

(1) The criteria used in the basic formula are:

(i) State's percentage of national rural population—50 percent.

(ii) State's percentage of national rural population with incomes below the poverty level—25 percent.

(iii) State's percentage of national nonmetropolitan unemployment—25 percent.

(2) The data source for each criterion is based on the latest census data available. The percentage representing each criterion is multiplied by the weight factor and added to arrive at a State Factor (SF). The SF cannot exceed .05.

$SF = (\text{criterion (b)(1)(i)} \times 50 \text{ percent}) + (\text{criterion (b)(1)(ii)} \times 25 \text{ percent}) + (\text{criterion (b)(1)(iii)} \times 25 \text{ percent})$

(c) *Basic formula allocation.* See §1940.552(c).

(d) *Transition formula.* The transition formula is not used for Rural Business Opportunity Grants (RBOG).

(e) *Base allocation.* See §1940.552(e).

(f) *Administrative allocation.* The administrative allocation is not used for RBOG.

(g) *Reserve.* See §1940.552(g).

(h) *Pooling of funds.* See §1940.552(h). Funds are pooled near fiscal year-end. Pooled funds will be placed in the National Office reserve and will be made available administratively.

(i) *Availability of the allocation.* See §1940.552(i). The allocation of funds is made available to States on an annual basis.

(j) *Suballocation by the State Director.* Suballocation by the State Director is authorized for this program.

[68 FR 14528, Mar. 26, 2003; 68 FR 17153, Apr. 8, 2003]

§§ 1940.594–1940.600 [Reserved]

EXHIBIT A TO SUBPART L OF PART 1940 [RESERVED]

EXHIBIT B TO SUBPART L OF PART 1940— SECTION 515 NONPROFIT SET ASIDE (NPSA)

I. *Objective:* To provide eligible nonprofit entities with a reasonable opportunity to utilize section 515 funds.

II. *Background:* The Cranston-Gonzalez National Affordable Housing Act of 1990 estab-

lished the statutory authority for the section 515 NPSA funds.

III. *Eligible entities.* Amounts set aside shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity. An eligible entity may include a partnership, including a limited partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary which will be receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. For the purposes of this exhibit, a nonprofit entity is an organization that:

A. Will own an interest in a project to be financed under this section and will materially participate in the development and the operations of the project; and

B. Is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986; and

C. Has among its purposes the planning, development, or management of low-income housing or community development projects; and

D. Is not affiliated with or controlled by a for-profit organization; and

E. May be a consumer cooperative, Indian tribe or tribal housing authority.

IV. *Nondiscrimination.* Rural Development reemphasizes the nondiscrimination in use and occupancy and location requirements of 7 CFR 3560.104.

V. *Amount of Set Aside.* See Attachment 1 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office):

A. *Small State Allocation Set Aside (SSASA).* The allocation for small States has been reserved and combined to form the SSASA, as shown in Attachment 1 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office). The definition of small State is included in Attachment 1 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office).

B. *Large State Allocation Set Aside (LSASA).* The allocation for large States has been reserved in the amounts shown in Attachment 1 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office). The definition of large State is included in Attachment 1 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office).

C. *NPSA Rental Assistance (RA).* NPSA RA has been reserved in the National Office as shown in Attachment 1 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office).

VI. *Access to NPSA funds and RA.* RA is available and may be requested, as needed, with eligible loan requests. NPSA funds and

RA should be requested by the State Director using a format similar to Attachment 2 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office). Funds are available as follows:

A. *SSASA*: The SSASA is available to any SSASA State on a first-come-first-served basis until pooling. See Attachment 3 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office) for information regarding pooling.

B. *LSASA*: LSASA states may request LSASA funds up to the amount the state contributed to LSASA until pooling. See Attachment 3 of this exhibit (available in any FmHA or its successor agency under Public Law 103-354 State Office) for information regarding pooling.

VII. *General Information on priority/processing of Preapplications.*

A. Preapplications/applications for assistance from eligible nonprofit entities under this subpart must continue to meet all loan making requirements of 7 CFR part 3560, subpart B.

B. A separate processing list will be maintained for NPSA loan requests.

C. The State Director may issue Form AD-622, "Notice of Preapplication Review Action", requesting a formal application to the highest ranking preapplication(s) from eligible nonprofit entities defined in paragraph III of this exhibit as follows:

1. *LSASA*. In LSASA States, AD-622s may not exceed 150 percent of the amount the State contributed to the LSASA. No single Form AD-622 may exceed the amount of funds the State contributed to LSASA.

2. *SSASA*. In SSASA States, AD-622s should not exceed the greater of \$750,000 or 150 percent of the amount the State contributed to the SSASA; except that the State Director in a SSASA State may request authorization to issue a Form AD-622, in an amount in excess of \$750,000 if additional funds are necessary to finance an average-size proposal based upon average construction costs in the state. For example, if the average size proposal currently being funded in the state is 24 units, and the average construction cost in the state is \$35,000 per unit, the state may request authorization to issue an AD-622 for \$840,000. The State Director will submit such requests to the National Office including data reflecting average size/cost projects in the State. No single Form AD-622 may exceed the amount of funds the State may receive from SSASA.

D. All AD-622s issued for proposals to be funded from NPSA will be subject to the availability of NPSA funds. Form AD-622 should contain the following or similar language: "This Form AD-622 is issued subject to the availability of Nonprofit Set-Aside (NPSA) funds."

E. If a preapplication requesting NPSA funds has sufficient priority points to com-

pete with non-NPSA loan requests based upon the District or State allocation (as applicable), the preapplication will be maintained on both the NPSA and non-NPSA rating/ranking lists.

F. Provisions for providing preference to loan requests from nonprofit organizations is contained in 7 CFR 3560.56. Limited partnerships, with a nonprofit general partner, do not qualify for nonprofit preference.

VIII. *Exception authority*. The Administrator, or his/her designee, may, in individual cases, make an exception to any requirements of this exhibit which are not inconsistent with the authorizing statute, if he/she finds that application of such requirement would adversely affect the interest of the Government or adversely affect the intent of the authorizing statute and/or Rural Rental Housing program or result in an undue hardship by applying the requirement. The Administrator, or his/her designee, may exercise this authority upon the request of the State Director, Assistant Administrator for Housing, or Director of the Multi-Family Housing Processing Division. The request must be supported by information that demonstrates the adverse impact or effect on the program. The Administrator, or his/her designee, also reserves the right to change pooling dates, establish/change minimum and maximum fund usage from NPSA, or restrict participation in the set aside.

[58 FR 38950, July 21, 1993, as amended at 69 FR 69104, Nov. 26, 2004]

EXHIBIT C TO SUBPART L OF PART 1940—
HOUSING IN UNDERSERVED AREAS

I. OBJECTIVE

A. To improve the quality of affordable housing by targeting funds under Rural Housing Targeting Set Aside (RHTSA) to designated areas that have extremely high concentrations of poverty and substandard housing and have severe, unmet rural housing needs.

B. To provide for the eligibility of certain colonias for rural housing funds.

II. BACKGROUND

The Cranston-Gonzalez National Affordable Housing Act of 1990 (herein referred to as the "Act") requires that Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 set aside section 502, 504, 514, 515, and 524 funds for assistance in targeted, underserved areas. An appropriate amount of section 521 new construction rental assistance (RA) is set aside for use with section 514 and 515 loan programs. Under the Act, certain colonias are now eligible for FmHA or its successor agency under Public Law 103-354 housing assistance.