Business Programs

Attachment

EXPIRATION DATE:
July 31, 2012

FILING INSTRUCTIONS:
Community/Business Programs

Attachment

**Rural Business Enterprise Grant Program Native American
Fiscal Year 2011**

<u>State</u>		<u>Amount</u>	<u>Applicant</u>
OR	Cow Creek Band of Umpqua Tribe of Indians	\$96,500	
WY	Wind River Development Fund	\$34,384	
MT	Montana Indian Business Alliance	\$54,585	
SD	Red Cloud Indian School, Inc.	\$98,327	
AK	City of Tanana, AK	\$63,000	
SC	Catawba Cultural Preservation Project (CCPP)	\$50,000	
CA	Resource for Native Development (RFND)	\$99,000	
OK	Eastern Shawnee Tribe of Oklahoma	\$200,000	
NM	Pueblo of Jemez	\$50,000	
NE	Center for Rural Affairs (CFRA)	\$99,000	
WA	Squaxin Island Tribe	\$50,000	
NV	Moapa Band of Paiutes	\$260,000	
MI	Northern Shores Loan Fund, Inc.	\$99,000	
NY	St. Regis Mohawk Tribe	\$75,000	
WI	LaPointe Financial, Inc.	\$40,000	
OR	The Klamath Tribes	\$99,441	
AK	Alaska Manufacturing Extension Partnership, Inc. (AMEP)	\$200,000	
CA	Bishop Paiute Tribe	\$98,600	
MT	Native American Community Development Corporation	\$25,000	
SD	Four Bands Community Fund, Inc.	\$99,000	
WA	Makah Tribal Council	\$48,000	
NM	Pueblo of Zia	\$50,000	
WI	Great Lakes-Inter-Tribal Council, Inc.	\$99,999	
NE	Ponca Economic Development Corporation (PEDCO)	\$195,169	
OK	City of Miami	\$151,300	
OR	Chemeketa Community College	\$50,120	
CA	Yurok Economic Development Corporation	\$98,000	
SD	Wounded Knee Community Development Corporation	\$99,000	
NM	Farm to Table, Inc.	\$48,500	
WI	Northwoods Nijjii Enterprise Community	\$182,722	
AK	University of Alaska Anchorage (UAA), Small Business Development Center (SBDC)	\$200,000	
OK	Ottawa Tribe of Oklahoma	\$144,836	
Total	32	\$3,258,483	

August 25, 2011

TO: State Directors, Rural Development

ATTENTION: Business Programs Directors

SUBJECT: Rural Business Enterprise Grant Program
Technical Assistance for Rural Transportation Systems
Fiscal Year 2011

We have recently completed the Technical Assistance for Rural Transportation Systems funding cycle. A notice was published in the Federal Register on January 20, 2011, announcing that a single grant would be available from the funds appropriated under the Rural Business Enterprise Grant program and another single grant from the Federally Recognized Native American Tribes earmark for improving passenger transportation services or facilities. One application competed for the \$499,000 earmark and one application competed for the \$249,767 Native American earmark. The Community Transportation Association of America was selected for both grant awards.

Rural Transportation projects include:

NY	Seven Valleys Health Coalition
OR	United Community Action Network
SC	Beaufort Regional Chamber of Commerce Visitor and Convention Bureau
WI	North Central Wisconsin Workforce Development Board, Inc.

Native American Tribes earmark projects include:

NY	Seneca Nation of New York
OK	Seminole Nation of Oklahoma
SC	Catawba Indian Nation (aka Catawba Tribe of South Carolina)

EXPIRATION DATE:
September 30, 2011

FILING INSTRUCTIONS:
Community/Business Programs

In addition to the three projects listed above, the Native American earmark will also assist one short-term project which includes:

WA Port Gamble S'Klallam Tribe

PANDOR H. HADJY
Deputy Administrator
Business Programs

August 26, 2011

TO: State Directors
Area Directors
Rural Development Managers

ATTN: Rural Housing Program Directors

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Programs

SUBJECT: Interest Rate Changes for Housing Programs
and Credit Sales (Nonprogram)

The following interest rates, effective September 1, 2011, are changed as follows:

<u>Loan Type</u>	<u>Existing Rate</u>	<u>New Rate</u>
ALL LOAN TYPES		
Treasury Judgment Rate	0.170%	0.210%

The new rate shown above is as of the week ending July 29, 2011. The actual judgment rate that will be used will be the rate for the calendar week preceding the date the defendant becomes liable for interest. This rate may be found by going to the Federal Reserve website for the weekly average 1-year Constant Maturity Treasury Yield (http://www.federalreserve.gov/releases/h15/data/Weekly_Friday_/H15_TCMNOM_Y1.txt).

RURAL HOUSING LOANS

Rural Housing (RH) 502 Very-Low or Low	4.250	4.250
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EXPIRATION DATE:
September 30, 2011

FILING INSTRUCTIONS:
Administrative/Other Programs

Single Family Housing (SFH) Nonprogram	4.750	4.750
Rural Housing Site (RH-524), Non-Self-Help	4.250	4.250
Rural Rental Housing and Rural Cooperative Housing	4.250	4.250

Please notify appropriate personnel of these rates.

Sent by Electronic Mail on 08/26/11, at 2:00 p.m. by Policy Analysis Division. State Directors should advise other personnel as appropriate.

August 31, 2011

TO: State Directors

ATTN: Administrative Program Directors
Management Control Officers

FROM: Clyde Thompson *(Signed by Clyde Thompson)*
Deputy Administrator
Operations and Management

SUBJECT: Financial Management Division Reviews
Fiscal Year 2012

The Financial Management Division (FMD) has scheduled reviews of the states' management control program, collections, Federal Managers' Financial Integrity Act implementation, and the handling of audits, investigations, and hotline complaints. The reviews will be conducted by the FMD staff.

The on-site reviews scheduled for Fiscal Year (FY) 2012 are as follows:

West Virginia	December 5-9, 2011
Texas	March 5-9, 2012
Virginia	March 19-23, 2012
North Carolina	April 9-13, 2012
Tennessee	April 23-27, 2012
Oklahoma	May 14-18, 2012
Washington	July 23-27, 2012
Colorado	August 13-17, 2012

Please note that these review dates are tentative and alternative dates may need to be selected to accommodate business-related commitments. FMD will notify each State Director approximately 30 days in advance of the scheduled on-site visit with information related to the review.

EXPIRATION DATE:
August 31, 2012

FILING INSTRUCTIONS:
Administrative/Other Programs

FMD will provide the names of the individuals conducting the review, the entrance and exit conference dates and times, and the files and other documentation that will be needed to conduct the review. FMD will also request your assistance with hotel information.

In addition to the on-site reviews listed above, FMD will also be conducting desk reviews in Washington, D.C., of the following states in FY 2012:

Wyoming	January 23-27, 2012
North Dakota	February 13-17, 2012

FMD will contact the applicable State Director with the necessary arrangements to complete the desk reviews.

If you have any questions, please call John Purcell, Director, FMD, at (202) 692-0328 or john.purcell@wdc.usda.gov.

Sent by electronic mail on Sept. 1, 2011 at 11:00 a.m. by FMD. State Directors should advise other personnel as appropriate.