

(7) A legal guardian (an individual) may execute a lease agreement on behalf of a tenant in a group home when that tenant does not possess the legal capacity to enter into a legal contract with the project owner.

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

(c) *Market studies for congregate housing and group homes.* In addition to the requirements of exhibit A-7 of this subpart, the following are applicable to market studies for congregate housing and group homes:

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

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

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

(4) Demand for congregate housing generally is displayed by elderly people who are older than 70 years. Therefore, the market study must contain demographic information particular to those over the age of 62 and those over 70

years old. The study must also address the growth trends of people who are over 85 years old.

(5) Market studies must include information concerning alternative service providers as required in paragraph (a)(6) of this section.

(d) *Compliance with other laws.* Congregate housing and group homes must meet all applicable Federal, State and local laws, statutes, codes and/or ordinances pertaining to these types of housing and the services provided.

[55 FR 26644, June 29, 1990, as amended at 58 FR 38925, July 21, 1993; 58 FR 40953, July 30, 1993; 59 FR 6890, Feb. 14, 1994; 62 FR 25065, 25067, May 7, 1997]

§§ 1944.225–1944.227 [Reserved]

§ 1944.228 Ranking of rural places based on greatest need for Section 515 housing.

The Agency will rank rural places based on greatest need for Section 515 housing in accordance with this section. Places may be incorporated population centers such as cities, boroughs, towns, and villages; or unincorporated population centers identified by the Census Bureau (known as Census Designated Places (CDPs)). States must be consistent state-wide in their use of place types that are included in the list of designated places. Ranking will be based on the following:

(a) Qualifies as a rural area in accordance with 7 CFR 3550.10.

(b) Lacks mortgage credit for borrowers in accordance with §1944.211(a)(2).

(c) Demonstrates a need for multi-family housing based on the following factors, with equal weight given to each. Data for this purpose will be provided to States by the National Office from the most recent rural place data obtained from the Census Bureau. If Census data is not available for an eligible rural place, the State may request authority from the National Office to include the place on the list of designated places established in accordance with §1944.229, provided the place meets the requirements of §1944.229(b) and it can be demonstrated that there is a high need for assisted multi-family housing based on information obtained from reliable local or state sources. The State may request

authority from the National Office to use other state-wide data if it is objective and consistent with the Housing Act of 1949, as amended.

(1) The incidence of poverty, measured by determining households below 30 percent of the county rural median income.

(2) The existence of substandard housing, measured by determining the number of occupied housing units that lack complete plumbing or have more than one occupant per room.

(3) The lack of affordable housing, measured by determining households below 30 percent of county rural median income paying more than 30 percent of income in rent.

[62 FR 25067, May 7, 1997, as amended at 62 FR 67222, Dec. 23, 1997]

EFFECTIVE DATE NOTE: At 62 FR 67222, Dec. 23, 1997, § 1944.228 was amended in paragraphs (c) (1) and (3) by revising the words "60 percent" to read "30 percent" effective Jan. 22, 1998.

§ 1944.229 Establishing the list of designated places for which Section 515 applications will be invited.

States will compile a list of designated places for which Section 515 applications will be invited, in accordance with the provisions of this section and the ranking process described in § 1944.228. Inclusion on the list of designated places does not indicate that market need and demand has been established; this will be a loan feasibility determination. Once placed on the list of designated places, places will be considered equal, with no regard to their ranking on the ranking list or order of selection. In exceptional circumstances, there may be an instance when a place with an urgent need for multi-family housing is not reflected in the ranking process in § 1944.228; for example, a place that has had a substantial increase in income-eligible population since the most recent decennial Census data because of a new industry, a place that has experienced a loss of affordable housing because of a natural disaster, or a community within the limits of an Indian reservation or tribal allotted or trust land with a demonstrated need for multifamily housing. With concurrence from the National Office, the State may include

the place on the list of designated places.

(a) *Establishing the number of designated places.* Initially, the number of designated places may equal up to 10 percent of the state's total eligible rural places ranked in accordance with § 1944.228, but must equal, in all cases, at least 10 places. For example, in a state with 1,000 total rural places, the State may designate up to 10 percent, or 100 places. However, in a state with 60 total rural places, the State would use the minimum number of 10 places, since 10 percent of 60 equals 6. In states where 10 percent equals more than the minimum number of 10, consideration in determining the number of places to include on the list should be given to the size and population of the state, funding levels, and the potential for leveraging. If warranted by funding levels, the Administrator may authorize in NOFA the selection of designated places up to 20 percent of the States' total rural places.

(1) States may designate a higher number of places than 10 percent or the minimum 10 places to reach high-need areas in accordance with paragraph (c)(3) of this section.

(2) States that anticipate high loan activity because of leveraging may designate a number of places higher than 10 percent or the minimum 10 places with the concurrence of the National Office.

(b) *Requirements for inclusion on the list of designated places.* Places selected for the list of designated places:

(1) Must have 250 or more households as a minimum feasibility threshold for multi-family housing, or, for Indian reservations, must have 250 or more households within the boundaries of the reservation; and

(2) May not have any of the "build and fill" conditions described in § 1944.213(f)(2). Places thus identified will be deferred for inclusion on the current year's list of designated places. Deferred places will be reviewed annually and, at such time that the "build and fill" conditions no longer exist, will be considered for inclusion on the list for the next fiscal year in accordance with this section. To the extent practicable, States will consult with HUD and other state or local agencies