

Rules and Regulations

Federal Register

Vol. 89, No. 245

Friday, December 20, 2024

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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3565

[Docket No. RHS–24–MFH–0043]

Loan Guarantees Under the Section 538 Guaranteed Rural Rental Housing Program

AGENCY: Rural Housing Service, Department of Agriculture (USDA).

ACTION: Notification of updates in the competitive lender submissions process.

SUMMARY: The Rural Housing Service (RHS or Agency), an agency within Rural Development (RD), announces updates in the process for competitive lender application submissions regarding proposed properties for the Section 538 Guaranteed Rural Rental Housing Program (GRRHP). The amount of program dollars available for the GRRHP will be determined by the Appropriations Act for each fiscal year.

DATES: The effective date of the process updates is December 20, 2024.

ADDRESSES: Applications must be submitted electronically in accordance with the instructions in section IV of this notification. Applications will be accepted on a continuous basis. Complete applications that are deemed eligible for further processing will be funded to the extent an Appropriations Act provides sufficient funding in the fiscal year the application is selected. If funding is not sufficient in any given fiscal year, funding will be provided under the next funding Appropriations Act, subject to the availability of funds. Approved applications are subject to the fee structure in effect when the application is received by the Agency.

FOR FURTHER INFORMATION CONTACT: Jonathan Bell, Director, Processing and Report Review Branches, Production and Preservation Division, Multifamily Housing Programs, Rural Development, United States Department of

Agriculture, via email: MFHprocessing1@usda.gov or telephone: 202–205–9217. Hearing or speech-impaired persons may access that number by calling the 711 Federal Information Relay Service.

SUPPLEMENTARY INFORMATION:

Authority

The GRRHP is authorized under section 538 of the Housing Act of 1949, as amended, 42 U.S.C. 1490p–2, and implemented under 7 CFR part 3565.

Background

RHS is committed to helping improve the economy and quality of life in rural areas by offering a variety of programs. The Agency offers loans, grants, and loan guarantees to help create jobs, expand economic development, and provide critical infrastructure investments. RHS also provides technical assistance loans and grants by partnering with agricultural producers, cooperatives, Indian tribes, non-profits, and other local, state, and Federal agencies.

The Section 538 GRRHP is a program administered by the RHS, under the authority of the Housing Act of 1949, as amended (42 U.S.C. 1490p–2). The purpose of the GRRHP is to increase the supply of affordable rural rental housing, using loan guarantees that encourage partnerships between the RHS, private lenders, and public agencies.

On April 28, 2023 (88 FR 26221), the Agency published a notification in the **Federal Register** to consolidate all changes to the Section 538 GRRHP program. Pursuant to 7 CFR part 3565, any changes to the selection and/or scoring criteria or fees charged in subsequent years will be announced in a notification published in the **Federal Register**. Accordingly, this notification replaces the notification published on April 28, 2023 (88 FR 26221), and the correction notification published on July 17, 2023 (88 FR 46047), as the reference for interested parties to follow when submitting GRRHP applications.

Expenses incurred in developing applications will be at the applicant's risk. The following paragraphs outline the eligibility requirements, lender responsibilities, and the overall application processes.

Any future modifications to this notification, including changes to the

selection and/or scoring criteria or fees charged in subsequent years, will be published in the **Federal Register**.

Discussion of Program Updates

The Agency announces the following updates to the GRRHP:

1. The Agency added a new priority scoring criteria related to maturing mortgages in section 514/515 and section 538 joint transactions.

2. The Agency adjusted the priority scoring criteria points.

3. The Agency added a new priority scoring criteria related to waiving the Qualified Contract rights on applications that are funded using Low Income Housing Tax Credits.

4. The Section 538 GRRHP Response Form will now be titled and referred to as the Section 538 GRRHP Response Template. The Section 538 GRRHP Response Template is not required;

however, the Agency encourages applicants to utilize and submit the template along with their complete application to streamline the review process. The template is available on the Agency's Multifamily Housing Loan Guarantees website (<https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-housing-loan-guarantees>) for applicants that choose to utilize it. If the applicant chooses not to use the template, the information is still required to be submitted with the completed application.

5. The Agency is requiring lenders to include the proposed closing date in their application submission.

6. The Agency is requiring lenders to provide information regarding commercial space associated with the property.

7. The Agency is requiring lenders to identify each principal involved in the Section 538 GRRHP transaction in their application submission.

8. The Agency has modified the instructions for initiating the application process.

I. Funding Opportunity Description

The GRRHP program is administered subject to appropriations by the United States Department of Agriculture (USDA) as authorized under section 538 of the Housing Act of 1949, as amended, 42 U.S.C. 1490p–2, and is implemented under 7 CFR part 3565. The Section 538 GRRHP program will continue to follow procedures similar to other RD

guaranteed loan programs and accept applications on a continuous basis.

The purpose of the GRRHP is to increase the supply of affordable rural rental housing using loan guarantees to encourage partnerships between the Agency, private lenders, and public agencies.

Eligibility of Prior Fiscal Year Applications: Prior fiscal year complete applications that were submitted to the Agency but not funded due to lack of available funding will be eligible for review under the current notice without having to submit a new application.

If approved, applications submitted under a previous fiscal year notice will be obligated in the order that the request for obligation was received, to the extent of available funding.

Once the outstanding prior years approved applications have been funded, the Agency will fund applications approved in the current fiscal year in the order by which the request for obligation was received. If funding is insufficient to serve all applications approved in the current fiscal year, they will be funded according to the priority scoring set forth in section V of this notification.

The obligation of program funds is discussed further in section VI of this notification.

II. Award Information

Anyone interested in submitting an application for funding under this program is encouraged to visit the RD website (<https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-housing-loan-guarantees>) periodically for updated information regarding the status of funding authorized for this program.

(1) *Qualifying Properties:* Qualifying properties include new construction for multifamily housing units and the acquisition of existing structures with a minimum per unit rehabilitation expenditure requirement in accordance with 7 CFR 3565.252. This may include the revitalization, repair, and transfer (as stipulated in 7 CFR 3560.406) of existing Section 515 Rural Rental Housing (RRH) and existing Section 514/516 Farm Labor Housing (FLH). The Agency does not finance acquisition only deals.

Transfer costs are subject to Agency approval. All costs must be an eligible use of loan proceeds as listed in 7 CFR 3565.205. Properties involved in the Agency's Multifamily Preservation and Revitalization (MPR) Demonstration are subject to an equity payment, as stipulated in 7 CFR 3560.406(e). In accordance with 7 CFR 3565.252, the property must have a need for repairs of

at least \$6,500 per dwelling unit and must undergo revitalization.

If the transaction includes a transfer of ownership and assumption of loan for a Section 515 RRH property, the complete 538 application and the complete Section 515 RRH transfer of ownership application must be submitted simultaneously, same day, to the Agency. If the complete 538 application is not submitted simultaneously with the Section 515 RRH transfer of ownership application, the 538 application will be rejected and returned to the lender. The lender may resubmit the application when both the complete 538 application and the 515 RRH transfer of ownership application can be submitted simultaneously.

(2) *Eligible Financing Sources:* Any form of Federal, State, and conventional sources of financing can be used in conjunction with the loan guarantee, including HOME Investment Partnerships Program (HOME) grant funds, tax exempt bonds, and Low-Income Housing Tax Credits (LIHTC).

(3) *Types of Guarantees:* The Agency offers three types of guarantees, which are set forth at 7 CFR 3565.52(c). The Agency liability under any guarantee will decrease or increase, in proportion to any decrease or increase in the amount of the unpaid portion of the loan, up to the maximum amount specified in the Loan Note Guarantee. Penalties incurred as a result of default are not covered by any of the program's guarantees. The Agency may provide a lesser guarantee based upon its evaluation of the credit quality of the loan.

(4) *Interest Credit:* There will be no interest credit.

(5) *Program Fees:* The following fees have been determined necessary to cover the projected cost of loan guarantees. These fees may be adjusted based on the Appropriation requirements and in future years to cover the projected costs of loan guarantees in those future years, or additional fees may be charged. Any changes to the program fees will be announced in a notification published in the **Federal Register**. The fees are as follows:

(a) *Initial guarantee fee.* The Agency will charge an initial guarantee fee pursuant to 7 CFR 3565.53(a). For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

(b) *Annual guarantee fee.* An annual guarantee fee based on the outstanding principal amount of the loan as of December 31 will be charged each year

or portion of a year that the guarantee is outstanding, pursuant to 7 CFR 3565.53(b). The guarantee fee is paid in advance.

(c) As permitted under 7 CFR 3565.302(b)(5), there is a non-refundable service fee of \$1,500 for the review of a lender's first request to extend the term of a guarantee commitment beyond its original expiration (the request must be received by the Agency prior to the commitment's expiration). For any subsequent extension request on the same guarantee, the fee will be \$2,500.

(d) As permitted under 7 CFR 3565.302(b)(5), there is a non-refundable service fee of \$3,500 for the review of a lender's first request to reopen an application when a commitment has expired. For any subsequent request to reopen the same application after the commitment has expired, the fee will be \$3,500.

(e) As permitted under 7 CFR 3565.302(b)(4), there is a non-refundable service fee of \$1,500 in connection with a lender's request to approve the transfer of property or a change in composition of the ownership entity.

(f) There is no application fee.

(g) There is no lender application fee for lender approval.

(h) There is no surcharge for the guarantee of construction advances.

The current initial and annual guarantee fees can be found in a notice published in the **Federal Register** (87 FR 12077) on March 3, 2022, at the following website: <https://www.federalregister.gov/documents/2022/03/03/2022-04442/new-fee-structure-for-section-538-guaranteed-rural-rental-housing-program-initial-and-annual>. If changes occur in the fee amounts, the Agency will release those changes through a notice in the **Federal Register** and will provide guidance on how to process the loans which will be impacted by the new fee structure.

III. Lender Eligibility Information

(1) *Eligible Lenders:* An eligible lender for the Section 538 GRRHP as required by 7 CFR 3565.102 must be a licensed business entity or Housing Finance Agency (HFA) in good standing in the State or States where it conducts business. Lender eligibility requirements are contained in 7 CFR 3565.102. Please review that section for a complete list of all the criteria. The Agency will only consider applications from GRRHP eligible, or approved lenders as described in 7 CFR 3565.102 and 3565.103, respectively.

Lenders who do not have GRRHP approved lender status and whose applications are approved will be notified by the Agency to submit a

request for GRRHP lender approval within 30 days of notification. Alternately, lenders may submit a request for GRRHP approved lender status with their project application submission. Lenders who request GRRHP approval must meet the standards in 7 CFR 3565.103. The loan note guarantee will not be issued to lenders that have not been vetted and determined to be eligible by the Agency to participate in the GRRHP programs.

Lenders that have received GRRHP lender approval that remain in good standing in accordance with 7 CFR 3565.105 do not need to reapply for GRRHP lender approval.

(2) *System for Award Management and Unique Entity Identifier:*

(a) At the time of application, each applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR part 25. To register in SAM, entities will be required to obtain a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at <https://sam.gov/content/entity-registration>.

(b) Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which they have an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicant must ensure they complete the Financial Assistance General Representations and Certifications in SAM.

(d) Applicants must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110.

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

Submission of Documentation for GRRHP Lender Approval:

All lenders that have not yet received GRRHP lender approval must submit a complete lender application to: Multifamily Housing Asset Management Division, Branch Chief, Risk and Counterparty Oversight, RDMFH_RCOB_GRRHP@USDA.gov. Lender applications must be identified as “Lender Application—Section 538 Guaranteed Rural Rental Housing Program” in the subject line.

IV. Application Submission Information

Applications will be accepted on a continuous basis. Applications that are deemed eligible for further processing will be funded to the extent an Appropriations Act provides sufficient funding in the fiscal year the application is selected. If funding is not sufficient in any given fiscal year, funding will be provided under the next funding Appropriations Act, subject to the availability of funds. Approved applications are subject to the fee structure in effect when the application is received by the Agency.

(1) To initiate the application process, the applicant must send an email of interest to the RHS Production and Preservation Division at MFH.ProgramSupport@usda.gov. The email message must contain the following information:

a. *Subject line:* Section 538 GRRHP Application Submission

b. *Body of email:* Borrower Name, Project Name, Borrower Contact Information (including address, phone number, email address to receive application submission information) and Project State.

c. *Request language:* “Please provide application submission instructions so that we may submit our Section 538 GRRHP application and supporting documents.”

Application submission instructions will be emailed to all interested respondents supplying valid email addresses within two (2) business days from the date the email of interest is received by the Agency.

(2) All applications require lender information and project specific data as set out in this notification. Complete applications must include a signed cover letter from the lender, on the lender’s letterhead. The lender must provide the requested information as outlined in this notification concerning the property, to establish the purpose of the proposed property, its location, and how it meets the established priorities for funding.

In compliance with Agency guidance to determine the lender’s (participants) eligibility, the Agency is responsible for screening lenders in the Do Not Pay Portal for the following: (1) Credit Alert System (CAIVRS); (2) System for Award Management Entity Registration Records (SAMENT); (3) System for Award Management Exclusion Records-Restricted (SAM-EXCL-RES) and (4) Treasury Offset Program Debt Check (DBCK). If the lender is a non-profit, the Agency will also screen for Internal Revenue Service (IRS) Automatic Revocation of Exemption List (ARL).

Screening will take place when the lender submits a complete application to the Agency. At the time of application, each lender must have an active registration in SAM before submitting its application in accordance with 2 CFR 25.200. To register in SAM, entities will be required to obtain a UEI. Instructions for obtaining the UEI are available at <https://sam.gov/entity-registration>. Further information regarding SAM registration and the UEI can be found in the *Lender Eligibility Information* section of this notification.

Also, as part of the complete application package, the lender must provide a list of all the lender’s principals (in accordance with the definition below) in the organization. This information will be used to screen the lender’s principals in the Do Not Pay Portal for SAM-EXCL-RES at the application stage.

As codified at 2 CFR 180.995, “Principal” is defined as: (a) an officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or (b) a consultant or other person, whether or not employed by the participant or paid with Federal funds, who—(1) is in a position to handle Federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(a) *Lender Certification:* The lender must certify that the lender will make a loan to the prospective borrower for the proposed property, under specified terms and conditions subject to the issuance of the GRRHP guarantee. Lender certification must be on the lender’s letterhead and signed by both the lender and the prospective borrower.

(b) *Project Specific Data:* The lender must submit the project specific data below. For the applicant’s convenience, the Agency has made a Section 538 GRRHP Response Template available on the Agency’s Multifamily Housing Loan Guarantees website (<https://www.rd.usda.gov/programs-services/multifamily-housing-loan-guarantees>) for applicants that choose to utilize it. The template is not required; however, the information is required with a complete application. The Agency encourages applicants to utilize and submit the template along with their complete application to streamline the review process.

| Data element | Information that must be included |
|--|---|
| Lender Name | Insert the lender's name. |
| Lender Tax ID # | Insert lender's tax ID number. |
| Lender Unique Entity Identifier (UEI) | Insert lender's (UEI). |
| Lender Contact Name | Name of the lender contact for loan. |
| Mailing Address | Lender's complete mailing address. |
| Phone # | Phone number for lender contact. |
| Fax # | Insert lender's fax number. |
| E-Mail Address | Insert lender contact e-mail address. |
| List of Lender's Principals | Complete list of all of the lender's principals involved in the transaction. |
| Borrower Name and Organization Type | State whether borrower is a Limited Partnership, Corporation, Indian Tribe, etc. |
| Equal Opportunity Survey | Optional Completion. |
| Tax Classification Type | State whether borrower is for profit or not for profit. |
| Borrower Tax ID # | Insert borrower's tax ID number. |
| Borrower UEI (if applicable) | Insert borrower's UEI. |
| Borrower Address, including County | Borrower's complete address and county. |
| Borrower Phone # and E-Mail Address | Insert borrower's phone number and e-mail address. |
| Principal or Key Member for the Borrower (as defined in 2 CFR 180.995). | Insert name and title. List the general partners if a limited partnership, officers if a corporation or members of a Limited Liability Corporation. |
| Borrower Information and Statement of Housing Development Experience. | Attach relevant information. |
| New Construction, Acquisition with Rehabilitation | State whether the project is new construction or acquisition with rehabilitation. |
| Revitalization, Repair, and Transfer (as stipulated in 7 CFR 3560.406) of Existing Direct Section 515 and Section 514/516 FLH or MPR. | Yes or No (Transfer costs, including equity payments, are subject to Agency approval and must be an eligible use of loan proceeds in 7 CFR 3565.205). |
| Project Location Town or City | Town or city in which the project is located. |
| Project County | County in which the project is located. |
| Project State | State in which the project is located. |
| Project Zip Code | Insert zip code where the project is located. |
| Project Congressional District | Congressional District for project location. |
| Project Name | Insert project name. |
| Project Type | Family, senior (all residents 55 years or older), or mixed. |
| Property Description and Proposed Development Schedule | Provide as an attachment. |
| Total Project Development Cost | Enter amount for total project. |
| # of Units | Insert the number of units in the project. |
| Ratio of 3-5 Bedroom Units to Total Units | Insert percentage of 3-5 bedroom units to total units. |
| Cost Per Unit | Total development cost divided by number of units. |
| Rent | Proposed rent structure. |
| Median Income for Community | Provide median income for the community. |
| Evidence of Site Control | Attach relevant information. |
| Description of any Environmental issues referenced in the Phase I report. | Attach relevant information. |
| Loan Amount | Insert the loan amount. |
| Borrower's Proposed Equity | Insert amount and source. |
| Low Income Housing Tax Credits, if applicable | Have tax credits been awarded? If tax credits were awarded, submit a copy of the award/evidence of award with your application. If not, when do you anticipate an award will be made (announced)? What is the [estimated] value of the tax credits? Letters of application and commitment letters should be included, if available. |
| Low Income Housing Qualified Contract (QC) Waiver Documentation, if applicable. | A document certifying the QC rights have been waived must be included with the complete application if the applicant is seeking priority points for waiver of QC rights. |
| Maturing Mortgage Date of existing Section 515/514/516 Rural Development properties (if applicable). | Include maturity date. |
| Other Sources of Funds | List all funding sources other than tax credits and amounts for each source, type, rates and terms of loans or grant funds. |
| Loan to Total Development Cost | Guaranteed loan divided by the total development costs of project. |
| Debt Coverage Ratio | Net Operating Income divided by debt service payments. |
| Percentage of Guarantee | Percentage guarantee requested. |
| Collateral | Attach relevant information. |
| Colonia, Tribal Lands, or State's Consolidated Plan or State Needs Assessment. | Colonia, on an Indian Reservation, or in a place identified in the State's Consolidated Plan or State Needs Assessment as a high need community for multifamily housing. |
| Is the Property Located in a Federally Declared Disaster Area? | If yes, please provide documentation (e.g., Presidential Declaration document). |
| Population | Provide the population of the county, city, or town where the project is or will be located. |
| What Type of Guarantee is Being Requested, Permanent Only (Option 1), Construction and Permanent (Option 2), or Continuous (Option 3). | Enter the type of guarantee. |
| Loan Term | State repayment and amortization terms (Minimum 25-year term). |

| Data element | Information that must be included |
|---|--|
| Guarantee Fee Structure Designation | Maximum 40-year term (includes construction period). May amortize up to 40 years. Balloon mortgages permitted after the 25th year.) Indicate the Guarantee Fee Structure: Standard Fee. Preservation of 514/515/516. Workforce Housing. Energy Efficient/Green. (Documentation is required). |
| Participation in Energy Efficient Programs | Initial checklist indicating prerequisites to register for participation in a particular energy efficient program. All checklists must be accompanied by a signed affidavit by the project architect stating that the goals are achievable. If property management is certified for green property management, the certification must be provided. |
| Proposed Closing Date | Include the proposed closing date of the Section 538 GRRHP loan. |
| Is commercial space associated with this property? | Indicate Yes or No. |
| If commercial space is associated, please indicate if the Gross Floor (GF) Area exceeds 10% of residential units/common area. | Indicate Yes, No or N/A. (If yes, Agency approval is required). |
| If commercial space is associated with the property, please indicate if the income from the commercial space activity exceeds 10% of the annual operating income. | Indicate Yes, No or N/A. (If yes, Agency approval is required). |

(c) *The Proposed Borrower Information:*

i. In accordance with 2 CFR 180.300, the lender must verify and provide documentation to the Agency that the borrowing entity and the borrowing entity’s principals are not excluded or disqualified; and the lender’s borrower must verify the management agent and the management agent’s principals are not excluded or disqualified by:

- a. Checking SAM Exclusions (<https://sam.gov>); or
- b. Collecting a certification; or
- c. Adding a clause or condition to the covered transaction.

The lender must provide a certification to the Agency that their borrower verified the management agent and the management agent’s principals are not excluded or disqualified.

ii. Borrower’s unaudited or audited financial statements.

(d) *Lender Eligibility and Approval Status:* Evidence that the lender is either an approved lender for the purposes of the GRRHP or that the lender is eligible to apply for approved lender status. The lender’s application package requesting approved lender status can be submitted with the application. If a lender who has not yet been approved by the Agency submits a Section 538 GRRHP complete application, the lender approval application must be submitted to the Multifamily Housing Asset Management Division, Risk and Counterparty Oversight Branch, RDMFH_RCOB_GRRHP@USDA.gov within 30 calendar days of application submission or within 30 calendar days of Agency notification, whichever is later (see SUBMISSION OF DOCUMENTATION FOR GRRHP LENDER APPROVAL above). The Agency will not issue a loan

note guarantee until the lender is approved by the Agency.

(e) *Competitive Criteria:* Information that shows how the proposal is responsive to the priority scoring criteria specified in this notification.

(3) *Content of Application:* The lender must submit a complete application which consists of the following:

(1) *Section 538 GRRHP Response Template.* The project specific data outlined above in section IV (2) (b). For the applicant’s convenience, the Agency has made a Section 538 GRRHP Response Template available on the Agency’s Multifamily Housing Loan Guarantees website (<https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-housing-loan-guarantees>) for applicants that choose to utilize it; however, the template is not required. The Agency encourages applicants to utilize and submit the template along with their complete application to streamline the review process. If the applicant chooses not to use the template, the information is still required to be submitted with the completed application.

(2) *Lender Certification.* The lender’s certification will serve as assurance to the Agency that the borrower, the project, and the proposed financing meet the lender’s standards for loan making. The lender must certify the following on the lender’s letterhead:

- The information contained in the application is consistent with the lender’s underwriting and loan making standards.
- That a current and accurate list of the lender’s Officers and Principals has been provided to the Agency.

- The lender has completed the lender’s review and has identified any significant findings in a narrative attached to the certification.
 - The lender agrees to make a loan to the borrower for the proposed project, subject to the Agency’s issuance of an appropriate guarantee option.
 - The proposed loan amount (for such part of the property attributable to dwelling use) does not exceed the applicable maximum per unit dollar amount limitations under section 207 (c) of the National Housing Act.
 - The owner and development team have the qualifications and experience sufficient to carry out development, management, and ownership responsibilities.
 - If the lender is applying for a continuous guarantee, the project has the appropriate low loan-to-cost ratio as determined by the Agency [7 CFR 3565.52(c)(3)].
 - The property is located in an eligible rural area.
 - The lender has conducted due diligence and the results have been taken into consideration in the appraisal.
 - The lender has reviewed and approved the management plan and agreement and confirmed that they are consistent with Agency requirements.
 - The construction meets basic construction requirements.
- (3) *Exhibits and Supporting Information.* Forms to be included in the application package:
- Form RD 3565–1, Application for Loan and Guarantee.
 - Form RD 3565–3, Lender’s Agreement.
 - RD Instruction 1940–Q, Exhibit A–2, Statement for Loan Guarantees.

- Attachment 4–D, Housing Allowances for Utilities and Other Public Services.
- Form RD 1944–37, Previous Participation Certification.
- Form RD 3560–30, Certification of No Identity of Interest (IOI), if applicable.
- Form RD 3560–31, Identity of Interest Disclosure/Qualification Certification, if applicable.
- Form RD 1910–11, Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts.
- FEMA Form 086–0–32, Special Flood Hazard Determination (7 CFR 3565.254).
- Form RD 1924–13, Estimate and Certificate of Actual Cost.
- Form RD 400–4, Assurance Agreement.
- Form RD 1924–25, Plan Certification Form.
- Form RD 400–1, Equal Opportunity Agreement.
- Form RD 400–6, Compliance Statement.

(4) *Other Required Supporting Information:*

- (i) Borrower information:
 - Financial statements with certification(s) (newly formed entities applying for a construction/permanent guarantee do not need to provide financial statements at the time of application).
 - Credit report for the entity and any guarantor.
 - Proposed limited partnership agreement and certificate of limited partnership (if applicable). Agency requirements should be contained in one section of the agreement and their location identified by the borrower or their attorney in a cover sheet.
 - If a corporate entity, its Articles of Organization and its Operating Agreement.
- (ii) If the borrower is a nonprofit organization:
 - Tax-exempt ruling from the IRS designating them as a 501(c)(3) or 501(c)(4) organization. If the designation is pending, a copy of the designation request must be submitted.
 - Evidence of organization under State law or copies of pending applications.
 - A list of board members.
- (iii) If the borrower is a public body:
 - The enabling statute or the State law of organization.
- (iv) Project Information:
 - An application fee, if required by the Agency.
 - An appraisal.
 - A market study. Contents of the market study should include, at a minimum, the following information:

1. A complete description of the proposed site, including location of the land, location of services, and their distances from the site.
2. Major employment data including: the name, location, and date of establishment of any major employers within the community; the product or service of each employer; the number of employees and salary range for each employer; and business permits issued per year for the last three years.
3. Population by year, number, and total, plus the annual increase/decrease and percentage.
4. Population characteristics by age.
5. Household data by number, year, and number of persons per household.
6. Breakdown of households by owners and renters.
7. Households by income group.
8. Building permits issued per year for single and multiple unit dwellings.
9. Housing stock as defined by total number of units: one unit buildings, two or more unit buildings, mobile homes, and the number of these lacking some, or all, plumbing facilities (substandard housing).
10. A survey of existing rental housing including: name, number of units, bedroom mix, family or elderly type, year built, rent, vacancies, location, and amenities.
11. Number of rent-overburdened households.
12. A projection of housing demand based on:
 - (a) Household growth.
 - (b) Units constructed since the last census.
 - (c) Number of owned and rented units.
 - (d) Number of replacements.
 - (e) Number of persons in the eligible income range.
13. For proposals where the applicant is requesting low-income housing tax credits (LIHTC), the applicant must provide the number of LIHTC units and the maximum LIHTC incomes and rents by unit size. This information will determine the levels of incomes in the market area which will support the basic rents while also qualifying the borrower for tax credits.
 - Project information including project name, location, number and type of units, the development team, property manager, lawyer, and syndicator. The development team includes the developer (including all principals), architect, and contractor.
 - Capital Needs Assessment (for rehabilitation loans only). Does the Capital Needs Assessment and Capital Improvement Plan call for a replacement reserve escrow that meets or exceeds the \$1,000/unit threshold by

- year three? If not, document underwriting explanation (7 CFR 3565.254(b)(4)). Include a Reserve for Replacement schedule.
- State Clearinghouse comments or recommendations.
 - Site plan, including contour lines.
 - Plot plan.
 - Floor plan of each living unit type and other type spaces.
 - Building exterior elevations.
 - FEMA Form 086–0–33, Elevation Certificate.
 - Typical building exterior wall section.
 - Description and justification of any related facilities and schedule of separate charges for related facilities, if any.
 - Design development/working plans/construction specifications. Plans, specifications, and estimates must fully describe all of the work to be completed, including all landscaping, construction, repairs, and site development work. The plans must be clear and accurate with adequate dimensions and sufficient scale for estimating purposes.
 - Technical data, tests, or engineering evaluations needed to support the design of the development must be included.
- (v) Property Management Information:
- Management plan and proposed management agreement.
 - Details for managing a project with scattered sites (if applicable).
 - Procedures for determining applicant eligibility.
 - Demonstrated capacity to manage the unique leasing occupancy restrictions of the guaranteed program.
 - Description of rent collection; lease provisions covering termination and eviction; copy of tenant protection and grievance procedures to tenants.
 - Description of security plan.
 - Plans for maintenance, repair, replacement, and tenant work requests.
 - Detailed compliance with Federal, Tribal, and State environmental laws.
 - Description of energy conservation measures including recycling.
 - Detailed management and maintenance staffing plans.
 - Information on staff training programs.
 - Statement confirming that the management plan includes provision for access to project's books and records by USDA staff, USDA—Office of Inspector General, Government Accountability Office, and the Department of Justice; information on accounting, record keeping, data systems, and software. (7 CFR 3565.351 (a)(7)).
 - Qualifications of the property manager.
- (vi) Contractor Information:

□ Demonstrated experience of the general contractor in building multifamily housing of the size design, scope, and complexity of the project. Note any exceptions.

(vii) Financing Information:

□ Lender's conditional commitment on the lender's letterhead with lender's signature specifying the GRRHP option under which the project loan is to be guaranteed.

□ Sources and uses, pro forma statement or a comparable document.

□ Lender's narrative. Must include the following information:

- Summary of Loan Request
- Financing Terms/Commitment
- Specify how the loan is classified:
 - Existing property (7 CFR 3565.252)
 - 515 Rehab
 - New construction (7 CFR 3565.252)
- Confirm property is located in an eligible rural area (7 CFR 3565.3 and 3565.251)
 - General site requirements (7 CFR 3565.254)
 - General site standards (7 CFR 3565.254)
- Borrower/Sponsor's Qualifications
- Property History
- Site/Area/Neighborhood Analysis
- Improvements/Physical Needs
- Environmental Issues
- Review of Market Analysis
- Review of Market Appraisal
- Income/Expense Pro forma
- Valuation
- Management Review. The following are examples of documentation which can be submitted to the Agency to establish evidence of the management agency's experience:

- Name of the Management Entity.
- Management Entity Type (Owner/Manager; Independent Fee Agent; Identity-of-Interest Agent; or Project Administrator).
- Employer Identification Number (EIN).
- Specify Organization Type (Corporation; Partnership; Individual; or Other).

○ Names, titles and Social Security Numbers of firm's principals (*e.g.*, general partner, president, treasurer, etc.).

○ Provide mailing addresses for the Company's home office and if applicable, any branch offices involved in management of the Department of Housing and Urban Development (HUD) or other affordable multifamily projects. Specify the geographic area covered by each office.

○ If applicable, what year (yyyy) did the company begin managing: HUD or other affordable subsidized projects; HUD or other affordable unsubsidized projects; and/or Conventional projects.

○ If applicable, estimate what percent of company's activities involve management of: Conventional projects; HUD or other affordable projects; Commercial space; and/or Other.

○ If applicable, the number of projects the company manages (both rentals and cooperatives): HUD or other affordable unsubsidized housing; HUD or other affordable subsidized housing; and/or HUD or other affordable owned housing. Of these, how many have HUD or other affordable housing held mortgages; are non-insured; are subsidized co-ops; are unsubsidized co-ops and the percentage of elderly; family; owned by a non-profit or coop; core city; troubled neighborhood; suburban and rural area.

○ Indicate where each of the following activities are administered. Use the following codes: C = central office; R = regional office; P = project site: Bookkeeping; landscaping; maintenance; purchasing; tenant application; certification/recertifications; regular monthly subsidy billings; and special claims subsidy billings.

○ Number of the company's full-time employees serving in the following supervisory or advisory roles (Owner-managers and administrators of projects for the elderly should provide this information on project employees): Engineers; maintenance supervisors; occupancy supervisors; training specialists; social service coordinators; regional property managers; indicate number and percentage of minorities serving in supervisory or advisory roles.

○ Identify any professional memberships, licenses, certificates or accreditations which are related to property management activities and are held by the company, company executives, or employees.

○ Describe any purchasing procedures you have implemented to control or reduce cost (*e.g.*, bulk purchasing, paying early to take advantage of discounts, cost comparisons or bids, etc.).

○ List any companies which regularly supply goods or services to federally funded projects and have an identity-of-interest with the management entity or its principals (*e.g.*, officers, general partners). Specify the type of goods and services provided.

○ Do any of the identity-of-interest companies listed function as "pass-throughs"—*i.e.*, does the identity-of-interest company purchase goods or services from another party and pass those goods or services through to the project? For each pass-through arrangement:

(1) Name the identity-of-interest company involved.

(2) Explain how the identity-of-interest company's compensation is determined.

(3) Explain why it is more advantageous for the project to use the pass-through arrangement than to purchase directly from the ultimate supplier.

○ What types of property management procedures or operating manuals are used by on-site or supervisory staff?

○ What types of recurring written reports are prepared on project operations (*e.g.*, maintenance, move-in/out, payables, comparisons of budgeted and actual expenses)? Specify who (by position title) prepares the report, frequency of the report, and who reviews the report.

○ Specify how frequently company executives or supervisory staff visit the projects the company manages and who (by position title) conducts the on-site visits or reviews.

○ If the company manages subsidized projects, identify by job title who prepares and reviews the HUD (or other affordable housing) required documents and the frequency of their review for the following: HUD's (or other affordable housing) Initial Certifications; Recertifications; Regular Monthly Subsidy Billings; Special Claims Subsidy Billings; Proposals to terminate tenant assistance payments; Proposals to evict; Monthly Accounting Reports; and Civil Rights Tenant Characteristics/Occupancy Reports.

○ If applicable, describe how the home office supervises supervisory staff (*e.g.*, property managers, occupancy specialists, maintenance supervisors), who operate out of branch offices.

○ Describe how the company trains its employees in the areas listed below. Discuss both on-going training and initial training provided when the employee is hired. Specify the frequency and duration of the training and who/what organization conducts the training. Discuss training for both supervisory and front-line staff for the following: Property management practices; Financial and recordkeeping requirements; Civil rights and fair housing laws; and Occupancy Requirements of Subsidized Multifamily Housing Programs (if the company manages subsidized projects).

○ If applicable, specify if an owner of a HUD-related project or other affordable housing project, at any time during the past three years, cancelled a property management contract held by the company and identify during the past three years, how many HUD-related

projects or other affordable housing projects have not renewed their management contracts with the company (Explain the reasons for any cancellations or failure to renew and identify the projects involved).

- If applicable, provide a list of all HUD Field Offices that have jurisdiction over the projects. For companies that operate in more than five Field Office jurisdictions, identify the five jurisdictions where the greatest number of your HUD-related projects are located.

- List all State Agencies in whose jurisdiction you have managed or are managing State Agency-financed projects. For companies that operate in more than five States, identify the five where the greatest number of your State Agency projects are located.

- List the location of all RD properties you have managed or are managing. For companies that operate in more than five RD jurisdictions, identify the five where the greatest number of your RD properties are located.

- A copy of the pro forma budget detailing the first year and a typical year's operation. (Pro formas with and without the interest credit award will serve as justification for the interest credit award, if applicable.)

- Disclosure of any change in financing since application submission.

- Type of utilities and utility allowances, if applicable.

- Confirm that Operating and Maintenance (O&M) Reserve is at least two percent of the total loan amount (not just guaranteed portion). Calculation of O&M reserve for congregate care facilities and larger projects should reflect absorption rates in the market study to cover shortfalls between estimated operating budget calculations and rent-up assumptions. Funds contributed as O&M reserves are contributed from the borrower's own resources or an irrevocable letter of credit and are not to be included as part of the total development cost calculation. (7 CFR 3565.402 (a)(2))

- Confirm that the construction contingency is equal to two percent of the construction contract, inclusive of the contractor's fee and hard and soft costs. This is to be funded at or prior to closing by the contractor (7 CFR 3565.402 (a)(2)).

- Provide evidence of adequate insurance for the property (7 CFR 3565.351).

- Interest Credit Request, if applicable.

Environmental Information:

- Most current version of the ASTM Standard E 1528–14, Phase I

Environmental Site Assessment Process published by the American Society for Testing and Materials (ASTM).

- Environmental Information in accordance with 7 CFR part 1970 (Environmental Policies and Procedures).

- Statement from the State Historic Preservation Office (SHPO) indicating compliance with historic and architectural laws, if applicable.

- Comments regarding relevant off-site conditions.

- Land survey.

Legal and Regulatory Items:

- Standard Regulatory Agreement approved by the Agency (7 CFR 3565.303(d)(9) and (11), or

- Non-Standard Regulatory Agreement(s) containing provisions for transferability between lenders, binding on the borrower and their successors (7 CFR 3565.351(a)) and requiring that the borrower: make all principal and interest payments under the note, maintain the property as affordable housing in good physical condition; maintain complete project books and records; and comply with all Federal Fair Housing requirements under the terms of the note (7 CFR 3565.351(a)).

- For new construction projects that have five or more rental units, an Affirmative Fair Housing Marketing Plan (AFHMP) as defined in 24 CFR part 200, subpart M, is required to be submitted. Federally recognized Tribes and Tribally Designated Housing Entities (TDHE) are excluded when the project is located on tribal land.

- Rehabilitation/preservation transactions must submit confirmation in writing that the borrower is in compliance with the Affirmative Fair Housing Marketing Plan (7 CFR 3565.353).

- Certification from the lender verifying the use of security instruments prepared, executed, recorded and/or delivered per program guidelines and in compliance with the terms of the conditional commitment.

- Certification from the lender verifying the use of the construction contract based on standard AIA Document A–101. If this document is used, it should be modified as described in Form RD 1924–25 or similar form.

- Certification from the lender verifying the use of contract specifications, documents and forms. Use Form RD 1924–6 “Construction Contract” or similar document as required by Executive Order 11246, Non-Discrimination in Employment by Construction Contractors.

V. Application Review Information

(1) *Scoring of Priority Criteria for Selection:* Complete applications received will be scored based on the criteria set forth below to establish priority in the event there is insufficient funding. Per 7 CFR 3565.5(b), priority will be given to projects in rural areas in which borrowers can best utilize loan guarantees and where loan guarantees are needed the most, as determined by the Agency based on information the Secretary considers appropriate. To meet important program goals, priority points will be given for projects that qualify for reduced annual fees, including workforce housing, section 515 or section 514/516 preservation and green and energy efficient housing projects as permitted in 7 CFR 3565.5(b).

The priority scoring criteria for projects are listed below.

Priority 1—Properties located in eligible rural communities with the lowest populations. One point is awarded if the city or town population is under 10,000 people.

Priority 2—Properties in the most-needy communities. One point is awarded if the property is located in a persistent poverty county as defined by the USDA Economic Research Service.

Priority 3—Properties that demonstrate partnering and leveraging of third-party funding. One point is awarded if the loan to total development cost ratio is less than 50%.

Priority 4—Properties with the highest ratio of 3–5 bedroom units to total units. One point is awarded if the ratio of 3–5 bedroom units to total units is 25% or more.

Priority 5—Properties on tribal land. One point is awarded if the property is located on tribal land.

Priority 6—Properties with a lower Section 538 guaranteed loan interest rate. One point is awarded if the interest rate is equal to or less than 130% of the long-term annual applicable Federal rate (AFR Table 1) at the time of application submission to the Agency.

Priority 7—Properties determined eligible for reduced annual section 538 fees under the **Federal Register** notice published on March 3, 2022 (87 FR 12077). One point awarded for each of the criteria met for reduced annual fees: (1) Workforce Housing (Rents Between 80%–115% Area Median Income), or (2) Preservation of Existing Section 515 and Section 514/516 Rural Development Properties, or (3) Section 538 New Construction or Substantial Rehabilitation Meeting Green or Energy Efficiency Requirements. Projects will be held to the standards and

requirements for the selected energy program that were in effect at the time the application was submitted to the Agency.

Priority 8—Energy consumption performance. One point will be awarded if the lender obtains the borrower's agreement to enroll in the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager and document and report energy consumption for the property to the Agency. Along with the collection of the borrower's annual reports (outlined in 7 CFR 3565.351), to obtain the priority points the lender must collect the Statement of Energy Performance (SEP) report from the borrower and submit it to the Agency for review. This will allow the Agency to track the energy consumption performance of the property. Borrowers may access the EPA's ENERGY STAR Portfolio Manager software at no cost.

Priority 9—Projects that include Low Income Housing Tax Credits financing that have waived or will waive their Qualified Contract Rights. Twelve points will be awarded to projects that include LIHTC financing in which the owner has agreed to waive the Qualified Contract rights. A document certifying that the rights have been waived must be included with the complete application.

Priority 10—Projects that have or are assuming section 514/515 loans that will naturally mature within three years from application submission will receive one point.

Priority 11—Projects Providing Access to Supportive Services for Tenants. One point will be awarded to projects that employ a Service Coordinator, documented as a project expense in the most recent agency-approved Form RD 3560–7 Multifamily Housing Project Budget/Utility Allowance, or include units designated as permanent supportive units or for homeless households, documented by an agreement with another Federal or State funding source. To receive points, the applicant must describe the basis for claiming points (*i.e.*, service coordinator and/or permanent supportive housing/homeless unit set-aside) and provide documentation to include the Form 3560–7 and/or an agreement describing the terms and conditions for the units designated as permanent supportive housing or for homeless households, as applicable.

If there is insufficient funding available to fund all approved projects and projects have equal scores based on the priority criteria, the Agency will rank the tied projects based on the scores for Priority 7. If there is still a tie,

the Agency will obligate funds in the order in which the applications were approved by the Agency.

(2) **Notifications:** Applications will be reviewed concurrently for completeness and eligibility. The Agency will notify the lender generally within 30 days of receipt of a complete application. Incomplete applications, which includes supporting documentation, will be returned to the lender. The lender may reapply in the future with a new and complete application.

VI. Award Administration Information

(1) **Obligation of Program Funds:** The Agency will only obligate funds to projects that meet the requirements under 7 CFR part 3565 and this notification that have submitted a complete application and have undergone a satisfactory environmental review in accordance with the National Environmental Protection Act (NEPA). If there is sufficient funding, once a complete application is received and approved (and any request for GRRHP approved lender status is granted), the Agency will obligate funds. The Agency considers the program to have insufficient funds when the program's annually appropriated funding amount has 10% (ten percent) or less remaining. If there is insufficient funding, the Agency will review the scores for each approved project and rank them accordingly. As funding becomes available, funding for approved projects will be obligated based on the rankings from high to low scores as described in section V. (Application Review Information).

In the event that the Agency suspends the ability to receive applications until sufficient funding becomes available, a notice will be made to the industry via GovDelivery and/or some other form of acceptable electronic notice.

(2) **Conditional Commitment:** Once the required documents for obligation are received and all applicable requirements have been met, including NEPA requirements, and to the extent funding is available, the Agency will issue a Conditional Commitment. The Conditional Commitment will stipulate the conditions that must be fulfilled before the issuance of a guarantee, in accordance with 7 CFR 3565.303(b).

A Conditional Commitment must be issued by the Agency before any construction begins on the project. Drawings (plans) and specifications for building construction must be submitted to the Agency and concurred by the Agency before any construction begins on the project. Applicants are reminded that in accordance with 7 CFR 3565.206(g), refinancing of an existing

debt is not an eligible use of Section 538 GRRHP loan funds, except in the case of an existing guaranteed loan where the Agency determines that the refinancing is in the government's interest or furthers the objectives of the program.

(3) **Issuance of Guarantee:** The Agency will issue a guarantee to the lender for a property in accordance with 7 CFR 3565.303. No guarantee can be issued without a complete application, review of appropriate certifications, satisfactory assessment of the appropriate level of environmental review, and the completion of any conditional requirements.

(4) **Tracking of Average Rents:** After the loan closes, the lender will track the initial affordable rent at each property funded and the average market rent in the area. The difference between these two rents will provide the lender with a measure of the impact the GRRHP has on affordable rents.

Build America, Buy America

Funding to Non-Federal Entities. Awardees that are Non-Federal Entities, defined pursuant to 2 CFR 200.1 as any State, local government, Indian Tribe, Institution of Higher Education, or nonprofit organization, shall be governed by the requirements of section 70914 of the Build America, Buy America Act (BABAA) within the Infrastructure Investment and Jobs Act (Pub. L. 117–58), and its implementing regulations at 2 CFR part 184. Any requests for waiver of these requirements must be submitted pursuant to USDA's guidance available online at <https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver>.

Non-Discrimination Statement

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

Program information may be made available in languages other than

English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf> from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) *Mail*: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410;
 - (2) *Fax*: (202) 690-7442; or
 - (3) *Email*: program.intake@usda.gov.
- USDA is an equal opportunity provider, employer, and lender.

Yvonne Hsu,

Acting Administrator, Rural Housing Service.

[FR Doc. 2024-30330 Filed 12-19-24; 8:45 am]

BILLING CODE 3410-XV-P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age; Missing Participants Mortality Assumption

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2025. This table is needed to compute the value of early retirement benefits and, thus, the total value of benefits under a plan. This rule

also provides the mortality assumption for use with PBGC's missing participants program for determination dates in 2025.

DATES: This rule is effective January 1, 2025.

FOR FURTHER INFORMATION CONTACT:

Hilary Duke (duke.hilary@pbgc.gov), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101, 202-229-3839. If you are deaf or hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Background

The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under title IV. Guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with subpart B of part 4044. In addition, when PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Expected Retirement Age Low, Medium, High Tables

Under § 4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.58 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Section 4044.58 contains tables to be used in determining the expected early retirement ages.¹

Table I to § 4044.58 (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of

¹ In June 2024, PBGC issued a final rule at 89 FR 48291 updating the interest, mortality, and expense assumptions used to determine the present value of a single-employer plan's benefits when it terminates in a distress or involuntary termination. This rule moved the expected retirement ages tables from Appendix D in part 4044 to § 4044.58.

retiring early. The determination is based on the year a participant would reach "unreduced retirement age" (URA) (i.e., the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at the unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by PBGC to reflect changes in the cost of living.

Tables II-A, II-B, and II-C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends § 4044.58 to replace Table I-24 with Table I-25 to provide an updated correlation, appropriate for calendar year 2025, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I-25 will be used to value benefits in plans with valuation dates during calendar year 2025.

Missing Participants Mortality Assumptions

PBGC's regulation on Missing Participants (29 CFR part 4050) provides that the mortality assumption used to determine certain amounts to be transferred on behalf of a missing participant from a terminating defined benefit plan to PBGC is the mortality table in § 4044.53(h). The table currently provides the mortality assumption only for benefit determination dates on July 31² and later in 2024. This rule updates the table to provide the mortality assumption for benefit determination dates in 2025.

Compliance With Regulatory Requirements

PBGC has determined that notice of, and public comment on, this rule are impracticable, unnecessary, and contrary to the public interest. PBGC's update of § 4044.58 and § 4044.53(h) for calendar year 2025 are routine. If a plan has a valuation date in 2025, the plan administrator needs the updated table in

² PBGC's June 2024 final rule does not apply to calculations where the valuation date is before July 31, 2024.