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DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

FIELD OFFICE HANDBOOK

United States Department of Agriculture
Rural Development
Rural Housing Service
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GLOSSARY

ACRONYMS USED IN THIS HANDBOOK

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CHAPTER 1: OVERVIEW

SECTION 1: INTRODUCTION TO THE FIELD OFFICE HANDBOOK

1.1 WELCOME TO THE FIELD OFFICE HANDBOOK

This handbook provides Agency staff with the tools needed to originate loans efficiently and effectively. Its goal is to help Loan Originators and Loan Approval Officials in Field Offices move applicants through the origination process smoothly, while making sure that basic legal and administrative requirements are met. The handbook:

- Describes loan processing policies and establishes procedures for originating Section 502 direct loans and Section 504 loans and grants;
- Provides policies and procedures for managing and disposing of Real Estate Owned (REO) properties; and
- Describes, in general terms, the role of the Centralized Servicing Center (CSC) and provides guidance for conducting servicing activities in which the Field Office may be involved.

The guidance provided by this handbook is intended to be consistent with all applicable laws, Executive Orders, and Departmental regulations, including other Agency regulations. Nothing contained in this handbook should be construed to supersede, rescind, or otherwise amend such laws, Executive Orders, and regulations.

1.2 USING THIS HANDBOOK

The handbook is organized to allow the reader to look up information on specific topics easily. New staff may want to read the handbook in its entirety, while more experienced staff may use it as a reference book. Several graphic tools and conventions have been used to make information easier to find and understand.

A. Handbook Symbols

- **References.** The book symbol directs the reader to additional information sources, such as laws, regulations, or instructions.

- **State Supplements.** State and local laws and the laws of Federally-recognized tribes may affect how Agency requirements are implemented. Topics commonly affected by such laws include the treatment of liens, construction requirements, and environmental policies. The United States symbol denotes subjects for which further instructions may be issued through State Supplements which will be filed in Appendix 7 or for which individual State laws are likely to be particularly relevant.

- **Civil rights.** The fair housing symbol highlights processing procedures with significant fair housing or civil rights implications.

- **Deadlines.** Time frames for completing required actions are underlined to make them easier to locate, for example: "within 7 days." Unless the text specifies business days, all references to days are in terms of calendar days.

- **Documentation.** The notepad symbol highlights key activities or information that must be carefully documented.

B. Citations and Text Boxes

- **Regulatory citations.** The regulation for the direct single family housing program is provided in 7 CFR Part 3550. The text of that regulation is provided in Appendix 1. To help readers locate the regulatory authority for procedures described here, references to this regulation appear in italicized brackets, for example: *[7 CFR 3550.55]*. Other regulations or RD instructions are simply referenced.

- **Form references.** Agency forms and Agency guide, form, and system letters are shown in *italics.* All forms referenced in this handbook can be found in Appendix 2 and all letters can be found in Appendix 3.

- **Helpful hints.** Helpful hints, cautions or important facts are included in boxes throughout the text and shown with the string around the finger symbol.

Examples and exhibits. Text boxes labeled as examples or exhibits provide a specific illustration of a concept described in the text or provide additional detailed information. Exhibits are numbered in sequence, using the chapter number; for example, Exhibit 3-1 is the first exhibit in Chapter 3. Examples are used when the text box is inserted adjacent to the relevant text and is not referenced. Exhibits are used when the text refers to the text box.

C. Attachments and Appendices

- **Glossary and acronyms lists.** Key words and terms are defined in the glossary. A list of acronyms is also provided at the end of the handbook. The glossary and acronyms list can be found at the end of the handbook text.

- **Attachments.** Attachments at the end of each chapter contain technical information that is specific to the topics covered in the chapter. Attachments are referenced in sequence, using the chapter number and a letter, for example, Attachment 4-A is the first attachment in Chapter 4.

- **Appendices.** Appendices at the end of the handbook include forms and other reference materials that relate to multiple chapters.

D. Terminology

Because terminology may vary from State to State and change over time, this handbook uses certain standard terminology to provide consistency.

- **Agency.** The term “Agency” is used throughout this handbook to refer to the organizational unit within the United States Department of Agriculture (USDA) that is responsible for administration of the direct single family housing program.

- **Field Office.** Because the number of offices and the nature of the work conducted in each office may vary from State to State, the term “Field Office” is used throughout this handbook to refer to the office that is originating the loan.

- **Loan Originator and Loan Approval Official.** “Loan Originator” refers to a person who is working directly with an applicant and conducting the basic underwriting analysis. “Loan Approval Official” is used whenever someone other than the Loan Originator must approve an action. Unless otherwise specified, each State Director may determine which actions may be approved at the Field Office and which must be approved at the State Office.

- **Field Staff and Approval Official.** These terms refer to a person who is completing tasks for purposes other than originating a loan and is located in the field.

- **CSC or Servicing Center** These terms are used to refer to individuals in the Centralized Servicing Center.

- **Applicant.** The term “applicant” refers to one or more individuals who have applied for Agency assistance.

- **Borrower.** The term “borrower” refers to one or more individuals who are receiving Agency assistance.

SECTION 2: OVERVIEW OF THE DIRECT SINGLE FAMILY HOUSING PROGRAM

1.3 GOALS OF THE DIRECT SINGLE FAMILY HOUSING PROGRAM

The purpose of the direct single family housing program is to provide low- and very low-income people the opportunity to own adequate, modest, decent, safe, and sanitary homes in rural areas. In providing this service, the Agency strives to meet several goals.

- **Customer service.** The Agency is committed to providing customer-friendly, streamlined service.

- **Partnerships.** Working with partners, such as private lenders, nonprofit organizations, and State and local agencies, can enhance the Agency's ability to serve more borrowers.

- **Effective use of resources.** As a publicly-funded program, the direct single family housing program must use tax dollars efficiently. The Agency aims to minimize administrative costs, underwrite loans responsibly, and leverage funding with private sources of credit to the extent possible.

1.4 SECTION 502 -- AN OVERVIEW

A. Program Loans

The Section 502 direct loan program is intended to provide very low- and low-income people with the opportunity to acquire, build, rehabilitate, improve or relocate dwellings in rural areas. The standard term for a Section 502 loan is 33 years. However, loans may be made for a shorter term, and in certain cases for 38 years. Each loan is made at a note rate established by the Agency under § 501 of the Housing Act of 1949, as amended, and outlined in RD Instruction 440.1. Payment subsidies are available to some borrowers to reduce monthly loan payments. In summary, to be eligible for a Section 502 loan, applicants must:

- Have an adjusted income that is at or below the applicable low-income limit at loan approval, (except for assumed loans or loans to purchase Real Estate Owned (REO) property).

- Have an adjusted income that is at or below the applicable moderate-income limit for assumed loans or loans to purchase an REO property.

- Be unable to obtain sufficient credit from another source;
- Agree to personally occupy the dwelling;
- Meet citizenship or eligible noncitizen requirements;
- Have the legal capacity to incur a loan obligation and not be suspended or debarred from participation in Federal programs; and
- Demonstrate both the willingness and ability to repay the loan.

Detailed procedures for processing Section 502 loans are provided in Chapter 2 through Chapter 11.

B. Nonprogram Loans

The Agency may provide credit on nonprogram terms to expedite the assumption of an existing program loan or purchase of an REO property by a borrower who is not eligible for the Section 502 program. Nonprogram loans are originated only when it is in the best interest of the Government. Nonprogram loans are discussed in detail in Chapter 11.

C. Demonstration Programs *(7 CFR 3550.7)*

The Agency may implement Demonstration Programs to meet the overall objectives of the Section 502 program which are outside the guidelines of this Handbook or published regulations. Demonstration Programs may be initiated internally or may be required by legislation. The Rural Housing Demonstration Program is discussed in Appendix 15.

1.5 SECTION 504 -- AN OVERVIEW

The Section 504 direct loan and grant program is intended to provide funds to homeowners who cannot obtain other credit to repair or rehabilitate their properties. To be eligible, the applicant must have adjusted income that is at or below the applicable very low-income limit and meet other eligibility requirements similar to those for Section 502 loans.

The Section 504 program offers grants to correct health and safety hazards for homeowners 62 years of age and older who cannot obtain a loan for this purpose. Detailed guidance on originating Section 504 loans and grants is provided in Chapter 12.

A. Section 504 Grants

Grant funds may be used only to make repairs and improvements that will remove identified health and safety hazards or to repair or remodel dwellings to make them accessible and useable for household members with disabilities. Grants are available only to eligible applicants who are 62 years of age or older. Recipients may receive multiple grants, up to a lifetime maximum of $7,500.

B. Section 504 Loans

Loan funds may be used to make general repairs and improvements to properties, and to remove health and safety hazards. Applicants may obtain multiple Section 504 loans, but the sum of the outstanding balance on all Section 504 loans can not exceed $20,000. The loans have a maximum term of 20 years and an interest rate of 1 percent.

1.6 LOAN SERVICING

Once loans are closed and the final disbursement has been made, they are serviced by CSC, located in St. Louis, Missouri. CSC handles payments from the borrower, maintains escrow accounts for taxes and insurance, and provides counseling to past-due borrowers. When necessary, CSC initiates action to liquidate borrower accounts. Borrowers who are unable to repay their loans may be eligible for a variety of special servicing actions such as delinquency workout agreements and payment moratoriums. Field Offices will be asked to assist with servicing actions when a local presence is needed. Field Office servicing functions are described in Chapter 13.

1.7 SECTION 306C WATER AND WASTE DISPOSAL (WWD) GRANTS TO INDIVIDUALS

Applicants may also be eligible to receive a Section 306C WWD grant if the applicant is a resident of a colonia located in a rural area and meets the other program requirements. The objective of this program is to facilitate the use of community and/or waste disposal systems. Appendix 8 provides information on the Section 306C WWD program.

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SECTION 3: GENERAL PROGRAM REQUIREMENTS

1.8 CIVIL RIGHTS *[7 CFR 3550.3]*

The Agency will administer its programs fairly and in accordance with both the letter and the spirit of all equal opportunity and fair housing legislation and applicable Executive Orders. The civil rights compliance requirements for the Agency are contained in RD Instruction 1901-E. Exhibit 1-1 lists the applicable Federal laws and executive orders and highlights key aspects of these requirements.

Exhibit 1-1

Major Civil Rights Laws Affecting the Direct Single Family Loan Program

- **Equal Credit Opportunity Act (ECOA).** Prohibits discrimination in the extension of credit on the basis of race, color, religion, national origin, sex, marital status, age, income from public assistance and exercise of rights under the Consumer Protection Act.
- **Title VI of the Civil Rights Act of 1964.** Prohibits discrimination in a Federally-assisted program on the basis of race, color, and national origin.
- **Title VIII of the Civil Rights Act of 1968** (also known as the Fair Housing Act of 1988, as amended). Prohibits discrimination in the sale, rental or financing of housing on the basis of race, color, religion, sex, national origin, familial status, or disability.
- **Section 504 of the Rehabilitation Act of 1973.** Prohibits discrimination in a Federally-conducted program on the basis of disability.
- **Age Discrimination Act of 1975.** Prohibits discrimination in a Federally-assisted program on the basis of age.
- **Executive Order 11063 as Amended by 12259.** Prohibits discrimination in housing or residential property financing to any Federal-assisted activity against individuals on the basis of race, color, religion, sex, or national origin.
- **Executive Order 11246.** Nondiscrimination in employment by construction contractors (and subcontractors) receiving Federally-assisted construction contracts in excess of $10,000. It provides for equal employment opportunity without regard to race, color, religion, sex, and national origin.

A. Nondiscrimination

The various civil rights laws prohibit the denial of loans, grants, services, and benefits provided under the Section 502 and 504 programs to any person based upon race, color, national origin, sex, religion, marital status, familial status, age, physical or mental disability, source of income, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1601). Discrimination in employment practices also is prohibited.

Effective management and consistent procedures are good business practices that help ensure that all applicants are treated fairly. Poor program implementation, whether or not discrimination is intended, has possible civil rights consequences.

Key Civil Rights Issues for Loan Origination

- Access
- Consistency and fairness of treatment
- Disparate impacts -- intended or unintended
- Record keeping

In the loan origination process, attention to consistent procedures is especially important in several key areas, which are listed below.

- **Outreach.** Information about the availability of the program and how to apply must be broadly disseminated and the extent of the information, assistance, and courtesy extended to those who make inquiries must be consistent.

- **Application-taking procedures.** Application-taking procedures must be fair and accessible to all potential applicants.

- **Determining eligibility.** Loan Originators must use equal rigor for all applicants when verifying income, conducting credit checks, and allowing applicants to clarify information.

- **Making exceptions.** Standards for offering exceptions must be applied consistently.

- **Loan terms and subsidies.** Opportunities for subsidies and favorable loan terms must be made available consistently.

- **Hearings and appeals.** Avenues for remedies when problems arise must be accessible to all applicants.

B. Reasonable Accommodations for Persons with Disabilities

The Agency must make reasonable accommodations to permit persons with disabilities to apply for and benefit from Agency programs. Reasonable accommodations may include providing facilities that are physically accessible so that all people can come to Agency offices, and effective communication and outreach tools so that all applicants can get good program information (for example, a Telecommunications Device for the Deaf (TDD)).

1.9 REVIEW AND APPEALS *[7 CFR 3550.4]*

Decisions that are not made in favor of a program participant (applicant or borrower) are known as adverse decisions. Adverse decisions must be based upon regulations which are published in the Code of Federal Regulations (CFR). For the direct SFH programs, any adverse decisions must be based upon 7 CFR Part 3550 (Appendix 1) and not the administrative guidance contained in this Handbook. Adverse decisions include: (1) administrative actions taken by Agency officials; and (2) the Agency's failure to take required actions within time frames specified in statutes or regulations, or within a reasonable time if no deadline is specified. Appendix 4 contains 7 CFR Part 11, which is the regulation of the National Appeals Division (NAD) and provides procedures that both Agency officials and program participants must follow when an appeal is made. If a Field Office is taking an adverse action on a case that is also under the jurisdiction of CSC the Field Office should first consult with CSC. *Handbook Letter 15(3550), Standardized Adverse Decision Letter*, will be used for all adverse decisions unless another format is prescribed in this Handbook. Exhibit 1-2 provides a sample of an adverse decision letter.

A. Informing Program Participants of Their Rights

Whenever an Agency official makes a decision that will adversely affect a program participant, the official must inform the participant in writing that an informal administrative review with the person who made the decision may be requested. If the decision is appealable, the participant will also be informed of their rights to seek mediation as a form of Alternative Dispute Resolution (ADR) and to request a hearing with NAD. Mediation is the only form of ADR funded in part by Rural Development. Mediation is one of three methods available for resolving disputes with program participants. The other two are administrative/informal review with the decision maker and administrative appeal to NAD. Attachment 1-B is used for this purpose. If the decision cannot be appealed, the participant will be informed of their rights to have NAD review the accuracy of the Agency's finding that the decision cannot be appealed. Mediation rights are not provided on decisions which cannot be appealed. Attachment 1-C is used for this purpose.

Exhibit 1-2

Sample Adverse Decision Letter

Mr. and Mrs. John Doe
1 Main Street
Anytown, Anywhere 01234

Re: Application for $84,000 Direct
Single Family Housing Loan

Dear Mr. & Mrs. Doe,

Thank you for the opportunity to consider your request for Rural Development assistance. In reviewing your request, we considered all information submitted to the Agency and the regulations that govern the assistance for which you applied. After careful review, we regret to inform you that we were unable to take favorable action on your request. The specific reasons for our decision are as follows:

1. Your income exceeds the maximum income to qualify for our direct single family housing program. 7 CFR 3550.53(a) requires that an applicant's income must not exceed the applicable low-income limit for the area. In Any County, the maximum income limit is $29,500. Based upon verification of the income sources listed on your application, your income was calculated at $32,250. Unfortunately, this income exceeds the applicable limits. At the time of your loan interview, Mr. Doe indicated that he worked substantial overtime last year, and did not anticipate overtime income for this year. According to a verification of employment, overtime income has recently been earned this year, and your employer anticipates that you will earn at least the same amount of overtime this year as you have earned in the past. Overtime income must be considered if it is reasonable to anticipate it will continue. We reverified with your employer that, because of recent workforce changes, overtime will continue this year in an amount at least equal to last year. This was further confirmed by copies of paystubs which you recently submitted to this office for review.

2. Your credit history was not acceptable. 7 CFR 3550.53(h) requires that an applicant must have an acceptable credit history to obtain program assistance. The regulation provides, in part, that a delinquency on any debt owed to the Federal Government is an indicator of unacceptable credit. Your credit report reflected that you are in default on your student loan which is guaranteed by the Federal Government.

If one of the above reasons included an unacceptable credit history, please note that a residential mortgage credit report on you was obtained from CBCInnovis, Inc., 8 Parkway Center, Pittsburgh, Pennsylvania, 15220; telephone (877) 237-8317. You may obtain a free copy of your credit report from CBCInnovis and dispute the accuracy or completeness of the report directly to CBCInnovis. While the report was provided by CBCInnovis, the decision to deny your request for assistance was made by this Agency and not CBCInnovis.

If you believe our decision is incorrect, or the facts used in this case are in error, you may pursue your rights to challenge our decision. Please see the attached for your rights.

Sincerely,

Letters notifying participants of adverse decisions must contain the required information regarding an informal administrative meeting, mediation, rights to NAD, and civil rights. Attachment 1-A includes only the specific civil rights language that must be contained in any adverse decision letter. Attachment 1-B through 1-H contain, as necessary, the civil rights language and include information on requesting an informal review, mediation, and rights to NAD. The attachments are all titled to assist Field Staff in selecting the correct Attachment for the decision being made. The Attachments do not need to be used when an RD Form, Handbook Letter, or other document already includes the appropriate participant rights.

B. Adverse Decisions That Cannot Be Appealed

Certain decisions made by the Agency cannot be appealed. In these cases, the participant is still provided the opportunity for an informal administrative review; however, appeal rights to NAD and mediation are not offered. The participant will be informed through the use of Attachment 1-C that they may request an informal administrative review and write to NAD for a review of the accuracy of the Agency's determination that the case cannot be appealed. Decisions that cannot be appealed include:

- Decisions made by parties outside the Agency, even when these decisions are used as a basis for Agency decisions (such as when an applicant disagrees with a private lender's decision not to provide credit for a leveraged loan);
- Interest rates set by the Agency's procedures, unless the participant alleges that an incorrect interest rate was applied;
- An official's refusal to request an administrative waiver under the provisions of Paragraph 1.12 of this Handbook, or a waiver authorized by any applicable regulation;
- Denials of credit due to lack of funds;
- Denials of Section 504 grants to applicants under the age of 62; and
- Rural area designations.

When one or more of the reasons for an adverse decision are reasons that cannot be appealed, the adverse decision cannot be appealed. In these cases, the letter containing the adverse decision will include only the items which cannot be appealed as the reason why the decision cannot be appealed. If other reasons also exist for the adverse decision, they will be listed separately in the decision letter as other reasons the assistance could not be granted.

Exhibit 1-3

Example - Adverse Decision Which Cannot be Appealed

Mary Smith, age 40, applies for a $7,500 Section 504 grant to build a new home. Her income is in the low-income category and she has $60,000 in cash towards the construction cost of $65,000. In this case, the reason for denying the Section 504 grant would be Ms. Smith's age. This would be clearly stated in the letter as the reason for rejection and the reason the decision cannot be appealed. The letter would also include language in a separate paragraph that even if Ms. Smith were over 62, Section 504 funds are not available to persons in the low-income category and cannot be used for the construction of a house. The letter would also include Attachment 1-C providing the opportunity for Ms. Smith to request an informal administrative review with the Agency and an NAD review of the accuracy of the Agency's decision that the case cannot be appealed.

C. Informal Administrative Review

Participants who want to request an informal administrative review with the person who made the decision must do so within 15 days of the date of the Agency's letter notifying the participant of the adverse decision. The participant must make a request for an informal review in writing, and the request will be retained in the participant's case file. The informal administrative review can be conducted by telephone or through a face-to-face meeting, at the discretion of the Agency. The informal administrative review can also be conducted by a representative of the person who made the decision. The purpose of the informal administrative review is to further explain the Agency's reasons for the adverse decision, listen to why the participant feels the decision may be incorrect, and obtain any further information from the participant to support their request. The review must be completed within 45 days of the request and the participant is notified in writing of the results. The State Director may require that the decision be reviewed by the next-level supervisor or other designated Rural Development staff before the participant is notified of the decision. Attachment 1-D will be used if the adverse decision is not reversed as a result of the informal administrative review. If the decision is reversed, a letter will be sent to the participant notifying them of the decision and next steps.

The participant may skip an informal administrative review and, if applicable, request mediation or an appeal. In doing so, the participant automatically waives their rights to an informal administrative review.

D. Mediation

Adverse decisions which are appealable to NAD also require that the participant be given the opportunity to seek mediation prior to having a hearing with NAD. The purpose of mediation is to resolve disputes through the use of a neutral mediator. State Directors may wish to consider issuing a State Supplement, to be included in Appendix 7, outlining the coordination required between the Field Office and State Office on handling mediation requests.

A participant may skip mediation and request an appeal to NAD. In doing so, they automatically waive their rights to mediation.

1. Requests for Mediation

After receiving Attachment 1-B or 1-D, a program participant may request mediation services. Upon receipt of the program participant's request for mediation, Attachment 1-E is sent to the participant to start the process. The Attachment is generally sent by the State Director since costs are involved; however, they can be sent directly by the Field Office at the discretion of the State Director.

2. Cost of Mediation

There is generally a cost associated with participation in mediation. When there are costs, they will be shared equally between the Agency and the program participant, if Agency funds are available. Where Agency program funds are not available, the Agency will participate in mediation if requested by the program participant; however, the program participant will be notified in advance of the portion of the cost the Agency will pay (if any) and their estimated cost for this service. The State Director will ensure that all participants requesting mediation in their State are treated consistently and pay the same percentage of the cost toward this service. The State Director may also consent to pay a larger percentage (up to 100 percent) of the cost of mediation for participants with incomes below the poverty level. The Agency will notify the mediation source of how the cost of such service will be paid. Attachments 1-E and 1-F include language to meet this requirement.

3. Mediation in States with a USDA-funded mediation program

Many States have a mediation program that is annually certified by USDA. These programs are funded, in part, by USDA, and were established primarily to mediate cases originating from the Farm Service Agency (FSA). If you are unsure if a USDA mediation program exists in your State, you should contact your State Director. In States with a USDA-funded mediation program, program participants who are provided appeal rights will be generally referred to the USDA-funded mediation program. Attachment 1-E may be sent to the program participant to acknowledge their request, and Attachment 1-F may be used to refer the case to the mediation service provider. In States where alternative mediation sources are readily available at a lower cost than the USDA-funded mediation program, the State will follow the guidance for States with a Community-Based Mediation Center (CBMC) or States without a USDA-funded mediation program, and include the USDA mediation program on the list of acceptable providers.

4. Mediation in States with a Community-Based Mediation Center

A CBMC is a nonprofit, public entity operating under the guidance of a governing board. Its goal is to provide an alternative to the judicial system by the use of trained mediators located in the geographical area served. The CBMC provides mediation services to clients regardless of their ability to pay. In States without a USDA-funded State mediation program, the CBMC is an option. Customers with appeal rights who request mediation can be referred to the CBMC. The State ADR Coordinator should establish a source/vendor list of CBMCs. The list should include the director, contact information and cost.

5. Mediation in States without a USDA-funded mediation program

In States without a USDA-funded mediation program or access to a CBMC, Agency officials are responsible for maintaining a list of mediation service providers. The State Office will generally maintain this list as program participants are referred to the State Director to initiate mediation. FSA can generally provide a list of acceptable mediation sources in a State. Other contacts include the National Association of Conflict Resolution or State bar association. When making contacts with these sources, make sure the Agency requests the services of a mediator and not an arbitrator. A mediator resolves disputes by negotiating a resolution through mutual agreement. An arbitrator resolves disputes through hearing both parties and then rendering a binding decision and should not be used. The list will contain the approximate cost of each service provider, if known. States may handle the list of mediation sources as follows:

- The State may select a mediation provider from the list, provided there is not a significant variation in the cost of service providers. The list will be maintained alphabetically and sources selected in sequential order. Attachment 1-E may be sent to the program participant to acknowledge their request for mediation, and Attachment 1-F may be used to refer the case to the provider. States will need to maintain documentation to ensure that mediation providers receive an equal number of referrals. If there is a significant variation in cost between service providers, this option will not be used.

- The State may provide the list of mediators to the participant and request the participant to select the source or provide the name of another acceptable source of mediation services. The list will contain the approximate cost of each service provider, if known. Attachment 1-E is used for this purpose and provides the participant with 10 days to select a service provider. After selection, Attachment 1-F will be used to refer the case to the mediator. If the program participant does not provide the name of a mediation provider within 10 days, Attachment 1-H is used to notify the program participant of expiration of selection of mediation service provider, and their request for mediation will be considered withdrawn. Withdrawal or cancellation of a mediation does not extinguish the participant's right to an appeal with NAD.

6. Timing of mediation

Mediation must be completed within 45 days after the case is referred to the mediation source, unless the complexity of the case warrants a longer time frame and all parties agree to a specific time frame. A mediator will generally conduct a teleconference between the parties prior to accepting a case to determine if the case can be mediated. The Agency encourages the use of such pre-mediation conference since many adverse decisions in the SFH program may not lend themselves to mediation. Regardless, the Agency will not refuse to participate in mediation if requested to do so by the program participant.

Mediation occurs prior to having a hearing with NAD. Requests for mediation made prior to filing an appeal with NAD stop the clock on the 30-day period during which a participant may appeal to NAD. After mediation has concluded, any days that remain from the 30-day period are available to the participant to request an appeal to NAD. Attachment 1-H is used for this purpose. The person completing Attachment 1-H will need to determine the number of days the participant took to request mediation. Hearing

dates for participants who request mediation after filing an appeal must be selected with 45 days of the conclusion of mediation. Participants may also request mediation after filing an appeal with NAD but prior to the hearing.

7. Mediation on cases involving CSC

Mediation is handled through local sources, and the Agency may contribute to the cost of the service. As such, mediation requests from program participants who receive adverse decisions from CSC must be coordinated through the State Office.

When a program participant receives Attachment 1-B or 1-D as a result of an adverse decision made by CSC, the participant is referred to the State Director to initiate mediation. Upon receipt of a program participant's request, the State Office will send Attachment 1-E, 1-F or 1-G, as applicable. A copy will be provided to the Appeals Coordinator in CSC. When Attachment 1-F is sent to the service provider, the Agency contact will be CSC. While the State Office coordinates this service, CSC is responsible for participating in the actual mediation.

E. Appeal

Participants who wish to appeal an adverse decision must submit a written request to NAD within 30 days of receiving notice of an adverse decision. The request must be signed by the participant and include: (1) a copy of the adverse decision to be appealed; and (2) a brief statement describing why the participant believes the decision is wrong.

Upon receiving a notice from NAD that an appeal has been filed, the Field Office will promptly provide NAD with a copy of the Agency record, specific references in 7 CFR Part 3550 to support the decision, and any other pertinent information. A copy will also be provided to the program participant.

In accordance with NAD regulations, the program participant has the right to a face-to-face hearing in the participant's State of residence. The program participant also has the right to request that the hearing be handled by teleconference. An adverse decision made by CSC may result in an appeal hearing and require a face-to-face hearing. In these cases, the CSC Appeal Coordinator may request the State Director to provide Field Staff to attend the hearing and represent CSC. The CSC Appeals Coordinator will provide sufficient documentation and phone resources to the person selected by the State Director to adequately represent the Agency in the case.

NAD will notify the participant and the Agency once it has made a final determination. If NAD reverses the Agency's decision, the next loan processing action that would have occurred

had no adverse decision been made must be taken within 30 days after the effective date of the notice from NAD; unless the Agency requests a review of the case by the Director of NAD. See 7 CFR Part 11 (Appendix 4) for more guidance on Director Reviews and other information regarding appeals.

1.10 CONFLICT OF INTEREST *[7 CFR 3550.9]*

All employees must strive to maintain the highest levels of honesty, integrity, and impartiality in conducting their activities on behalf of the Agency. The Agency's requirements for handling assistance to employees, relatives and associates are described in RD Instruction 1900-D. To reduce the potential for conflicts of interest, all processing, approval, servicing, or review activity must be conducted by Agency employees who:

- Are not the recipient (applicant or borrower), a recipient's family member, or a close known relative and/or associates of the recipient;
- Do not have an immediate working relationship with the recipient, the Agency employee related to the recipient, or the Agency employee who would normally conduct the activity; and
- Do not have a business or close personal association with the recipient.

A. Applicant Disclosure

Applicants must disclose any known relationship or association with Agency employees when they apply for assistance through the Agency.

B. Agency Employee Disclosure

Agency employees must disclose any known relationship or association with a recipient, regardless of whether the relationship is known to others. Loan Originators should notify a supervisor after the application is accepted but before any eligibility determination is made.

C. Disposition of REO Properties

Agency employees and members of their families are precluded from purchasing REO property, assumptions from Agency borrowers, or security property sold at a foreclosure sale. Closing agents and members of their families are precluded from purchasing properties in which they have been professionally involved.

1.11 OTHER FEDERAL REQUIREMENTS

A. Environmental Requirements *[7 CFR 3550.5]*

The Agency considers environmental quality equally with economic, social and other factors in its program development and decision-making processes. Both the Loan Originator and the Loan Approval Official are responsible for effectively integrating Agency environmental policies and procedures with loan and grant origination and servicing activities. Agency environmental policies and procedures and historic preservation requirements can be found in RD Instruction 1940-G. Agency-assisted properties also must meet the lead-based paint requirements contained in Exhibit H of RD Instruction 1924-A. Resolution of conflicts or significant differences between Agency environmental regulations and State or local environmental laws requires prior consultation with the appropriate State Environmental Coordinator and, if necessary, National Office environmental staff.

B. Construction Standards

Sites and dwellings developed or rehabilitated with Section 502 funds must meet the construction standards outlined in RD Instructions 1924-A and 1924-C. Existing dwellings must be decent, safe and sanitary and meet all applicable State and local codes.

C. Administrative Requirements

Agency employees must comply with Agency and Departmental administrative requirements.

1. Procurement

Goods and services procured to support Agency activities such as appraisals, inspections, broker services, and property management services must conform with the policies and procedures of RD Instruction 2024-A.

2. File Management

Files and other Agency records must be maintained in accordance with RD Instruction 2033-A.

3. Handling Funds

Funds received in the Field Office that are not part of a borrower's regular installment, for example, credit report fees or appraisal fees are forwarded to CSC using *Form RD 3550-17, Fund Transmittal Report*. If a borrower did not receive a billing statement, Field Staff can submit the payment using *Form RD 3550-27, Substitute Payment Coupon*.

1.12 EXCEPTION AUTHORITY *[7 CFR 3550.8]*

Exceptions to any requirement of this handbook or 7 CFR Part 3550 can be approved in individual cases by the Administrator or designee if application of the requirement or failure to take action would adversely affect the Government's interest. Any exception must be consistent with the authorizing statute and other applicable laws.

Requests for exceptions are submitted to the Administrator or designee through the Deputy Administrator, Single Family Housing and may be initiated by the State Director; the Deputy Administrator, Single Family Housing; the CSC Director; or the Director, Single Family Housing Direct Loan Division.

The exception request must provide clear and convincing evidence of the need for the exception. At a minimum the request must include:

- A full explanation of the circumstances, including an explanation of the adverse effect on the Government's interest;
- A discussion of proposed alternatives considered; and
- A discussion of how the adverse effect will be eliminated or minimized if the exception is granted.

Requests for exceptions regarding architectural and engineering, environmental, or civil rights issues must also include the review and comments of the applicable State Office Technical Staff. The Deputy Administrator, Single Family Housing will coordinate these exception requests with the applicable National Office technical staff prior to submission to the Administrator.

ATTACHMENT 1-A

EQUAL CREDIT OPPORTUNITY ACT

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

ATTACHMENT 1-B

ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF AN APPEALABLE ADVERSE DECISION

The described action in the attached letter [*did not grant you the assistance you requested or will terminate or reduce the assistance you are currently receiving]*. If you believe this decision or the facts used in this case are in error, you may pursue any or all of the following three options:

Option 1 - Request an Informal Administrative Review

If you have questions concerning this decision or the facts used in making it and desire further explanation, you may write this office to request an informal administrative review. There is no cost for an informal administrative review. Your written request must be received no later than 15 calendar days from the date when you received this adverse decision letter. Include any new information, evidence, and possible alternatives along with your request. You may also have a representative or legal counsel participate in the process at your cost. The informal administrative review may be conducted by telephone or in person at the discretion of the Agency. Please include a daytime phone number in your request to arrange for the review. You may skip the informal administrative review and select one of the following two options. If you do, you will automatically waive your right to an informal administrative review.

Option 2 - Request Mediation

You have the right to request mediation. The purpose of mediation is to resolve disputes through the use of a certified, neutral mediator. In most cases, the mediator is not a Federal Government employee. A mediator will listen to all parties involved in the dispute and work with all parties to achieve a mutually agreeable resolution. Many cases that go to mediation are resolved without further action, extended delays, or the cost of formal litigation. You have 30 days to request mediation, 10 days to select a mediator, and then 45 days to complete mediation. If you need more information on the mediation process to assist you in deciding whether to use this Option 2, contact the Rural Development State Director listed below.

{*Rural Development State Director*]

There may be a cost for mediation. If so it is Rural Development policy to pay 50 percent of the reasonable cost for mediation. When there is a cost, it is your responsibility to pay the other 50

percent. Every effort, however, is made to keep any cost to a minimum, and in some cases, the mediator will waive the customer's 50 percent share.

If you elect to seek mediation, your written request for this service must be sent to the Rural Development State Director and ***must be postmarked no later than 30 days from the date when you received the attached letter***. Once you request mediation, it stops the running of the 30-day period in which you may request an appeal hearing (described in Option 3), but does not waive your right to an appeal.

Once you have requested mediation, the Rural Development State Director will advise you of the mediation service provider, the estimated cost of mediation, the amount the Agency will contribute, and the process and procedures for this service:

1) In states with a USDA-funded state mediation program, you will be referred to such a service.
2) In states without a USDA-funded state mediation program, you will be either directed to a local community mediation service; or you will be provided with the names of mediators from which to select one.
3) Also, you may suggest a mediator subject to the Agency's approval.

Once a mediation service provider has been identified, you will have ***10 days to contact the mediator***: Following the 10 days you are allowed to select the mediator, you will be advised directly by the mediation source if they can mediate your case.

Once you have been referred to a mediator, you have ***45 days to complete the mediation***. The Agency can agree to an extension. If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth in Option 3.

When mediation is concluded, you will be notified of the result and your right, if applicable, to request an appeal hearing.

Mediation does not take the place of, or limit your right to, an appeal to the NAD; however, a NAD appeal hearing would take place only after mediation. You may skip mediation and request an appeal hearing. However, in doing so, you will automatically waive your right to an informal meeting. Once the appeal hearing begins, you also waive your right to mediation.

Option 3 - Request an Appeal Hearing

You may request an appeal hearing by NAD rather than an informal administrative review or mediation. There is no cost for an appeal hearing. Your request for an appeal must be made no later than 30 days from the date you received the attached letter. To request an appeal hearing, you must write the NAD Assistant Director for your region at the following address:

[*NAD Assistant Director Address*]

Your request must state the reasons why you believe the decision is wrong, be personally signed by you, and must include a copy of the attached letter. A copy of your request must also be sent to the Rural Development State Director at:

[*Rural Development State Director Address*]

You, or your representative or counsel, may contact this office anytime during regular office hours to examine or copy the Agency's record relative to this adverse decision. Photocopies will be provided to you. Your representative or counsel must have your written authorization to represent you and review your file. The NAD Hearing Officer will contact you regarding a time and place for the hearing.

Equal Credit Opportunity Act

[Enclose Attachment 1-A.]

Attachments (2)

Copies for: State and/or National Office Program Director

CSC St. Louis for SFH cases

ATTACHMENT 1-C

ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF AN ADVERSE DECISION THAT CANNOT BE APPEALED

The decision described in the attached letter did not grant you the assistance you requested or will terminate or reduce the assistance you are currently receiving.

If you have questions concerning this decision or the facts used in making it and desire further explanation, you may write this office to request an informal administrative review. This written request must be received no later than 15 calendar days from the date of the attached letter. You must present any new information, evidence, and possible alternatives along with your request. You may also have a representative or legal counsel participate in the process, at your cost. The informal administrative review may be conducted by telephone or in person, at the discretion of the Agency. Please include a daytime phone number in your request to arrange for the review.

Applicants and borrowers generally have a right to appeal adverse decisions, but decisions based on certain reasons cannot be appealed. We have determined that reasons for the decision cannot be appealed under our regulations. You may, however, write the Assistant Director, National Appeals Division (NAD) for a review of the accuracy of our finding that the decision cannot be appealed. Your request must be made no later than 30 days from the date you receive the attached letter.

NAD Assistant Director address:

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

_____

ATTACHMENT 1 - D

ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF UNFAVORABLE DECISION REACHED AS A RESULT OF AN INFORMAL ADMINISTRATIVE REVIEW

We appreciated the opportunity to review the facts relative to your [*request for assistance, or reduction or termination of benefits, or foreclosure*]. We regret that the decision in the attached letter did not [*grant the assistance you requested or will terminate or reduce the assistance you are currently receiving, or will give you relief from foreclosure*]. If you believe that facts used in this case are in error, you may pursue either or both of the following two options.

Option 1- Request Mediation

You have the right to request mediation. The purpose of mediation is to resolve disputes through the use of a certified, neutral mediator. In most cases, the mediator is not a Federal employee. A mediator will listen to all parties involved in the dispute and work with all parties to achieve a mutually agreeable resolution. Many cases that go to mediation are resolved without further action, extended delays, or the cost of formal litigation. You have 30 days to request mediation, 10 days to select a mediator, and then 45 days to complete mediation.

There may be a cost for mediation. If so, Rural Development will pay 50 percent of the reasonable cost for mediation. Where there is a cost, it is your responsibility to pay the other 50 percent. Every effort, however, is made to keep any cost to a minimum, and in some cases, the mediator will waive the customer's 50 percent share.

If you elect to seek mediation, your written request for this service must be sent to the Rural Development State Director and ***must be postmarked no later than 30 days from the date of the attached letter***. Once you request mediation, it stops the running of the 30-day period in which you may request an appeal hearing (described in Option 3) but does not waive your right to an appeal.

Once you have requested mediation, the Rural Development State Director will advise you of the mediation service provider, the estimated cost of mediation, the amount the Agency will contribute, and the process and procedures for this service:

1) In states with a USDA-funded mediation program, you will be referred to that service.
2) In states without a USDA-funded state mediation program, you will be either directed to a local community mediation service; or, you will be provided with the names of mediators from which to select one.
4) Also, you may suggest a mediator subject to the Agency's approval.

Once a mediation service provider has been identified, they will contact you and you will have ***10 days to contact the mediator***: Following the 10 days that you are allowed to select the mediator, you will be advised directly by the mediation source if they can mediate your case.

Once you have been referred to a mediator, you have ***45 days to complete the mediation***. The Agency can agree to an extension. If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth in Option 2.

When mediation is concluded, you will be notified of the result and your right, if applicable, to request an appeal hearing.

If you request mediation prior to filing for an appeal, the number of days you will have to request an appeal will be 30 days from the adverse decision minus the number of days you took to request mediation. Mediation does not take the place of, or limit your right to, an appeal to the NAD; however, a NAD appeal hearing would take place only after mediation. You may skip mediation and request an appeal hearing. However, in doing so, you will automatically waive your right to an informal meeting. Once the appeal hearing begins, you also waive your right to mediation.

Option 2 - Request an Appeal Hearing

Following your mediation, you may request an appeal hearing by NAD, as long as there are days remaining from the original 30 days to request mediation as outlined in the original adverse decision letter. You must *immediately* contact the NAD Assistant Director for your region (at the following address) to determine if you can file for an appeal hearing.

[*NAD Assistant Director Address*]

_____

There is no cost for an appeal hearing. Your request must state the reasons why you believe the decision is wrong, be personally signed by you, and include a copy of the attached letter. A copy of your request must also be sent to the Rural Development State Director:

[*Rural Development State Director Address*]

You, or your representative or counsel, may contact this office anytime during regular office hours to examine or copy the Agency's record relative to this adverse decision. Photocopies will be provided to you. Your representative or counsel must have your written authorization to represent you and review your file. The NAD Hearing Officer will contact you regarding a time and place for the hearing.

Equal Credit Opportunity Act

[Enclose Attachment 1-A.]

Attachments (2)

Copies for: State and/or National Office Program Director

CSC St. Louis for SFH cases

ATTACHMENT 1-E

ATTACHMENT FOR NOTIFYING CUSTOMERS WHO HAVE REQUESTED MEDIATION OF THE ASSIGNMENT OF THEIR CASE TO: A USDA-FUNDED STATE MEDIATION PROGRAM OR A COMMUNITY-BASED MEDIATION CENTER OR CERTIFIED MEDIATION PROVIDER FOR MEDIATION

TO: [*CUSTOMER]*

FROM: Rural Development State Director

SUBJECT: Request for Mediation Services

This replies to your request for the mediation of your adverse decision. Your request has been referred to a [*USDA-funded state mediation program*] [*Community-Based Mediation Center*] or [*you must select from the attached list of certified mediation providers*].

As indicated in our adverse decision letter, there may be a cost for the mediation. The following is an estimate, but you will be advised by the mediation service provider if there will be a cost. Rural Development policy is to pay 50 percent of the reasonable cost for mediation.

$ _____ USDA-funded state mediation program [*and address*]

$ _____ Community-Based Mediation Center [*and address*]

Attached is an alphabetical list of certified mediators to select a mediator, or subject to our concurrence you may request the use of another mediator.

Within 10 days of the date of this letter, you must provide this office, in writing, with the concurrence/selection of the mediator. If you do not, you will waive your right to mediation. Rural Development will then contact the mediator, who in turn will contact you to determine if they can mediate the issues in your case. You will then have 45 days to complete the mediation.

When the mediation is concluded, you may file an appeal of the original adverse decision by immediately contacting the National Appeals Division (NAD):

[*NAD Assistant Director Address*]

Once you have been contacted by the mediation provider and if you decide not to pursue mediation, you must immediately contact this office (address at the top of this letter). You are responsible for all costs incurred by the mediation provider from the time of selection until your cancellation.

Mediation, or the cancellation of mediation, does not affect your rights to seek an appeal with NAD.

Equal Credit Opportunity Act

[Enclose Attachment 1-A.]

Copies for: State and/or National Office Program Director

CSC St. Louis for SFH cases

State ADR Coordinator

ATTACHMENT 1-F

ATTACHMENT FOR ASSIGNMENT BY RURAL DEVELOPMENT/USDA OF A CUSTOMER MEDIATION REQUEST TO A MEDIATION SERVICE PROVIDER

TO: [*Mediation Service Provider*]

FROM: Rural Development State Director

SUBJECT: Request for Mediation

CUSTOMER: [*Name of the Rural Development customer requesting mediation*]

[*Customer contact information*]

The above Rural Development customer has received an adverse decision from our Agency and has requested mediation. Attached is a copy of the adverse decision letter and the customer's request for mediation.

Informal Administrative Review

_____The Customer was provided with the opportunity for an informal administrative review with the Agency; however, the customer chose not to exercise this option.

_____An informal administrative review was conducted; however, the Agency did not reverse its decision.

Jurisdiction of the Case

The adverse decision in this case was made by the following office. You should contact this office for further information on the case:

[*Agency contact: program, individual, address phone and e-mail*]

Payment for Service

The Rural Development policy is to pay 50 percent of the reasonable cost of the mediation service and the customer will pay 50 percent. In addition, we encourage the mediation service to consider the customer's ability to pay. The customer is solely responsible for their portion of the cost of this service and should be billed directly. The bill for the Agency's portion should be submitted to this Rural Development State Office:

[*State ADR Coordinator Name and Address*]***Jurisdiction of case:***

Mediation must be completed within 45 days from the date of this letter, unless both parties agree to an extension. We also request a teleconference prior to your acceptance of this case to determine whether the adverse decision lends itself to mediation by your service.

Equal Credit Opportunity Act

[Enclose Attachment 1-A.]

Attachments (2): Adverse decision letter
Customer's request for mediation

Copies for: State and/or National Office Program Director

CSC St. Louis for SFH cases

State ADR Coordinator

ATTACHMENT 1-G

ATTACHMENT FOR NOTIFYING CUSTOMERS OF EXPIRATION OF THE 10 DAYS TO SELECT A MEDIATION SERVICE PROVIDER

TO: [*CUSTOMER*]

FROM: [*State Director*]

SUBJECT: Expiration of Selection of Mediation Service Provider

On [*date*], you requested mediation of the adverse decision as outlined in the attached letter which did not [*grant the assistance you requested or will terminate or reduce the assistance you are currently receiving, or will give you relief from foreclosure*]. You were also informed that you had 10 days from [*date*] to either concur in the mediation service assigned by Rural Development to your case, or name another mediation service for our consideration.

The 10 days to acknowledge the selection of the mediation service provider has expired. Your request for mediation therefore has expired, and Rural Development will begin to process the initial adverse decision as outlined in the attached letter.

Request an Appeal Hearing

Your request for mediation did not take the place of, or limit your right to request an appeal to the National Appeals Division (NAD). You may request an appeal hearing by NAD as long as there are days remaining from the original 30 days to request an appeal as outlined in the original adverse decision letter. You must *immediately* contact the NAD Assistant Director for your region (at the following address) to determine if you can file for an appeal hearing.

[*NAD Assistant Director Address*]

There is no cost for an appeal hearing. Your request must state the reasons why you believe the decision is wrong, be personally signed by you, and include a copy of the attached original decision letter. A copy of your request must also be sent to the Rural Development State Director:

[*Rural Development State Director Address*]

You, or your representative or counsel, may contact this office at anytime during regular office hours to examine or copy the Agency's record relative to the adverse decision. Photocopies will be provided to you. Your representative or counsel must have your written authorization to represent you and review your file. The NAD Hearing Officer will contact you regarding a time and place for the hearing.

Equal Credit Opportunity Act

[Enclose Attachment 1-A.]

Attachments (2)

Copies for: State and/or National Office Program Director

CSC St. Louis for SFH cases

State ADR Coordinator

ATTACHMENT 1-H

ATTACHMENT FOR CUSTOMER NOTIFICATION OF UNRESOLVED RESULT OF THE MEDIATION OF THE ADVERSE DECISION

TO: [*CUSTOMER*]

FROM: [*State Director*]

SUBJECT: Unresolved Result of the Requested Mediation

Your request for mediation has been completed. We regret that mediation did not result in resolution of the issues. [*We are unable to grant the assistance you requested*, or *will terminate*, or *will reduce the assistance you requested*].

If you believe the decision or facts used in the case are in error, you may continue to pursue your right to an appeal by the National Appeals Division (NAD). There is no cost for an appeal. Please follow the guidance in the paragraph indicated with an "X."

☐ You requested an appeal hearing to NAD prior to entering into mediation. You must immediately write to the Assistant Director of NAD at the address below to determine the number of days remaining, if any, to schedule the appeal hearing.

[*NAD Regional Assistant Director Address*]

☐ You did not request an appeal hearing to NAD prior to entering into mediation. If you wish to schedule an appeal hearing, you must immediately write to the Assistant Director of NAD at the address below to determine the number of days remaining, if any, to schedule the appeal hearing. Your appeal request must be received within the remaining days, as determined by NAD, from the date when you requested mediation.

[*NAD Regional Assistant Director Address*]

Information Regarding Appeals

If NAD determines that you have appeal rights and you want to exercise those appeal rights, you, or your representative or counsel, may contact this office at anytime during regular office hours to examine or to have copied the Agency's record relating to the original adverse decision. Photocopies will be provided. Your representative or counsel must have your written authorization to represent you and review your file.

The NAD Hearing Officer will contact you regarding a time and place for the hearing. You may also request a teleconference hearing in lieu of the face-to-face hearing. At any time before the scheduled hearing, you may also request that the Hearing Officer make a decision without a hearing.

Equal Credit Opportunity Act

[Enclose Attachment 1-A.]

Copies for: State and/or National Office Program Director

CSC St. Louis for SFH cases

State ADR Coordinator

CHAPTER 2: OVERVIEW OF SECTION 502

2.1 INTRODUCTION

This chapter provides an overview of key aspects of the Section 502 program. Section 1 identifies the various types of loans available and details the circumstances in which each kind of loan can be made. Section 2 describes the Agency's Dedicated Loan Origination and Servicing (DLOS) System. The chapter concludes with Section 3, a broad-brush overview of the steps involved in processing Section 502 loans.

SECTION 1: TYPES OF LOANS

2.2 OVERVIEW

The rules governing Section 502 loan origination differ slightly, depending upon the type of loan being made. The types of loans available under Section 502 include:

- Initial loans;
- Assumed loans;
- Subsequent loans; and
- Nonprogram loans.

This section describes the four types of loans and how they differ. The interest rate for SFH loans can be found in Exhibit B of RD Instruction 440.1.

2.3 INITIAL LOANS

Initial loans are made when neither the applicant nor the seller has an existing Agency loan. Generally, they are made for the maximum loan term for which the applicant qualifies, and at the Rural Housing (RH) 502 low or moderate interest rate. If no prior Agency loans are involved in the transaction and the loan is to be made on program terms, this is the type of loan used.

2.4 ASSUMED LOANS

Section 502 loans may be assumed. The terms and conditions of the assumption depend upon the eligibility of the new purchaser.

A. New Rates and Terms Assumption

Most assumptions of Section 502 loans are ***new rates and terms assumptions*** -- that is, the purchaser assumes responsibility for all or a portion of the remaining debt, including principal and recapture receivable amounts. In order to conserve the Agency's budgetary resources, the transaction does not involve paying off the old loan and issuing a new initial loan. Instead, the purchaser assumes the outstanding debt, which is reamortized at new rates and terms. If the new purchaser and the property are eligible for the Section 502 program, the loan can be assumed on program terms. In addition, eligible new purchasers may receive subsequent loans to make up the difference between the amount of debt assumed and the purchase price, or may be able to obtain a leveraged loan. If the property does not meet Agency standards or will not be brought to Agency standards with the use of loan funds, or the new purchaser is not eligible, the loan can be assumed on nonprogram terms. Purchasers who assume the loan under nonprogram terms are not eligible for a loan to cover amounts above the amount assumed.

B. Same Rates and Terms Assumption

In certain limited cases -- generally those involving transfers of title between family members -- a ***same rates and terms assumption***, is permitted. Under this type of assumption, the existing note terms, including the interest rate and the remaining repayment period, do not change.

The new owner need not be income-eligible for a Section 502 loan. However, payment subsidy can be continued for new owners only if they are eligible for subsidy, and only at the level for which the new household qualifies.

Same rates and terms assumptions are permitted for the following types of transfers:

- A transfer from the borrower to a spouse or children not resulting from the death of the borrower;
- A transfer to a relative, joint tenant, or tenant by the entirety resulting from the death of the borrower;
- A transfer to a spouse or ex-spouse resulting from a divorce decree, legal separation agreement, or property settlement agreement;

- A transfer to a person, other than a deceased borrower's spouse, who wishes to assume the loan for the benefit of persons who were dependent on the borrower at the time of death, if the dwelling will be occupied by one or more persons who were dependent on the borrower at the time of death, and there is a reasonable prospect of repayment; or

- A transfer into an *inter vivos* trust in which the borrower does not transfer rights of occupancy in the property.

2.5 SUBSEQUENT LOANS

Subsequent loans can be issued as part of the original purchase of a property in combination with an assumption, or during the term of an Agency loan to help an existing borrower pay for repairs or improvements to the property. The key differences between processing requirements for subsequent and initial Section 502 loans are described in Exhibit 2-1 and are discussed in detail in later chapters.

Exhibit 2-1

Key Processing Differences for Subsequent Loans

- A new appraisal is not required for subsequent loans in cases where the loan is for $7,500 or less or an appraisal has recently been completed and accurately reflects the value of the property, as described in Paragraph 5.17 A.
- When an area designation has been changed from rural to nonrural, as described in Paragraph 5.3 C.4., subsequent loans may be made only to make necessary repairs, to pay equity in connection with an assumption of a program loan, or to permit the remaining borrower, if eligible, to purchase the equity of a departing co-borrower.
- The Agency may reamortize an initial loan at the time a subsequent loan is made in cases where the borrower cannot reasonably be expected to meet installment payments unless the account is reamortized, as described in Paragraph 6.16 B.2.
- For subsequent loans to existing borrowers for minimal essential repairs to protect the Government's security, the best mortgage obtainable will be accepted in lieu of full title clearance, as described in Paragraph 5.12 B., and appraisal fees will be waived.
- Applicants have a legal right to cancel a subsequent loan within 3 business days from whichever of the following activities occurs last: (1) execution of the mortgage or deed of trust; (2) receipt of *Form RD 1940-41, Truth in Lending Statement*; or (3) receipt of *Form RD 1940-43, Notice of Right to Cancel*. Loan funds cannot be disbursed until the 3 business days have passed, unless a hardship exists and the applicant waives their right to cancel the loan in writing, as described in Paragraph 8.6 C.2. *Form RD 1940-43* is not used for subsequent loans made in conjunction with an assumption since the applicant does not have title to the property.

2.6 NONPROGRAM LOANS

Nonprogram loans are loans made on nonprogram terms to borrowers who are not program-eligible, and/or for properties that do not meet Agency standards and will not be brought to Agency standards with the use of loan funds. The interest rate offered is somewhat higher than for program-eligible borrowers, but is competitive in the marketplace. Borrowers with nonprogram loans are not eligible for program benefits, such as payment subsidy, or for servicing actions, such as moratoriums. They also are exempt from occupancy restrictions and the requirement to refinance with private credit. Nonprogram loans are discussed in detail in Chapter 11. The circumstances in which the Field Office can originate nonprogram loans are discussed below.

A. Facilitate Sale By an Existing Agency Borrower

When an existing Agency borrower wishes to sell a security property, the Agency will assist the borrower by allowing any creditworthy purchaser to assume all or a portion of the outstanding debt on new rates and terms. If the purchaser does not qualify for assistance under the Section 502 program, the loan may be assumed on nonprogram terms. Nonprogram purchasers acquiring a property from an Agency borrower are only permitted to assume existing debt; new credit cannot be extended to them through a subsequent loan.

B. Facilitate Sale of Real Estate Owned (REO) Property

The Agency may offer credit for the purchase of REO property on nonprogram terms to borrowers who are not program-eligible, and/or for properties that are not program-eligible.

SECTION 2: THE DEDICATED LOAN ORIGINATION AND SERVICING SYSTEM (DLOS)

2.7 DLOS

DLOS is designed to expedite loan-making, standardize information collection and record keeping, and facilitate communication between Field Offices and CSC. DLOS tracks loans from application through servicing using two interconnected systems: UniFi and MortgageServ.

2.8 UNIFI

UniFi is a web based application used for loan origination. It retains applicant information, makes complex computations, and maintains a central record of all activities associated with an individual application from the time of pre-qualification through loan closing. UniFi's many data screens are linked so that once a piece of information is entered, UniFi will automatically transfer it to all pertinent data screens.

A few of UniFi's most important features include:

- Its ability to create a waiting list to help the Loan Originator select applications for processing in the proper order;
- Screens that automatically calculate maximum loan amount and payment subsidy; and
- The ability to print out many loan approval and closing forms with borrower information inserted.

Each Field Office must establish a schedule for purging UniFi records. Data must be maintained on UniFi until at least 1 full fiscal year after the last activity in the applicant's record.

2.9 MORTGAGESERV

MortgageServ is a mainframe-based application that is used to service Agency loans and monitor loan performance. It is linked to UniFi so that information from UniFi can be uploaded into MortgageServ each night.

Field Staff can access certain areas of MortgageServ to gather information on a borrower's account, such as determining the amortized loan amount on construction loans. The Loan Originator uses MortgageServ to obligate funds and order checks.

MortgageServ is also a communications device to help CSC and Field Staff keep abreast of each others' activities. If CSC needs on-site assistance for a servicing action, MortgageServ can be used to communicate with Field Staff. For example, a Servicer involved in working out an insurance claim with a borrower might use the MortgageServ work queue to ask Field Staff to visit the property to assess the repair work that has been done to date. Similarly, if a Loan Originator obtains information about a change in a borrower's employment status that has not been reported, MortgageServ can be used to pass on that information to CSC.

SECTION 3: OVERVIEW OF LOAN ORIGINATION PROCESS

2.10 APPLICATION PROCESSING (Chapter 3)

When potential applicants express interest in the Section 502 program, the Loan Originator conducts preliminary screening to determine whether the household appears to qualify for a loan and what the loan amount is likely to be. Although the potential applicant may submit an application regardless of the outcome of the pre-qualification, this step can save the applicant and Agency staff time by letting potential applicants know in advance about any reasons that might cause them not to be eligible for a loan.

Processing Steps

This section outlines the steps involved in processing a Section 502 loan. It is intended to provide a conceptual overview of the process. The detail needed to fully understand each step follows in later chapters of this handbook.

When an applicant fills out an application and submits it to a Field Office, the Loan Originator must determine whether the application is complete, and ask follow up questions needed to understand the applicant's situation in enough detail to assess the household's priority status. The Loan Originator then makes a preliminary eligibility determination and notifies the applicant. In situations where processing cannot begin immediately, but the applicant appears to be eligible, the Loan Originator must place the applicant on a waiting list and inform the applicant when processing can be expected. As funds become available, applicants on the waiting list must be selected for processing in the appropriate order, based on priority status and application date.

2.11 BORROWER ELIGIBILITY (Chapter 4)

Once the application has been selected for processing, the Loan Originator must make a formal determination of the applicant's eligibility. This involves verifying the household's income, checking the credit history of all parties to the note, and reviewing all other eligibility requirements. Once the applicant's eligibility has been verified, the Loan Originator uses verified income information to determine the amount of payment subsidy the household is entitled to, and the maximum loan amount the applicant will be able to receive.

Based on this information, the Loan Originator counsels the applicant about the level of mortgage debt the household can afford, and issues a Certificate of Eligibility. The household then attempts to locate a home. In cases where the applicant has already submitted a contract for a property, no Certificate of Eligibility is needed.

2.12 PROPERTY REQUIREMENTS (Chapter 5)

Once the household has located a home or decided on the design of a dwelling to be constructed, they must provide key information to allow the Loan Originator to determine whether the property is modest and meets the Agency's underwriting guidelines. This includes the information needed to conduct an appraisal, to conduct an environmental review, and to verify that the site and dwelling meet, or will be constructed to meet, all applicable requirements.

2.13 UNDERWRITING THE LOAN (Chapter 6)

If the applicant and the property meet the Agency's standards, the Loan Originator must determine the loan amount needed and whether it can be supported by the household's repayment ability. In order to determine repayment ability the loan Originator must have a good estimate of the impact that escrow payments for taxes, flood insurance, and hazard insurance will have on the household. Repayment ability also is affected by the payment subsidy the household is entitled to, which is based on the household's adjusted income

2.14 TAXES, INSURANCE, AND ESCROW (Chapter 7)

To ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments, the Loan Originator must have a good understanding of how to set up a good escrow account. Before closing the loan, the loan, the Loan Originator must work closely with the closing agent to get accurate figures to use in establishing escrow payments.

2.15 LOAN APPROVAL AND CLOSING (Chapter 8)

If the deal appears to meet the Agency's underwriting criteria, the Loan Approval Official reviews the case file and determines whether the loan can be approved. If the loan is approved, the Loan Originator notifies the applicant and obligates the funds.

The applicant then selects a closing agent. The closing agent is responsible for conducting the preliminary title clearance and for ensuring that the property conforms to the Agency's security requirements. The Loan Originator and closing agent work together to ensure that all required closing documents are prepared for signature at closing and that Agency funds arrive before the date of closing. The Loan Originator activates the loan in MortgageServ after loan closing and prepares a loan docket to send to CSC for servicing.

When a new home is to be built or rehabilitation on an existing dwelling is involved, the Loan Originator also oversees the progress of construction. This involves ensuring that inspections are performed at appropriate points in the process, that mitigation measures established as part of any environmental review are properly implemented, and that funds are disbursed appropriately to pay for the work.

CHAPTER 3: APPLICATION PROCESSING

3.1 INTRODUCTION

This chapter describes the process of accepting and managing applications, up to the point that an applicant is selected for processing. This includes pre-qualifying potential applicants, taking and reviewing applications, and selecting applications for processing.

SECTION 1: PRE-QUALIFICATION

3.2 OVERVIEW

Pre-qualification involves using unverified information to evaluate the likelihood that a potential applicant would be program eligible. The results of pre-qualification are not binding. A potential applicant with possible obstacles to program eligibility may submit an application and a potential applicant who appears program eligible is not guaranteed that a loan will be made.

Pre-qualification serves as an opportunity to:

- Explain the program and the application process;
- Determine the likelihood of eligibility based on income and other factors; and
- Calculate the likely maximum loan amount.
- Encourage the early completion of homeownership education for maximum benefit.

The Loan Originator should never refuse to take an application, regardless of the outcome of the pre-qualification screening.

3.3 PROCEDURES FOR PRE-QUALIFICATION

The Loan Originator should provide consistent pre-qualification counseling for all potential applicants. It can be done face-to-face when a potential applicant comes into the Field Office or by telephone when someone calls to inquire about the

program. Refer to Attachment 3-F for guidance on how to handle discussions concerning negative pre-qualification results. Although pre-qualification is not required, it is strongly encouraged because it can eliminate unnecessary work for both the potential applicant and the Loan Originator. **The pre-qualification process does not apply when a *Form RD 410-4, Uniform Residential Loan Application,* has been received. The Loan Originator should proceed directly to the application review and processing (if funding is available).**

A. Describe the Program

During the course of the pre-qualification review, the Loan Originator should provide as much information as possible about how Section 502 program works. Although this information will be repeated during the course of the application and loan approval process, it is important for the potential applicant to begin to understand how the program works and the steps that will be required to obtain a loan.

B. Gathering Basic Eligibility and Financial Information

Pre-qualification provides an opportunity to consider whether the potential applicant appears to meet the basic eligibility requirements described in detail in Chapter 4. The Loan Originator should enter into UniFi information provided by the potential applicant and counsel the potential applicant about the following requirements and restrictions.

- **Creditworthiness.** The Loan Originator should advise potential applicants about the Agency's credit history standards including the ramifications of delinquency on a federal debt. To aid in this discussion, the Loan Originator may order an in-file credit report if the potential applicant has signed *Form RD 3550-1, Authorization to Release Information* and may also check the Department of Housing and Urban Development's online Credit Alert Interactive Voice Response System (CAIVRS) and MortgageServ's Borrower Cross Reference screen (Customer/XREF/Social Security). Regardless of the results of the infile credit report, the Loan Originator must not discourage a potential applicant from submitting an application. The Loan Originator must ensure that the race, gender, ethnic group and marital status information, when a visual observation can be made, is input into the UniFi system. This information is critical for reporting purposes.

- **Citizen or qualified alien.** The Loan Originator can ask potential applicants about their citizenship status and, for qualified aliens, inform them of the documentation that will be required when an application is submitted.

- **Identity Information.** The Loan Originator should explain to potential applicants the documentation required to verify identity when an application is submitted.

- **Requirement to occupy the dwelling.** The Loan Originator should explain that the dwelling must serve as a borrower's primary residence, and confirm that the potential applicant intends to use the loan for this purpose.

- **Financial information.** The Loan Originator should obtain information from the potential applicant about household members, income, expenses, and debt in order to make a pre-qualification determination of income eligibility and repayment ability.

C. Using UniFi to Calculate the Maximum Loan Amount

Once pre-qualification data is entered, UniFi computes the maximum loan amount for which the potential applicant would qualify using standard loan terms, and using any adjustments to the standard terms for which the potential applicant appears to qualify. (See Paragraph 6.16 B. for a full discussion of adjustments to the standard terms.)

When completing the pertinent screens in UniFi, the Loan Originator may want to consider a leveraged loan arrangement if the potential applicant is working with or has already completed an application to another funding source prior to making a pre-qualification inquiry with the Agency.

The Loan Originator should refer potential applicant to entities offering affordable housing products, such as grants, forgivable loans, deferred payment loans and below-market interest rate loans when such funding sources are available in the local area. In order to receive the benefits of a leveraged loan, the loan must meet the provisions set forth in Chapter 10 which provides detailed information about leveraged loans.

D. Discussing Pre-Qualification Results

Pre-Qualification Review

Regardless of the outcome of the pre-qualification review, all potential applicants must be offered an opportunity to complete an application.

The Loan Originator should generate the Eligibility Summary from UniFi to assist in the discussion with the potential applicant. The Loan Originator should always emphasize that the results of the pre-qualification review are unofficial and that the outcome may change when information is verified. For potential applicants in the following 4 categories, additional counseling is appropriate.

1. Over-income Applicants

Potential applicants with household incomes above the low-income limit should be informed about options available for those with moderate-income (assumed loan, purchase of a REO property, a Guaranteed Rural Housing loan, and other credit).

2. Low Estimated Maximum Loan Amounts

If the loan amount for which the potential applicant appears to qualify is not sufficient to purchase a modest, decent, safe, and sanitary house in the area, the Loan Originator should counsel the potential applicant about the need for additional resources, such as other sources of subsidized funds, increased household income, reduced household debt, and the possibility of adding additional parties or a co-signer to the note. See Paragraph 4.24 for a detailed discussion of other considerations related to maximum loan amounts.

3. Candidates for Financing with Private Credit

If the credit history, income, and assets of potential applicants indicate that they should be able to qualify for a GRH loan or private financing, the Loan Originator should ask whether an attempt to obtain such financing has been made. If not, potential applicants should be informed that they should attempt to obtain other credit.

4. Unacceptable Credit and/or Lack Repayment Ability

If a potential applicant's credit appears unacceptable based on an in-file credit report or from information supplied by the potential applicant or it appears the potential applicant lacks repayment ability for a loan, the Loan Originator should counsel the potential applicant. If the pre-qualification was not conducted face-to-face or over the telephone, the Loan Originator should use *Handbook Letter 19*, *Pre-qualification Review*, as a way to prompt the opportunity to counsel the potential applicant in ways to correct these problems. The Loan Originator may encourage the potential applicant to seek credit counseling or a homeownership education course but should **NEVER** discourage the potential applicant from submitting an application.

SECTION 2: HOMEOWNER EDUCATION

3.4 HOMEOWNER EDUCATION REQUIREMENT

The Agency requires that applicants who are first time homebuyers complete homeowner education training prior to closing on their loan. The goal of this requirement is to have first time homeowners financed under the Section 502 Direct program be well prepared for homeownership by assuring that they receive homeownership education.

A. State Director Assessment of Homeowner Education *[7CFR 3550.11]*

The State Director will make an assessment by area of the availability of certified homeownership education providers in their respective states. A list of providers will be maintained by the State Office, including the reasonable costs, if any, to the participant.

The order of preference for homeownership education formats is as follows:

- Classroom, one-on-one counseling, or interactive video conference.
- Interactive home-study or interactive telephone counseling of at least four hours duration.
- On-line counseling (only when sources listed above are not available).

In order to be included on the list, the provider must have a certificate of completion process and homeownership education counselors that are certified by any of the following:

- The Department of Housing and Urban Development (HUD);
- NeighborWorks America (NWA) ;
- The National Federation of Housing Counselors (NFHC);
- National American Indian Housing Council (NAIHC); or
- The State Housing Finance Agency or other qualified organization approved by the State Director.

In addition, the State Director may include homeowner education provided by USDA Cooperative Extension System staff.

In order to ensure consistency, on-line homeownership education courses offered and accessible on a national, non-state specific basis, will be reviewed and approved by the National Office. This is not intended to endorse a particular on-line course but to have a process by which these types of on-line courses will be evaluated in a uniform manner for usage by the States.

Where there is a fee charged to the applicant for homeownership education, the State will also assess commonly used resources of funding for the applicant to pay for their homeownership education. In addition, organizations that provide free homeownership education will be identified, and applicants will be referred to the free training first in all States.

The provider will issue a letter or certificate of completion to document that the applicant has satisfactory knowledge of these minimum topics:

- Preparing for Homeownership (evaluate readiness to go from rental to homeownership)
- Budgeting (Pre and Post-Purchase)
- Credit Counseling
- Shopping for a home
- Lender Differences (predatory lending)
- Obtaining a mortgage (mortgage process, different types of mortgages)
- Loan closing (closing process, documentation, closing costs)
- Post-occupancy counseling (delinquency and foreclosure prevention)
- Life as a homeowner (homeowner warranties, maintenance and repairs)

Generally speaking, a valid letter or certificate of completion of homeownership education that is less than 1 year old at date of loan closing will be considered acceptable. When appropriate, the provider may tailor the homeownership education training to the needs of the applicants, while ensuring satisfactory knowledge of the minimum required homeowner education topics. For example, if an applicant has already executed a purchase and sale agreement on a house, the provider may decide after conference with the applicant, to condense or omit the homeownership education section on “shopping for a home”.

B. Providing Homeownership Education Information to the Applicant

The Loan Originator must ensure that early in the application process the applicant understands that a certificate of completion is a prerequisite to loan closing and must be submitted to the Loan Originator prior to closing on the applicant's loan. In addition, the Loan Originator must assist the applicant by providing the list of approved local homeowner education providers to the applicant.

The applicant must be informed that should there be a fee for the homeowner education course selected and there are no other sources for payment, the fee may be added to the loan amount at loan closing. (See Paragraph 6.4 Fees and Related Costs). The applicant should be advised that if they do not close on their loan, they will still be responsible for the homeownership education fee.

Consistency Is Key

Be sure to use consistent procedures when providing information to ALL applicants.

C. Exception Provision

The State Director may grant an exception to the homeownership education requirement for individuals in geographic areas where certified homeownership education is not reasonably available in the local area. However, a conservative approach to the exception provision is recommended, as generally, all efforts are encouraged to have applicants undertake homeownership education early in the homeownership process to gain maximum benefit. Whether such homeownership education is "reasonably available" will be determined based on an assessment of factors including, but not limited to: distance, travel time, geographic obstacles, and cost. On a case-by-case basis, the State Director may grant an exception to the homeownership education requirement, provided the applicant documents a special need such as a disability that would impede completing a homeownership course in the above mentioned formats listed in Paragraph 3.4A.

SECTION 3: APPLICATIONS *[7 CFR 3550.55]*

3.5 DISTRIBUTING APPLICATIONS

A. Individual Applicants

An interested party can request that the Agency mail them an application or they can obtain one in person at any Field Office or through the Agency's e-forms website. Whenever someone requests an application, the Loan Originator should determine whether they have gone through the pre-qualification process, and if not, attempt to pre-qualify them, as described in Section 1 of this chapter.

Whenever possible, the Loan Originator should explain the basic application process and the contents of the application package to the interested party. The application package should include:

- An information sheet explaining the application process, time frames, credit check procedure, fees, and other applicant responsibilities similar to Attachment 3-D;
- *Form RD 410-4, Application for Rural Housing Assistance (Nonfarm Tract), Uniform Residential Loan Application* (referred to throughout this document as *Uniform Residential Loan Application*) or *Fannie Mae Form 1003, Uniform Residential Loan Application,* along with *Additional Information Required for RHS Assistance, pages 6-10 of Form RD 410-4*;
- *Form RD 3550-1, Authorization to Release Information* (copies for each adult household member);
- Any other documents the Field Office uses to help gather and verify information.

B. Loan Application Packagers

An interested party may engage the service of a loan application packager.

Though this service is completely at the discretion of the interested party, the Agency supports partnerships with loan application packagers since packagers can:

- Provide outreach and presence in counties where a Field Office is not located;
- Assist the Agency in reaching very low-income applicants;
- Promote the program in underserved areas;

- Prescreen potential applicants thus saving Agency staff time;
- Counsel potential applicants on how to improve their ability to qualify for a home;
- Ensure that applications are complete and accompanied by the supporting documentation needed for the Agency's decision; and
- Give applicants insight into the Agency's application process and regulations.

Attachment 3-A provides processing guidance for Field Offices and packagers.

3.6 APPLICATION REVIEW

Applications must be date stamped when they are received, and reviewed for required documents as soon as practicable but no later than 3 business days. The date the application is ***received*** should be recorded immediately on the signature page of the application.

A. Required Documents

An application may be accepted only if:

- *Form RD 410-4, Uniform Residential Loan Application* (or *Fannie Mae Form 1003, Uniform Residential Loan Application,* along with *Additional Information Required for RHS Assistance, pages 6-10 of Form RD 410-4*) is on a form with a revision date of 07/05 or later, and it is signed and dated with all required pages included;
- All applicable information on *Form RD 410-4* has been provided; and
- A signed *Form RD 3550-1, Authorization to Release Information* is submitted ***for each*** adult member of the household.
- The applications will be input into the UniFi system on the date when all the required documentation is received.

B. Missing Required Documents

Ideally, the Loan Originator will be available at the time the applicant brings the application to the Field Office, and can review it with the applicant to identify and correct any missing information. If the review cannot happen in person, the Loan Originator should contact the applicant by telephone immediately after reviewing the application to obtain any missing information or to make specific arrangements for the applicant to provide it through a return call, fax, or mail. During the telephone call, the Loan Originator must inform the applicant that their application cannot be considered for continued processing until all required documents have been received.

Consistency Is Key

Be sure to use consistent procedures to obtain missing information from all applicants.

The Loan Originator can update the application (with the exception of the applicant's signature) to reflect any information provided by the applicant. If arrangements are made for the applicant to provide information at a later time, the Loan Originator should send a follow up letter as a reminder of the information needed. The letter should clearly state that the application is inactive until the requested information is received, and that the application will be withdrawn if the missing information is not received within 30 days. A copy of this letter should be placed with the application in the inactive file.

If the missing information is not provided within 30 days, the application must be withdrawn. If the applicant wishes to provide the missing information at a later time, a new application must be submitted.

C. Processing Applications

For applications that contain all the required documents, the Loan Originator should take the following steps to ensure that the relevant information is properly recorded.

- **Date the application.** Once the application is accepted, the Loan Originator should date stamp the appropriate line. The date an application is considered accepted is the day all required information is received, regardless of when the application is actually reviewed by the Loan Originator. It is important that this date be correct because it is used to track priority for processing.

- **Enter data.** Information from the application should be entered into UniFi as soon as all the required documentation is received. If an applicant went through pre-qualification, much of the information should already be in the system. If the information provided on the application is different from the information provided at pre-qualification, the appropriate UniFi fields should be updated.

- **Establish case file.** The applicant's case file should be established according to RD Instruction 2033-A. For subsequent loans, the new documentation should be added to the existing case file.

- **Begin Single Family Housing Checklist.** Attachment 3-G, 502 Single Family Housing Checklist, or Attachment 12-C, 504 Single Family Housing Loan & Grant Checklist, will be used for processing all Section 502/504 SFH applications. States may add additional page(s) as needed to meet state requirements. The checklists are required and intended as a processing aid for field staff.

When an application is filed but no property has been identified, the Loan Originator will continue processing the application according to Attachment 3-G or 12-C.

The application is a working document. Whenever revised or verified information is received, the appropriate UniFi field should be updated. At loan closing, a revised copy of the application will be generated to reflect the updated information gathered during the course of the loan approval process.

3.7 COMPLIANCE WITH OTHER FEDERAL REQUIREMENTS

A. Real Estate Settlement Procedures Act

The Real Estate Settlement Procedures Act (RESPA) requires lenders to provide applicants with pertinent and timely disclosures of the nature and costs of the real estate settlement process. Within 3 business days of receiving information that includes: (1) applicant's name, (2) applicant's monthly income, (3) applicant's social security number to obtain a credit report, (4) property address, (5) an estimate of the value of the property, (6) mortgage loan amount sought, and (7) any other information deemed necessary for the loan, the Loan Originator must send the applicant the following documents:

- The Good Faith Estimate (GFE)
- Attachment 3-I, Settlement Service Providers List and Additional RESPA Related Disclosures;
- The *Shopping for Your Loan- HUD's Settlement Cost Booklet;* and,
- *Form RD 1940-41, Truth in Lending Statement.*

RESPA establishes tolerance limitations between the charges disclosed in the GFE and the final charges listed in the HUD-1. Settlement costs are divided into charges that cannot increase (Zero Tolerance), charges that in total cannot increase more than ten percent (10% Tolerance), and charges that can change (Not Subject to Tolerance). The Loan Originator is responsible for issuing accurate and timely RESPA disclosures.

The GFE cannot be revised and reissued unless changed circumstances occur. "Changed Circumstances" is defined by regulation as: (1) Situations that we cannot control; (2) Information that was relied on when the GFE was provided and then it changes or is found to be inaccurate; (3) New information particular to the applicant or transaction; or 4) Other circumstances that are particular to the applicant or transaction, including boundary disputes, the need for flood insurance, or environmental problems. In the event changed circumstances occur, the Loan Originator must send the revised GFE within 3 business days of receiving the information that established the change. Only those fees impacted by the changed circumstance may change and supporting documentation must be retained in the case file for no less than three years after settlement.

Any loan, including a Section 504 loan, is subject RESPA if a security interest will be taken on the property."

The GFE, gives a preliminary indication of the amount of escrow required, does not explain the concept of escrow. During the applicant orientation, the Loan Originator must explain what escrow is and outline the Agency's specific requirements. The Loan Originator should explain that the initial deposit can be financed, even if it raises the total loan amount over the market value or the area loan limit. The applicant's decision about financing the cost of the initial deposit or paying the cost out of pocket must be documented on *Form RD 3550-23, Applicant Orientation Guide*.

B. Truth in Lending Act

The Truth in Lending Act (TILA) is intended to assist consumers understand the cost of credit and the difference of such cost among creditors. Lenders are required to issue a truth in lending statement disclosing specific information about the terms and cost of the loan. The annual percentage rate (APR) is one of the key components of the truth in lending statement and it represents the cost of the credit expressed as a percentage. On loans subject to RESPA, TILA requires lenders to issue the truth in lending statement, *Form RD 1940-41, Truth in Lending Statement*, within 3 business days of receiving a loan application with a specific property to be purchased, constructed, or refinanced. If the APR varies by more than one-eighth of one percent at loan closing, the Truth in Lending Statement must be re-issued using the actual terms of the transaction. Any loan, including a Section 504 loan, is subject TILA if a security interest will be taken on the property.

C. Fair and Accurate Transaction Act

In accordance with the Fair and Accurate Credit Transactions Act of 2003, the Agency is required to disclose to the applicant, upon request, the score that a credit bureau distributed and was used in connection with their loan. In addition, we are required to disclose the key factors affecting the applicant's credit scores. Therefore, Attachment 3-H, Credit Score Disclosure, must be provided to the applicant when the credit report fee is collected. Page 2 of Attachment 3-H must be signed by the applicant and returned to the Rural Development office. It must be explained to the applicant that the credit score will not be used to determine loan approval but only to presume acceptable credit in lieu of other credit underwriting practices.

3.8 OBTAINING ADDITIONAL INFORMATION

Form RD 410-4, Uniform Residential Loan Application is a tool for gathering the basic information needed for loan-making purposes. However, some follow up may be necessary to ensure that the Loan Originator has enough detail to assess loan-making factors, such as processing priority and deductions for calculating adjusted income. Attachment 3-B provides guidance about the types of follow up questions the Loan Originator may need to ask in order to have a complete picture of the household's circumstances.

3.9 WITHDRAWING AND REJECTING APPLICATIONS

An applicant can withdraw an application at any time by writing or calling the Field Office. The Agency may withdraw the application if the applicant fails to respond to the Agency's written request for information in a timely fashion. All letters to applicants requesting information must clearly indicate that the application will be withdrawn if the appropriate information is not provided within the specified time frame.

When an applicant is rejected, they must be informed, in writing, of the adverse decision and their review and appeal rights. The basis for the rejection must be clearly documented. Applicants who are over-income and must seek credit from other sources should be provided with information about the GRH program and other area lenders.

Once an application has been withdrawn or rejected, an applicant who wishes to reapply must complete a new application form, and priority for processing will be based on the new application date. The Loan Originator should record in UniFi that the application has been withdrawn or rejected. The case file should be placed in the inactive file. Only in the following situations can an application be reopened:

- If the National Appeals Division has overturned the rejection of an application; or
- The Loan Originator has reviewed and reconsidered the rejection of an application.

In these situations, Attachment 3-E must be completed and forwarded to the Centralized Servicing Center, Field Support Services, for processing.

3.10 PRELIMINARY DETERMINATION OF ELIGIBILITY

Once all of the required documents as outlined in Paragraph 3.6A are received, the Loan Originator must review the application package in a timely manner but no later than 30 days to determine whether, based on the unverified information available, the applicant appears to be eligible for the program.

To make this assessment, the Loan Originator should determine whether the applicant appears to meet the eligibility requirements listed in Chapter 4. If an eligibility requirement is not met,

the Loan Originator should ask the applicant follow up questions to ensure that the preliminary determination is accurate. If further inquiry confirms the accuracy of the determination, notify the applicant in writing that they do not qualify for the program using the appropriate Handbook Letter along with Attachment 1-B or 1-C, whichever is applicable. For example, if the applicant reports household income that is over the low-income limit after allowable deductions and the applicant confirms the accuracy of the information provided on the application, the Loan Originator should send the applicant Handbook Letter 1 (3550), Moderate Income Options, along with Attachment 1-C. The acquisition of third-party verifications is not needed since the applicant certified the accuracy of the income information by signing the application.

If the eligibility requirements appear to be met, the Loan Originator should process the application, as described in Section 4 of this chapter.

SECTION 4: SELECTION FOR PROCESSING

3.11 OVERVIEW

In general, applications are selected for processing on a first-come, first-served basis. If available funding is not sufficient for all applications received, the Loan Originator selects applications for processing using the priorities described in Paragraph 3.14. This section discusses the appropriate actions to take to notify applicants of their status and select applications for processing in the proper order.

3.12 DETERMINING WHETHER FUNDS ARE AVAILABLE

The Loan Originator must determine whether funds are available before proceeding with further processing. Loan Originators will review the number of applications on hand in UniFi at least quarterly. A sufficient number of applications will be reviewed for eligibility and Certificates of Eligibility will be issued, as appropriate, based on expected funding availability by income category over the next 90 days. Loan Approval officials may use historical data, but generally the number of outstanding Certificates of Eligibility will not exceed 150% 0f the expected funding. State Directors will issue State Supplements to provide guidance about how many applications should be processed based on available funding levels.

A. Regular Funding

Nationwide, at least 40 percent of Section 502 loan funds must be allocated to very low-income households. Since each State meets this goal in different ways, Loan Originators also may have to consider the guidance provided through State Supplements in determining whether funds are available for the applicant's income category.

In rare situations, the funds available may be less than the amount for which the applicant is eligible. If this occurs, it is important to follow consistent procedures. An example of a possible procedure is provided in Exhibit 3-1.

Exhibit 3-1

Procedures if Funds are Inadequate for the Next Applicant on the Waiting List

Applicant A is next on the waiting list and qualifies for a $75,000 loan. Applicant B is eligible for a $40,000 loan. The funds available are $45,000.

- Call State Office to ask for more funds.
- Document the results of this conversation.
- If no more money is available, offer Applicant A $45,000.
- If Applicant A accepts, proceed.
- If Applicant A does not accept, go to Applicant B and keep Applicant A at the top of the waiting list for the next available funds.

B. Special Funding

Each year the National Office may designate funds to address special high-priority needs identified by the Agency. If an applicant falls into one of those high-priority needs areas and funds are available, the application can be processed immediately. For example, in a year in which funds have been set aside to target a particular geographic area, an application from a household willing to seek a property in that area could be processed ahead of other applications.

Information about funds available for high-priority needs are distributed to Field Offices through State Supplements, based on guidance from the National Office through RD Instruction 1940-L.

3.13 IF FUNDING IS NOT AVAILABLE

If the applicant does not qualify for funds that are available, the Loan Originator should notify the applicant using *Handbook Letter 2(3550), Pre-eligible* that they appear to be eligible, but that funding is not currently available. The letter should indicate the expected waiting time before funding will become available to the applicant, given the applicant's priority status. The

Loan Originator also must indicate in the letter any purposes for which funding ***is*** available. Should the applicant modify the application to match one of these purposes -- for example, agreeing to seek a property in a targeted geographic area when funds are set aside for that purpose -- the application may be processed immediately.

3.14 SELECTING APPLICATIONS FOR PROCESSING

If funding is available, applicants must be selected for processing in the proper order, and notified of the actions they must take.

A. Selection Procedures

Documenting Proper Selection Procedures

Always retain a hard copy of the waiting list when applicants are selected for processing.

If a Field Office has a backlog of unprocessed applications, when funding becomes available, a list of unprocessed applications should be generated from UniFi. The Loan Originator must select applications for processing based on each applicant's priority and the date all of the required documents as outlined in Paragraph 3.6A. were received. The number of applications selected will be determined based on guidance from the State Director.

Whenever applicants are selected for processing, a hard copy of the waiting list should be printed and placed in an operational file to document that the applications were processed in the correct order. This is important because the electronic files will be overwritten, leaving no documentation to verify that proper procedures were followed.

B. Processing Priorities

When funding is not sufficient to fund all applications, a priority system is used to ensure that applicants who meet the priorities established for the program are selected for processing first. The priority system is used only to determine the order in which applications will be processed. Once applicants are selected for processing, the order in which they actually receive funding will depend on how long it takes to conduct all required verifications and how long it takes the household to locate a property. Attachment 3-C provides a case study that illustrates the use of priorities in selecting applicants for processing.

The Agency gives processing priority to applicants who have an especially serious need for immediate assistance and for loans that are to the Agency's benefit. Applicants with higher priorities must be processed before those with lower priorities. Applicants who do not qualify for any priority should be processed only when no applications with a priority remain unprocessed. Within each priority category, applications should be processed in the order they were received. The types of priorities are described below.

1. First Priority: Subsequent Loans to Correct Health and Safety Hazards

Current Agency borrowers who request subsequent loans to correct health and safety hazards will be selected for processing first.

2. Second Priority: Loans in the Agency's Interest

Applicants interested in obtaining loans for purposes that are in the Agency's interest, but that do not directly involve removing hazards in a security property, will receive second priority for processing. This would include loans related to the sale of Real Estate Owned (REO) property and loans related to the transfer and assumption of property owned by a program borrower.

3. Third Priority: Hardships

Applicants facing housing-related hardships will receive third priority for processing. Hardship circumstances include living in deficient housing for more than 6 months. Deficient housing is defined as a dwelling that lacks complete plumbing, lacks adequate heating, is dilapidated or structurally unsound, has an overcrowding situation that will be corrected with loan funds, or is otherwise uninhabitable, unsafe, or poses a health or environmental threat to the occupant or others. Other hardship circumstances include current homeowners in danger of losing a property through foreclosure due to circumstances beyond their control, and other circumstances determined appropriate by the State Director on a case-by-case basis.

4. Fourth Priority: Loans that Bring in Additional Resources

In order to use the Agency's limited resources most effectively, applicants who will obtain part of their funding elsewhere through a leveraging agreement, or who will contribute sweat equity through an Agency-approved Mutual Self-Help project, will receive fourth priority.

C. Veteran's Preference

If applicants with equivalent priority status apply for assistance on the same day, applicants qualifying for a veteran's preference will receive priority processing. Applicants are eligible for a veteran's preference if they were discharged or released (except for a dishonorable discharge) from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard ***and*** served in active duty during one of the periods listed in Exhibit 3-2, or are the family of a service person who died in service during any of those periods.

Exhibit 3-2

Service Dates for Veteran's Preference

- April 6, 1917 through March 31, 1921
- December 7, 1941 through December 31, 1946
- June 27, 1950 through January 31, 1955
- A period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975
- August 2, 1990 through January 2, 1992
- Any other prescribed by Presidential proclamation or law

D. Notifying Applicants Who Are Selected for Processing

When funds are available, applicants who are selected for processing must be notified by sending Handbook Letter 11(3550), *Selected for Processing/Request Information* that the Loan Originator has made a preliminary determination of eligibility, but that all information must be verified. The letter will indicate that the applicant has 30 days to submit the credit report fee ($32 for each individual or joint credit report), and to provide any information requested by the Loan Originator in the letter. The Loan Originator should determine what additional verification information may be needed from the applicant by reviewing *Form RD 410-4, Uniform Residential Loan Application* and follow up responses obtained from the applicant. The Loan Originator is responsible for notifying the applicant of our paper check processing through electronic funds transfer (EFT) as required by Check 21. This will be accomplished through (1) a sign on the office wall, (2) use of Handbook Letter 11 (3550), and (3) *Form RD 3550-23, Applicant Orientation Guide.*

Common information to be requested at this point includes documentation of income from sources such as social security or child support payments, and verification of expenses such as medical costs or childcare payments. Whenever possible, the Loan Originator should provide

the applicant with a certification form to use in verifying information. Paragraph 4.3 E. describes the required verifications in detail. If an applicant fails to provide the credit report fee or needed information within 30 days, the application will be withdrawn.

Applicants who provide the required information and credit report fee, but cannot be funded that quarter, should be notified that they will be selected again when the next quarterly allotment becomes available. When funds become available in the subsequent quarter, the Loan Originator should contact the applicant to determine whether the household has experienced any changes in circumstances that might require new verifications before processing.

3.15 PURGING THE WAITING LIST

The waiting list should be purged periodically to ensure that the Agency's records are not burdened with applications from households that are no longer interested in the program. Once every 6 months, the Loan Originator must determine how soon funding will be available to process applications, and generate *Handbook Letter 3(3550), Waiting Period* for each unprocessed application on file. This letter notifies applicants that in order to keep their application active, they must return the response form attached to the letter. If an applicant does not respond within 30 days of the date of the letter, the application should be withdrawn.

3.16 VERIFICATIONS

Once the applicant has been notified of this selection, the Loan Originator should begin the verification process. Generally, the Loan Originator should consider copies of pay stubs, landlord information on the RMCR, and other available documentation before using 3rd party verification forms that must be initiated by the Agency. When verification forms are sent to a respondent to verify an applicant's information, they should be accompanied by *Form RD 3550-1, Authorization to Release Information,* and a pre-addressed, pre-stamped envelope. If the respondent does not return the verification form within 14 days, the Loan Originator must place a reminder telephone call. If a respondent returns an incomplete verification form or if additional information is needed, the Loan Originator should contact the respondent.

An applicant should not be penalized if a respondent refuses to provide the requested information. Instead, the Loan Originator should use alternative methods of verifying the information. All conversations and follow up actions for obtaining verifications should be documented carefully. Detailed procedures for assessing the results of these verifications are provided in Paragraph 4.3 E.

A. Types of Verifications

1. Oral Third-Party Verifications

Oral verifications should be used to complement acceptable and appropriate documentation, such as paystubs and bank statements. Oral verifications should be carefully documented. In situations where the applicant does not have acceptable documentation, oral verification alone is acceptable when:

- The respondent refuses to complete the written verification;
- The respondent will not complete the written verification without a fee, but will provide the information over the phone;
- Written documentation has been obtained but is over or 120 days old and the oral verification serves as a reverification; or
- A preliminary verification of a change in the applicant's status (for example, change of employment or new family members) is needed for timely loan processing, and a written copy is to follow.

2. Written Third-Party Verifications

Written verifications are required when the applicant does not provide complete and consistent documentation to support the information provided on the application. In such situations, the information should be confirmed by written third-party verifications. Correspondence should take place directly between the third party and the Agency, using Agency forms if possible. Faxed verifications are acceptable.

3. Other Written Verification

Other written verifications can be appropriate in circumstances where a third-party verification is not feasible. For example, if an applicant is self-employed or has an employer who will not complete the verification form, some alternative mechanism for documenting income is needed. This might include examining paycheck stubs, certified copies of tax returns, or bank statements. *IRS Form 4506-T, Request for Transcript of Tax Return*, may be used to obtain a copy of transcript of tax return(s) if the applicant cannot provide copies of actual returns filed.

B. Evaluating Verified Information

All verifications should be checked for completeness and for discrepancies from information provided by the applicant. Any discrepancies should be discussed with the applicant and clarifications should be documented carefully. Verification sources may be contacted directly, if necessary, to clarify information.

ATTACHMENT 3-A

LOAN APPLICATION PACKAGERS

A loan application packager, who has real estate and/or mortgage experience, may submit a complete loan application package on behalf of an applicant. A packager may be a nonprofit or for-profit individual or organization. **However, only a packaging fee charged by a public agency or private nonprofit organization that is tax exempt under the Internal Revenue Code is an eligible loan purpose**. Unless an individual (be them nonprofit or for-profit) or a for-profit organization is willing to provide their loan application packaging service at no direct cost to the applicant or Agency, they cannot not be used.

The loan application packaging fee cannot exceed $750 for a Section 502 direct loan application package and $500 for Section 504 direct loan **only** application package. The fee can only be charged for closed loans that do not involve the purchase of an Agency Real Estate Owned property or a Section 502 loan under the Mutual Self-Help Housing program. In no event will the borrower or the Agency be responsible for paying any part of the fee not covered by the allowable loan amount, seller concessions, and/or a soft, silent or forgivable subordinate affordable housing product.

This attachment provides processing guidance to loan application packagers.

First and foremost, as a loan application packager you need to be familiar with the regulations and procedures that govern the program. You should be well acclimated with 7 CFR Part 3550 and Handbook-1-3550, both of which can be found at: http://www.rurdev.usda.gov/Handbooks.html. You should also establish a relationship with your local Rural Development offices.

As a loan application packager, you are required to:

- Comply with the Equal Credit Opportunity Act and the civil rights requirements contained in RD Instruction 1901-E.
- Prepare an Affirmative Fair Housing Marketing plan, if you intend on submitting five or more loan application packages to purchase and/or construct dwellings in the same subdivision.

- Understand and (if applicable) comply with the SAFE Act. The SAFE Act, which is a Federal regulation with state-level enforcement and possible requirements over and above the federal minimum standards, addresses those engaged in loan originator activities. Rural Development does not enforce or monitor SAFE Act compliance.

- Be in good standing with the Government. Specifically, you are not suspended or debarred from participating in Federal programs.

You will sequentially assemble loan application packages in three separate stages. These stages, which are outlined below, are part of *Form RD 1944-12, Rural Housing Application Package*. This form serves as a checklist and must be completed, signed, and dated by the packager.

Stage 1: Preliminary Eligibility Processing

Prior to collecting the items in this stage, you need to conduct a pre-qualification review on the potential applicant using unverified information to evaluate the likelihood that they will be eligible for the program. For the Section 502 program, this review should be completed using the payment assistance and maximum loan amount spreadsheets as provided by the Agency. For the Section 504 program, this review should be completed using *Form RD 1944-3, Budget and/or Financial Statement*. If the potential applicant appears to be ineligible for the program (now or later on in the packaging process), counsel them on ways to improve their situation. In addition, advise the potential applicant that they may make application directly with the Agency; though the Agency may confirm the packager's preliminary determination (especially if changes are not made). If the potential applicant appears to be eligible for the program, begin collecting all applicable items under Stage 1.

Nonprofit organizations or public agencies, who are permitted to charge a loan application packaging fee, must provide the potential applicant with a disclosure letter. The disclosure letter, which requires acknowledgement of receipt, must follow the format below. Other than making the necessary insertions where indicated, this disclosure letter cannot be modified in any way.

[This letter must be on your letterhead.]

Dear Potential Applicant:

After talking with you, we think that a direct Section *[Insert 502 or 504, whichever is applicable]* single family housing loan through the Rural Housing Service (known as the "Agency") is a good loan for you. The Rural Housing Service is an Agency of the United States Department of Agriculture.

We **do not** work for the Agency; we are an outside loan application packager. *[Insert name of organization]* will assist you in applying for a loan through the Agency. We do not guarantee that your loan application will be approved or funded by the Agency.

For our services, you will pay a loan application packaging fee of *[Insert fee of no more than $750 for a Section 502 direct loan application package or a fee of no more than $500 for a Section 504 direct loan* ***only*** *package]*. The fee is due only if the Agency approves you for a loan and the loan goes to closing. Under certain circumstances, part or all of this fee may be included in your loan. Otherwise, we will assist you in finding an alternate means to cover the fee from other sources. To the extent other sources are unavailable, we will waive the fee.

You are not required to work with a loan application packager to receive assistance from the Agency. You may work directly with the Agency and avoid the loan application packaging fee. Working with our organization provides you with the following benefits: (1) we will act as a go-between for you and the Agency and (2) we will make sure that your paperwork is in order, which should shorten the time it takes for the Agency to make a loan decision.

To begin the process, each adult who will reside in the home must sign an Authorization to Release Information (RD Form 3550-1). This will allow us to obtain credit histories, verification of income received by all household members, and other documents needed for the Agency to make a loan decision. All information collected will be maintained with the highest degree of confidentiality.

We look forward to working with you in preparing an application for an Agency direct loan.

_____
Potential Applicant's Initials

_____
Potential Co-Applicant's Initials

Respectfully,
[Insert name of organization]

The below is to be completed, signed, and returned by the potential applicant(s).

WAIVER OF PROVISIONS TO THE PRIVACY ACT OF 1974

To better serve as your advocate with the Agency, we need to be kept informed of the Agency's processing of your application and we may need access to items directly obtained by the Agency. Do you authorize the Agency to release to and discuss with *[insert name of organization]* any information we may seek or request from the Agency's records concerning your application for Agency assistance?

Please check one:

☐ YES (Authorization will terminate upon loan closing or Agency denial of your application.)

☐ NO

By initialing Page 1, completing the Privacy Act waiver, entering the date you received this letter, and signing/dating below on Page 2, you acknowledge these facts and confirm your desire to work with *[insert name of organization]*.

I/we received this letter on the _____ of _____ 20__

_____

Potential Applicant's Name/Signature/Date (spell out full name and then sign)

_____

Potential Co-Applicant's Name/Signature/Date (spell out full name and then sign)

The disclosure letter will be accepted by the Agency provided the potential applicant(s) initialed Page 1 of 2, checked "YES" or "NO" to the Privacy Act waiver, entered the date they received the disclosure letter, and signed/dated Page 2 of 2.

When gathering verifications, you must use the preferred source (refer to Handbook-1-3550, Chapter 4) unless it cannot be obtained without cost. If the preferred source is to be complemented with an oral verification, the Agency will complete the oral verification segment at a later point in time. Preferred sources generally do not involve asking third-parties to complete an Agency form. If a third-party verification must be obtained because the preferred source involves a fee, you may request and receive this form directly. The Agency will complement this third-party verification with an oral verification at a later point in time.

For the Section 502 program, rerun the payment assistance and maximum loan amount spreadsheets using the verified information. For the Section 504 program, update *Form RD 1944-3, Budget and/or Financial Statement*, accordingly.

You will not proceed to Stage 2 until Stage 1 is fully complete and the results are positive. If the results are negative, you will stop the packaging process (unless you work with the potential applicant to remedy the issues); nothing will be submitted to the Agency. If the results are positive, contact the applicable local Rural Development office to inquire about the availability of funds. If funds are available, proceed to Stage 2. If funds are not available, counsel with the Rural Development office on how to proceed. In most cases, you will be instructed to proceed directly to Stage 3 when packaging a Section 502 direct loan application and subsequently provide the items in Stage 2 once funding is available.

Stage 2: Property

Once Stage 1 is fully complete and the results are positive, begin collecting all applicable items under Stage 2. Unless instructed otherwise, you will not proceed to Stage 3 until Stage 2 is fully complete and the results are positive.

Stage 3: Prior to Submission to Rural Development

Use the information gathered in Stages 1 and 2 to assist the potential applicant in completing *Form RD 410-4, Uniform Residential Loan Application*. In lieu of *Form RD 410-4*, you may use an industry standard "Uniform Residential Loan Application" with a revision date of 07/05 or later when accompanied by the Agency's supplemental pages (6-10) of *Form RD 410-4*.

For the Section 502 program, prepare the final payment assistance and maximum loan amount spreadsheets using the verified information. For the Section 504 program, update *Form RD 1944-3, Budget and/or Financial Statement*, using the verified information.

Provided the overall results are positive, submit the complete loan application package to the applicable local Rural Development office. Submitted items must be within the Agency's validation timeframes (generally 120 days from the date of verification). If an item will expire within 30 days of the date of submission to Rural Development, it should be updated. Though not required, you are asked to submit the package using an eight-position folder; filing the documents in the positions indicated in Attachment 3-G, 502 Single Family Housing Checklist, or Attachment 12-C, 504 Single Family Housing Loan and Grant Checklist.

If the applicant marked “NO” to the Privacy Act waiver on the disclosure letter, the Agency staff will provide you with processing updates. However, the Agency cannot provide you with details or provide you with any documents in the Agency case file. Examples:

- The Agency will inform you about a decision to deny but will not provide you with a copy of Handbook Letter 15 or relay the reasons for denial.
- If the appraisal is insufficient to cover the entire packaging fee, the Agency will inform you of the amount of the deficiency. The Agency will not provide you with a copy of the appraisal or relay appraisal details.
- The Agency will inform you about the date of obligation but not the amount of obligation.
- The Agency will inform you about the date of closing.

If the applicant marked “YES” to the Privacy Act waiver, documents will be shared as requested and Agency staff will provide you with processing updates with details.

Please note that your performance as a loan application packager will be monitored by the Agency. If you submit a significant number of packages that are incomplete and/or ineligible, the State Director may determine your service to be unacceptable.

ATTACHMENT 3-B

FOLLOW UP QUESTIONS FOR FORM RD 410-4, UNIFORM RESIDENTIAL LOAN APPLICATION

Form RD 410-4, Uniform Residential Loan Application is designed to obtain a broad range of applicant information. To accurately process an Agency loan, however, the Loan Originator must review the application carefully and ask follow-up questions to ensure that all relevant information has been obtained. This attachment provides a list of questions that may be useful for each section of the application. Not all questions will be needed for all applicants, and additional information may be needed in some cases.

I. Type of Mortgage and Terms of Loan

- None.

II. Property Information and Purpose of Loan

- Determine whether the applicant intends to purchase a Real Estate Owned (REO) property or assume a loan from a program borrower.
- Determine whether the applicant is interested in a leveraged loan.
- If the applicant wishes to refinance, obtain details about why and also inquire about the type and condition of their home. The Agency will refinance loans only in limited circumstances.
- If the applicant will not reside in the property, confirm that the applicant wishes to obtain a nonprogram loan.
- If the applicant is requesting a subsequent loan to improve the property, determine whether the repairs are necessary to maintain the security, or to meet the family's housing needs.

III. Borrower Information

- Name, age, and relationship of all household members.
- Confirm number and ages of dependents.
- Any foster children or foster adults?

- Any full-time students?
- Any household members with disabilities?
- Any elderly household members?
- If the household qualifies as an elderly household, does the household have extensive medical expenses?

IV. Employment Information

- If there is an adult household member who has recently changed jobs, determine the reason for the job change.
- If there is an adult household member for whom no employer information has been provided, determine whether the person is employed.
- If any adult household member is unemployed, determine for how long.

V. Monthly Income and Combined Housing Expense Information

- Verify that income listed is comprised of all sources of income, including income from applicants, spouses of applicants (even if the spouse is a minor), and any other adult household members.

VI. Assets and Liabilities

- If the household reports owning real estate, discuss the type of property owned to verify that the reported market value is reasonable.

VII. Details of Transaction

- If completed by applicant, review information to confirm accuracy.

VIII. Declarations

- If the applicant reports any judgments, bankruptcies, lawsuits, foreclosures or deeds in lieu of foreclosure, or delinquencies on a Federal debt or any other obligations, determine the particular circumstances.

- If the applicant reports any alimony, child support, or separate maintenance obligations, verify that it is included as a liability in Section VI of *Form RD 410-4*.

- If the applicant has applied for a nonprogram loan, determine whether any part of a proposed down payment will be borrowed, since other debt will affect repayment ability.

- If the applicant is not a U.S. citizen, verify that he or she is a qualified alien.

- If the applicant does not intend to occupy the property, verify that the applicant intends to obtain a nonprogram loan.

- If the applicant has had ownership interest in a property, determine how that interest was disposed of to ensure that it was not disposed of at below market value.

IX. Acknowledgment and Agreement

- None.

X. Information For Government Monitoring Purposes

- None.

Additional Information Required for Agency Assistance

- If the applicant has received prior assistance, determine whether there were any repayment problems, and in the case of a Section 504 loan or grant, whether the assistance limit has been reached.

- If the applicant is a veteran, or family of a deceased service person, determine the dates of service, the type of discharge received, and the date of death, if deceased.

- If the applicant lists a household member as disabled, determine whether the household may be entitled to a deduction for the costs of dependent care to allow a household member to further their education or to work, and whether any reasonable accommodations may be required.

- If the applicant lists child care costs, determine whether child care is needed to allow a household member to further their education or to work (if it is to allow the applicant to work, determine whether the salary the applicant receives is equal to or greater than the cost of child care and the age of the child for which care is being provided).

- If the applicant indicates that the present dwelling has physical problems or is overcrowded, obtain details about the nature and duration of the problem.

- If the applicant did not include alimony, child support, or separate maintenance information in Section V of *Form RD 410-4*, make sure the information is provided.

ATTACHMENT 3-C

CASE STUDY - PROCESSING PRIORITIES

The Field Office currently has funds available only for borrowers in Big Gap County which has been designated as a high-priority needs area for which the Agency has a special set-aside. The Loan Originator must review the following applications to process any that can take advantage of the set-aside funds and to select applications for processing in anticipation of additional funding not designated for set-asides that will be available soon. Part I provides information on the applicants, their current situations, and the dates of the applications. Part II illustrates the analysis and ranks the applications in the order of selection.

Part I. Applicants

Date of Application	Applicant	Description
9/5	De Moura	Ms. De Moura has owned her home, which was financed by a local lender for 3 years. Last year, she was laid off from her job but has found a new position that pays only half the salary. As a result, she is behind in her loan payments and the lender has accelerated her loan. Ms. De Moura would like to refinance with Agency funds.
9/6	Sapienza	The Sapienzas used a Section 502 loan to purchase an existing home. They are requesting a subsequent 502 loan to install a retaining wall because of erosion in the backyard.
9/7	Yao	The Yaos wish to purchase a newly-built house. They would like to obtain a Section 502 loan and are seeking a leveraged loan.
9/8	Jones	The Joneses moved into the area 4 months ago and would like to purchase an existing house using Section 502 funds because the rental unit the family occupies is too small for the family and has an inadequate heating system.
9/9	Garcia	The Garcias would like to purchase a home from Greenes who have been paying regularly on their Section 502 loan but are now transferring out of State.
9/9	Olsen	The Olsens wish to purchase a Real Estate Owned (REO) property using Section 502 funds. In addition, Mr. Olsen served in active military duty between June 27, 1950 and January 31, 1955.

Date of Application	Applicant	Description
9/14	Brown	The Browns used a Section 502 loan to purchase an existing home. Their septic system no longer works properly and needs significant repairs and they are requesting a subsequent 502 loan to repair it. They are 2 payments behind on their initial loan.
9/15	Johnson	The Johnsons would like to purchase a home from a current Agency borrower but have income well above the low-income limit.
9/16	Smith	The Smiths would like to build a home on a site in Big Gap County.
9/21	Pawlikowski	The Pawlikowskis have been without adequate plumbing for 8 months. They would like to purchase a newly built house using Section 502 funds.
9/21	Deitrich	The Deitrichs would like to build a new house because they feel their current 3 bedroom home is too small to accommodate Mr. and Mrs. Deitrich, their 3 children, and his Aunt Greta, who has recently moved in. They wish to fund the construction through a Section 502 loan.
9/23	Whitfield	The Whitfields wish to purchase a home from an Agency borrower who has an accelerated account.

Part II. Establishing Priorities

Selection Order	Applicant	Date of Application	Priority	Priority Status
N/A	Johnson	9/15	N/A	Although the Johnsons are not program-eligible, they may purchase the home under nonprogram terms. No additional funds are required because a nonprogram borrower can only assume the outstanding balance at new rates and terms. Processing need not be delayed until additional funds are available.
N/A	Smith	9/16	N/A	The Smiths receive funding immediately from the set-aside.
1	Brown	9/14	1	The Browns receive first-priority processing for new funds because they are requesting a subsequent loan to remove health and safety hazards. The Loan Originator should counsel the Browns to contact the Centralized Servicing Center (CSC) to resolve the delinquency. The Loan Originator may need to coordinate with CSC about whether a loan or protective advance is most appropriate.

Selection Order	Applicant	Date of Application	Priority	Priority Status
2	Olsen	9/9	2	Since the Olsens are purchasing an REO property, the Agency gives second-priority processing to their request.
3	Garcia	9/9	2	The Garcias receive second-priority processing because they are assuming a home from an Agency borrower. Although their application was received on the same day as the Olsens', the Olsens receive priority because Mr. Olsen qualifies for a veteran's preference.
4	Whitfield	9/23	2	The Whitfields receive second-priority processing because they are assuming a loan from an existing Agency borrower. Purchasing a home from a borrower who has an accelerated account does not give the Whitfields processing priority over the Garcias who also are assuming a loan from a current borrower. Within priority categories applications are selected by application date.
5	De Moura	9/5	3	Ms. De Moura receives third-priority processing because she is in danger of losing her home through foreclosure due to circumstances beyond her control.
6	Pawlikowski	9/21	3	Since the Pawlikowskis have been living in deficient housing for at least 6 months, they receive third-priority processing.
7	Yao	9/7	4	The Yaos receive fourth-priority processing because they are seeking a leveraged loan to fund the purchase of their home.
8	Sapienza	9/6	No Priority	The Sapienzas do not receive priority processing; they are requesting a subsequent loan to make needed repairs for a condition that, at this time, does not constitute a health and safety hazard. The Sapienzas application will be processed after all applicants with priorities have been processed.

Selection Order	Applicant	Date of Application	Priority	Priority Status
9	Jones	9/8	No Priority	The Joneses do not receive priority processing. Although they have been living in deficient housing for 4 months, they are currently 2 months short of receiving second-priority processing. If within 2 months funding is still not available, the Joneses would receive second-priority processing, and would be processed before the Olsens.
10	Deitrich	9/21	No Priority	The Deitrichs do not receive priority processing. The application will be processed after all applicants with priorities have been processed. Although the family believes the house is too small, it is not sufficiently overcrowded to be considered deficient.

UNITED STATES DEPARTMENT
OF AGRICULTURE

RURAL DEVELOPMENT

RURAL HOUSING SERVICE

"Applicant Information Sheet" - Single Family Housing

The Rural Housing Service (RHS) provides loans in rural areas to eligible low- and very low-income applicants. The loan may be to purchase existing housing, purchase and repair existing housing, purchase a building site and construct a dwelling, or purchase new housing. Rural areas include open country and places with population of 10,000 or less and, under certain conditions, towns and cities between 10,000 and 25,000 population.

The property must be in good repair or placed in good repair with loan funds and must be energy efficient. Third-party inspections are required for electrical, heating, plumbing, water and wastewater disposal systems, if applicable, and termite inspections. These third-party inspections must be performed by a qualified inspector. The payments for costs associated with the inspections will be agreed upon between the buyer and the seller and should be discussed prior to signing a purchase agreement.

All who apply get equal consideration without regard to race, color, religion, sex, marital status, age, disability, or national origin.

The following documents are attached and may be completed and returned to your local Rural Development office located at the following address:

1. Form RD 410-4, "Uniform Residential Loan Application"
   Please contact the above Rural Development office if you have questions or would like assistance in completing this form.
2. Form RD 3550-1, "Authorization to Release Information"
3. Qualifying income limits
4. Map of eligible rural areas

To determine if you qualify, review these frequently asked questions:

"DOES IT MATTER HOW MANY OTHER BILLS I HAVE TO PAY?"

RHS will look at how much you currently owe to others. We'll want to know if paying back the proposed loan on top of your other payments will be difficult for you.

"WHAT IF I THINK MY INCOME IS TOO LOW?"

Having enough income to repay your loan is an important part of getting a loan; however, the RHS loan may be subsidized. A subsidized loan is based on the applicant repaying a percentage of their income toward the housing payment, taxes, and insurance. The percentage is generally 24 percent of the applicant's household income.

"WHAT CAN I DO IF MY INCOME IS TOO LOW?"

The easiest thing you can do is consider a co-applicant to apply with you. RHS will then look at the combined credit histories and income. That can do a lot to improve your chances for approval. If you want a co-borrower, be sure to have the person complete the Co-Applicant section of the application form and sign his or her name next to yours.

"HOW CAN I DETERMINE IF MY INCOME IS ADEQUATE TO REPAY A LOAN?"

The amount of your proposed monthly house payment, real estate taxes, insurance, and other credit debts cannot exceed 41 percent of your gross monthly income. If you have questions regarding how this determination is made, you may contact the local Rural Development Office shown on the front cover.

"CAN I GET A LOAN IF I'M UNEMPLOYED?"

A steady source of income is very important to getting a loan. An applicant must show sufficient resources to repay the housing loan. Not having a job may have an impact on the Agency's decision. Experience has show that applicants with stable jobs are more likely to repay the loan.

"WILL YOU FIND OUT ABOUT OTHER CREDIT I'VE HAD?"

Yes. Your credit bureau report provides information on your payment history including any difficulty you have had repaying other loans or credit cards. That information will be used to see if you can easily repay the loan.

"HOW CAN I FIND OUT IF I'M ELIGIBLE FOR A LOAN?"

A Rural Development employee is available to discuss eligibility requirements with you on an individual basis by phone or in person during regular office hours. Any interested person may make written application at the local Rural Development office.

"WILL I KNOW RIGHT AWAY IF I QUALIFY FOR A LOAN?"

Rural Development staff can pre-qualify the applicant with unverified information provided by the applicant by phone or in person. However, a final eligibility determination will not be made until a written application is filed, household income is verified, and a mortgage credit report is obtained.

"WILL I NEED TO GET PART OF MY FINANCING FROM ANOTHER SOURCE?"

Applicants who demonstrate the ability to obtain a portion of the needed funds from outside sources (i.e. conventional lenders, housing authorities, etc.) should do so. These loans are referred to as leverage loans. Supplemental funding from outside sources allows applicants to establish relationships with private lenders and helps Rural Development assist more families in buying their own homes. Please note that leveraged loans receive processing priority.

"HOW LONG WILL IT BE BEFORE I CAN MOVE INTO MY NEW HOME?"

Typically, applicant eligibility, loan approval, and loan closing may be accomplished within approximately 90 days of filing of the written application. However, depending on the availability of Government funding, this time-frame may be extended. The applicant is periodically advised regarding the status of his or her application when there is lack of funding.

"HOW MUCH MONEY WILL I NEED FOR A DOWNPAYMENT?"

A down payment is not required. Loans may be made for up to 100 percent of the market (appraised) value. Simply put, this means if the sales price of the property is equal to or less than the appraised value, no down payment is needed.

"DOES THIS MEAN I WON'T NEED ANY CASH TO GET A LOAN?"

Generally, the applicant will need some cash available. There are costs associated with the credit report, appraisal report, escrow, and other related closing costs. The credit report fee is always
paid by the applicant. Costs pertaining to the appraisal, escrow, and loan closing may be included in the loan amount. You may also negotiate with the seller to contribute a percentage toward closing costs. Any agreement with the seller should be entered into prior to signing, and documented in the purchase agreement or sales contract.

"DOES THE APPLICANT HAVE OTHER RESPONSIBILITIES?"

Yes. Rural Development staff are available to assist the applicant from the application to loan closing. The applicant is responsible for providing requested information timely. The information may be requested by Rural Development staff, a real estate agent, or a closing agent. Failure to provide information timely results in delayed decisions and other actions.

"ARE THERE OTHER ELIGIBILITY REQUIREMENTS?"

Yes. The applicant must:

1. Be without decent, safe, and sanitary housing.
2. Be unable to obtain a loan from other resources on terms and conditions that they can reasonably be expected to meet.
3. Possess the legal capacity to incur the loan obligation.

"WHAT ARE THE TERMS OF THE LOAN?"

The maximum repayment period is 33 years and, under certain conditions, 38 years. The maximum repayment period for manufactured homes is 30 years.

"WHERE MAY HOUSES BE LOCATED?"

Houses must be located on desirable sites with an adequate supply of safe drinking water and suitable arrangements for sewage disposal. Streets must have an all-weather surface and be maintained by a public body.

"WHAT ABOUT THE SIZE AND DESIGN OF THE HOME?"
Cost and design vary in different areas of the country. The value of a dwelling may not exceed the Area Loan Limit for the area in which the applicant is requesting financing.

WHO IS RESPONSIBLE FOR INSPECTING THE HOME?

The applicant/borrower is responsible for making inspections necessary to protect their interests. Rural Development (RD) also performs its own inspections for the dual purpose of determining that RD has adequate security for its loan and is achieving the statutory goal of providing adequate housing. Rural Development inspections are not conducted to guarantee that the house is built in accordance with the plans and specifications. RD inspections create or imply no duty or obligation to the applicant/borrower.

"WHERE MAY I APPLY?"

Applications are made at the local Rural Development office serving the area in which the house will be located. Anyone unable to locate Rural Development in the local telephone directory may write to Rural Development, U.S. Department of Agriculture, Washington, DC 20250.

Request to Re-open Rejected Applications in MortgageServ

Application Number: _____

Name of Applicant: _____ Name of Co-Applicant: _____

Reason for Request (check only one):

_____ National Appeals Division (NAD) overturned the rejection of the application.

_____ The Community Development Manager (CDM) reviewed and reconsidered the rejection and recommends reinstatement.

Please **PRINT** name of requesting official: _____

Signature of requesting official: _____ Date: _____

Title of requesting official: _____

FOR STATE OFFICE USE ONLY:

*Request Approved: _____ **Request Denied: _____

Please **PRINT** name of State Office Official: _____

Signature of State Office official: _____ Date: _____

Title of State Office official: _____

*If approved, the State Office should fax form to Field Support Services (FSS) at 314-457-4441 and notify the Field Office of the approval.
**If denied, fax form back to originating office to place in applicant's case file.

HOW TO ADDRESS NEGATIVE PRE-QUALIFICATION RESULTS

The purpose of this attachment is to instruct the RHS staff on how to handle discussions concerning negative pre-qualification results. Since pre-qualifications are based on unverified information and infile credit reports, the results are not binding. To avoid implying that the results are official, the following scripts are to be used in each given situation:

Situation 1: The potential applicant has credit blemishes (be it bankruptcy, collections, etc.) on their infile credit report.

Proper Response:

Let the potential applicant know that their credit record does not have to be perfect to be eligible for a loan. Inform the potential applicant that past credit blemishes can be acceptable if their overall credit record demonstrates an ability and willingness to repay obligations or if their credit blemishes occurred as a result of circumstances beyond their control. Counsel the potential applicant on how to correct the credit blemishes and share with the potential applicant the credit standards as outlined in HB-1-3550, Chapter 4. Be sure to explain to the potential applicant that fulfilling suggestions provided by the RHS staff will improve their chances of qualifying for a loan, but not guarantee loan approval.

Unacceptable Response:

Informing the potential applicant that based on the results of the infile credit report, they do not meet our credit standards and would not qualify for a Section 502 direct loan.

Situation 2: The potential applicant does not appear to qualify for an amount sufficient to purchase a decent, safe, and sanitary dwelling.

Proper Response

Counsel the potential applicant on ways to improve their financial status (i.e. paying off small debts, debt consolidation, increasing their income, etc.) and inform the potential applicant that a qualifying co-signer may be added to an application to compensate for a lack of adequate repayment ability. Also refer the potential applicant to State and non-profit agencies that might be willing to extend forgivable loans and/or grants.

Unacceptable Response:

Telling the potential applicant that they do not qualify for a loan due to a lack of repayment ability.

Situation 3: The potential applicant presently owns a home.

Proper Response:

Let the potential applicant know that if their dwelling is structurally unsound, functionally inadequate, or too small to accommodate the needs of the household, RHS may be able to provide financing to improve the existing dwelling or to purchase a new one. In addition, let the potential applicant know that RHS may be able to refinance the property under certain circumstances (refer to HB-1-3550, Chapter 6.5).

Unacceptable Response:

Informing the potential applicant that the Section 502 direct loan program is designed for first-time homebuyers only.

<u>Situation 4: The household's adjusted annual income appears to be over the income limit.</u>

Proper Response:

Inform the potential applicant that to qualify for a Section 502 direct loan, their household's adjusted annual income must be within our established income limit based on household size and location. Also let the potential applicant know that if they should exceed the income limit for the direct loan program other options are available (assumed loan, purchase of a REO property, a Guaranteed Rural Housing loan, and other credit).

Unacceptable Response:

Informing the potential applicant that they do not qualify for a Section 502 direct loan because it appears as though they are over income based on the unverified income information.

502 SINGLE FAMILY HOUSING CHECKLIST

"THIS CHECKLIST DOES NOT REPLACE THE RUNNING RECORD!"
(This document should be filed in position 1)

Applicant: _____ Co-Applicant: _____

Processing Priority: 1____ 2____ 3____ 4____ 5____

The pre-qualification section does not apply if Form RD 410-4, Uniform Residential Loan Application, has been received; proceed to the application processing section.

POS DATE PRE-QUALIFICATION

3 _____Enter information from potential applicant into UniFi
(Enter Requested Product Code 999 on the Registration Screen).
3 _____Infile Credit Report (OPTIONAL provided that the potential applicant has signed Form RD 3550-1, Authorization to Release Information) (HB-1, 3.3, 4.11)
4 _____HB Letter 19 (3550) - if applicable **(HB-1, 3.3)**
3 _____Print out Eligibility Summary from UniFi – sign and date.

Review application for completeness within 3 business days of receipt. Call or write the applicant to request any missing information. Follow up with a letter advising applicant of a 30-day deadline for submission or the application will be withdrawn. Mark file as inactive until complete. ***(HB-1, 3.6)***

POS DATE APPLICATION PROCESSING

3 _____RD 410-4, Uniform Residential Loan Application, include information sheet similar to Attachment 3-D and **RD 3550-1, Authorization to Release Information** (if not completed at pre-qual) **(HB-1, 3.5)**
3 _____Infile Credit Report (if the applicant will be placed on the waiting list and an infile wasn't ordered for a pre-qualification) **(HB-1, 3.3, 4.11)**
_____If an application includes the information required by RESPA, forward to the applicant within 3 business days of receipt of the application (HB-1, 3.7):
_____Settlement Cost Booklet – (1940-I)
2 _____RD 1940-41, Truth in Lending Statement – (printed from UniFi) **date returned _____**
5 _____Good Faith Estimate
_____ Attachment 3-I, Settlement Service Providers List- date returned _____
3 _____Check on-line HUD CAIVRS, print pages and file in applicant file (if not completed at Pre-qual) **(HB-1, 3.3, 4.11)**
3 _____Check MortgageServ CUS/XRE/SOC screens (if not completed at pre-qual) **(HB-1, 3.3, 4.11)**
4 _____Funds Available; send HB Letter 11 (3550), Selected for Processing/Request Information (HB-1, 3.14)
4 _____Funds Not Available; send HB Letter 2 (3550), Pre-eligible (HB-1, 3.13)
3 _____Underwriting – enter 'pre-qual' and 'application complete' dates on Stage Updating Screen **-** Be sure
to enter actual purchase price, if known

POS ***DATE*** **ELIGIBILITY PROCESSING**

INCOME

3 _____**Paycheck stubs (**4 most recent & consecutive weeks), tax-returns with W2s **(HB-1, 4.3); AND**
3 _____**Oral Verification of Employment**- document as prescribed in HB-1, 4.3.
3 _____**RD 1910-5, Request for Verification of Employment –** in lieu of acceptable paystubs**.. (HB-1, 4.3)**:

_____1) if no response in 14 days, call and document carefully
_____2) if VOE is over 120 days old, update by phone & document to extend another 60 days

3 _____**Other Income/Asset documentation (HB-1, 4.3, 4.5):**

_____Public Assistance/AFDC _____Self-employment income
_____Child Support/Alimony _____Social Security/VA Benefits
_____Unemployment Benefits _____Pensions/Annuities
_____Latest filed & signed Federal Income Taxes _____Other
_____Employment and Asset Certification (RD 3550-4) – If applicant self certifies that their household's combined net assets exceed $5,000, or if applicant must pay closing costs that cannot be financed, verify assets as outlined in HB-1, 4.3.

3 _____**Attachment 4-A, Sample Worksheet for Computing Income (HB-1, 4.2)**

DEDUCTIONS

3 _____**Deduction documentation (HB-1, 4.4):**

_____Child Care _____Educational Assistance Expenses
_____Elderly/Disabled (**RD 1944-4, if applicable)** _____Full-time Student status
_____Medical Expenses _____Minor Dependent _____Other

3 _____**Separation/Divorce/Paternity/Property Settlement Agreement,** if applicable

CREDIT

3 _____**Residential Mortgage Credit Report (RMCR) documentation (HB-1, 4.12):**

_____Fee: Requested_____ Received_____
_____**Credit Score Disclosure –** (Attachment 3-H, page 2- date returned_____)
_____Report: Requested_____ Received_____
_____Document in item 19 of RD 410-4
_____Participating Lender Ordered

3 _____**Credit score is less than 640 (HB-1, 4.12 & 4.13):**

_____Applicant Reference Letter **(RD 410-8)**
_____Landlord's Verification **(RD 1944-60)** if not on credit report and must cover 2 years
_____Credit History Worksheet **(1944-61)**

OTHER

3 _____**RD-3550-30, Verification of Debt Proposed for Refinancing,** for a non-Agency debt **(HB-1, 6.5)**
3 _____**Document Applicant has adequate funds for Closing Cost/Down Payment -** if applicable
3 _____**RD 3550-2, Request for Verification of Gift/Gift Letter,** if applicable - **(HB-1, 4.3 & 6.15)**
3 _____**If not a citizen, see Attachment 4-D (S.A.V.E.) (HB-1. 4.20)**
3 _____**Photographic Identification (HB-1, 4.21)**
3 _____**Projected Payment Shock: _____ (HB-1, 4.25)**
3 _____**RD 1944-59, Certificate of Eligibility,** if property has not been selected. Valid for 45 days without leveraging or 60 days with leveraging. Two (2) 30-day extensions my be granted **(HB-1, 4.25**)
3 _____**Document Eligibility on originally submitted RD 410-4, item 17.** Update UniFi/Stage Updating, print and sign Eligibility Summary
4 _____**NOTE! Application to be withdrawn at the end of all Certificate of Eligibility extensions**

POS ***DATE*** **PROPERTY ELIGIBILITY**

_____**Within 3 business days of receipt of a ratified sales contract identifying a specific property to be constructed, purchased or refinanced, the Loan Originator must send the required documents as established under the Application Processing section of this checklist.**

5 _____**Sales Contract or Form RD 3550-34, Option to Purchase Real Property, (HB-1, 5.1)** Review all pages of and attachments to Purchase Agreement: **Legal Description _____ Location Map_____**

3 _____**Discuss closing date -** with seller, buyer, and realtors if it appears RD is unable to close loan by Purchase Agreement date

6 _____**Verify eligibility of subject property. (HB-1, 5.1)**
http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do

5 _____**Visit property within 7 days of receipt of contract (HB-1, 5.1)**
Maximum loan limit for _____ county, $ _____

6 _____**Complete Attachment 5-A and 5-B for existing dwellings and Attachment 5-B only for new construction**

2 _____**Recalculate eligibility summary with actual loan amounts, if different from original, print for file**

8 _____**Appraisal Report** or document Statement of Value if appraisal is not required **(HB-1, 5.16)**

8 _____**RD 1922-15, Administrative Appraisal Review for Single Family Housing -** within 7 days of appraisal **(HB-1, 5.21); Reviewed and Accepted _____** (initial and date)

4 _____**Notify Applicant of appraisal results and requirements.** If making an adverse decision on the appraisal, send either **HB Letter 17 or HB Letter 18, as applicable.**

6 _____**Lead Based Paint (LBP) Compliance Key and Print Out (houses built prior to 1978)**
http://teamrd.usda.gov/rd/rhs/PSS/Lead_Paint/lead_based_paint_key.htm

3 _____**RD 1940-22, Environmental Checklist for Categorical Exclusions** (must be completed prior Issue of a Conditional Commitment, if applicable) **or RD 1940-21 "Environmental Assessment for Class I Action",** as applicable **(1940-G & HB-1, 5.8)**

6 _____**FEMA 81-93, Standard Flood Hazard Determination** (**http://www.LATFnet.com**) **(HB-1, 5.1)**

3 _____**RD 3550-6, Notice of Special Flood Hazards, Flood Insurance Purchase Requirements, and Availability of Federal Disaster Relief Assistance,** as applicable **(HB-1, 5.1)**

6 _____**Certifications/inspections required for existing housing (7CFR 3550.57 & HB-1, 5.7)**

_____	Septic	_____	Well
_____	Plumbing	_____	Electrical
_____	Heating/Cooling	_____	Termite/Other Wood Destroying Pests
_____	Other – Structural Soundness		

5 _____**Survey** (if applicable) **(HB-1, 5.7)**

POS ***DATE*** **NEW CONSTRUCTION**

6 _____**RD 1924-2, Description of Materials** (must be approved by RD, Buyer & Builder)

6 _____**RD 1924-25, Plan Certification (HB-1, Appendix. 7, State Supplement)**

6 _____**House Plans/Drawings and Plot Plans** (must be approved by RD, Buyer & Builder)

6 _____**Manufactured Home built to HUD code -** verify dealer/contractor has been approved

POS ***DATE*** **NEW CONSTRUCTION (CONTINUED)**

6 _____**Existing Newly Constructed Homes** - "Spec Homes" **(HB-1, 5.23A)** - Proof of Construction Quality (90% - 100% of appraised value if no warranty) **(HB-1, 6.7)**

_____Plans & Specs		_____ Plans & Specs
_____10-yr Warranty **(HB-1, 5.27)**	**OR**	_____ Inspection Reports **(HB-1, 5.26)**
_____Certificate of Occupancy		_____ Builder's Warranty (**1924-19)**
_____RD Final Inspection		_____ RD Final Inspection

3 _____**RD 1944-36, Application for Conditional Commitment** with fee. Refund fee if Conditional Commitment cannot be issued, order appraisal (now fee cannot be refunded), return fee to Contractor at closing. **(HB-1, 9.2)**

POS ***DATE*** **CONSTRUCTION CONTRACT**

6 _____**RD 1924-6, Construction Contract** (Send Exhibit C, RD Instruction 1901-E within 10 days) **(HB-1, 5.25) DOL web site (http://www.dol.gov/esa/contacts/ofccp/ofcpkeyp.htm)**
6 _____**RD 1924-16, Record of Pre-Construction Conference** or other documentation **(HB-1, 5.25)**
6 _____**"400 Series" (400-1, 400-3, 400-6, posters and Exhibit C of 1901-E,),** as applicable **(http://www.dol.gov/esa/contacts/ofccp/ofcpkeyp.htm) (HB-1, 5.25)**
5 _____**AD 1048, Certification Regarding Debarment …** - lower tier (signed by builder)
7 _____**Builder's Risk Insurance policy**
6 _____**RD 1924-1, Development Plan**
2 _____**RD 402-1, Deposit Agreement & RD 402-2, Statement of Deposits and Withdrawals**
6 _____**RD 1924-7, Contract Change Order** and updated **RD 1924-25, Plan Certification,** if applicable
6 _____**RD 1924-12, Inspection Report -** Minimum of; **(footer) _____ (rough-in) _____ (final) _____**
6 _____**RD 1924-9, Certificate of Contractor's Release & RD 1924-10, Release by Claimants,** if applicable
6 _____**RD 1924-19, Builder's Warranty** or 10-year warranty per RD Instruction 1924-A, Exhibit L (NOTE: If 10-year warranty, must have policy or binder before final payment to builder)

- *Loan must be approved/rejected within 30 days after completed docket (HB-1, 8.2)*
- *Make sure loan does not exceed applicable area loan limits (HB-1, 6.6)*
- *Verify loan-to-value ratio for existing dwellings does not exceed 100% (HB-1, 6.7)*
- *Loan terms cannot exceed maximum allowed (HB-1, 6.8) or approval authorities (1901-A)*
- *Attachment 6-A, Documentation Required Prior to Approving Loan. Chapter 6 of HB-1 gives additional guidelines.*

POS ***DATE*** **UNDERWRITING/LOAN APPROVAL**

3 _____**Reverify income** - if over 120 days old **(HB-1, 8.6)**
3 _____**Update Eligibility Summary with correct information, print, sign and date** – must be in file at rejection/approval **(HB-1, 6.17)**
6 _____**Verify correct address of subject property is listed in UniFi – address must received a code 1 or 2 to be valid <u>or</u> must research and document discrepancy (HB-1, 5.1)**
2 _____**Verify UniFi Program Type Code** (must match income type)
2 _____**Update MortgageServ screens before uploading file; check Display History Screen for correct loan amount.**

POS ***DATE*** **UNDERWRITING/LOAN APPROVAL (CONTINUED)**

4 _____**If rejected, send HB Letter 15, Standardized Adverse Decision Letter** with review and appeal rights **(HB-1, 1.9 & 8.2)**
2 _____**RD 3550-7, Funding Commitment and Notification of Loan Closing**- issued day of approval/obligation in MortgageServ (if not signed and returned in 15 days, must de-obligate) **(HB-1, 8.2)**
2 _____**RD 3550-23, Applicant Orientation Guide (**Include documentation on applicant's decision on payment of initial deposit and escrow costs) **(HB-1, 8.6)**
2 _____**RD 1940-41, Truth in Lending Statement** - send if Interest Rate has changed 1/8%/AAs/Credit Sales/Lev. Loan **(HB-1, Attachment 8-A)**
2 _____**Obligate through MortgageServ (HB-1, 8.7)**

POS ***DATE*** **CLOSING**

3 _____**Re-verify Employment, Income and Eligibility (HB-1, 8.6.C) Closing Date:_____**
Date of oldest paystub: _____ (must not be more than 120 days by the closing date)

Date of last Oral VOE: _____ (must be completed 10 days before closing)

Date of RMCR: (must not exceed 180 days by the closing date)_____

3 _____ **Update UniFi with correct information and print the Eligibility Summary, sign and date-** must be in file at loan closing **(HB-1, 8.6.D)**
5 _____**RD 1927-4, Transmittal of Title Information (HB-1, 8.4)**
5 _____**RD 1927-9, Preliminary Title Opinion** (if using Attorney) **(HB-1, 8.4)**

5 _____**Review Title Insurance Binder/Preliminary Title Opinion and verify legal description is correct-**
(if exceptions noted affect the security value, loan cannot be closed).
5 _____**RD 3550-25, Loan Closing Instructions and Loan Closing Statement (HB-1, 8.11 & 1927-B)**
5 _____**Re-verify Closing Agent's account numbers**
5 _____**IN-1 Closing Select/Add Agent Screen**
7 _____**Hazard/Flood Insurance Binder & Receipt for 1st year premium** (**HB-1, Attachment 7-C)**
3 _____**Verify completion of a Homeownership Education Course (**Certificate of Completion) **(HB-1, 3.2)**
7 _____**RD 3550-15, Tax Information (HB-1, 7.10), Calculate RE taxes that should be paid at closing** (60 days of due date); **collect prorated taxes from Seller** (refer to Purchase Agreement) **(HB-1, 7.4)**
5 _____**RD 3550-9, Initial Escrow Account Disclosure Statement (HB-1, 7.5)**
2 _____**RD 3550-17, Funds Transmittal Report** for tax service & appraisal fees, escrow funds, etc. (copy in Collections Operational File) **(1951-B, if applicable)**
5 _____**RD 3550-19, Transmittal-Closing Documents & Attachments** – as applicable (HB-1, 8.11)
3 _____**RD 410-4, Uniform Residential Loan Application PRINTED FROM UniFi**
3 _____**Check EPLS for all parties (http://epls.arnet.gov) –** print hard copies for file **(1940-M)**
5 _____**RD 1927-5, Affidavit Regarding Work of Improvement** (if required by State Supplement) send blank to closing **(1927-B, 1927.58)**
2 _____**RD 1940-16, Promissory Note** (original in safe) **(HB-1, 8.9 and FMI)**

POS ***DATE*** **CLOSING (CONTINUED)**

5 _____RD 1940-59, Settlement Statement (send blank) **or HUD 1 (HB-1, 8.5)**
2 _____RD 1940-43, Notice of Right to Cancel - for junior liens if mortgage taken and non-purch**ase (HB-1, 8.6)**
2 _____RD 1944-14, Payment Assistance/Deferred Mortgage Assistance Agreement or RD 1944-6, Interest Credit Agreement (as applicable)
5 _____RD 1955-49, Quitclaim Deed or Warranty Deed (as applicable)
5 _____RD 3550-10, Condominium Rider (if applicable)
5 _____RD 3550-11, Planned Unit Development Rider (if applicable)
2 _____RD 3550-12, Subsidy Repayment Agreement (original in safe attached to note) **(HB-1, Att. 8-A)**
5 _____RD 3550-14, Real Estate Mortgage or Deed of Trust for (State) - send blank
5 _____RD 1927-8, Agreement with Prior Lienholder - if leveraged loan **(HB-1, 8.6)**
2 _____RD 3550-22, Assumption Agreement Single Family Housing - if applicable (original attached to original note in safe) **(HB-1, 8.6)**
2 _____RD 3550-16, Release from Personal Liability - if applicable **(HB-1, 8.6)**
5 _____RD 3550-29, Document Errors and Omissions Agreement (HB-1. Attachment. 8-A)

POS ***DATE*** **POST CLOSING**

5 _____Verify closing documents faxed to CSC in required time frame (HB-1, 8.11)
_____Verify proper lien position.
_____Post 1 month follow-up for recorded Real Estate Mortgage.
_____Post follow-up for Title Insurance Policy **(60 days)** or Final Title Opinion **(14 days**).
(If not received, contact Closing Agent by mail with a copy of the letter to the insurance company.)
2 _____ Activate loan/payment assistance in MortgageServ WITHIN 1 DAY OF CLOSING.
6 _____ Send Compensation for Construction Defects letter, if new construction **(Guide Letter 1924-1)**
5 _____ RD 3550-25 – Loan Approval Official approves after all forms are returned, reviewed, and correct (HB-1, 8.11)
2 _____ Delinquent/Lienholder Screen – complete MortgageServ screen for each leveraged partner
6 _____ Verify correct address of subject property is listed in MortgageServ for new construction – address must received a code1 or 2 to be valid or must research and document discrepancy (HB-1, 5.1) (http://eligibility.sc.egov.usda.gov/eligibility/addressVerification)
2 _____Post Conversion of new loan closing in MortgageServ (print screen**) and Warranty Follow-ups**
2 _____Collect Escrow Funds
2 _____Modify Promissory Note and have borrower(s) initial changes
_____Submit copies to CSC

CREDIT SCORE DISCLOSURE

In accordance with the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) and in connection with your application for a Rural Development Single Family Housing (hereafter referred to as "the Agency") home loan, the Agency, upon request, must disclose to you the score that a credit bureau distributes to users and will be used by the Agency in connection with your home loan as well as the key factors affecting your credit scores.

While the Agency does not consider credit scores in determining adverse credit decisions, we may use them to presume acceptable credit in lieu of other credit underwriting practices. Credit scores assist lenders in evaluating your credit history in a more expedient and objective manner. Your credit scores are found on your residential mortgage credit report, a copy of which will be provided to you upon request. The range of possible scores is from 0 to 850. The Agency may also obtain and consider other credit scores in making its decision on your application from the credit bureaus listed below.

In addition to the credit scores, your credit report lists the key factors related to why your scores were less than the maximum possible score. Please keep in mind that the factors are only indicators of why you received less than the maximum score possible. The listing of these factors does not by itself indicate that you would not be approved for the loan you have requested. Rural Development considers many factors in addition to your credit scores in making a decision on your application. If your application is not approved, you will receive a separate notice stating the specific reason(s) for that action which may or may not relate to your credit scores.

The Agency did not calculate your credit scores or develop the scoring models. If you have any questions about your credit scores or the information in the residential mortgage credit report from which the scores were computed, you can contact the credit bureau at the address listed below.

CBCInnovis, Inc.
8 Parkway Center
Pittsburgh, Pennsylvania 15220
(877) 237-8317

NOTICE TO HOME LOAN APPLICANT

Pursuant to FACT Act, Section 212.

In connection with your application for a home loan, Rural Development must disclose to you the score that a credit bureau distributed to the Agency and was used in connection with your home loan, as well as key factors affecting your residential mortgage credit score.

The credit score is a computer-generated summary calculated at the time of the request and based on the information a credit bureau has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the Agency in determining whether you will obtain a loan. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit scoring technologies change.

Because the score is based on information in your residential mortgage credit history, it is very important that you review the credit-related information to make sure it is accurate. Credit records may vary from one company to another.

If you have any questions, about your score or the credit information that is furnished to you, contact the credit bureau at the address and telephone number provided with this notice. The credit bureaus play no part in the decision to take any action on the loan application and are unable to provide you with specific reasons for the decision on the loan application.

If you have any questions concerning the terms of the loan, contact Rural Development.

THIS CERTIFIES THAT THIS DISCLOSURE HAS BEEN PROVIDED TO THE ELIGIBLE APPLICANT(S) PURSUANT TO SECTION 212 OF THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003. I UNDERSTAND THAT I MAY RECEIVE A COPY OF MY RESIDENTIAL MORTGAGE CREDIT REPORT BY MAKING A WRITTEN REQUEST TO THE RURAL DEVELOPMENT OFFICE HANDLING MY LOAN APPLICATION.

I/We have received a copy of this disclosure.

_____	_____	_____	_____
Applicant	Date	Co-Applicant	Date

SETTLEMENT SERVICE PROVIDERS AND

RESPA-RELATED DISCLOSURES

Applicant (s) Name: _____

Subject Property Address: _____

Loan Number: _____ Date: _____

List of Settlement Service Providers

The Real Estate Settlement Procedures Act (RESPA) of 1974, as amended, requires that if a lender permits an applicant to shop for third party settlement services, the lender must provide to the applicant with a written list of settlement services providers at the time the Good Faith Estimate (GFE) is issued. Settlement service provider (also referred to as "service provider") means any individual or business providing services in connection with a prospective or actual settlement of a mortgage loan. The lender's list of settlement service providers is only required for settlement services covered in the following blocks of the GFE:

> Block 4: *"Title Services and Lender's Title Insurance"*. Examples of title services include, but are not limited to: title searches, examinations and endorsements,
>
> Block 5*: "Owner's Title Insurance"*.
>
> Block 6: *"Other Required Services You Can Shop For*. These types of services include, but are not limited to: survey, pest inspection and other types of inspections required by the lender.

In accordance with RESPA, Rural Development (also referred to as "the Agency") hereby provides you with a list of settlement service providers that have recently provided services to Agency's customers. This list should assist you in identifying settlement service providers for services covered under blocks 4, 5, and 6 of the Good Faith Estimate. Rural Development does not require that you select the settlement service providers from this list; furthermore, you may choose a qualified provider

that is not listed on this document. Please note that the settlement service providers on this list are not endorsed by or affiliated with Rural Development, and selecting a settlement service provider from this list does not affect the final credit decision on your loan application. Settlement services may take days or weeks to complete, therefore we strongly recommend that you select your settlement services providers as soon as possible or your settlement may be delayed. Once you have selected your service providers, you must contact your local Rural Development office to inform them about you selections. If you select a service provider that is not on the Agency's list, you must provide our staff with the service provider's name, address and phone number. Settlement service providers and Rural Development staff work closely together to ensure that loan requirements are met in a timely manner before the closing date.

Acknowledgment of Right to Issue Revised GFE: New Construction Homes / Construction Loans Disclosure

If you are buying a new construction home and settlement of your loan is expected to occur more than 60 calendar days from the time the initial Good Faith Estimate is issued, the Agency has the right to issue a revised GFE at any time up until 60 calendar days prior to closing.

Acknowledgement

THIS CERTIFIES THAT THIS DISCLOSURE HAS BEEN PROVIDED TO THE ELIGIBLE APPLICANT(S) ALONG WITH THE GOOD FAITH ESTIMATE AND PURSUANT TO THE REAL ESTATE SETTLEMENT AND PROCEDURES ACT OF 1974, AS AMENDED. I/WE ALSO UNDERSTAND THAT THE GOOD FAITH ESTIMATE IS NOT A LOAN / FUNDING COMMITMENT.

If you have any questions concerning the terms of the loan, contact Rural Development.

I/We have received a copy of this disclosure.

_____	_____	_____	_____
Applicant	Date	Co-Applicant	Date

CHAPTER 4: BORROWER ELIGIBILITY

4.1 OVERVIEW

Ensuring that all applicants served are eligible and receive the correct amount of assistance is a significant responsibility of Loan Originators. A borrower must be income-eligible, demonstrate a credit history that indicates ability and willingness to repay a loan, and meet a variety of other program requirements. This chapter provides guidance for each of these areas.

- **Section 1: Evaluating Borrower Income** provides instructions for calculating annual, adjusted, and repayment income.
- **Section 2: Evaluating Borrower Assets** discusses Agency requirements for cash contributions to the purchase and methods for computing income from assets.
- **Section 3: Credit History** identifies indicators of acceptable and unacceptable credit, and provides instructions for reviewing an applicant's credit history.
- **Section 4: Other Eligibility Requirements** addresses a variety of other requirements applicants must meet to be eligible for the program.
- **Section 5: Processing the Certificate of Eligibility** provides policies and procedures for processing *Form FD 1944-59, Certificate of Eligibility*.

SECTION 1: EVALUATING BORROWER INCOME

4.2 OVERVIEW *[7 CFR 3550.53(a) and (g), 7 CFR 3550.54]*

Loan Originators use income information to: (1) help determine whether an applicant is eligible for a loan; (2) calculate the applicant's ability to repay a loan; and (3) determine the amount of the loan and the amount of payment subsidy the household can obtain. When reviewing an applicant's repayment income, the Loan Originator must determine whether the income is stable and dependable. The Loan Originator will generally need to look at two years of history to determine the dependability of the income. In addition, the Loan Originator must determine that there is a reasonable expectation that the income will continue. This section provides guidance for verifying and calculating income for each of these purposes. Additional examples are based on Housing and Urban Development (HUD) Handbook 4350.3.

A. Key Concepts for Income Determinations

1. Income Definitions

Three income definitions are used. Whenever income determinations are made, it is essential that the Loan Originator use the correct income definition and consider income from the appropriate household members. To determine whether the applicant will be able to repay a loan, the Loan Originator must use ***repayment income***. To determine whether an applicant is income-eligible to receive a program loan or payment subsidies, the Loan Originator must use ***adjusted income***. Adjusted income is calculated in 2 steps. First, the ***annual income*** of all household members is calculated. Then, certain household deductions for which the family may qualify are subtracted from annual income to compute adjusted income.

- **Annual Income** is the amount of income that is used to determine an applicant's eligibility for assistance. Annual income is defined as all amounts, monetary or not, that go to, or are received on behalf of, the applicant/borrower, co-applicant/co-borrower, (even if the household member is temporarily absent), or any other household member; all amounts anticipated to be received from a source outside the family during the 12-month period, all amounts that are not specifically excluded by regulations, and amounts derived (during the 12-month period) from assets to which any member of the family has access.

- **Adjusted Income** is used to determine whether a household is income eligible for payment assistance. It is based on annual income and provides for deductions to account for varying household circumstances and expenses.

- **Repayment Income** is used to determine whether an applicant has the ability to make monthly loan payments. It is based only on the income attributable to parties to the note and includes some income sources excluded for the purpose of adjusted income. Repayment Income is used during servicing **only** to determine if a borrower is eligible for a Moratorium or Reamortization as described in Paragraph 5.5, of HB-2-3550.

2. Whose Income To Count

For repayment income, the Loan Originator must consider only the income of household members who will be parties to the note. For adjusted income, the income of

all household members must be considered. For both types, live-in aides, foster children, and foster adults living in the household are not considered household members.

An individual permanently confined to a nursing home or hospital may not be applicant or co-applicant but may continue as a family member at the family's discretion. The family has a choice with regard to how the permanently confined individual's income will be counted. **The family may elect <u>either</u> of the following**:

- ***Include*** the individual's **income and receive allowable deductions** related to the medical care of the permanently confined individual; or

- ***Exclude*** the individual's **income and not receive allowable deductions** based on the medical care of the permanently confined individual.

Exhibit 4-1 is a table which lists whose income is to be counted.

Exhibit 4-1

INCOME TO BE COUNTED

Members	**Employment Income**	**Other Income** (including income from assets)
Applicant, Co-Applicant/Borrower	Yes	Yes
Spouse	Yes	Yes
Other Adult	Yes	Yes
Permanently Confined Family Member	Optional*	Optional*
Dependents (children under 18)	No	Yes
Full-time Student over 18	See Note	Yes
Non-Members		
Foster Child	No	No
Foster Adult	No	No
Live-in Aide	No	No

NOTE: The earned income of a full-time student 18 years old or older who is not the Applicant, Co-Applicant/Borrower, Spouse, or Adult member of the household is excluded after it exceeds $480.

***Remember**: The family chooses at loan closing to include or exclude the permanently confined individual's income.

3. Income Limits

Some program rules differ according to the income of the applicant. Three different income limits are used for the Section 502 and 504 programs. The National Office provides the income limits and updates the limits whenever they are revised. The income limits are included in Appendix 9. ***Adjusted income*** should be compared to the income limit to determine the category in which each household falls. Income limits are as follows:

- The very low-income limit is established at approximately 50 percent of the median income for the area, adjusted for household size;
- The low-income limit is established at approximately 80 percent of the median income for the area, adjusted for household size; and
- The moderate-income limit is established by adding $5,500 to the low-income limit for each household size.

4. Applicant Certification and Verification Requirements

Each applicant must provide the income, expense, and household information needed to enable the Agency to make income determinations. Most of this information is provided on the application, but some additional follow-up with the applicant may be required, as described in Paragraph 3.8. The applicant should be requested to provide two years of history for a reasonable determination of income. The documentation required will vary with the source of income. In some instances, less than two years of history may be acceptable when the Applicant provides, and the Loan Originator documents sound justification. For example, an applicant whose compensation changed from salary to commission income with the same employer in a similar job position may be considered to have dependable and stable income. In other instances, more than two years of history may be required. For example, when an applicant's income varies significantly from year to year, the Loan Originator should review a longer work history to establish an average income. Information provided by the applicant must be verified by the Loan Originator.

Whenever verification from a third party is requested, a copy of *Form RD 3550-1, Authorization to Release Information*, **must** accompany the request. Authorization from each adult household member on the *Form RD 3550-1* permits the Loan Originator/Servicer to ask for, and verification sources to release, the needed information.

The verification and certification formats that are provided in Appendix 2 are not official Agency forms. They are samples that may be adapted as needed for particular circumstances. In some instances the same format can be used whether a third party is providing the verification or the applicant is making a certification.

5. Stable and Dependable Income

The Agency has no minimum history requirement for employment in a particular position. The key concept is whether the applicant has a history of receiving stable income and a reasonable expectation that the income will continue. The Loan Originator must carefully assess the applicant's income to establish whether it can reasonably be expected to continue for the next two years (e.g. child support and contract income). The applicant must provide an explanation letter for employment gaps in excess of 30 days unless their income history is clearly seasonal in nature. The Loan Originator must review the employment gap explanation to make a determination on the applicant's ability to receive stable and dependable income. If the Loan Originator determines that an applicant's income source is unstable and undependable, the income must be excluded from repayment but included in annual income.

- **Wage and Salary Income.** Income from employment may include a base hourly wage or salary, overtime pay, commissions, fees, tips, bonuses, housing allowances, and other compensation for personal services of all adult members of the household. When the applicant demonstrates a two-year history of stable or rising income, current income from each of these sources may be used unless there is evidence to the contrary (such as the employer's indication that such income is NOT likely to continue).

Example – Stable Income

Steven Green has been working for the last 6 months for LMN Contractors as a Construction Foreman. Before that, he worked for PDQ Building Supply for 8 months as a Shift Supervisor. There is a 6-week gap in his employment history that he explains as being the result of a lay-off after a large construction project (where he was employed for 15 months as a construction worker) was completed. Mr. Green's income is considered stable because the reasons for his job changes were related to changes in job opportunities. Even though his job changed several times, his line of work was similar.

Example – Dependable Income

Mary Brown receives SSI income for her dependent child who is 17 years of age. The SSI income should not be counted as repayment income because it clearly cannot be expected to continue. It would be counted as annual income since it is current verified income.

- **Self-employment Income.** Income based on a two-year history of self-employment, in the same line of work, is an acceptable indicator of stable and dependable income.

Example – Self-Employment, Commission and Other Irregular Income

Julie McAhren sells beauty products door-to-door on consignment. She makes most of her money in the months prior to Christmas but has some income throughout the year. She has no formal records of her income other than a copy of the IRS Form 1040 she files each year. With no other information available, use the income reflected on Julie's copy of her Form 1040 as her annual income and make the income adjustments according to Attachment 4-C.

Betty House sells real estate on commission. She makes most of her money during the summer months. She has no formal records of her income other than a copy of a 1099 and the Tax Return (Form 1040) she files each year. The gross earning on the 1099 should not be used as her annual income. Use the income and other information on the tax return in conjunction with Attachment 4-C to calculate the self-employment income.

- **Other Sources of Income.** Income from public assistance, child support, alimony, or retirement that is consistently received is considered stable when such payments are based on a law, written agreement or court decree, the amount and regularity of the payments, the eligibility criteria for the payments, such as the age of the child (when applicable), and the availability of means to compel payments.

Examples – Other Sources of Income

Janis Phillips is not always well enough to work full-time. When she is well, she works as a typist with a temporary agency. Last year was a good year and she worked a total of nearly six months. This year, however, she has more medical problems and does not know when or how much she will be able to work. Because she is not working at the time, it will be best to exclude her employment income and remind her that she must report the date when she resumes work.

Sam Shah receives social security disability. He reports that he works as a handyman periodically. He cannot remember when or how often he worked last year; he says it was a couple of times. Sam's earnings appear to fit into the category of nonrecurring, sporadic income that is not included in annual income. Tell Sam his earnings are not being included in his annual income this year, but he must report any regular work or steady jobs he takes.

Ken Hammer receives social security disability. He reports that he works as a handyman periodically. He cannot remember when or how often he worked last year. He says it was a couple of times last year, however, his tax return does not indicate any gross wages from his handyman work. Mr. Hammer's income would be considered nonrecurring and sporadic income and would not be included in annual or repayment income.

Jane Smith receives child support payments for her sixteen and a half-year old son. She has a copy of the court appointed child support agreement, which states that the child support will end when son turns 18, and a computer print-out of a 12 month child support payment history. The child support income should be counted in the annual income but excluded from the repayment income calculation because it is not expected to continue in the near future.

- **Irregular Income**: Irregular income from employment are earnings that may vary on a weekly, monthly, or seasonal basis depending on the type of income. This income is not guaranteed, nor received on a regular basis. Irregular income includes over-time, bonus, second job, part-time, and seasonal income. Irregular income may be considered stable when the applicant has worked in the same line of work for at least two years. Loan Originators may accept less than a two-year history (but no less than 12-months) of irregular income if there is a strong likelihood that the applicant will continue to receive that income. Loan Originators must establish the income trend and calculate a monthly average for the irregular income. When the applicant receives seasonal unemployment compensation, it must be clearly associated with seasonal layoffs expected to recur and be reported on the applicant's federal income tax returns. Commission-based pay is also considered irregular income. Additional guidance on calculating commission income is provided in Attachment 4-C.

Examples – Seasonal Income

Ross Bosser is a roofer who works from April through September. He does not work in rain or windstorms. His employer is able to provide information showing the total number of regular and overtime hours Ross worked during the past three years. To calculate Ross's anticipated income, use the average number of regular hours over the past three years times his current regular pay rate, and the average overtime hours times his current overtime rate.

Bob Digger is a landscaper. He works from April through September. He does not work in bad weather. His employer is able to provide information showing the total number of regular and overtime hours Mr. Digger worked during the past year. To calculate Mr. Digger's anticipated income, use the average numbers of regular hours worked over the past year times his current hour's rate, and the average overtime hours times his current overtime rate.

- **Less Than Two Years of History.** In some cases, a history of less than two years is acceptable. The determination requires a careful analysis by the Loan Originator. This may include an applicant who is either new to the work force or has returned to the work force after an extended absence. In these cases, the Loan Originator must look at the period of time the applicant has been employed, the employer's evaluation of the likelihood of continued employment (if available), education or training that qualifies the applicant for his/her current position (typically applies to skilled positions), and reasons for absence from the work force in making a determination that income is stable and likely to continue. Information provided by the applicant must be verified by the Loan Originator.

Example – Less Than Two Years History

For the last few years, Ellen Dixon has been a homemaker with no outside employment. Now that her children are old enough, she has taken a job as a teacher for which she has the necessary education and certifications. She completed her 6-month probation period and her employer considers that she is a permanent employee. Ms. Dixon's income can be considered stable and dependable. It is important to note that had Ms. Dixon not met the employer's probation period, her income would be counted in annual and adjusted income since it is current verified income but not for repayment ability because it is not considered stable and dependable.

B. Using UniFi and the Income Worksheet to Compute Income

All 3 types of income are calculated in UniFi using data entered by the Loan Originator. **Attachment 4-A**, a Sample Worksheet for Computing Income that helps Loan Originators organize applicant information for data entry and provides instructions to calculate each type of income manually, **will be completed and placed in the applicant's file**. Attachment 4-B contains a case study using the worksheet to illustrate the calculations.

4.3 SOURCES OF INCOME

Loan Originators will consider sources of income to determine annual and repayment income. This section provides guidance on income that will and/or will not be counted.

A. Income Considered for Annual and Repayment Income

For annual income, consider income from the following sources that are attributable to any household member. For repayment income, consider income from the following sources that are: attributable to parties to the note and represent a source of dependable income.

1. The gross amount, before any payroll deductions, of base wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, and other compensation for personal services of all adult members of the household. If a cost of living allowance or a proposed increase in income has been estimated to take place on or before loan approval, loan closing, or the effective date of the payment assistance agreement, it will be included as income. For **annual income**, count only the first $480 of earned income from adult full-time students who are not the borrower, co-borrower, or spouse.

Employer paid and provided fringe benefits <u>are not included</u> in annual income regardless of whether the benefits are reported on the employee wage statement. Fringe benefits may include, but are not limited to:

- Child care/pet-sitting,
- Medical/life insurance,
- Car/mileage allowance,
- Stock options,
- Discounts for merchandise,
- Sport/concert/movie tickets or entertainment,
- Charity donations in employee name,
- Any reimbursement of actual work expenses**.**

Housing allowances may include, but are not limited to:

- **Cash or non-cash contributions paid on behalf of the applicant/borrower by persons not living in the house,**
- Allowances for members of the Armed Forces,
- Allowances for members of the Clergy,
- Allowances paid by employer.

2. The <u>net</u> income from the operation of a farm, business, or profession. The following provisions apply:

   - Expenditures for business or farm expansion, capital improvements, or payments of principal on capital indebtedness shall not be used as deductions in determining income. A deduction is allowed in the manner prescribed by Internal Revenue Service (IRS) regulations only for interest paid in amortizing capital indebtedness.

   - Farm and non-farm business losses are considered "0" in determining annual income. A negative amount must **not** be used to offset other family income.

   - A deduction, based on straight line depreciation, is allowed in the manner prescribed by IRS regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the operation of a farm, business, or profession by a member of the household. The deduction must be based on an itemized schedule showing the amount of straight-line depreciation.

- Any withdrawal of cash or assets from the operation of a farm, business, or profession, or salaries or other amounts distributed to family members from the farm, business, or profession, will be included in income, except to the extent the withdrawal is for reimbursement of cash or assets invested in the operation by a member of the household.

- A deduction is allowed for verified business expenses, such as lodging, meals, and fuel, for business trips made by salaried employees, such as long-distance truck drivers, who must meet these expenses without reimbursement.

- For home-based operations such as child care, product sales, and the production of crafts, housing related expenses for the property being financed such as mortgage interest, real estate taxes, and insurance, which may be claimed as business expense deductions for income tax purposes, will not be deducted from annual income.

3. Interest, dividends, and other net income of any kind from real or personal property, including:

   - The share received by adult members of the household from income distributed from a trust fund.

   - Any withdrawal of cash or assets from an investment except to the extent the withdrawal is reimbursement of cash or assets invested by a member of the household.

   - Where the household has net family assets in excess of $5,000, the greater of the actual income derived from all net family assets or a percentage of the value of assets based on the current passbook savings rate, as determined by the Agency.

4. The full amount of periodic payments received from Social Security (including Social Security received by adults on behalf of minors or by minors intended for their own support), annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts. However, deferred periodic amounts from supplemental income and social security benefits that are received in a lump sum amount or in prospective monthly amounts are not counted.

Example – Adjustment for Prior Overpayment of Benefits

Dan Steven's social security payment of $250 per month is being reduced by $25 per month for a period of six months to make up for a prior overpayment. Count Dan's social security income as $225 per month for the next six months and as $250 per month for the remaining six months.

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. Unemployment income requires a two year documentation of receipt and reasonable assurance of its continuance. This may be appropriate for individuals employed on a seasonal basis (e.g., farm laborers, construction workers, etc.).

6. Public assistance **except** as indicated in **Paragraphs 4.3 C. and D.**

7. Periodic allowances, such as:

   - Alimony and child support awarded by the court in a divorce decree or separation agreement unless the applicant certifies the payments are not received, and the applicant provides documentation to the Agency that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment; or

   - Recurring monetary gifts or contributions from an organization or person who is not a member of the household.

Examples – Regular Cash Contributions

The father of a young single parent pays her monthly utility bills. On average, he provides $100 each month. The $100 per month must be included in the family's annual income.

The daughter of an elderly applicant gives her mother $175 each month to assist with her living expenses. The daughter plans to continue subsidizing her mother's expenses. The $175 per month must be included in the annual income.

8. All regular pay, special pay (except for persons exposed to hostile fire), and allowances of a member of the armed forces who is the applicant or spouse, whether or not that family member lives in the home.

B. Additional Income Considerations for Repayment Income

Consider these additional sources of income that are attributable to parties to the note and represent a source of dependable income for repayment income only.

1. Housing assistance payment (HAP). (HUD's Housing Choice Voucher– Homeownership Program sometimes referred to as Section 8 for Homeownership.) See Chapter 8.9 on how HAP payments should be handled. For additional information on the Housing Choice Voucher – Homeownership Program, visit http://www.hud.gov/offices/pih/programs/hvc/homeownership.

2. Adoption assistance payments in excess of $480 per adopted child.

3. Reparation payments paid by a foreign government arising out of the Holocaust. If any applicant for an Agency loan was deemed ineligible because the applicant's income exceeded the low income limit because of the applicant's Nazi persecution benefits, the Agency Loan Approval Official should notify the applicant to reapply for a loan.

4. Certain income tax credits regularly received via the applicant's employer. The two considered income tax credits are advanced earned income tax credits and mortgage credit certificates.

Examples – Advanced Earned Income Tax Credit

Aidan Conner receives an earned income tax credit (EITC) of $1,200 per year. He filed IRS Form W-5, Earned Income Credit Advance Payment Certificate, to have his employer include a portion of his EITC in his regular bi-weekly paychecks, which equated to an additional $46.15 with each paycheck. Aidan's advanced EITC can be counted as repayment income.

Jessica Jackson, who is a household member only, receives an EITC of $2,000 per year when filing her federal tax return. Since Jessica is not a party to the note, her EITC is not counted as repayment income. Even if Jessica was to decide to become the co-applicant on the application, her EITC would not be counted as repayment income since it is not received in advance through her employer.

Sara McJones, who is a self-employed hairdresser, wants her EITC to be considered when calculating her repayment income. Since a self-employed person cannot advance the EITC to themselves, her EITC cannot be counted as repayment income.

6. The full amount of student financial assistance received by household members or paid directly to the educational institution who are parties to the note. Financial assistance *includes* grants, educational entitlements, work study programs, and financial aid packages. It *does not include* tuition, fees, student loans, books, equipment, materials and transportation. Any amount provided for living expenses may be counted as **repayment income**.

7. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

8. Any other revenue which a Federal statute exempts will be considered **repayment income.** This includes:

   - The imminent danger "duty pay" to a service person applicant or spouse away from home and exposed to hostile fire.

   - Payments to volunteers under the Domestic Volunteer Service Act of 1973, including, but not limited to:

     ◊ National Volunteer Antipoverty Programs which include Volunteers In Service to America (VISTA), Peace Corps, Service Learning Programs, and Special Volunteer Programs.

     ◊ National Older American Volunteer Programs for persons age 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Programs to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE).

   - Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the "In Re Agent Orange" product liability litigations, M.D.L. No. 381 (E.D.N.Y.).

   - Payments received under the "Alaska Native Claims Settlement Act" or the "Maine Indian Claims Settlement Act."

   - Income derived from certain sub-marginal land of the United States that is held in trust for certain American Indian tribes.

   - Payments or allowances made under the Department of Health and Human Services Low-Income Home Energy Assistance Program.

- Payments received from the Job Training Partnership Act.
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians.
- The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims, or from funds held in trust for an American Indian tribe by the Secretary of Interior.
- Payments received from programs funded under Title V of the Older Americans Act of 1965.
- Any other income which is exempted under Federal statute.

9. Amounts paid by a State Agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member in the home.

10. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

C. Income Never Considered for Annual and Repayment Income

The following sources are *never* considered when calculating annual income or repayment income:

1. Income from the employment of persons under 18 years of age, except parties to the note and their spouses.

2. Special-Purpose Payments. These are payments made to the applicant's household that would be discontinued if not spent for a specific purpose. Payments which are intended to defray specific expenses of an unusual nature and which are expended solely for those expenses should not be considered as income. Examples include, but are not necessarily limited to, the following:

   A. Medical Expenses. Funds provided by a charitable organization to defray medical expenses, to the extent to which they are actually spent to meet those expenses.

B. Foster Children/Adults. Payments for the care of foster children or adults who are not otherwise related to the mortgagor's household by blood, marriage, or operation of law.
NOTE: Foster children are not considered members of the family. Therefore, no adjustments to income are to be made because of their presence.

C. Supplemental Nutrition Assistance Program (formerly the Food Stamp Program). Provides eligible households with electronic benefits they can use like cash at most grocery stores.

3. Temporary, nonrecurring, or sporadic income (including gifts).

4. Lump-sum additions to family assets such as inheritances, capital gains, insurance payments included under health, accident, hazard, or worker's compensation policies, and settlements for personal or property losses.

5. Amounts that are granted specifically for, or in reimbursement of, the cost of medical expenses for any family member.

6. Payments received on reverse amortization mortgages (these payments are considered draw-down on the applicant’s assets).

7. Amounts received by any family member participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931):

   - Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).

   - Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program.

- Incremental earnings and benefits resulting to any family members from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family participates in the employment training program.

- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 E.S.C. 12637{d}).

D. Additional Income Never Considered for Annual Income

In addition, the following sources are *never* considered when calculating annual income:

1. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the applicant, who are unable to live alone).

2. Deferred periodic payments of supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.

3. Any amount of crime victim compensation received through crime victim assistance (or payment or reimbursement of the cost of such assistance) because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602).

4. Any allowance paid under 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran.

5. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub.L. 95-433).

6. Housing assistance payment (HAP) (HUD'S Housing Choice Voucher Homeownership Program, sometimes referred to as Section 8 for Homeownership). The HAP is not included in the household's annual income for the purpose of determining the income category in which the household falls or determining payment assistance.

7. Adoption assistance payments in excess of $480 per adopted child.

Examples – Income Exclusions

- **The Value of Food Provided through the Meals on Wheels Program or Other Programs Providing Food for the Needy**. Shane Michaels received a hot lunch each day during the week in the community room and an evening meal in his apartment. One meal is provided through the Meals on Wheels program. A local church provided the other. The value of the meals he receives is not counted as income.
- **Groceries provided by persons not living in the household**. Melissa Bostic's mother purchases and delivers groceries each week for Melissa and her two year old. The value of these groceries is not counted as income despite the fact that these are a regular contribution or gift.
- **Amounts Received Under WIC or the School Lunch Act**. Cody Britt's two children receive a free breakfast and reduced priced lunches at school every day through the Special Supplemental Food Program for Women, Infants and Children (WIC). The value of this food is not counted as income.
- **Deferred periodic payments of social security benefits**. Andrew Ray received $32,000 in deferred social security benefits following a lengthy eligibility dispute. This delayed payment of social security benefits is treated as an asset, not as income.
- **Income from training programs**. Jamey Hawkins is participating in a qualified state-supported employment training program every afternoon to learn improved computer skills. Each morning, she continues her regular job as a typist. The $250 a week she receives as a part-time typist is included in annual income. The $150 a week she receives for participation in the training program is excluded in annual income.
- **Advanced Earned Income Tax Credit**. Connie June Fisher is eligible for an earned income tax credit that she receives in advance via her monthly paychecks from her employer. These payments are excluded from annual income
- **Student financial assistance**. Dylan Nessel won a scholarship from the local civic association. The association sends him a $1,000 check each semester to help with tuition costs. These funds are excluded from annual income.

E. Verifying Sources and Amounts

The Loan Originator must verify income information provided by the applicant. Paragraph 3.16, describes the different types of verifications. Paystubs and Federal Income Tax Returns with W-2s supported by oral verifications are preferred. Written verifications provided by third-party sources or documents prepared by third-party sources are required when the applicant is unable to provide sufficient recent, reliable and consistent documentation.

Each applicant must sign *Form RD 3550-1, Authorization to Release Information,* at the time of application. Copies of this form must accompany any request for verification from third-party sources. *Form SSA-3288, Consent for Release of Information*, may also be used for Social Security verifications. A complete copy of the latest filed and signed Federal Income Tax return **must** be provided by the applicant. ***IRS Form W-2, Wage and Tax Statement***, **must** be attached to the applicant's Federal Income Tax return in order for it to be considered a complete return. ***IRS Form 4506-T, Request for Transcript of Tax Return***, may be used to obtain a copy of a transcript of tax return(s) if the applicant cannot provide copies of actual returns filed. Appendix 2 provides sample certification and verification formats for a number of purposes.

The following chart provides guidance on acceptable alternative sources of verifications of different types of income:

INCOME	(If **Preferred Source** of Verification cannot be obtained without cost, **Acceptable Alternative** may be used.)
Type of Income or Verification Source	**Verification Requirements and Procedures**
WAGES or SALARY	
Paycheck Stubs or Payroll Earnings Statements for not less than four (4) consecutive weeks **Preferred Source**	The applicant must list all household members on the application and provide their employment status. The documents must be "originals." (The original paycheck stubs or payroll earnings statements may be returned to the applicant after RHS has made clear copies for the applicant file. Copies provided by any other source, such as the real estate agent, are unacceptable.) They must be consecutive and "most recent" as of the date the loan application is made; must clearly identify the applicant (or adult household member) as the employee by name and/or social security number; must show the gross earnings for that pay period and year-to-date; and must be computer-generated or typed. **Must be complemented with oral verification of employment as follows.**
AND	
Oral Verification as permitted in Paragraph 3.16 A.2. **Preferred Source**	Document in the running record the date of contact and list: The employer's name/address/phone number/contact person and title; the employee's name, date of employment, present position and probability of continued employment; the source of the phone number (applicant, realtor, yellow pages, website);and the name and title of the Rural Development employee that contacted the employer. Note: The oral verification is to confirm the applicant's present employment and to verify the probability of continued employment only. Income information should not be discussed during an oral verification of employment.
Electronic Verification **Acceptable Alternative (in lieu of paycheck stubs only)**	It must clearly identify the applicant (or adult household member) as the employee by name and/or social security number, cover the most recent pay period as of the date the initial loan application is made, and show the gross earnings for the most recent 30-day pay period and year-to-date. **Must also obtain oral verification of employment.**
Written Verification of Employment **Acceptable Alternative**	If paycheck stubs or earnings statements are inconsistent or not available, the Loan Originator must send *Form RD 1910-5, Request for Verification of Employment,* to each employer for verification.

Type of Income or Verification Source	**Verification Requirements and Procedures**
For SELF-EMPLOYED PERSONS	
Income & Expense Statement **Preferred Source**	Self-employed applicants (or adult household members) must provide current documentation of income and expenses, which cannot be older than the previous fiscal year. The Loan Originator must compare the income and expense information provided by the applicant with the last two complete Federal Income Tax Returns (IRS Form 1040) along with Schedules C & F and/or other applicable schedules, and clarify any discrepancies. *IRS Form W-2* must be attached to the applicant's Federal Income Tax return in order for it to be considered a complete return when the applicant has wage income. *IRS Form 4506-T* may be used to obtain a copy of a transcript of tax return(s) if the applicant can not provide copies of actual returns filed. (**NOTE**: Other sources of commercial software such as Turbo Tax **are not acceptable alternatives**.) Appendix 2 provides a sample format for recording business expenses.
SUPPLEMENTAL VERIFICATION	
Seasonal Employment **Preferred Source**	A household member who is a seasonal worker must provide the most recent Federal income Tax return, the prior year's W-2s and/or prior year's 1098 statements. *IRS Form 4506-T* may be used to obtain a copy of a transcript of tax return(s) if the borrower can not provide copies of actual returns filed.
Unemployment and Unemployment Benefits, Disability & Worker's Compensation, Severance Pay (except lump-sum additions) **Preferred Source**	All applicants (or adult household members) must complete *Form RD 3550-4, Employment and Asset Certification*, which provides his/her current employment status and requires them to agree to inform the Agency immediately, in writing, if the employment status changes. If an applicant has recently become unemployed, the Loan Originator should contact the former employer to confirm that the applicant is no longer employed and that re-employment is not expected. Applicants (or adult household members) receiving unemployment benefits must provide the most recent award or benefit letter prepared and signed by the authorizing agency to verify the non-employment income. Appendix 2 provides a sample format for requesting information about unemployment benefits. It must clearly identify the adult household member as the employee by name and/or social security number and cover the most recent earnings as of the date the verification is submitted.

Electronic Verification **Acceptable Alternative**	Electronic verification for that period, copy of checks, or bank statements, all showing gross earnings. All authorized deductions must be added back to checks or bank statements to reflect gross amount.
Income Tax Credits: Advanced Earned Income Tax Credits (Advanced EITC) and Mortgage Credit Certificates (MCC) Preferred Source for Advanced EITC Paycheck Stubs or Payroll Earnings Statements for not less than four (4) weeks **Acceptable Alternative for Advanced EITC and Preferred Source for MCC** Applicable IRS Form or Letter from Employer	To count towards repayment income, an applicant receiving an EITC must file IRS Form W-5, Earned Income Credit Advance Payment Certificate. An applicant receiving a MCC must file IRS Form W-4, Employee's Withholding Allowance Certificate. These IRS forms enable the applicant's employer to include a portion of the applicant's income tax credit in their regular paycheck. Income tax credits not advanced through the applicant's employer on at least a monthly basis **can not** be included in repayment income but may warrant consideration as a compensating factor. The documents must be "originals" and will be returned to the applicant after RHS has made clear copies for the applicant's file. They must be the "most recent" and identify the applicant by name and/or social security number. Signed copies of the applicable IRS Form (W-5 for Advanced EITC and W-4 for MCC) or a letter from the employer stating the applicant has executed and the employer has accepted the document.
Regular, Unearned Income (e.g., Social Security, SSI, Retirement Funds, Pensions, Annuities, Disability or Death Benefits) (except deferred periodic payments) **Preferred Source** **Acceptable Alternative**	The applicant (or adult household member) must provide a copy of the most recent award or benefit letter prepared and signed by the authorizing agency. If the date of the letter is not within the last 12 months, require the applicant to submit information updating the award, for example, a cost-of-living (COLA) payment notice, Social Security Benefits Statement, or a notice of change in benefits. Appendix 2 provides sample formats for requesting this information. The two most recent bank statements showing the amount of monthly benefits received. and IRS Form 1099 for the previous year.

Alimony or Child Support Payments **Preferred Source** ElectronicVerification **Acceptable Alternative**	The applicant (or adult household member) **must** obtain a payment history for the last 12 months from the court appointed entity responsible for handling payments. The average amount received will be used in the income calculations. The two most recent bank statements showing electronic deposit of the monthly alimony and/or child support received **AND** a copy of the court appointed divorce decree or separation agreement (if the divorce is not final) that provides for the payment of alimony or child support and states the amount and the period of time over which it will be received.

Divorce Decree
Acceptable Alternative
 	
Cancelled Checks
Acceptable Alternative
	If (**and only if**) there is not a court appointed entity responsible for handling payments, the applicant (or adult household member) may provide a copy of the divorce decree, separation agreement, or other document indicating the amount of the required support payments. If the applicant reports that the amount required by the agreement is not being received, the applicant must provide adequate documentation of the amount being received (i.e. copies of the checks or money orders from the payer, etc.) and certify the payments are being received or not received.
	
	If (**and only if**) there is not a court appointed entity responsible for handling payments and formal documents were never issued, support payments can be certified as being received or not received.

Support for Foster Children or Adults **Preferred Source**	Payments received for the care of foster children or foster adults may be considered when calculating repayment income. Documentation must be provided indicating the amount of money received for the care of foster children or adults, and the anticipated period of time the support will be provided. Appendix 2 provides a sample format for requesting information.
Verification of Assets and Income from Assets and Investments **Preferred Source**	*Form RD 3550-4, Employment and Asset Certification*, will be used to confirm that the household's combined net assets do not exceed $5,000 and whether or not assets have been disposed of for less than the fair market value in the past 2 years. Obtain the two most recent complete bank or brokerage statements showing the transaction history and the current balance. If account information is reported on a quarterly basis, obtain the most recent quarterly statement. To further document interest and dividend income the applicant must provide copy of Federal tax forms and schedules clearly identifying income from interest, dividends, and capital gains. For some assets such as mutual funds or 401(k) accounts, copies of year-end statements can provide information about annual income.

	If the Loan Originator has reasons to question the accuracy of the applicant's self certification or bank statements, the Loan Originator sends *Form RD 1944-62, Request for Verification of Deposit,* to financial institutions to verify account balances.
Verification of Gifts **Preferred Source**	If funds needed for the purchase will be provided by an organization or another person not living in the household, the Loan Originator must send the donor *Form RD 3550-2, Request for Verification of Gift/Gift Letter,* to verify whether the gift must be repaid and whether the funds have already been transferred.
DEDUCTIONS	
	For recurring gifts, if there is no history of the gift being received prior to application and the gift amount is needed to establish the applicant has repayment ability, the Loan Originator must determine and document that the gift is stable and dependable.
Type of Expense or Verification Source	**Verification Requirements and Procedures**
Disability Assistance Expenses **Preferred Source**	To qualify for disability deductions, the applicant must describe the nature of the expense, provide documentation of the costs, and demonstrate that the expense enables a family member to work. *Form RD 1944-4, Certification of Disability or Handicap,* should be used to verify the disability.
Medical Expenses **Preferred Source**	For elderly households only, allowable medical expenses may be deducted from annual income. Therefore, documentation of medical expenses is not generally required for non-elderly households. However, non-elderly households with un-reimbursed medical expenses in excess of 3 percent of annual income may receive an exception to the asset limitations. In such cases, these medical expenses must be verified as well. Appendix 2 provides a sample format for documenting medical expenses.
Childcare Expenses	Reasonable childcare expenses may be deducted from annual income. To qualify for the deduction, the applicant must: • Identify the children receiving child care and the family member who can work or go to school as a result of the care; • Demonstrate there is no adult household member available to care for the children; • Identify the child care provider, hours of care provided, and costs (e.g., letter on the child care provider's letterhead or a copy of a signed child care contract); and • Identify the educational institution and provide documentation of enrollment (if appropriate). Appendix 2 provides a sample format for requesting childcare information.

2. Timing

Documentation used to verify employment, income, assets, and deductions must be no more than 120 days old, or 180 days old for new construction, by closing date. If any of the verification documents are older than allowed, the Loan Originator must update them before settlement. The age of certain documents, such as divorce decree and tax returns, do not necessarily affect the validity of the underwriting decision. These types of documents are exempt from the document age restriction unless there is evidence that the applicant's circumstances have changed thus warranting updated verifications.

3. Projecting Expected Income for the Next 12 Months

Once an income source is verified, the Loan Originator must project the expected income from this source for the next 12 months. This projection should be based on a comparison and analysis of the figures derived from using all applicable calculation methods. To establish earning trends and avoid underestimating income (especially from overtime), the more methods used the better. However, some income sources will only lend themselves to one method. The four calculation methods are:

- Straight-based where the benefit or wage amount is converted to the annual equivalent.
- Average where the income as reported on the benefit statements or pay stubs for the last 30 days is averaged and then converted to the annual equivalent.
- Year-to-date (YTD) where the YTD gross earnings are divided by the YTD interval, which is the number of calendar days elapsed between January 1 of the current year and the last date covered by the most recent income verification, and then multiplied by 365. The earning activity during the YTD interval should be closely examined to determine the appropriateness of this method. Do not use this method if the earning activity during the YTD interval is insufficient to make an annual projection or is not reflective of the likely earning activity for the period outside the YTD interval (the time between the last date covered by the most recent income verification and December 31 of the current year).
- Historical where the income as reported on the previous year's tax return is used.

Paragraph 4.3 Sources of Income

After the Loan Originator determines the suitable methods and performs the calculations, he/she must determine which figure is most representative of income likely to be received during the next 12 months. If the figures are disparate and one figure is not clearly the most representative, an average of the resulting figures may be used. Conservatively selecting the lowest figure without analysis is not acceptable. The selection must be carefully deliberated and may require additional verification.

Example - Projecting Expected Income for the Next 12 Months

Ken Anderson has worked for B & N Auto for the last two years. According to the verification of employment, Mr. Anderson earns $10/hour, works 40 hours per week, and is expected to work 25 hours of overtime in the next 12 months. Since Mr. Anderson is paid weekly, he submitted his last four pay stubs through the pay period ending May 1st that show gross pay (including overtime) of $460, $415, $475, and $445. It also shows gross YTD earnings of $5,885. Mr. Anderson's tax return for last year showed gross wages of $16,640.

Straight-based: Base pay: $10/hour x 40 hours/week x 52 weeks/year = $20,800

Overtime: $15/hour x 25 hours/year = $375

Total wages: $21,175

Average: ($460 + $415 + $475 + $445) / 4) x 52 weeks/year

= $23,335

YTD: ($5,885 / 121 days) x 365 = $17,754

Historical: $16,640

Looking at the four results, there is no clear earning pattern. The Loan Originator should investigate further to determine why significant discrepancies exist between the calculation methods and what figure should be used. Is B & N experiencing an unusual and temporary large workload? Was Mr. Anderson absent from work for an extended period of time? Did Mr. Anderson receive a pay increase from last year? These are just a few examples of the questions that should be answered.

NOTE: These calculations should be documented in writing and included in the case file. A web based work sheet is available at**:** **http://incomecalc.sc.egov.usda.gov/**

4. Income of Temporarily Absent Family Members

Household members may be temporarily absent from the household for a variety of reasons, such as temporary employment or students who live away from home during the school year. The income of these household members is considered when computing annual income and, if the person is a party to the note, for repayment income.

If the absent person is not considered a member of the household and is not a party to the note, the Loan Originator must not count their income, must not consider them when determining deductions for adjusted income, and must not consider them as a family member for determining which income limit to use.

Examples - Temporarily Absent Family Member

James Brown and his wife have applied for a loan. At the moment, James is working on a construction job on the other side of the State and comes home every other weekend. He earns $600/week and uses approximately one-third of that amount for temporary living expenses. The full amount of the income earned would be counted for both repayment and annual income.

Adam Watson works as an accountant. However, he suffers from a disability that periodically requires lengthy stays at a rehabilitation center. When he is confined to the rehabilitation center, he receives disability payments equaling 80% of his usual income. During the time he is not in the unit, he will continue to be considered a family member. Even though he is not currently in the unit, his total disability income will be counted as part of the family's annual income.

Desirae Bitz accepts temporary employment in another location and needs a portion of her income to cover living expenses in the new location. The full amount of the income must be included in annual income.

Terri Glass is on active military duty. Her permanent residence is her parents' home where her husband and children live. Terri is not currently exposed to hostile fire. Therefore, because her spouse and children are in the parents' home, her military pay must be included in annual income. (If her spouse or dependents were not in the parent's home, she would not be considered a family member and her income would not be included in annual income.)

5. Wage Matching

In states where the Agency has the legal authority to do wage matching, the Loan Originator will use wage matching to verify income for 5 percent of those households that receive *Form 1944-59, Certificate of Eligibility*. The wage matching request should

include all adult members of the household, whether or not they have reported taxable income. If the State does not have sufficient resources to conduct all required wage matching, the State Director should request that the Deputy Administrator, Single Family Housing, authorize a lower percentage.

If the wage matching information does not correspond closely with the income reported by the household, the Loan Originator should discuss the discrepancies with the applicant, and adjust the household's income, as appropriate.

4.4 CALCULATING ANNUAL AND ADJUSTED INCOME

Adjusted income is used to determine eligibility for the Section 502 and 504 programs, as well as eligibility for and the amount of payment subsidies under Section 502.

A. Calculating Annual Income

Annual income is used as the base for computing adjusted income. Income of all household members, not just parties to the note, should be considered when computing annual income. Part II of the Calculation Worksheet in the case study of Attachment 4-B illustrates the calculation of annual income.

B. Calculating Deductions from Annual Income

Adjusted income is calculated by subtracting from annual income any of 5 deductions that apply to the household. Not all households are eligible for all deductions. Exhibit 4-2 summarizes these deductions. The remainder of this paragraph provides guidance on determining whether a family is eligible for each deduction and verifying and calculating these amounts. Part II of the Calculation Worksheet in the case study of Attachment 4-B also illustrates the use of these deductions and the calculation of adjusted income.

Exhibit 4-2
Allowable Deductions from Annual Income

Deduction	Elderly Households	Nonelderly Households
Dependent Deduction	Yes	Yes
Child Care Expenses	Yes	Yes
Elderly Household	Yes	No
Medical Expenses	Yes	No
Disability Assistance	Yes	Yes

C. Dependent Deduction

A deduction from annual income of $480 is made for each household member who qualifies as a dependent. Dependents are members of the household who are not the borrower, co-borrower, or spouse, are age 17 or younger, are an individual with a disability, or are a full-time student. The applicant/borrower, co-applicant/co-borrower, or spouse of applicant/borrower (even if the household member is temporarily absent) may never qualify as a dependent. A foster child, an unborn child, a child who has not yet joined the family, or a live-in aide may never be counted as a dependent.

If more than one family shares custody of a child, the family with primary custody can claim the dependent deduction for that child. If there is a dispute about which family should claim the dependent deduction, the family should provide copies or court orders or tax returns showing which family has claimed the child for income tax purposes.

D. Child Care Expenses

Reasonable unreimbursed child care expenses for the care of children age 12 and under are deducted from annual income if: (1) the care enables a household member to work, actively seek employment, or go to school; (2) no other adult household member is available to care for the children; and (3) in the case of child care that enables a household member to work, the expenses deducted do not exceed the income earned by that household member. If the child care provider is a household member, the cost of the children's care cannot be deducted.

Child care attributable to the work of a full-time student (except for applicant/borrower, co-applicant/co-borrower, or spouse of applicant/borrower) is limited to not more than $480, since the employment income of full-time students in excess of $480 is not counted in the annual income calculation. Child care payments on behalf of a minor who is not living in the household cannot be deducted.

To qualify for the deduction, the applicant must:

- Identify the children who are receiving child care and the family member who can work, seek employment or go to school (academic or vocational) as a result of the care;
- Demonstrate there is no adult household member available to care for the children during the hours care is needed;
- Identify the child care provider, hours of child care provided, and costs;

- Verify the expense is not reimbursed by an agency or individual outside the family; and

- If the expenses enable a family member to go to school, identify the educational institution. The family member need not be a full-time student.

Verification of Child Care Expenses

Child care hours must parallel the hours the family member works or goes to school. Appendix 2 provides a sample format applicants can use to document child care. Other acceptable formats include a letter on the child care provider's letterhead or a copy of a signed child care contract.

Example – Child Care Expense Not Counted

Joshua Gladson pays $200 per month in child support. It is garnished from his monthly wages of $1000. After the child support is deducted from his salary, he receives $800. The full monthly salary of $1000 must be counted as income.

Example – Child Care Deduction
Separate Expenses for Time at Work and Time at School

Lou and Bryce have two children. Both parents work, but Lou works only part-time and goes to school half-time. She pays $4 an hour for eight hours of child care a day. For four of those hours, she is at work; for four of them she attends school. She receives no reimbursement for her child care expense.

Her annual expense for child care during the hours she works is $4,000 and at school is $4,000. She earns $6,000 a year. Bryce earns $18,000.

Lou's child care expense while she is working can not exceed the amount she is earning while at work. In this case, that is not a problem. Lou earns $6,000 during the time she is paying $4,000. Therefore, her deduction for the hours while she is working is $4,000.

Lou's expense while she is at school is not compared to her earnings. Her expense during those hours is $4,000 and her deduction for those hours will also be $4,000.

Lou's total child care deduction is $8,000 ($4,000 + $4,000). The total deduction exceeds the amount of Lou's total earnings, but the amount she pays during the hours she works does not exceed her earnings. If Lou's child care costs for the hours she worked were greater than her earnings, she would not be able to deduct all of her child care costs.

E. Elderly Household Deduction

A single $400 deduction is subtracted from annual income for any elderly household. To be considered an elderly household, a party to the note must be 62 years of age or older or an individual with a disability. Because this is a "family deduction" each household receives only one deduction, even if more than one member is elderly or disabled.

Typical Disability Expenses

- Care attendant to assist an individual with disabilities with activities of daily living directly related to permitting the individual or another family member to work.
- Special apparatus, such as wheelchairs, ramps, adaptations to vehicles or work place equipment, if directly related to permitting the individual with disabilities or another family member to work.

In the case of a family where the deceased applicant/borrower or spouse was at least 62 years old or an individual with disabilities, the surviving family member shall continue to be classified as an "elderly household" for the purposes of determining adjusted income if:

- At the time of death of the deceased family member, the dwelling was financed by the Agency;
- The surviving family member occupied the dwelling with the deceased family member at the time of death; and
- The surviving spouse (if any) has not remarried.

F. Deduction for Disability Assistance Expense

Families are entitled to a deduction for un-reimbursed, anticipated costs for attendant care and "auxiliary apparatus" for each family member who is a person with disabilities, to the extent these expenses are reasonable and necessary to enable any family member 18 years of age or older who may or may not be the member who is a person with disabilities (including the member who is a person with disabilities) to be employed. The applicant must describe the nature of the expense, provide documentation of the costs, and demonstrate that the expense enables a family member to work. Reasonable documented expenses for care of the individual with disabilities in excess of 3 percent of annual income may be deducted from annual income if the expenses:

- Enable the individual with disabilities or another family member to work;
- Are not reimbursable from insurance or any other source; and

- Do not exceed the amount of earned income included in annual income by the person who is able to work as a result of the expenses. If the disability assistance enables more than one person to be employed, the combined incomes of all persons must be included.

To qualify for this deduction, applicants must identify the individual with a disability on the application. *Form RD 1944-4, Certification of Disability or Handicap* should be used to request verification of the individual's disability from a physician or other medical professional.

Example – Eligible Disability Assistance Expenses

The payments made on a motorized wheelchair for the 42-year-old son of the applicant/borrower enable the son to leave the house and go to work each day on his own. Prior to purchase of the motorized wheelchair, the son was unable to make the commute to work. These payments are an eligible disability assistance expense.

NOTE: Auxiliary apparatus includes, but is not limited to, items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a sight-impaired person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work. If the apparatus is <u>not</u> used exclusively by the person with a disability, the total cost must be prorated to allow a specific amount for disability assistance.

- **Include payments on a specially-equipped van to the extent they exceed the payments that would be required on a car purchased for transportation of a person who does not have a disability.**

- **The cost of maintenance and upkeep of an auxiliary apparatus is considered a disability assistance expense (e.g., veterinarian and food costs of a service animal; cost of maintaining equipment that is added to a car, but not the cost of maintaining the car).**

Payments to a care attendant to stay with a disabled 16-year-old child allow the child's mother to go to work every day. These payments are an eligible disability assistance expense. When the same provider takes care of children and a disabled person over age 12, prorate the total cost and allocate a specific cost to attendant care. The sum of both child care and disability assistance expenses cannot exceed the employment income of the family member enabled to work.

NOTE: Attendant care includes, but is not limited to, expenses for home medical care, nursing services, housekeeping and errand services, interpreters for hearing-impaired, and readers for persons with visual disabilities.

Example – Calculating a Deduction for Disability Assistance Expenses

Applicant/Borrower earned income	$14,500
Co-Applicant/Co-Borrower earned income	+$12,700
Total Income	$27,200
Care expenses for disabled 15-year-old	$ 3,850
Calculation:	$ 3,850
(3% of annual income)	-$ 816
Allowable disability assistance expenses	$ 3,034

(NOTE: $3,034 is not greater than amount earned by co-applicant/co-borrower, who is enabled to work.)

G. Deduction for Medical Expenses (for Elderly Households Only)

Medical expenses may be deducted from annual income for elderly households if the expenses: (1) will not be reimbursed by insurance or another source; and (2) when combined with any disability assistance expenses are in excess of 3 percent of annual income.

If the household qualifies for the medical expenses deduction, expenses of the entire family are considered. For example, if a household included the head (grandmother, age 64), her son (age 37), and her granddaughter (age 6), the medical expenses of all 3 family members would be considered.

Examples - Typical Medical Expenses

- Services of physicians, nurses, dentists, opticians, chiropractors, and other health care providers
- Services of hospitals, laboratories, clinics, and other health care facilities
- Medical, Medicaid and long-term care premiums, and expenses to HMO
- Prescription and nonprescription medicine prescribed by a physician
- Dental expenses, x-rays, fillings, braces, extractions, and dentures
- Eyeglasses, contact lenses, and eye examinations
- Medical or health products or apparatus (hearing aids, batteries, wheel chairs, etc.)
- Attendant care or periodic medical care (visiting nurses or assistance animal and its upkeep)
- Periodic scheduled payments on accumulated medical bills
- Travel expense and lodging for medical treatment

Examples - Excluded Medical Expenses

- Unnecessary cosmetic surgery to improve the patient's appearance such as face lifts, hair transplants/removal, and liposuction
- Health Club or YMCA dues, steam baths for general health or to relieve physical or mental discomfort not related to a particular medical condition
- Household help even if recommended by a doctor
- Medical savings account (MSA)
- Nutritional and herbal supplements, vitamins, and "natural medicines" unless these can be obtained legally only with a physician's prescription
- Non-prescription drugs unless prescribed by a physician for a particular medical condition
- Personal use items unless used primarily to prevent or alleviate a physical or mental defect or illness

One of the most challenging aspects of determining allowable medical expenses is estimating a household's medical expenses for the coming year. While some anticipated expenses can be documented easily (for example, Medicare or other health insurance premiums and ongoing prescriptions), others need to be estimated. The Loan Originator should use historical information about medical bills to estimate future expenses. However, the estimates should be realistic. For example, if the household has a significant medical bill, the Loan Originator would count only that portion of the bill that is likely to be paid during the coming year.

Example - Calculating the Medical Expense Deduction

The Jensons are an elderly household with annual income of $25,000 and anticipated medical expenses of $3,000 that are not covered by insurance or another source. The allowable medical expenses would be:

Total Medical Expenses	$3,000
(less) 3% Annual Income	$ 750
($25,000 x 0.03)	
Allowable Medical Expenses	$2,250

Example – Medical Expense Paid over a Period of Time

Chynna Ray and Justin Grog did not have insurance to cover Justin's operation four years ago. They have been paying $105 a month toward the $5,040 debt. Each year that amount

($105 x 12 months or $1,260) has been included in total medical expenses. A review of their file indicates that a total of $5,040 has been added to total medical expenses over the four-year period. Over the four-year period they have missed five payments and still owe $525. Although they still owe this amount, the bill cannot be included in their current medical expenses because the expense has already been deducted.

Note that for the calculation of assets discussed in Section 2 of this chapter, ***all*** households are eligible for a consideration of medical expenses, not just elderly households.

H. Calculating Repayment Income

Repayment income is the amount of the household's income that is available to repay the Agency's debt. To compute repayment income, the Loan Originator should count only the income of persons who will be parties to the note.

The Standard PITI and TD ratio limitations are based on an assumption that applicant income is taxable. If a particular source of income is not subject to Federal taxes, for example, certain types of disability payments or military allowances, the amount of continuing tax savings attributable to the nontaxable income source may be added to the applicant's repayment income. Nontaxable income will be multiplied by 120 percent to "gross up" such income.

Example – "Grossing Up" Nontaxable Income

The applicant's repayment income of $22,000 includes $5,000 of nontaxable income.

The revised repayment income for the applicant would be calculated as follows:

$17,000	Taxable income
+ 6,000	"Grossed-Up" Nontaxable Income ($5,000 x 1.2)
$23,000	Revised Repayment

SECTION 2: EVALUATING BORROWER ASSETS *[7 CFR 3550.54(d)]*

4.5 OVERVIEW OF POLICIES RELATED TO ASSETS

Assets affect an applicant's ability to obtain a loan in 2 ways. First, applicants may be required to use assets to make a down payment covering some of the costs of purchasing a home. Second, many types of assets generate income that must be included in the calculations of annual and repayment income. Asset documentation may also provide useful information for loan underwriting. Exhibit 4-3 presents a list of assets that must be considered when making these determinations and also identifies certain types of assets that are not considered.

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Exhibit 4-3
Types of Assets

The following types of assets must be considered.

Non-retirement assets including:

- Savings accounts; the average 2-month balance of checking accounts; safe deposit boxes and home;
- Stocks, bonds, Treasury bills, savings certificates, money market funds, and other investment accounts;
- Equity in real property or other capital investments;
- Revocable trust funds that are available to the household;
- Lump-sum receipts, such as inheritances, capital gains, lottery winnings and settlement on insurance claims (including health and accident insurance, worker's compensation, and personal or property losses);
- Assets held in foreign countries;
- Personal property (such as jewelry, coin collection or antique cars) held as an investment; and
- Cash value of life insurance policies.

Retirement assets including:

- Amounts in voluntary retirement plans that can be withdrawn, such as individual retirement accounts (IRAs), 401(K) plans, and Keogh accounts; and
- Amounts in other retirement and pension plans that can be withdrawn without retiring or terminating employment.

The following types of assets are not considered.

- The value of necessary items of personal property, such as furniture, clothing, cars, wedding rings and other jewelry not held as an investment, and vehicles specially equipped for persons with disabilities;
- Assets that are part of any business, trade, or farming operation in which any member of the household is actively engaged;
- The value of an irrevocable trust fund, or the value of any trust over which no member of the household has control;
- Term life insurance policies where there is no cash value;
- Assets that are not effectively owned by, accessible to, and provide no income to the applicant;
- Interests in American Indian trust land; and
- For income calculations, any assets on hand that will be used to reduce the amount of loan.

Example – Assets that are Part of an Active Business

Megan and Tylar Wasson own a copier and courier service. None of the equipment that they use in their business is counted as an asset (e.g., the copiers, the FAX machines, the bicycles).

A. Reporting Assets

Applicants must provide information about household assets at the time of loan application and whenever an income determination is made. Applicants must provide sufficient documentation to enable the Loan Originator to verify the asset information and compute the market and cash value of the asset. Applicants must provide assets documentation as required on Paragraph 4.3 regardless of the balance or value of the assets disclosed. In addition, *Form RD 3550-4, Employment and Asset Certification*, will be used to confirm whether or not the household's combined net assets do not exceed $5,000 and whether or not assets have been disposed of for less than the fair market value in the past 2 years.

Example – Calculating Cash Value of An Asset

Mr. Shouse has $10,000 in an IRA account. The account's market value is $10,000. But in order to withdraw funds from the account, Mr. Shouse must both pay a withdrawal penalty and taxes on the amount withdrawn.

The cash value of the IRA account is:

	$10,000	Market value
less	200	Withdrawal penalty
less	2,000	Tax
	$7,800	Cash Value

B. Verification of Assets

Copies of bank or brokerage company statements provide more information than just account balances. The transaction history reveals recurring deposits or debits that may impact the applicant's ability to qualify for a loan. Assets statements must cover account activity for the most recent two-month period (or, if account information is reported on a quarterly basis, for the most recent quarter). Loan originators must:

- Confirm that the applicant has enough funds for closing.
- Obtain a credible explanation from the applicant regarding the source of funds for any large deposits or increase in the account balance . A large deposit may be the proceeds from a new personal loan not yet reported to the credit bureaus.

C. Calculating Market and Cash Value

The ***market value*** of an asset is simply its dollar value on the open market. For example, the market value of $2,000 in a savings account is $2,000 and the market value of real estate is its appraised value. The ***cash value*** of an asset is the market value, less reasonable expenses to convert the asset to cash. For example, the cash value of stock worth $5,000 would be $5,000 less any broker's fee.

D. Retirement Assets

Retirement assets are savings and investments that have been specifically designated as retirement funds. Not all retirement assets are considered. If the applicant can receive the retirement funds only by borrowing them, or upon retirement or termination of employment, the funds are not counted as assets for determining income or for down payment requirements. If the applicant can withdraw retirement funds without retiring or terminating employment, the funds are counted as assets, even though penalties may apply.

Example – Withdrawals from IRAs or 401K Accounts

Jim Dunn retired recently. He has an IRA account but is not receiving periodic payments from it because his pension is adequate for his routine expenses. However, he has withdrawn $2,000 for a trip with his children. The withdrawal is not a periodic payment and is not counted as income.

Example – Withdrawals from a Keogh Account

Riley Hales has a Keogh account valued at $30,000. When she turns 70 years old, she begins drawing $2,000 a year. Continue to count the account as an asset. Determine the cash value and imputed income from the asset. Do not count the $2,000 she withdraws as income.

Example – Retirement Benefits as Lump-Sum and Periodic Payments

Upon retirement, Ashley Gardner received a lump-sum payment of $15,000. She will also receive periodic pension payments of $350 a month.

The lump-sum amount of $15,000 is generally treated as an asset. In this instance, however, Ashley spent $5,000 of the lump sum on a trip following her retirement. The remaining $10,000 she placed in her mutual fund with other savings. The entire mutual fund will be counted as an asset.

Ashley is now not able to withdraw the balance from her pension. Therefore, count the $350 monthly pension payment as annual income and do not list the pension account as an asset.

4.6 LIMITATIONS ON ASSETS

The cash value of net family assets that are above the limitations described in this paragraph must be used to pay for costs related to the purchase of the home.

A. Limitation on Nonretirement Assets

If the cash value of nonretirement assets is greater than $15,000 for nonelderly households or $20,000 for elderly households, the cash value in excess of these amounts must be used toward the purchase of the property.

B. Limitation on Retirement Assets

For non-retired applicants, if the ***market value*** of retirement assets is greater than the applicable adjusted median income limit, the ***cash value*** of assets in excess of that amount must be used toward the purchase of the property. For retired applicants, if income is derived from either retirement assets alone or retirement assets and other retirement income, the applicant will not be required to use retirement assets as a down payment. Real estate assets will be used as a test for other credit.

C. Exception to the Asset Limitations

In cases in which the family is experiencing unreimbursed medical expenses in excess of 3 percent of annual income, the Loan Approval Official may increase the applicable asset limit by the amount of the medical expenses in excess of 3 percent of annual income. The reasons for the waiver must be documented carefully.

4.7 CALCULATING INCOME FROM ASSETS FOR ANNUAL INCOME

For the purpose of computing annual income, the current assets of ***all household members*** are considered. In addition, if any household member has disposed of assets for less than fair market value during the 2 years preceding an annual income determination, the asset must be considered unless it was disposed of as a result of foreclosure, bankruptcy, divorce, or separation. The amount of income is the difference between the market value of the asset and the amount that was actually received in the disposition of the asset.

If and only if the cash value of total household assets is more than $5,000, the amount of asset income included in annual income is the greater of: (1) the actual income to be derived from the assets; or (2) an imputed income from assets that is calculated by multiplying the total cash value of assets by a locally-determined passbook rate. Generally, the imputed income from assets is larger than the actual income to be derived from the assets when an applicant owns non income-producing assets of significant value.

Example - Income from Assets for Annual Income Calculation

Charles and Patty Brown, both age 40, have applied for a program loan. The Brown family has the following assets.

A certificate of deposit of $6,800 they have been saving for a down payment. It earned 6.8% or $462 of interest last year. Estimated cash value after paying penalties is $6,500.
A savings account with $11,500 earning 4% annually.
The 6-month balance in the checking account is $300 (non interest-bearing account).

The cash value of the Browns' assets is $18,300 ($6,500 + $11,500 + $300). However, the Browns will be required to use $3,300 (assets in excess of $15,000) toward the purchase of the dwelling. Therefore, the cash value of assets to be counted toward income from assets is $15,00. The cash value of the remaining assets is more than $5,000. To compute income from assets, use the greater of actual income or imputed income.

	Cash Value	**Actual Income Earned**	**Imputed Income (local passbook rate is 4%)**
Checking Account	$ 300	$ 0	**$600 ($15,000 x 0.04)**
Certificate of Deposit	$6,500	$442 ($6,500 x 0.068)	
Savings ($11,500 - $3,300 down payment	$ 8,200	$ 328 ($8,200 x 0.04)	
TOTAL	**$15,000**	**$770**	

Example – Valuing a Disposed Asset

David Orr sold a property to a relative for $15,000 on July 1, 2005. The property was valued at $37,500 and had no loans against it.

Market Value	$37,500
(*Less*) Settlement costs	$ 2,000
(*Less*) Sales price	$15,000
Cash Value	$20,500

The $20,500 would be counted as an asset for any annual income determination conducted until July 1, 2007. Even though there would be no actual income from this asset, the $20,500 would be used to establish total assets to determine the amount to be counted as annual income.

4.8 CALCULATING INCOME FROM ASSETS FOR REPAYMENT INCOME

Only assets held by note signers are considered and only the actual income derived from the assets, which are determined stable and dependable, are used to compute repayment income. Do not consider assets with a total cash value of $5,000 or less unless it would significantly and adversely impact the loan qualification amount, in which case over and above *Form RD 3550-4* must be obtained.

Example - Income from Assets for Repayment Income

Jose and Sylvia Gonzales, both age 40, have applied for a program loan. Sylvia's mother Maria (age 65) lives with them, but will not be a party to the note. The applicable adjusted median income limit for this household is $40,000. The family reports the following assets.

Jose's 401(K) account is valued at $9,000 and earned 6% or $540 last year. Estimated cash value after penalty and taxes is $7,000.

Jose and Sylvia's savings account with $16,000 earning 4% annually has no withdrawal penalties, and the $300 6-month balance in their checking account earns no interest.

Maria's savings account of $2,000 earned 2.5% interest last year.

Retirement Asset Test. Because the $9,000 market value of the Gonzales' 401(K) account is less than $40,000, the household is <u>not required</u> to use any retirement assets toward purchase of the home. Income from the 401(k) retirement account is not available for use on a monthly basis and <u>should not</u> be counted as repayment income The interest earned <u>is</u> counted as annual income.

Nonretirement Asset Test. The cash value of the Gonzales' nonretirement assets is $8,800. Maria's account is not counted because she will not be a party to the note. The nonretirement limit applicable to the family is $7,500. Therefore, the Gonzales family must contribute at least $1,300 ($8,800 - $7,500) of their savings toward the purchase of the home.

	Market Value	**Cash Value**	**Repayment Income**
Savings ($16,000 - $1,300)	$14,700	$ 14,700	$588 ($14,700 x 0.04)
401(K)	$9,000	$ 7,000	$0
TOTAL	**$15,000**	**$ 15,000**	**$588** (counted in repayment income)
Savings ($16,000 - $1,300)	$14,700	$ 14,700	$588 ($14,700 x 0.04)

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SECTION 3: CREDIT HISTORY *[7 CFR 3550.53(h)]*

4.9 OVERVIEW

To be eligible for a Section 502 loan, applicants must demonstrate that they are reasonably able and willing to repay an Agency loan. This section begins with a discussion of the criteria that Loan Originators must use in assessing an applicant's credit history. It then describes the procedures for conducting preliminary credit checks when an applicant is placed on the waiting list and full credit reviews for applicants selected for processing, and provides guidance for evaluating the information obtained. It concludes with criteria for making exceptions.

4.10 CREDIT REQUIREMENTS

The Loan Originator must evaluate the credit history of each proposed party to the note. An applicant's credit record does not have to be perfect; a few instances of credit problems can be acceptable if an applicant's overall credit record demonstrates an ability and willingness to repay obligations. Exhibit 4-4 outlines indicators of unacceptable credit that must be investigated by the Loan Originator. These indicators are not automatic disqualifiers. The Loan Approval Official can make exceptions in limited circumstances, as described in Paragraph 4.14.

Cosigners

Cosigners must meet the same credit-worthiness requirements as applicants and cannot be used to compensate for an applicant's unacceptable credit history.

The Loan Originator must investigate indicators of unacceptable credit to determine whether they are accurate, and whether there is an acceptable explanation for the problem that might justify an exception. Failure to understand the nature of a credit problem could put the Agency at risk of providing financing to an applicant who is unable or unwilling to repay the debt, or could cause the Agency to reject an applicant on the basis of inaccurate or incomplete information.

For instance, an applicant with little or no credit history reflected on a credit report will require further examination. Since some creditors do not report to the credit repositories, unreported recurring debts that may demonstrate the applicant's ability and willingness to meet debt obligations should be verified using third party verifications from impartial and unrelated parties, canceled checks that cover a sufficient period of time, or other acceptable means.

Exhibit 4-4
Indicators of Unacceptable Credit

- Little or no credit history. The lack of credit history on the credit report may be mitigated if the applicant can document a willingness to pay recurring debts through other acceptable means such as third party verifications or canceled checks. Due to impartiality issues, third party verifications from relatives of household members are not permissible.
- Payments on any installment account where the amount of the delinquency exceeded one installment for more than 30 days within the last 12 months.
- Payments on any revolving account which was delinquent for more than 30 days on two or more occasions within the last 12 months.
- A foreclosure that has been completed within the last 36 months.
- An outstanding Internal Revenue Service (IRS) tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.
- Two or more rent or mortgage payments paid 30 or more days late within the last 2 years. If the applicant has experienced no other credit problems in the past 2 years, only 1 year of rent history will be evaluated. This requirement may be waived if the program loan will reduce shelter costs significantly and contribute to improved repayment ability.
- Outstanding collection accounts with a record of irregular payments with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last 6 months, unless the applicant had been making regular payments previously.
- Non-Agency debts written off within the last 36 months, unless the debt was paid in full at least 12 months ago.
- Agency debts that were debt settled within the past 36 months, or are being considered for debt settlement.
- Delinquency on a federal debt.
- A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding or has been outstanding within the last 12 months, ***except***:
  - ◊ A bankruptcy in which:
    - ♦ Debts were discharged more than 36 months prior to the date of application; or
    - ♦ Where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application.
  - ◊ A judgment satisfied more than 12 months before the date of application.

An applicant with an outstanding judgment obtained by the United States in a Federal court, other than the United States Tax Court, is *not* eligible for a Section 502 loan. This requirement is statutory and cannot be waived.

If an applicant's credit history is unacceptable, the Loan Originator should counsel the applicant about the specific problems identified, and ways to improve the household's credit record for the future. The Loan Originator should make it clear that establishing a pattern of meeting obligations that conforms to the Agency's standards might make it possible for the applicant to qualify for a Section 502 loan in the future.

The Loan Originator must use consistent standards and procedures when evaluating credit qualifications to ensure equity and fairness. Special areas of concern include:

- Determining what constitutes acceptable documentation;
- Counseling applicants about ways to correct adverse credit; and
- Interpreting subjective information.

4.11 CONDUCTING PRELIMINARY CREDIT CHECKS

Three Preliminary Credit Checks

- CAIVRS
- Infile Credit Report
- Borrowers Cross Reference

If funding is not available and the applicant will be placed on the waiting list, the Loan Originator should conduct a preliminary review of the applicant's credit history by accessing the Department of Housing and Urban Development's (HUD's) online Credit Alert Interactive Voice Response System (CAIVRS), ordering an infile credit report, and checking MortgageServ's Borrower Cross Reference screen (Customer/XREF/Social Security) provided these checks were not performed during a pre-qualification review.

If these preliminary credit checks reveal indicators of unacceptable credit, the Loan Originator should discuss the findings with the applicant; providing enough detail information so that the applicant can identify and address the issue. For contractual reasons, a copy of the infile credit report may not be provided to the applicant. If the applicant acknowledges that the credit blemishes are accurate, but indicates that they were due to circumstances beyond his or her control, the Loan Originator should record those reasons in the running record and ask the applicant for supporting documentation. The Loan Originator should also counsel the applicant on possible ways to remedy the problems while on the waiting list. Be sure to explain to the applicant that fulfilling suggestions provided by the RHS staff will improve their chances of qualifying for a loan, but does not guarantee loan approval.

Although the Agency cannot provide copies of the infile credit report, Loan Originators

should advise that the applicant can obtain a free credit report by calling 1-877-322-8228 or logging into http://www.annualcreditreport.com. By law, individuals are entitled to receive one free credit file disclosure every 12 months from each of the nationwide consumer credit reporting companies – Equifax, Experian and TransUnion.

A. Credit Alert Interactive Voice Response System

Except in very unusual circumstances, an applicant who is delinquent on a Federal debt is not eligible for a Section 502 loan. The Loan Originator can verify whether the applicant has delinquent Federal debt through CAIVRS. However, credit must not be denied based solely on the results of the CAIVRS inquiry.

The Loan Originator should print HUD's online CAIVRS results page and file it in the applicant's case file to document that the applicant's delinquency status has been checked.

Exceptions to Delinquent Federal Debt

If the applicant has a delinquent Federal debt, the Administrator has the authority to grant an exception if arrangements for payment have been made and it is in the best interest of the Government.

If CAIVRS indicates that the applicant has a delinquent Federal debt, the Loan Originator should suspend application processing, notify the applicant of the reason for the suspension, and provide the telephone number CAIVRS lists as a point of contact for resolving the delinquency. If the applicant does not notify the Agency within 30 days that the problem has been resolved, the application must be rejected and the applicant should be notified in writing. The Administrator may grant an exception to this requirement if it is in the best interest of the Government.

If the delinquency is paid in full or otherwise resolved within the 30-day time frame, application processing can continue. If the applicant resolves the issue after the application has been rejected, and wishes to reapply, the applicant must submit a new application, which must be processed according to the new submission date.

B. Infile Credit Report

The Loan Originator should order an infile credit report for applicants placed on the waiting list, in order to screen for potential credit problems, unless such a report was already ordered during a pre-qualification review or was ordered by a loan packager, real estate broker, or other entity. The results of the infile credit report, which are not binding and cannot be used to determine borrower eligibility, can help identify possible credit problems that may be remedied during the waiting period.

For applicants who currently reside at the same address, regardless of marital status, a joint infile credit report should be ordered so that the Agency can realize cost savings. Refer to the DLOS Training Manual for guidance on joining spouses on the Registration Borrower Data Retail/BKR screens in UniFi.

Note that both infile credit reports and residential mortgage credit reports (discussed below) are considered a hard inquiry on the applicant's credit report. Since hard inquires are used when determining the applicant's credit score care must be taken to avoid unnecessary orders. Do not order subsequent infile credit reports to confirm that a debt has been paid or for other similar reasons and do not order an infile credit report after a residential mortgage credit report has been ordered.

4.12 CONDUCTING FULL REVIEW OF CREDIT HISTORY

Helpful Hint

Unless the applicant makes a written request for a copy of their residential mortgage credit report, the Agency will not provide a copy. Applicants are not entitled to a copy of their infile credit report.

Once the applicant is selected for processing, the Loan Originator must order a residential mortgage credit report and obtain the applicable third-party credit verifications to determine whether the applicant's credit history meets the Agency's criteria. . If the applicant was never placed on the waiting list, check HUD's CAIVRS and MortgageServ's Borrower Cross Reference screen; do not order an infile credit report.

Procedures for obtaining third-party verifications are described in Paragraph 3.16. Guidelines for reviewing the applicant's credit history are provided here.

If an applicant is denied assistance based upon information contained in a residential mortgage credit report, the Agency must provide the applicant:

- The name, address, and toll free number of the credit bureau;
- A statement to the applicant that the denial of their loan request was made by the Agency, and not the credit bureau;
- Notice of their right to obtain a free copy of their credit report from the credit bureau within 60 days from the date of the Agency's adverse action; and
- Notice of the applicant's right to dispute to the credit bureau the accuracy or completeness of the credit report provided to the Agency.

A. Residential Mortgage Credit Report

The Residential Mortgage Credit Report (RMCR) will include a Beacon, Classic 2004 FICO, and Fair Issac credit score. The report will include data from the three main repositories, updated verifications on all tradelines with a balance (updated to within 90 days), a court records check that includes adverse items for the prior 7-year period, and a 2-year employment and rental history. The RMCR will also provide the results of a check against the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) database. OFAC administers and enforces economic and trade sanctions against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. If an OFAC match message appears on the RMCR, refer to the U.S. Treasury website at http://www.treas.gov/offices/enforcement/ofac/faq/answer.shtml for guidance on how to determine if the match is valid. If a due diligence review concludes that the match is valid, the applicant should be denied assistance and referred to the OFAC contact number for further information as per the aforementioned website.

For applicants with no outstanding judgments obtained by the United States in a Federal court and who have more than one credit score listed on their RMCR that result in a reliable credit score of 640 or higher on their RMCR, Exhibit 4-4 need not be used to identify indicators of unacceptable credit handling. In addition, *Form RD 1944-61, Credit History Worksheet*, need not be completed. These applicants are automatically classified as having acceptable credit histories regardless of what is listed on the RMCR. To avoid potential disparate treatment, additional credit analysis is not appropriate. Credit scores are used to reduce the time necessary to conduct a credit analyses, but under no circumstance can they be used to make adverse decisions.

To ascertain if an applicant has a reliable credit score of 640 or higher to preclude the use of Exhibit 4-4 to identify indicators of unacceptable credit handling, the following practice will be established:

- If the three credit scores are listed on the RMCR, the middle numerical score should be used.
- If the RMCR only contains two scores, the lower of the two should be used.
- If the RMCR only contains one score, a full credit analysis must be completed.
- If no score is available, the credit bureau will report a "zero." Zero in these cases has the literal meaning of null, or indicating there was not enough information or credit references for the statistical model to compute a credit score value.

- If there is more than one applicant, each applicant must be viewed separately.

- Loan Originators must review the RMCR to validate the reliability of the credit score. Based on the program's overall credit guidelines, a credit score is valid if the applicant has a minimum of three trade lines that have been opened and active for at least 12 months.

- Loan Originators must obtain nontraditional credit verifications to augment a credit report where a credit score was generated but based on only a few and/or recently established trade lines or if the applicant has less than two scores. However, non-traditional credit must never be used to enhance the credit of an applicant with a negligent credit history (poor payment history, excessive use of credit, over the credit limit balances, etc.) or to offset derogatory references found in the applicant's traditional credit report, such as collections and judgments.

If the resulting credit score is less than 640 and the RMCR contains any indicators of unacceptable credit as outlined in Exhibit 4-4, the Loan Originator should discuss the findings with the applicant and ask for third-party verifications that support the applicant's assertions. A copy of the RMCR must be retained in the case file. If the RMCR is more than 6 months old when the underwriting decision is to be made, a new report must be ordered at no cost to the applicant.

B. Fair and Accurate Credit Transactions

In accordance with the Fair and Accurate Credit Transactions (FACT) Act of 2003, the Agency is required to disclose to the applicant, upon request, the score that a credit bureau distributed and was used in connection with their loan. In addition, we are required to disclose the key factors affecting the applicant's credit scores. Therefore, Attachment 3-H, Credit Score Disclosure, must be provided to the applicant. It must be explained to the applicant that the credit score was not used to determine loan approval. The Agency only uses the credit score to presume acceptable credit in lieu of other credit underwriting practices.

The FACT Act also added a new section to the Fair Credit Reporting Act to prohibit creditors from obtaining or using medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

Consumer reporting agencies are prohibited from providing a lender with a credit report that contains identifying information for medical debts (be it a collection, judgment, etc.). The name of the medical service provider and the nature of the medical service is suppressed or coded so that lender decisions are not based on discriminatory factors. However, suppression or coding of identifying information for medical debts does not eliminate the need for consideration. Medical debts that are chronically late, placed in collection, or turned into judgments remain indicators of unacceptable credit handling that must be addressed (unless the applicant has a reliable credit score of 640 or higher).

Since the indicators of unacceptable credit handling are general guidelines that aid in determining the degree of risk and are not absolute underwriting criteria, the Loan Originator must subjectively consider the circumstances that resulted in the blemished debt. If the identifying information for a medical debt is suppressed or coded and the applicant is claiming that the debt resulted from a situation that was beyond their control, the applicant must provide adequate third-party documentation to support their claim.

If the applicant cannot identify the medical debt given the payment information (date opened, balance owing, etc.), the applicant will have to contact the repository directly to obtain a copy of their credit report. Credit reports provided by a repository directly to a consumer will not have the medical information suppressed. To avoid a fee, the applicant can obtain a free credit report by calling 1-877-322-8228 or logging into http://www.annualcreditreport.com. By law, individuals are entitled to receive one free credit file disclosure every 12 months from each of the nationwide consumer credit reporting companies – Equifax, Experian and TransUnion.

An exception can not be granted on that the applicant's assertion that they were unaware of the blemished debt or that the blemished debt is not theirs. Supporting documentation must be furnished before a Loan Approval Official considers granting an exception.

C. Other Credit Verifications

If the applicant's credit score is under 640, the Loan Originator should send *Form RD 1944-60, Landlord's Verification* and *Form RD 410-8, Applicant Reference Letter*, to the parties indicated in the application if not reflected on the RMCR. The forms should be accompanied by a preaddressed, pre-stamped envelope and *Form RD 3550-1, Authorization to Release Information*, which authorizes the respondent to release the information.

1. Landlord's Verification

Form RD 1944-60 is used to verify the applicant's past record of making timely rental payments. The Loan Originator should generate separate copies of *Form RD 1944-60* for each landlord listed on the application for the past 2 years.

If the landlord reports that during the past 24 months (or whatever is applicable) the applicant "always pays by the due date" and is current on the rent, the applicant's rental history should be considered satisfactory. If the landlord reports that the applicant "pays over 30 days late" or "generally stays behind schedule," or if the applicant is currently behind on the rent, the Loan Originator should follow up with a call to the landlord.

Confirmation that the applicant has paid 2 or more rent payments 30 or more days late within the last 2 years generally would be an indicator of unacceptable credit. However, if the amount of rent paid by the applicant was significantly higher than the likely cost of principal, interest, taxes and insurance (PITI) with a Section 502 loan, an exception might be appropriate.

2. Applicant Reference Letter

Form RD 410-8 is used to obtain information about an applicant's credit history that might not appear on a credit report, for example, credit from a local store. It can be used to document an ability to handle credit effectively for applicants who have not used sources of credit that appear on a credit report. It also provides a mechanism for following up on repayment history for debts reported by the applicant on the application that do not appear on the credit report.

3. Non Traditional / Alternative Credit

For applicants who do not use traditional credit, or that have a limited credit history, the Loan Originator must develop a credit history from at least three (3) nontraditional credit sources such as rental payments, utility payment records, automobile insurance payments, or other means of direct access from the credit provider. Loan Originators must verify that the providers of nontraditional credit exist, and confirm that the borrower, in fact, has credit history with the creditor. Payments made to relatives for credit sources are ineligible as a nontraditional credit reference.

a. **Verification of a Nontraditional Credit Provider**: To verify the credit information, Loan Originators must use a published address or telephone number for that creditor, such as listing in the yellow pages.
b. **Confirming the Existence of a Nontraditional Credit**: Documentation to confirm that the nontraditional credit exists and that the applicant has sufficient credit references to evaluate his/her ability and willingness to repay debt may include 12 month payment history from the following sources:

- **Preferred Sources**: Rental housing; utilities (if not included in the rent payment); telephone service; cable television and internet service, insurance payments (payroll deductions to pay for insurance premiums are not considered alternatice credit).

- **Alternative Sources**: Payments to child care providers; school tuition; payments to local retail stores and storage units companies; payment arrangements for the uninsured portion of any medical bills; etc.

The 12-month payment history may be obtained by sending *Form RD 410-8, Applicant Reference Letter*, to the nontraditional creditors indicated by the applicant or by obtaining canceled checks, money order receipts, and/or a12-month bill statements or payment history print-out from the creditor. General statements such as “satisfactory” or “in good standing” are not sufficient to establish a satisfactory repayment history. Loan Originators should carefully evaluate the bill statements to establish the payment history (past due amounts, late payment charges).

Exhibit 4-5
Guidelines for Evaluating Credit Reports

- Different credit bureaus or repositories present information in different formats. Be familiar with the different formats and take time in reviewing the report to avoid errors.
- Obtain clarification of any questionable items or terms (for example, terms such as "slow" or "late pay" have varied meanings). No decisions should be made until the terms in question are translated into defined terms (e.g., for this repository, "slow pay" means 30 days late). Document clarification of terms in the case file.
- Upon receiving the credit report, verify the name, address, and Social Security Number.
- Compare the employment information and rental data on the credit report, if available, with the information on the application.
- Compare the remainder of the credit report to the application. Consider the following questions when reviewing the application.
  - ◊ Are all the accounts reported on the credit report listed on the application? (Note: There may be additional accounts on the application that are not on the credit reports because not all creditors furnish information to a credit bureau or repository.)
  - ◊ Does any of the information on the credit report contradict the application?
  - ◊ What information indicates unacceptable credit? List late payments, chargeoffs and other relevant information.
  - ◊ Does the credit report have accounts included in a consumer credit counseling program? If so, document t a12-months repayment history under the plan with all payments made on time and the applicant has written permission from the counseling Agency to enter into a mortgage transaction.
  - ◊ Does the applicant rely heavily on the use of revolving credit? Account balances that are at, near, or over the credit limit may indicate that the applicant is overextended.
  - ◊ Is the applicant responsible for the tradeline or an authorized user? If most accounts in the credit report are designated as "authorized user" (ECOA code 3), the applicant must provide supporting documentation to demonstrate that he or she has made the monthly payments for the past 12 months.
- If the credit report reflects little or no credit history, ask the applicant for other documentation that may demonstrate a willingness to pay recurring debts like rent, utilities, phone, medical, etc. Third party verifications from impartial an unrelated parties or canceled checks that cover a sufficient period of time are acceptable forms of documentation.
- Review the number and dates of credit inquiries. The presence of many and recent credit inquiries in different industries may indicate that the applicant is looking for credit to finance purchases. Confirm that the applicant has not obtained new credit that is yet to be reflected in the credit report.
- Highlight areas of concern and develop a list of questions or issues that need clarification from the applicant.

4.13 CREDIT HISTORY WORKSHEET

If the applicant's credit score is under 640, *Form RD 1944-61, Credit History Worksheet,* must be used to summarize the applicant's credit history and to determine whether there are any indicators of unacceptable credit as outlined in Exhibit 4-4. The Loan Originator should complete this form and include it in the case file to aid the Loan Approval Official in reviewing the applicant's credit history.

4.14 ASSESSING ADVERSE CREDIT

A. Making Exceptions

The Loan Originator should review the credit history for any signs of unacceptable credit using the criteria outlined in Exhibit 4-4. Credit history problems may be more reflective of an inability than an unwillingness to meet financial obligations. However, derogatory credit may also be the result of extenuating circumstances causing a significant reduction in income and/or increase in financial obligations. Extenuating circumstances are events beyond the applicant's control and unlikely to reoccur. The applicant must provide a letter to explain the nature of the event that led to the derogatory credit and provide supporting documentation accordingly. The Loan Approval Official must carefully review the documentation provided by the applicant to confirm that the adverse credit was in fact due to extenuating circumstances. Compensating factors may be used and must be well documented to support the exception and the decision to approve the loan. The Loan Approval Official may consider an exception in the following types of situations.

- **Reduced shelter costs.** The applicant's rental or mortgage payment history has been unacceptable and the loan will significantly reduce the applicant's shelter costs, which will result in improved debt repayment ability.

- **Temporary situation.** The circumstances that caused the credit problems were temporary in nature and beyond the applicant's control. Examples include loss of job, delay or reduction in benefits, illness, or dispute over payment of defective goods or services.

- **Benefit to the Government.** The applicant is delinquent on a Federal debt, and the Agency loan will allow the applicant to take actions that benefit the Government. **This type of exception can only be made by the Administrator.**

The Loan Approval Official is not authorized to make an exception in the case of an applicant with an outstanding judgment obtained by the United States in a Federal court, other than the United States Tax Court.

B. Resolving Collection Accounts

Paying an outstanding account is not, in itself, justification to say the applicant has demonstrated a willingness to meet obligations. Payment of a collection account could deplete the applicant's cash resources that could be used for reserve or closing costs., The Loan Originator may determine it is not necessary to pay a collection account if there is evidence that the account does not affect the Agency's first lien position. . If there were extenuating circumstances to the adverse credit, the Loan Originator may determine that the late payments are not reflective of the applicant's ability to meet financial obligations or manage debts. All extenuating circumstances and any compensating factors must be documented on the Credit History Worksheet.

SECTION 4: OTHER ELIGIBILITY REQUIREMENTS

4.15 OWNING A DWELLING

An applicant who owns a dwelling generally is not eligible for a Section 502 loan, except for refinancing assistance, as described in Paragraph 6.5 B. However, if the applicant's dwelling is structurally unsound, functionally inadequate, or too small to accommodate the needs of the household, funds may be provided to improve the existing dwelling or to purchase a new one.

4.16 ABILITY TO OBTAIN OTHER CREDIT

To be eligible, the applicant must be unable to obtain credit from other sources on terms and conditions they can reasonably be expected to fulfill. Applicants must reduce the need for credit by using available assets, as described in Section 2. In addition, applicants should be encouraged to obtain a portion of the needed funds in the form of affordable housing products.

4.17 OCCUPYING THE PROPERTY *[7 CFR 3550.53(c)]*

To be eligible for a Section 502 loan, applicants must agree to personally occupy the dwelling on a permanent basis. On the basis of this requirement, 2 types of applicants require special review.

- **Active duty military applicants.** Because of the probability of transfer, military personnel on active duty should not receive loans without proof that a discharge will be received within a reasonable period of time, usually within 1 year, and the family will continue to occupy the home in case the applicant is transferred to another duty station before discharge.

- **Student applicants.** Due to the probability of moves after graduation, full-time students cannot obtain loans unless they intend to make the home a permanent residence and there are reasonable prospects of securing employment in the area after graduation.

4.18 LEGAL CAPACITY *[7 CFR 3550.53(e)]*

To be eligible for a loan, the applicant must be considered an adult under State law, and must have the legal capacity to incur the loan obligation. An applicant with a court-appointed guardian or conservator who is empowered to obligate the applicant in real estate matters is eligible for a loan. The Loan Originator should assume that any applicant has the legal capacity to enter into the loan unless there is evidence to the contrary.

4.19 SUSPENSION OR DEBARMENT *[7 CFR 3550.53(f)]*

Individuals who have been suspended or debarred from participation in Federal programs are not eligible for Agency assistance.

4.20 CITIZENSHIP STATUS *[7 CFR 3550.53(b)]*

To be eligible for Agency assistance, the applicant must be a U.S. citizen, a U.S. non-citizen national, or a qualified alien and provide acceptable evidence of eligible immigration status. Any applicant who is not a U.S. citizen, a U.S. non-citizen national, or a qualified alien should be rejected. Aliens and alien non-citizen nationals must provide acceptable evidence that they are qualified aliens as listed in Attachment 4-D.

The Rural Development has entered into an "Interagency Agreement" with the Department of Homeland Security, U. S. Customs and Immigration Service (USCIS) to allow access to the Systematic Alien Verification for Entitlements (SAVE) program database. This program enables Housing Program staff to obtain online immigration status information to determine a non-citizen applicant's program eligibility. In most cases, SAVE will provide immediate responses concerning the immigration status of an applicant.

4.21 TRUTHFUL APPLICATION

Applicants must provide truthful information when applying for assistance. Any inconsistencies discovered throughout the application process must be addressed. The Loan Originator must obtain sufficient documentation to verify the applicant's identity. Documentation will include picture identification (ID), evidence of age, and evidence of the taxpayer's identification number for each person that will sign the promissory note. A photocopy of these documents shall be placed in the case file. Acceptable forms of identification include a driver's license, passport, work related ID cards, or similar documents. If photographic ID is not available, the Loan Originator must thoroughly document why it is not available and how identity of the applicant was verified. In addition, if the applicant's taxpayer identification number is not included on the picture ID, another means of documentation is required to verify the taxpayer's identification number such as a copy of the social security card, a pay stub, or a bank statement. Applicants who provide false information, or who fail to disclose relevant information, will be denied program assistance.

U.S. Citizens

Never ask about alien status if *Form RD 410-4, Uniform Residential Loan Application,* indicates the applicant is a U.S. citizen. ***Always*** require evidence if *Form RD 410-4* indicates that the applicant is a qualified alien.

U.S. Non-Citizen Nationals

Non-citizen nationals are persons born in American Samoa or Swains Island or after the date the U.S. acquired American Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. ***Always*** require evidence of this relatively uncommon status.

SECTION 5: PROCESSING THE CERTIFICATE OF ELIGIBILITY

4.22 DETERMINING REPAYMENT ABILITY *[7 CFR 3550.53(g)]*

The primary consideration in determining whether an applicant can afford to purchase a home is the applicant's repayment income. Repayment income, as described in Paragraph 4.4 H., is the amount of income parties to the note will have available to repay the debt.

However, other household expenses and debts and the availability of payment subsidies also greatly affect an applicant's repayment ability. The Agency bases underwriting decisions on an analysis of the percentage of income the applicant would be required to spend on housing costs and the applicant's total debt if the loan is approved. Using these 2 percentages, called ratios, is a standard practice throughout the lending industry. Borrowers must meet the Agency's standards for both ratios.

Maximum Ratios

PITI Ratio	
Very low-income applicants	29%
Other applicants	33%
TD Ratio (all applicants)	41%

Under the special program called **Rural Energy Plus Program,** Paragraph 4.24 D., the qualifying ratios (both the front PITI and back TD ratios) used to determine an applicant's ability to repay a home loan may be exceeded by up to two percentage points if an energy-efficient home is purchased. Eligible applicants will receive this increased flexibility if they are purchasing a newer home that is energy efficient. In some cases, applicants may be able to afford a larger loan amount due to the qualifying flexibility because lower utility costs associated with newer homes equate to more income that can be applied to mortgage and other debt payment in a given month.

A. The PITI Ratio

The PITI ratio compares the amount the applicant must spend on housing costs (including **P**rincipal on the loan, **I**nterest on the loan, real estate **T**axes, and property **I**nsurance) and flood Insurance (as applicable) to the applicant's repayment income. The leveraged loan payment is included in PITI.

Example - Calculating PITI Ratios

$360	Principal and Interest payments
$ 50	Taxes
$ 10	Flood Insurance
$ 50	Insurance
$470	Total for PITI
$18,000	Annual Repayment Income
$ 1,500	Monthly Repayment Income ($18,000 ÷ 12)

PITI Ratio = $470 ÷ $1,500 = 31.33%

Taxes: Must be on full assessed value

For new construction, the fully assessed tax amount will be used to determine repayment ability Very low-income applicants are considered to have repayment ability if they do not have to pay more than 29 percent of Repayment income for PITI expenses. Applicants with incomes above the very low-income limit are considered to have repayment ability if they do not have to pay more than 33 percent of repayment income for PITI expenses.

B. The TD Ratio

1. Maximum TD Ratio

The TD ratio compares applicant debt to repayment income. Applicants, regardless of income, are considered to have repayment ability when they do not have to spend more than 41 percent of repayment income on total debt.

2. Establishing TD

Total debt includes PITI, all long-term obligations, and short term-obligations that have a significant impact on repayment ability. The following items should be counted:

- PITI -- Principal, Interest, Taxes, and Insurance (including leverage loan payments);
- Regular assessments, such as homeowner assessments;
- Long-term obligations with more than 6 months repayment remaining, including loans, alimony, and child support;
- Payments that come due in the next 12 months;
- Deferred debt regardless of the length of the deferment period. Examples of deferred debt are items purchased under a retailer's "no payments until" offer and student loans where repayment has not commenced since the borrower is still in school. If the credit report does not reflect the anticipated monthly payment due at the end of deferment, the Loan Originator should obtain verification of the monthly payment directly from the creditor or request a copy of the loan agreement from the applicant. For student loans, the monthly payment can be estimated using 1 percent of the loan balance report on the credit report if the other verification methods are not feasible.
- Short-term obligations that are considered to have a significant impact on repayment ability, such as large medical bills and car or other credit payments.

- The minimum monthly payment required for revolving credit card debts. If a revolving account is paid off and closed before settlement, the monthly payment may be excluded from the TD ratio. The Loan Originator must obtain documentation to verify the account has been closed.

Example - Calculating TD Ratios

$300	Principal and Interest payments
$ 60	Taxes
$ 50	Insurance
$410	PITI Subtotal
$300	Car payment
$100	Payments on credit card debt
$810	Total Debt
$25,000	Annual Repayment Income
$ 2,083	Monthly Repayment Income ($25,000 ÷ 12)

TD Ratio = $810 ÷ $2,083 = 38.89%

- Debt from which the applicant has not been released need not be counted if the applicant can demonstrate that another party has assumed responsibility for the debt. For example, if a divorced applicant can show that the former spouse has made the last 12 months of mortgage payments, the mortgage payments on that property need not be counted when establishing total debt.

- Contingent liabilities. If the applicant is a cosigner on a loan or any other obligation, the debt must be included in the TD ratio. The Loan Originator should never omit a credit report liability with a balance greater than zero from the loan application unless strong supporting documentation is provided to evidence that the primary signer has been making on time payments during the previous 12 months.

- If the applicant recently obtained additional credit, verify the terms of the new obligation and include the monthly payment in the total debt ratio.

C. Determining the Maximum Loan Amount

The Loan Originator enters information provided by the applicant about household size, income and debts, and general program information, including the Maximum loan limit and median income for the area. Because a specific dwelling has not yet been identified, estimates can be used for taxes, insurance, and purchase-related costs. Once this information is entered, UniFi:

* Computes the PITI and TD ratios;

* Determines whether the applicant is eligible for payment subsidy, and how much payment subsidy the applicant would receive; and

* Computes the maximum loan amount for which the applicant qualifies, first using standard loan terms and then using any adjusted terms for which the applicant may qualify.

* The Loan Originator will print out and sign the estimated UniFi Eligibility Summary and place it in position 3 of the applicant case file.

D. Using Market Data to Interpret UniFi Results

Each Field Office should collect and maintain sales information for each market area in its jurisdiction. By comparing the results of an applicant's maximum loan calculation to market data, Loan Originators can provide appropriate counseling for applicants and identify candidates for 100 percent private financing or leveraged loans. MLS and comparable sales data collected through appraisals are valuable sources of market information.

4.23 RESERVED

4.24 OTHER CONSIDERATIONS RELATED TO MAXIMUM LOAN AMOUNTS

The maximum loan amount that the applicant qualifies for as shown on the Eligibility Summary generated from UniFi may be too low to enable the applicant to purchase a property that meets program standards. Exhibit 4-6 outlines the procedure on how to handle this situation. Conversely, the maximum loan amount and the resulting payment may be too high; setting the stage for payment shock.

This paragraph provides guidance on compensating factors and additional financial resources that the Loan Originator should consider to improve the applicant's purchasing ability only and concludes with a discussion on payment shock.

Exhibit 4-6

Establishing an Area's Minimum Loan Amount

Each Field Office should set, following the methodology provided by their State Office, a minimum loan amount in each area that is "clearly less than" the amount needed to purchase a decent, safe, and sanitary dwelling in that area. For example, if a county's area loan limit is $140,000, but based on an examination of properties financed by the Agency in that county during the last 12 months shows that the lowest amount of financing needed to purchase a decent, safe, and sanitary home was $75,000, a minimum loan amount of $60,000 may be set.

If the applicant does not qualify for the minimum loan amount and the Loan Originator has concluded that compensating factors are not applicable and adding a party to the application is not viable, Handbook Letter 15 (3550), Standardized Adverse Decision Letter, should be sent to the applicant along with Attachment 1-B. The letter should state that the applicant's qualifying loan amount (be sure to enter that amount) is not sufficient to meet the program's purpose as outlined in the 7 CFR Part 3550, Paragraph 3550.2.

A. Using Compensating Factors

Exceptions to the standard method of determining repayment ability may be made if there is information -- called compensating factors -- that indicates the prospective borrower may be able to make larger regular loan payments than the ratio analysis suggests. Compensating factors must be clearly documented in the applicant's case file.

All compensating factors must be approved by the next level supervisor. To obtain approval, the Loan Originator must prepare a written request that supports the use of compensating factors and the higher amount requested. The Loan Originator should forward the request and case file to the next level supervisor for approval.

Some of the compensating factors that can affect the amount of debt an applicant is permitted to have are discussed below:

1. Payment History

The PITI and TD ratio analyses assume that households are able to contribute a specified percentage of income toward housing costs. However, if an applicant has historically paid a greater share of income for housing with the same income and debt level, a higher payment may be approved. Utility and maintenance costs must be considered as part of this analysis.

2. Savings History

Applicants with accumulated savings and a savings history that shows a capacity to set aside a larger-than-average portion of income may be approved for a higher payment.

Example - Using Savings History As A Compensating Factor

An applicant is currently paying $400 per month in rent and putting $175 per month in a savings account. Utility costs should be similar to those the applicant is currently paying, but maintenance costs will be about $50 per month higher. According to ratios, the applicant's repayment ability is $500 per month. However, since the applicant is currently using a total of $575 per month for a combination of rent and savings, a loan that requires a monthly payment of up to $550 ($575 - $25) may be considered.

3. Job Prospects

If an applicant has recently entered a profession in which they can expect significant pay increases, the Loan Originator may base repayment income on the anticipated future earnings of that applicant.

Similarly, if overtime income is available to increase the applicant's income, the Loan Originator may project the household's income with extra overtime included.

4. Adjustments for Nontaxable Income

The next level supervisor may approve use of "grossing up" income over 120 percent if it is reasonably justified in writing by the Loan Originator.

B. Adding Additional Parties or Cosigners to the Note

Additional financial resources may be added by adding additional parties to the note or locating cosigners.

1. Additional Parties to the Note

Additional parties to the note must agree to occupy the dwelling and must qualify as borrowers, as described in this chapter. Counting the income of the additional parties increases repayment income.

2. Cosigners

Individuals who will not reside in the dwelling, but who are willing to be responsible for the debt may be consigners to the note. To supplement the applicant's purchasing power, a cosigner must demonstrate an ability and willingness to meet debt obligations as outlined in Section 3 and possess a TD ratio that does not exceed 41 percent. The cosigner's TD calculation would include the applicant's full note payment through Rural Development, the applicant's leveraged loan payments (if applicable), the applicant's escrow payment, and all of the cosigner's long-term obligations (including their mortgage) as well as their short-term obligations that have a significant impact on repayment ability.

Again, cosigners can only be used to improve the applicant's purchasing power. Cosigners cannot be used to compensate for an applicant's unacceptable credit history.

C. Payment Shock

Payment shock represents the applicant's projected increase in housing expenses. The following formula is used to calculate payment shock as a percentage:

Payment shock = (Total proposed principal, interest, taxes, and insurance payment after subsidy / current housing expense excluding utilities) – 1

By way of example, presume that the Rural Development payment after subsidy is $550, the leveraged lender's payment is $250, taxes and insurance are approximately $120, and the applicant's current rent is $400. In this scenario, the applicant's payment shock is 130 percent:

($550 + 250 + 120) / 400 = 2.30; 2.30 – 1 = 1.30 = 130 percent

In cases where payment shock is greater than 100 percent or could not be measured since the applicant does not currently have any housing expenses, no additional risk layering (i.e. adverse credit waivers, use of compensating factors, etc.) should be allowed without strong justification. Multiple layers of risk may be justified if the applicant has an excellent credit history reflecting timely repayment of credit obligations or a reliable credit score of 640 or higher on their RMCR. Perhaps the applicant has demonstrated a conservative attitude toward the use of credit and an ability to accumulate savings or a stable employment history over the past two years, demonstrating a dependable income stream. Regardless of the justification, the Loan Approval Official must thoroughly document their rationale for allowing multiple layers of risk in the running case record.

In addition, the Loan Approval Official must counsel the applicant on this occurrence and emphasize that purchasing a home at their maximum qualification amount may strain their budget and not allow for unexpected expenses. Discuss the additional costs associated with homeownership (taxes, insurance, utilities, maintenance, etc.) and document the counseling effort in the running case record.

D. Rural Energy Plus Program

A home that is built to meet the 2006 International Energy Conservation Code (IECC-06) or a subsequent comparable code is considered an Energy Efficient Home (EEH), and borrowers purchasing them are eligible for the two percentage point increase in the qualifying ratios. An existing home that meets the same standard, or is being retrofitted to meet it, is also eligible.

A new home built to IECC standards offers considerable energy efficiency and save homeowners money in their utility costs. After the mortgage payment, utility bills are usually the largest housing-related expense for homeowners each month. An energy-efficient home, with such features as proper insulation, high efficiency heating and cooling systems, and energy-efficient windows, can lower utility bills significantly.

Rural Development State Offices are responsible for determining if the 2006 IECC code or a comparable code exists in their state and for which loan ratio flexibility may apply. State architects and engineers or the National Office's Program Support Staff will be able to help make technical interpretations. The IECC-06 is a relatively common code throughout the country, and has thermal requirements that exceed Rural Development's standard thermal requirements for new homes.

Unless the applicant tenders the purchase of an EEH from the onset, the established qualifying ratios as outlined in the 7 CFR 3550, Paragraph 3550.53 (g) should be used when conducting a pre-qualification or issuing a Certificate of Eligibility (COE).

If a proposal to purchase an EEH is submitted, the established qualifying ratioscan be exceeded by adjusting the principal, interest, taxes and insurance (PITI) field. The following formulas will

Rural Energy Plus Program Maximum Ratios

PITI Ratio

If the PITI ratio is the limiting ratio and the applicant is in the very-low income category: Monthly repayment income times 31%

If the PITI ratio is the limiting ratio and the applicant is in the low income category: Monthly repayment income times 35%

TD Ratio (all applicants)

If the TD ratio is the limiting ratio regardless of income category: Monthly repayment income times 43%

be used to ascertain what amount to enter in the Loan Origination System: Even when flexibility ratios are used, the area loan limit cannot be exceeded except by allowable closing costs.

The increased ratios under this program are an enticement to buy an EEH and are not to be considered an additional risk layer.

4.25 ISSUING THE CERTIFICATE OF ELIGIBILITY

If the Loan Originator determines that an applicant is eligible for a loan, the decision will be documented in the form of a written narrative in the running record of the applicant case file.

When funds are available, eligible applicants who have not yet located properties or, who own their building site but have not provided a construction package, should be issued

Form RD 1944-59, Certificate of Eligibility. First-time homebuyers must be informed that by accepting a Certificate of Eligibility they agree to provide documentation of completion of an approved homeownership education course prior to closing on their loan. The Loan Originator must note on the running record that they informed the Applicant of the homeownership education requirement. Applicants who are not seeking leveraged loans should be informed that the certificate is valid for a period of 45 days. Applicants seeking leveraged loans should be informed that the certificate is valid for a period of 60 days. Within that time the applicant must provide sufficient information to enable the Agency to conduct an appraisal of the property to be financed. COE will be honored even if loan limits change before the expiration of the commitment. Up to two 30 day extensions may be granted for applicants who demonstrate that they have been actively looking for a property. Area loan limits changes must be considered on any COE extension. If the applicant has already submitted a contract for a property, *Form RD 1944-59* will not be issued. If an applicant's sales contract falls through, a new *Form RD 1944-59*, good for 45 days or 60 days, as applicable, should be issued. An application is no longer considered active and will be withdrawn when the certificate of eligibility has expired and all authorized extensions have been exhausted.

Applicants for a self-help loan will be issued Handbook Letter 16 (3550), Eligibility of Self-Help Applicants. UniFi may indicate the applicant qualifies for a higher loan amount than the actual cost of building a modest home using the self-help method. The dollar amount to be inserted in the eligibility letter will be based on the following:

A. The average cost of the most recent group of homes built in the area by the self-help method with consideration given to known price increases or decreases in materials, labor, land and/or time of construction (unless the applicant qualifies for less); or

B. The average cost of the homes that are to be built by the self-help method as determined by detailed cost estimates of the plans and specifications prepared by the self-help

grant organization, in consultation with the local Rural Development staff and/or Technical and Management Assistant (T&MA) contractor. Consideration will also be given to known price increases or decreases in material, labor and/or time of construction (unless the applicant qualifies for less).

If the Loan Originator determines that a loan applicant cannot be determined eligible, Handbook Letter 15 (3550), Standardized Adverse Decision Letter, should be sent to the applicant. The form explains why the loan is not approvable. The appropriate attachment from Chapter 1 should be attached to provide the applicable review, mediation, and appeal rights.

ATTACHMENT 4-A

SAMPLE WORKSHEET FOR COMPUTING INCOME

PART I: REPAYMENT INCOME CALCULATION

1. Name	2. Identification

ASSETS (Consider only nonretirement assets and retirement assets that can be withdrawn by parties to the note):

Family Member	Asset Description	Market Value	Current Cash Value	Actual Income from Assets
3. Total		3a.	3b.	3c.
4. Assets to be used as down payment		4a.	4b.	4c.
5. Assets/income to be considered for repayment income purposes (Item 3 minus Item 4)		5a.	5b.	5c.

ANTICIPATED REPAYMENT INCOME (Consider only income of parties to the note as described in HB-1-3550, Paragraph 4.3):

Family Member	a. Wages/ Salaries	b. Benefits/ Pensions	c. Public Assistance	d. Other Income	e. Asset Income
					Enter line 5c in Box e below
6. Totals	a.	b.	c.	d.	e.

7. Enter total of items 6a. through 6e. This is Repayment Income.	7.

PART II: ANNUAL AND ADJUSTED INCOME CALCULATION

1. Name	2. Identification

FAMILY ASSETS:(Consider if the cash value of total household assets is more than $5,000):

Family Member	Asset Description	Current Cash Value	Actual Income from Assets
3. Total Assets		3a.	3b.
4. Assets/income to be used as down payment (from Part I)		4a.	4b.
5. Assets/income to be considered for annual income (Item 3 minus Item 4)		5a.	5b.
6. If Line 5a is greater than $5,000, multiply Line 5a. by ____ (passbook rate) and enter result here; otherwise, leave blank.			6.

ANTICIPATED ANNUAL INCOME (Consider income of all household members as described in HB-1-3550, Paragraph 4.3):

Family Member	a. Wages/ Salaries	b. Benefits/ Pensions	c. Public Assistance	d. Other Income	e. Asset Income
					Enter the
					greater of
					Lines 5b or 6
					in box e
					below
7. Totals	a.	b.	c.	d.	e.

8. Enter total of items 7a. through 7e. This is Annual Income.	8.

ANNUAL AND ADJUSTED INCOME CALCULATION (Continued)

9.	Annual income (enter line 8 from Part II).		9.
10.	Number of family members (except parties to the note or their spouses) under 18, disabled, or full-time students.	10.	
11.	Multiply line 10 by 480.		11.
12.	Child care deduction (reasonable expenses for care of children 12 and under that enable family member to work, actively seek employment, or further education).		12.
13.	Elderly household deduction (enter $400 if head of household or spouse who is party to the note is 62 or older or an individual with disabilities).		13.
14.	Disability assistance expenses (reasonable expenses for disabled family member that enable a family member to work).	14.	
15.	Medical expenses in excess of insurance reimbursement (elderly households only).	15.	
16.	3% of annual income (line 9 x 0.03).	16.	
17.	Allowable disability assistance/medical expenses (line 14 + line 15 minus line 16).		17.
18.	Total deductions (add lines 11, 12, 13 and 17).		18.
19.	Adjusted income (line 9 minus line 18).		19.

ATTACHMENT 4-B

CASE STUDY

SECTION 1 -- BACKGROUND

HOUSEHOLD MEMBERS

Name	Age	Relationship	Comments
David Brown	44	Head of household	Employed, party to note
Betsy Brown	44	Spouse	Employed, party to note
Cynthia Brown	70	David's mother	Disabled, Moved in when husband died
Janet Smith	19	Daughter	Full-time college student
Kathy Brown	14	Daughter	Full-time high school student
Chris Doe	8	Foster child	Full-time elementary student

HOUSEHOLD INCOME, ASSETS AND EXPENSES

Wages

David: $250/week
Betsy: $5.50/hour 20 hours/week
Janet: $5.00/hour 20 hours/week
Kathy: $4.00/hour 8 hours/week

Other Income and Assets

Betsy receives $100/month in child support from her ex-husband (Janet's father).
Cynthia receives $400/month social security benefits and has $600 in a noninterest bearing checking account.
County pays household $200/month to care for foster child.
Savings account balance $4,000, annual income $140.
Checking account balance (2-month average) $300, noninterest bearing account.
Certificate of deposit $4,000, cash value $4,000, income $400.

Expenses

Medical expenses not reimbursed, $1,500.
Child care expenses for foster child, $50/week.

INCOME LIMIT INFORMATION

Income Range	Number of Persons					
	1	2	3	4	5	6
Adjusted Median Income	$19,000	$23,000	$25,000	$27,000	$29,000	$31,000
Low-Income	$15,200	$18,400	$20,000	$21,600	$23,200	$24,800
Very Low-Income	$ 9,500	$11,500	$12,500	$13,500	$14,500	$15,500

SECTION 2 -- CALCULATION WORKSHEET

PART I: REPAYMENT INCOME CALCULATION

1. Name David and Betsy Brown	2. Identification

ASSETS (Consider only nonretirement assets and retirement assets that can be withdrawn by parties to the note):

Family Member	Asset Description	Market Value	Current Cash Value	Actual Income from Assets
David	Savings Account	$4,000	$4,000	$140
	Checking Account	$ 300	$ 300	-
	Certificate of Deposit	$4,000	$4,000	$400
3. Total		3a. $8,300	3b. $8,300	3c. $540
4. Assets to be used as down payment		4a. $800	4b. $ 800	4c. $ 28
5. Assets/Income to be considered for repayment income purposes (Item 3 minus Item 4)		5a. $7,500	5b. $7,500	5c. $512

ANTICIPATED REPAYMENT INCOME (Consider only income of parties to the note as described in HB-1-3550, Paragraph 4.3):

Family Member	a. Wages/ Salaries	b. Benefits/ Pensions	c. Public Assistance	d. Other Income	e. Asset Income
David	$250 x 52 = $13,000			$200 x 12 = $2,400	Enter line 5c in box e below
Betsy	$5.50 x 20 x 52 = $5,720			$100 x 12 = $1,200	
6. Totals	a. $18,720	b.	c.	d. $3,600	e $512

7. Enter total of items 6a. through 6e. This is Repayment Income.	7. $22,832

PART II: ANNUAL AND ADJUSTED INCOME CALCULATION

1. Name David and Betsy Brown	2. Identification:

FAMILY ASSETS:(Consider if the cash value of total household assets is more than $5,000):

Family Member	Asset Description	Current Cash Value	Actual Income from Assets
David	Savings Account (David)	$4,000	$140
	Checking Account	$ 300	-
	Certificate of Deposit	$4,000	$400
	Savings Account (Cynthia)	$ 600	-
3. Total Net Family Assets		3a. $8,900	3b. $540
4. Assets/Income to be used as down payment (from Part I)		4a. $ 800	4b. $ 28
5. Assets/Income to be considered for annual income (Item 3 minus Item 4)		5a. $8,100	5b. $512
6. If Line 5a is greater than $5,000, multiply Line 5a. by 3.5% (passbook rate) and enter result here; otherwise, leave blank.			6. $284

ANTICIPATED ANNUAL INCOME (Consider income of all household members as described in HB-1-3550, Paragraph 4.3):

Family Member	a. Wages/ Salaries	b. Benefits/ Pensions	c. Public Assistance	d. Other Income	e. Asset Income
David	$250 x 52 = $13,000				Enter the
Betsy	$5.50 x 20 x 52 = $5,720			$100 x 12 = $1,200	greater of
Cynthia		400 x 12 = $4,800			Lines 5b or 6
Janet	$480				in box e
					below
7. Totals	a. $19,200	b. $4,800	c.	d. $1,200	e. $512

8. Enter total of items 7a. through 7e. This is Annual Income.	8. $25,712

ANNUAL AND ADJUSTED INCOME CALCULATION (Continued)

9.	Annual income (enter line 8 from Part II).		9. $25,712
10.	Number of family members (except parties to the note or their spouses) under 18, disabled, or full-time students.	10. 3	
11.	Multiply line 10 by 480.		11. $ 1,440
12.	Child care deduction (reasonable expenses for care of children 12 and under that enable family member to work, actively seek employment, or further education).		12. $ 2,600
13.	Elderly household deduction (enter $400 if head of household or spouse who is party to the note is 62 or older or an individual with disabilities)		13. -
14.	Disability assistance expenses (reasonable expenses for disabled family member that enable a family member to work).	14. -	
15.	Medical expenses in excess of insurance reimbursement (elderly households only).	15. -	
16.	3% of annual income (line 9 x 0.03).	16. -	
17.	Allowable disability assistance/medical expenses. (line 14 + line 15 minus line 16).		17. -
18.	Total deductions (add lines 11, 12, 13 and 17).		18. $4,040
19.	Adjusted income (line 9 minus line 18).		19. $21,672

SECTION 3 -- COMMENTS

ANNUAL AND REPAYMENT INCOME CALCULATIONS

	For Annual Income		For Repayment Income
*	Count David's wages	*	Count David's wages
*	Count Betsy's wages	*	Count Betsy's wages
*	Count child support	*	Count child support
*	Count only $480 of Janet's wages	*	Do not count Janet's wages
*	Do not count Kathy's wages	*	Do not count Kathy's wages
*	Count Cynthia's Social Security	*	Do not count Cynthia's Social Security
*	Count actual income from assets	*	Count actual income from assets
*	Do not count payments for care of foster child	*	Count payments for care of foster child

ASSET CALCULATIONS

Repayment Income from Assets

* Only the assets of parties to the note are considered. Therefore, Cynthia's checking account balance is not considered.
* The market value of the assets of the parties to the note exceeds $7,500. Therefore an $800 contribution of assets is required.

Annual Income from Assets

* Assets of all household members are considered. Therefore Cynthia's checking account balance is considered.
* The amount of any required asset contribution, in this case $800, is transferred from Part I of the calculation worksheet. It is not calculated based on total household assets.
* In addition, for annual income, the calculation of imputed income from assets must be made if assets exceed $5,000. In this case, the imputed income is less than the actual income.

ADJUSTED INCOME CALCULATION

Dependent Deduction

* Three dependent deductions are permitted for Kathy (a minor), Janet (an adult full-time student, who is not the head or spouse), and Cynthia (an adult individual with disabilities, who is not the head or spouse).
* A dependent deduction is not given for a foster child.

Child Care Deduction

* Child care expenses are permitted for the care of a foster child, but must not exceed the amount earned by the family member enabled to work. Betsy earns $110/week and pays $50/week for child care.
* Child care expenses are not permitted if another adult household member is available to care for the child. Janet is not available because she is a full-time student and Cynthia cannot care for the child because of her disability.

The full amount of the child care may be deducted.

Elderly Household Deduction

Even though an elderly person is a part of the household, this is not an elderly household because neither the head or spouse is 62 years of age or older or an individual with disabilities.

Medical Expense Deduction

Family medical expenses cannot be deducted because this is not an elderly family.

Disability Assistance Expenses

No disability assistance expenses were claimed. To be allowed a deduction, the expenses would have to be necessary to enable a family member to work.

ATTACHMENT 4-C

REVIEWING A SELF-EMPLOYED APPLICANT'S INCOME AND DEBT LOAD

The purpose of this attachment is to provide guidance on how to properly analyze a self-employed applicant's income.

An applicant who has a 25% or greater ownership interest in a business is considered "self-employed" and a cash flow analysis of the applicant's income is required. The legal structure of a business determines the way business income or loss is reported to the IRS. Loan Originators must understand the applicant's business structure to effectively document, calculate, and analyze annual and repayment income.

Understanding Business Structures

The following are the most common business structures for self-employed applicants.

a. *Sole Proprietorship*: The business structure most often encountered is a sole proprietorship (be it a business, farming, or profession). A sole proprietor is someone who owns an unincorporated business by himself or herself and has unlimited personal liability for all debts of the business. Business income or loss is folded into the individual owner's tax return.

b. *Partnership*: A partnership is an arrangement between two or more individuals who have put together their assets and/or skills to operate a business and who will share, as stated in the agreement, profit and losses.

c. *Limited Liability Corporation (LLC)*: A LLC is a legal business structure designed to offer its members (owners) the tax efficiencies of a partnership and the limited liability advantages of a corporation. Although the member-owners generally have limited liability, there may be some instances in which they are required to personally guarantee some of the loans that the limited liability corporation obtains.

d. *S-Corporation*: An S Corp is a legal entity that has a limited number of stockholders (up to 75) and elects not to be taxed as a regular corporation. The small business gains and losses are passed on to the stockholders in proportion to each stockholder's percentage of business ownership and it is taxed at their individual tax rates. This is another commonly encountered type of business.

Documenting Self-Employment Income:

"Complete Copies of Individual and Business Income Tax Returns"

A self-employed applicant must submit signed copies of his/her **last two** complete *U.S. Individual Income Tax Returns* (*IRS Form 1040*) with *IRS Form W-2* attached, if the applicant also has wage income, along with the appropriate IRS forms and schedules as noted in the table below. If the business is a corporation, S corporation or partnership, a complete, signed copy of the business income tax return for the last 2 years, with all applicable schedules, is also required. The following table provides general guidance regarding the minimum documentation required for self-employed applicants. (Please note that the place the information is found is based on a tax return from a certain year and may be different)

Form of Business or Commission Income	**Individual Profit & Loss will be reported in…**	**Business Profit or Loss will be reported in…**
Sole Proprietorship	Form 1040, Line 12: Business Income or (loss) Schedule C (Form 1040), Profit or Loss from Business	Form 1040, Schedule C: Profit or Loss from Business
Partnerships and Limited Liability Corporations	Form 1040, Line 17: Rental real estate, royalties, partnerships, S corporations, trusts, etc. Schedule E (Form 1040), Supplemental Income and Loss	IRS Form 1065, U.S. Partnership Return of Income Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc.
S Corporations	Form 1040, Line 17: Rental real estate, royalties, partnerships, S corporations, trusts, etc. Schedule E (Form 1040), Supplemental Income and Loss	IRS Form 1120S, U.S. Income Tax Return for an "S" Corporation (IRS Form 1120S) Schedule K-1 (Form 1120S), Shareholder's Share of Income, Deductions, Credits, etc.

The applicant must also submit current documentation of income and expenses using the verification of business expenses form located in Appendix 2. *IRS Form 4506-T, Request for Transcript of Tax Return*, may be used to obtain a copy of a transcript of tax return(s) if the applicant cannot provide copies of actual returns filed.

If an applicant has been self-employed between one and two years, the applicant must demonstrate and the Loan Originator must document two years of previous successful employment in a similar line of work. The applicant's individual tax returns must reflect a history of receiving income at the same (or greater) level in a field that provides the same products or services as the current business.

The income for an applicant that has been self-employed for less than one year is not to be considered stable for repayment purposes.

Calculating Self-Employment Income:
"Making a Cash Flow Analysis"

Individuals and businesses complete tax forms to calculate taxable income or loss. Tax forms by themselves do not tell lenders how much qualifying income an applicant has for a mortgage. The Loan Originator needs to make certain adjustments to the income (or loss) reported in IRS Form 1040 in order to have an accurate picture of the applicant's cash flow. The IRS allows self-employed applicants and business owners to make non-cash deductions to reduce taxable income. Depreciation is the classic example of how a non-cash deduction reduces taxable income but increases the applicant's income for loan qualification purposes. The Loan Originator must carefully review all tax forms to identify non-cash deductions (increasing income) and/or additional expenses (reducing income). The following are the most common adjustments to the net profit/income reported in the applicable tax forms/schedules:

Add Back	Subtract
Depreciation	Employee Business Expenses
Depletion	Meals and Entertainment Exclusion
Nonrecurring Losses	Nonrecurring income (generally reported as "Other Income"
Amortization / Causality Loss (if non recurring)	Nonrecurring Capital Loss
Recurring Capital Gains	

Analyzing Self-Employment Income:
"Income Must be Stable and Dependable"

When analyzing self employment income the Loan Originator must perform a detailed review of the applicant's individual and business tax returns to confirm that the income is stable and dependable (likely to continue).

In general, income from self-employment is considered stable if the applicant has been self-employed for two or more years. Because self-employment income may change each year, the Loan Originator should always develop an average monthly income by using at least two full years of the applicant's self-employment income. An average takes in consideration typical market fluctuations, thus better predicting the applicant's long-term earning ability.

Dependable income refers to the likelihood of continuity of the income. Making this determination requires the Loan Originator to predict future income. The Loan Originator should look at income trends and the stability of the income source. Any specific indication of an upcoming event that might change the applicant's employment or income should be addressed in the loan file and considered in the underwriting decision. For example, if the most recent tax return shows an income considerable higher than reported in the previous tax year, the Loan Originator should investigate further to determine whether the higher income is due to business expansion or a onetime event unlikely to reoccur and continue. Income from a nonrecurring transaction should be excluded from the income calculations. Similarly, a nonrecurring loss should not be deducted from the income calculation.

Other Types of Income Needing a Cash Flow Analysis:

"Special Attention to Commission / Contract Income and Other Business Expenses"

An applicant that receives 25% or more of the annual income in commission, bonuses or tips most likely engages in business activities needing a cash flow analysis. This income may be reported in the IRS Form W-2 or IRS Form 1099 (e.g. real estate agents/contract employees). Non-reimbursed business expenses reported in *IRS Form 2106, Employee Business Expenses,* should be deducted from the income reported on the applicant's tax return.

Commission, bonuses and, tips income may be considered stable if the applicant has received this income for the past two years. After making the cash flow analysis, the Loan Originator should develop a two-year average to make an income determination.

Summary

Income from self-employment may be unpredictable, subject to market/economic fluctuations. Due to the inherent risk of self-employment income, the Loan Originator must consider internal and external economic factors when analyzing self-employment income.

When an applicant is self-employed, or has income needing a cash flow analysis, do not use the total income reported on IRS Form 1040, IRS Form W-2, or IRS Form 1099. Instead, analyze each income line item individually and make the necessary adjustments to the total income/profit. If Loan Originators fail to perform a detailed review and analysis of the borrower's tax return both annual and repayment incomes will be miscalculated.

(01-23-03) SPECIAL PN
Revised (09-01-11) PN 451

ATTACHMENT 4-D

REVIEWING DOCUMENTATION FOR CITIZENSHIP STATUS

The purpose of this attachment is to: 1. provide guidance on acceptable evidence that a non-U.S. citizen is a qualified alien; 2. provide access and use guidance for the Systematic Alien Verification for Entitlements (SAVE) database maintained by the Department of Homeland Security (DHS); and 3. describe what documentation non-U.S. citizens must provide, when SAVE does not supply a determination, in order to be considered for SFH program assistance.

A "qualified alien" is defined under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (8 U.S.C. Section 1641) as:

1) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2) An alien who is granted asylum under Section 208 of such Act;
3) A refugee who is admitted to the United States under Section 207 of such Act;
4) An alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least 1 year;
5) An alien whose deportation is being withheld under Section 243(h) of such Act; or
6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980;
7) An alien who is a Cuban/Haitian Entrant as defined by Section 501(e) of the Refugee Education Assistance Act of 1980; or
8) An alien who has been battered or subjected to extreme cruelty under Section 431 of the Immigration and Nationality Act (INA).

Native Americans born in Canada also may be considered as lawfully admitted for permanent residence under the Jay Treaty as defined further in this attachment.

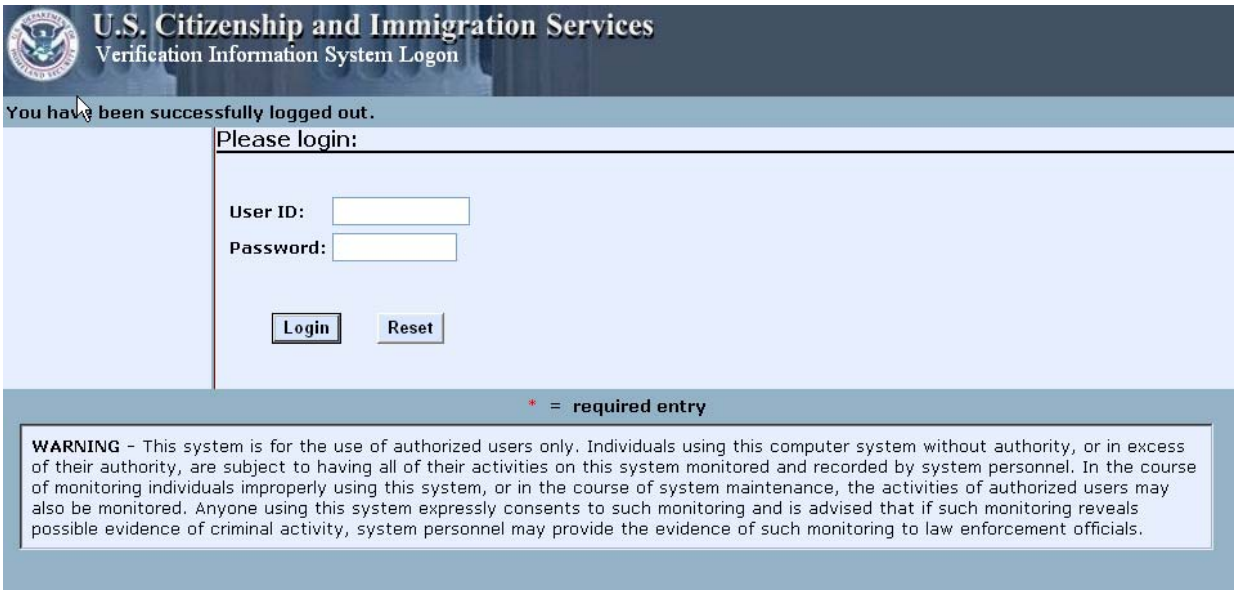
SAVE System Access:

Rural Development has entered into an "Interagency Agreement" with the DHS United States Citizenship and Immigration Service (USCIS) to allow access to the SAVE program database. This program enables Rural Development staff to obtain online immigration status information to assist in determining a non-citizen applicant's program eligibility. In most cases, SAVE will provide an immediate response concerning the immigration status of an applicant.

The Loan Originator (LO) must secure proof of identity and evidence that non-citizens who apply for a direct loan are qualified aliens. In all cases, non-citizens legally admitted into the United States will have an Alien Identification Number. In the rare occasion where a number is not available or known, the **applicant** should contact the CIS. (There are cases where an alien has been legally in the US for a long period of time, and the Department of Homeland Security has supplied them with a number, but the alien did not ever receive or has misplaced the number.) The LO should obtain the non-citizen's Alien Identification Number and submit it to SAVE to promptly obtain the applicant's eligibility status based on the alien's Class of Admission (COA).

Selected Agency personnel will be supplied a user name and password to access the SAVE website. Each State Office in need of an ID may submit the name, telephone number, and address of one person who will administer user access to SAVE for the State by email to SFHDirectProgram@wdc.usda.gov. The person will then be given "supervisor" access and will be able to establish other SAVE supervisors and users as needed within their State Office jurisdiction.

Agency staff must complete the SAVE tutorial section once logged on to and prior to using the system. After the tutorial is completed, the employee will be able to enter the applicant's Alien Identification Number (9 digits) into the "Alien number" field, select the program for which the alien is seeking a benefit, and submit the information for processing. **NOTE: Only enter the Alien Identification Number into SAVE**. Social Security numbers, driver's license numbers, or any other number other than an Alien Identification Number **will not** yield a valid result.



The system will normally respond within seconds with the applicant's eligibility and a COA code. In some cases, SAVE will also give a "System Response" indicating the alien's status; however in most cases, the Agency should rely on the COA code.

Agency staff should compare the COA code to those in the tables below. If the code appears in the "Eligible for Benefits" table, print the case verification for the file and proceed with loan processing. Regardless of the COA code, if the response states, "LAWFUL PERMANENT RESIDENT – EMPLOYMENT AUTHORIZED," the applicant is eligible for program assistance.

Alien COA Codes ELIGIBLE for Benefits

A11	AS7	C21	CB7	E12	EC7	F38	HD7	IW2	P23	SK2	SR3
A12	AS8	C22	CF1	E13	EC8	F41	HD8	IW6	PH6	SK3	SR6
A16	B11	C23	CF2	E14	ES1	F42	HD9	IW7	R2	SK4	SR7
A17	B12	C24	CH6	E15	ES6	F43	HE6	K19	R3	SK6	SR8
A31	B16	C25	CR1	E16	EW0	F46	HE7	K20	R51	SK7	T51
A32	B17	C26	CR2	E17	EW3	F47	HE8	K1C	RE	SK8	T52
A33	B20	C27	CR6	E18	EW4	F48	HE9	K1P	RE5	SK9	T53
A36	B21	C28	CR7	E19	EW5	FX1	IB0	LA6	RE6	SL1	T56
A37	B22	C29	CU0	E21	EW8	FX2	IB1	LB1	RE7	SL6	T57
A38	B23	C31	CU6	E22	EW9	FX3	IB2	LB2	RE8	SD3	T58
A41	B24	C32	CU7	E23	F11	FX6	IB3	LB6	RE9	SM0	USC
A42	B25	C33	CU8	E26	F12	FX7	IB5	LB7	RF	SM1	W16
A46	B26	C36	CU9	E27	F16	FX8	IB6	M1	SD1	SM2	W26
A47	B27	C37	CUP	E28	F17	GA6	IB7	M2	SF1	SM3	W36
AA1	B28	C38	CX1	E30	F20	GA7	IB8	M83	SF2	SM4	W46
AA2	B29	C41	CX2	E31	F21	GA8	IC6	M93	SF6	SM5	X
AA3	B31	C42	CX3	E32	F22	HA6	IC7	MR0	SF7	SM6	XB3
AA6	B32	C46	CX6	E34	F23	HA7	IF1	MR6	SG1	SM7	XE3
AA7	B33	C47	CX7	E35	F24	HA8	IF2	MR7	SG2	SM8	XF3
AA8	B36	C51	CX8	E36	F25	HA9	IR0	NA3	SG6	SM9	XN3
AM1	B37	C52	DS1	E37	F26	HB6	IR1	NC6	SG7	SN1	XR3
AM2	B38	C53	DV1	E39	F27	HB7	IR2	NC7	SH1	SN2	Y64
AM3	BX1	C56	DV2	E51	F28	HB8	IR3	NC8	SH2	SN3	Z03
AM6	BX2	C57	DV3	E52	F29	HB9	IR4	NC9	SH6	SN4	Z13
AM7	BX3	C58	DV6	E53	F31	HC6	IR5	NP8	SH7	SN6	Z15
AM8	BX6	C7P	DV7	E56	F32	HC7	IR6	NP9	SJ2	SN7	Z33
AR1	BX7	CB1	DV8	E57	F33	HC8	IR7	P1-1	SJ6	SN8	Z43
AR6	BX8	CB2	E10	E58	F36	HC9	IR9	P21	SJ7	SN9	Z56
AS6	C20	CB6	E11	EC6	F37	HD6	IW1	P22	SK1	SR2	Z66
											Z83

The following table represents COA codes that are either inconclusive or indicate the applicant is not a qualified alien. In these cases, the loan should not be processed without additional documentation that establishes the alien is qualified to receive Federal assistance. The alien should submit at least one of the items described in the section below titled "Documentation that a Non-Citizen is a Qualified Alien." If the alien is not able to submit such documentation, they have not established they are a qualified alien and a loan will not be processed.

Ineligible or Inconclusive COA Codes

991	**BC3**	**DE**	**EX7**	**H1C**	**IT3**	**N3**	**NT8**	**R52**	**S2D**	**SL6**	**T43**	**TW2**
992	**BC6**	**DEC**	**EX8**	**H2**	**IT6**	**N4**	**O1**	**R53**	**SB1**	**SO1**	**T46**	**TW3**
993	**BC7**	**DT1**	**EXC**	**H3**	**IT7**	**N5**	**O2**	**R56**	**SC1**	**SO2**	**T47**	**U1**
994	**BC8**	**DT2**	**EXP**	**H4**	**IT8**	**N6**	**O3**	**R57**	**SC2**	**SU0**	**TA**	**U2**
999	**BCC**	**DT3**	**F1**	**H2B**	**J1**	**N7**	**OP**	**R58**	**SC6**	**SU2**	**TB**	**U3**
A1	**BCD**	**DT4**	**F2**	**H2R**	**J2**	**N8**	**P1**	**RAD**	**SC7**	**SU6**	**TC**	**U4**
A2	**BE**	**DT5**	**F3**	**HK1**	**K1**	**N9**	**P2**	**RE1**	**SD1**	**SU7**	**T48**	**U5**
A3	**C1**	**DT6**	**FFD**	**HK2**	**K2**	**N51**	**P3**	**RE2**	**SD2**	**SU8**	**T1D**	**UN**
ABD	**C2**	**DT7**	**FFG**	**HK3**	**K3**	**N52**	**P4**	**RE3**	**SD3**	**SU9**	**T2D**	**UU**
ABS	**C3**	**DT8**	**FFP**	**HK6**	**K4**	**N53**	**PAC**	**RE4**	**SD6**	**SY6**	**T3D**	**V1**
AO	**C4**	**DX**	**FFW**	**HK7**	**L1**	**N56**	**PEN**	**REC**	**SD7**	**SY7**	**TC1**	**V2**
AS	**CC**	**E1**	**FUG**	**HK8**	**L2**	**N57**	**PL1**	**REM**	**SD8**	**SY8**	**TC2**	**V3**
AS1	**CH**	**E2**	**G1**	**HR 2267**	**LE1**	**N58**	**PL2**	**REP**	**ST0**	**T1**	**TD**	**W1**
AS2	**CP**	**E3**	**G2**	**I1**	**LE2**	**NATO1**	**Q1**	**RN6**	**ST6**	**T2**	**TF1**	**W2**
AS3	**CS1**	**EF**	**G3**	**I51**	**LPR**	**NATO2**	**Q2**	**RN7**	**ST7**	**T3**	**TF2**	**WI**
ASD	**CS2**	**EP**	**G4**	**I52**	**LU1**	**NATO3**	**PL2**	**RW**	**ST8**	**T4**	**TN**	**W1D**
ASP	**CS3**	**ER**	**G5**	**I53**	**LU2**	**NATO4**	**PR**	**S1**	**ST9**	**T5**	**TR**	**W2D**
ASR	**CSS**	**ERF**	**GB**	**I56**	**MI1**	**NATO5**	**Q1**	**S2**	**SDF**	**T21**	**TR1**	**W3D**
AY1	**D1**	**ERP**	**GR**	**I57**	**MI2**	**NATO6**	**Q2**	**S4**	**SE1**	**T22**	**TR2**	**WB**
AY2	**D2**	**ERR**	**GT**	**I58**	**MI3**	**NATO7**	**Q3**	**S8**	**SE2**	**T23**	**TR6**	**WD**
AW	**DA**	**EWI**	**H1**	**ID6**	**M11**	**NT1**	**R1**	**S9**	**SE3**	**T26**	**TR7**	**WR**
B1	**DAS**	**EX1**	**H1A**	**IJ**	**Ml2**	**NT2**	**R5**	**S13**	**SE6**	**T27**	**TRM**	**WT**
B2	**DEP**	**EX2**	**H2A**	**IMM**	**Ml3**	**NT3**	**R2**	**S16**	**SE7**	**T28**	**TS1**	**Z14**
BC1	**DHR**	**EX3**	**H1B**	**IT1**	**N1**	**NT6**	**R4**	**S26**	**SE8**	**T41**	**TS2**	**ZM1**
BC2	**DNA**	**EX6**	**H1B1**	**IT2**	**N2**	**NT7**	**R51**	**S1D**	**SL1**	**T42**	**TW1**	**ZM2**

The SAVE screens provide the ability to "Request Additional Verification" as illustrated in the screen print below**. If SAVE is unable to provide a COA code, Agency staff <u>should not</u> click on the "Request Additional Verification" button without checking with the National Office first.** There is an additional cost to "Request Additional Verification" and in most cases this option will not yield a better result. Frequently, aside from the additional cost, the "Request Additional Verification" function will only result in SAVE requesting that the alien documentation be mailed to USCIS along with a USCIS form.

The Agency should rely on the COA code returned by the first submission to SAVE. On occasion, a SAVE user may receive a COA code that is not mentioned in this attachment. In such cases, the SAVE user should contact the National Office for further assistance.

As previously mentioned in this attachment, LOs must secure proof of identity and evidence that non-citizens who apply for direct loan assistance are qualified aliens. All non-citizens legally admitted into the United States will have an Alien Identification Number which should be checked through the SAVE system by Agency staff to verify the non-citizens immigration status in this country. However, the following documentation may also be obtained to verify whether the non-citizen applicant is a qualified alien, or it may be used in cases where the SAVE feedback was inconclusive.

Please note that if the SAVE response was inconclusive and the alien submits one of the documents below, or if the SAVE inconclusive result arose from an Alien Identification Number which was taken from one of the documents listed below, then the authenticity or validity of the document may be in question. **In such cases, Agency personnel must immediately contact the National Office for additional instructions.**

Documentation that a Non-Citizen is a Qualified Alien

Any of the following documents are acceptable evidence of eligible immigration status:

- *USCIS Form I-551, Alien Registration Receipt Card* (for permanent or conditional resident aliens).

- In some cases, the USCIS will stamp a page of the alien's passport with the following information:

  - PROCESSED FOR I-551
  - TEMPORARY EVIDENCE OF
  - LAWFUL ADMISSION FOR
  - PERMANENT RESIDENCE
  - VALID UNTIL _____
  - EMPLOYMENT AUTHORIZED

  In these cases, the USCIS official will handwrite the expiration date of the stamp in the blank space after the words "valid until," and may also handwrite the date of issuance above the stamp. Whenever this documentation is submitted as evidence of qualified alien status, a copy of the passport, including the stamped page, should be sent to the nearest USCIS District Office along with *USCIS Form G-845S*, "*Documentation Verification Request*." The USCIS will return *Form G-845S* to the requesting office with an indication whether the document is valid and relates to a permanent or conditional resident alien. *USCIS Form G-845S* is available on line at http://www.uscis.gov//files//form/g-845s.pdf.

- *USCIS Form I-688B, Employment Authorization Card*, which must be annotated "Provision of Law" followed by one of the provisions listed below:

  - 274 a.12(c)(11),
  - 274 a.12(a)(1),
  - 274 a.12(a)(3),

- 274 a.12(a)(4),
- 274 a.12(a)(5), or
- 274 a.12(a)(10).

- *USCIS Form I-766, Employment Authorization Document*, annotated as follows:

  - A3,
  - A5, or
  - A10.

- *USCIS Form I-571, Refugee Travel Document*;

- *USCIS Form I-94, Arrival-Departure Record*, with one of the following annotations:

  - "Admitted as Refugee Pursuant to Section 207";
  - "Section 208" or "Asylum";
  - "Section 243(h)" or "Deportation stayed by Attorney General";
  - "Paroled Pursuant to Section 212(d)(5) of the INA"; or
  - "Admitted under Section 203(a) (7) of the INA."

- If *USCIS Form I-94* is not annotated, it will still be acceptable evidence of eligible immigration status if it is accompanied by one of the following documents:

  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS officer granting asylum (if application was filed on or after October 1, 1990) or from a USCIS district director granting asylum (if application was filed before October 1, 1990);
  - A court decision granting withholding of deportation; or
  - A letter from a USCIS asylum officer granting withholding of deportation (if application was filed on or after October 1, 1990).

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made, and the applicant's entitlement to the document has been verified.

- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.

The LO should review the original of the above documents and make legible photocopies of both the front and back. If the aforementioned documentation appears to be altered or counterfeit, or if the alien presents unfamiliar USCIS documentation, the LO must complete *USCIS Form G-845, Document Verification Request,* and forward it to the nearest USCIS District Office for review. *Form G-845* is available on the internet at the following address: http://www.uscis.gov/files/form/g-845s.pdf. Legible copies of the alien's documentation should be attached to *Form G-845* when submitted. Note that there is a 10 business day USCIS processing period. The original documents should be returned to the non-citizen. The locations of USCIS District Offices are available on the internet at the following address: https://egov.immigration.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=LO.

Documentation for Native Americans in the United States under the Jay Treaty

Native Americans covered by the Jay Treaty of 1794 and born in Canada may also be eligible as lawfully admitted for permanent residence if they meet the requirements of 8 U.S.C. Section 1359. They might not possess any of the documentation described above, and the Agency might not be able to verify their status through SAVE. To establish that they are a qualified alien, the Native American should provide **all** of the documentation listed below as described in the Wabanaki Legal News which is available on the internet at http://www.ptla.org/wabanaki/jaytreaty.htm

- A letter from their Native American tribe stating that the alien has at least 50 percent Native American or Aboriginal blood (also referred to as the blood quantum);
- Their Canadian "Certificate of Indian Status Card" with a red stripe along the top;
- Their birth certificate;
- If an Haudenosaunee, their Red I.D. Card;
- If an Inuit, an Inuit enrollment card from one of the regional Inuit lands claim agreements;
- Their Social Security Card issued by the U.S. Social Security Administration; and
- Their Canadian or U.S. driver license.

CHAPTER 5: PROPERTY REQUIREMENTS

5.1 INTRODUCTION

Ensuring that the quality and the value of the property meet certain minimum thresholds is as important as ensuring that the applicant is willing and able to repay a loan. The Agency imposes quality and value requirements to protect the borrower's interest and, in the event of liquidation, the Agency's interest.

A. Overview of Property Requirements

1. Ensuring Quality

Four sections of this chapter deal with quality assurance. Section 1 describes the requirements for approving a site -- its location, its size and amenities, and the adequacy of available utility systems. Section 2 describes requirements for the dwelling itself, which must be modest, but also decent, safe, and sanitary. The standards that apply differ somewhat depending upon whether the dwelling will be newly constructed or is an existing home. Section 3 describes the Agency's requirements for the protection of environmental resources and the due diligence required with regard to hazardous substances. Section 6 provides guidance for monitoring construction activities to ensure that any construction or repair work is appropriately conducted and completed.

2. Ensuring Adequate Value

Before the Agency makes a loan, the Loan Originator must ensure that the applicant will have an appropriate form of ownership and that the Agency's interest in the property is adequately secured by the value of the real estate and the Agency's lien position. Section 4 specifies Agency security requirements and Section 5 provides guidance on conducting appraisals of the property's value.

B. Key Processing Steps Related to Property Requirements

When applicants locate properties, they must provide the Loan Originator with the basic information needed to initiate the Agency's review of the property. Applicants who do not currently own the property must submit an option or sales contract and a location map with the address and directions to the property. Applicants who already own the property must submit

evidence of ownership, a legal description, a property survey showing all structures on the site, address and directions to the property. The Loan Originator will use the USDA Address Verification web site to verify the property address given is accurate and that it is entered in UniFi exactly as indicated in the response. The web site address is: http://eligibility.sc.egov.usda.gov/eligibility/addressVerification. If a code match of 1 or 2 is received, the Loan Originator should enter the address as indicated into UniFi. Occasionally, the remote location or newness of the address, or the fact that the address has not yet been placed in the geocode database will cause the address verification site to return codes other than 1 or 2. When this occurs, the Loan Originator must verify the address with the post office, local tax/property recording office, etc. If, after researching with these local entities, it is determined that the best possible address for the property has been obtained, it may be entered into UniFi. Any discrepancy in code returned should be explained and documented in the case file running record. However, addresses that return a code other than 1 or 2 should be reverified at the address website prior to closing and corrected in UniFi and/or MortgageServ when appropriate.

Informing the Applicant

Once a specific property has been identified, the Loan Originator must send the applicant Forms RD 1940-41 and 440-58 within 3 business days. For additional information, please refer to Chapter 3, Section 3.7.

1. Preliminary Review

Within 7 business days of submission by an applicant who has been determined eligible for section 502 assistance, the Loan Approval Official must visit the property to conduct a preliminary evaluation. The Loan Approval Official's review is not intended to take the place of any of the formal reviews that are conducted later. Rather, this evaluation should determine whether, with any planned construction or rehabilitation, it appears the property will meet the Agency's site and dwelling requirements as described in this chapter. Additionally, this site visit is an opportunity to gather initial information which may be used in the completion of the environmental review. Attachment 5-A can serve as a guide for examining existing housing structures. Attachment 5-B is used to evaluate the acceptability of each site (developed and undeveloped).

To determine the potential for impacts to protected environmental resources, the Loan Approval Official must complete an environmental review, as described in Section 3 of this chapter. Occasionally, a proposal may have the potential to have an impact on 1 or more protected environmental resources. In such instances, the Agency is generally required to consult with other Federal agencies, and State or local governments to resolve the issue. If it appears that more than 7 days will be required to satisfactorily complete the environmental review, the Loan Originator must notify the applicant. Applicants should be informed that they may be asked to provide information, or to take certain mitigation measures to help resolve the issue. The Loan Approval Official also must

complete *FEMA Form 81-93, Standard Flood Hazard Determination*, to document whether the property is located in a Special Flood Hazard Area (SFHA) and if so, state the availability of flood insurance. Flood insurance is not required for loans and grants with an original principal balance of $5,000 or less. If, through the environmental review process, the Loan Approval Official determines that there is no practical alternative to construction, purchase, or repair in the floodplain, and flood insurance is required, the Loan Approval Official will provide the applicant with *Form RD 3550-6, Notice of Special Flood Hazards, Flood Insurance Purchase Requirements, and Availability of Federal Disaster Relief Assistance*.

If the property appears to be acceptable, the Loan Originator requests an appraisal. If the property is not acceptable, the Loan Originator notifies the applicant and, if the problems cannot be remedied, issues a new *Form RD 1944-59, Certificate of Eligibility*.

2. Appraisal

Appraisals may be completed by qualified Agency staff or contract appraisers and are generally completed within 30 days of the request. Depending upon the purpose of the proposed loan, the appraiser may be asked to give an “as-is” or “as-improved” value.

3. Review of Property and Site for Compliance with Agency Standards

Before loan approval, the Loan Originator must confirm that the property meets, or will meet with any planned constructions or repairs, all applicable Agency requirements. This is accomplished both through determinations made directly by the Loan Originator and review of opinions or determinations made by others, such as appraisers, local building officials, architectural and engineering professionals, and trades professionals.

4. Identification and Correction of Deficiencies

If at any point during the review process, deficiencies are identified that jeopardize the Agency’s ability to approve a loan, the Loan Originator must notify the applicant and give the applicant at least 30 days to resolve the deficiency. For example, if an inspection reveals a structural deficiency that can be corrected, the applicant could negotiate with the seller to reduce the sales price so that funds to correct the deficiency could be included in the loan, or to correct the deficiency before the property is transferred.

If a deficiency cannot be satisfactorily corrected, the Loan Originator notifies the applicant and provides a new *Form RD 1944-59, Certificate of Eligibility*.

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SECTION 1: SITE REQUIREMENTS *[7 CFR 3550.56]*

5.2 OVERVIEW

Once the applicant has found a property, the Agency needs to ensure that it fits program guidelines regarding sites. The site must be developed according to the development standards imposed by State or local government. These standards are often contained in zoning ordinances, building codes, subdivision regulations, and/or construction standards. Attachment 5-B must be completed in addition to meeting the standards for planning and performing site development work outlined in RD Instruction 1924-C. The Loan Originator, or appraiser, will complete Attachment 5-A or similar guide, to evaluate the acceptability of each site (developed or undeveloped). In particular, sites must be in rural areas, be modest, and meet minimum standards regarding water and wastewater systems, and Agency street and access requirements. The Agency uses an electronic mapping system as one means of making information available to the public. When determining eligibility boundary lines this must be taken into consideration. This section addresses each of these standards..

5.3 RURAL AREA DESIGNATION

A. Rural Area Definition

Rural areas are defined as:

- Open country that is not part of or associated with an urban area; or
- Any town, village, city, or place (including the immediately adjacent densely settled area) that is not part of or associated with an urban area, and that:
  - ◊ Is rural in character with a population of less than 10,000; or
  - ◊ Is not contained within a Metropolitan Statistical Area (MSA) and has a serious lack of mortgage credit with a population between 10,000 and 20,000.

1. Assessing "Open Country"

A site that is in "open country not part of or associated with an urban area" is one that is separated by open space from any adjacent densely populated urban area. Open space includes undeveloped land, agricultural land, or sparsely settled areas. Open space does not include physical barriers (such as rivers or canals), public parks, commercial and

industrial developments, small areas reserved for recreational purposes, and open space set aside for future development

In order to determine if a property is in open country, the Loan Originator should review recent maps, aerial photographs, and/or conduct a site visit. In particular, the Loan Originator should look for significant new development in parts of rural areas that adjoin nonrural areas, and investigate the likelihood that local authorities may redesignate the area's corporate limits.

2. Assessing "Population"

In order to find the population figures for a locality, the Loan Originator should use the decennial U.S. Census of Population, or population updates published by the U.S. Bureau of the Census.

3. Assessing "Serious Lack of Mortgage Credit"

There is a serious lack of mortgage credit which is readily available to families throughout rural America at rates and terms comparable to those offered by the Agency. Therefore, Agency officials do not need to determine if there is a serious lack of mortgage credit available when determining whether an area is rural, or in reviewing rural area designations.

B. Special Considerations

1. Exception for Rural Areas Designated Prior to October 1990

If an area was classified as rural prior to October 1, 1990, even if it is within an MSA, it may be still considered rural as long as it: (1) has a population between 10,000 and 25,000 and (2) is rural in character. This designation can remain effective through receipt of census data for the year 2010.

2. Contiguous Areas

Two or more towns, villages, cities, or places that are contiguous may be considered separately for a rural designation if they are not otherwise associated with each other, and their densely settled areas are not contiguous.

When determining the population count for an area, the Loan Originator also should consider developed areas in contiguous counties or states. In cases involving contiguous counties, the appropriate population figure to be used for the area in question should be determined after consultation with the State Director. In an area involving contiguous states, the applicable population figure should be determined through an agreement between the 2 State Directors. The Loan Approval Official should contact both State Directors to help make this determination.

C. Reviewing Rural Area Designations

An area's rural designation may be changed as a result of a periodic review or after the decennial census of population. Both types of review are discussed below. In all cases, the local office should maintain a perpetual master file to document all rural area decisions.

1. Periodic Reviews

Each Field Office must review all areas under its jurisdiction every 5 years to identify areas that no longer qualify as rural. In areas experiencing rapid growth and in eligible communities within MSAs, the review should take place every 3 years. Field Office files must contain documentation that local planning boards, where available, were contacted at the time of each review to verify that areas considered open spaces are not scheduled for development in the next 5 years.

Field Staff must prepare a review report that includes a recommendation on those areas that should be re-designated. An acceptable form for this report is a map showing an outline of the area recommended to be redesignated, and a cover letter explaining the reasons for the recommendation. The review report must be signed by the Loan Approval Official, and submitted to the State Director on or before February 28 of the review year.

a) *Public Notice*

Once the review report has been submitted, the State Director will notify the public that the Agency will be conducting a formal review of those areas that have been recommended for re-designation. This notice should be published in a newspaper of general circulation and in any local or community oriented newspapers within the proposed area of re-designation and posted in the local Agency offices. The notice will be published in easily readable type in the non-legal section of the newspaper(s) and must be bilingual if the affected area is largely non-English speaking or bilingual.

The notice should be published at least 90 days before the final determination and appear for at least 3 consecutive days if published in a daily newspaper or in two consecutive publications for publications other than daily in order to give interested parties an adequate chance to comment. A copy of the notice should also be provided to known interested parties such as Self Help grantees, Guaranteed Lenders and others with a known interest in this information.

Any recommendation for change in the boundary lines should be so published.

b) Final Determination

The State Director will make a final determination on designations based on the review report and public comments and notify the Field Office of the final decision.

2. Census Reviews

In addition to periodic reviews, the State Director is responsible for implementing re-designations based on the decennial U.S. Census of Population and any biannual updates. Immediately after receiving the population information from the Census Bureau, the State Director must make appropriate changes in designation for areas with populations under 10,000.

3. Designation of Eligible and Ineligible Area Boundary Lines

By September 30th of each review year, or after the census review is complete, the State Director will develop, clear and distribute a State Supplement that updates, establishes, lists, and maps all ineligible areas in accordance with RD Instruction 2006-B. The State Supplement will include county maps showing all ineligible areas in each county.

Designation of eligible and ineligible areas will be updated to the public website: http://eligibility.sc.egov.usda.gov/eligibility.

Once the State has completed the review, a visual presentation of those areas designated as ineligible will be documented in hard copy map and narrative form. The maps will present the entire county and include the official boundary lines of eligible areas. Maps for update to the public website must be presented in two forms:

- Geographic Information Systems (GIS) shape file or hard copy paper map. Road maps may be utilized, hard copy, as long as spatial information such as rivers, lakes and cities are labeled. Scale and accuracy of the designated ineligible area is important.

- A text (narrative) version clearly delineating the boundary of the ineligible area for navigational purposes. The text version must match the hard copy or GIS shape file map.

Boundary lines must meet the following criteria:

- If the boundary line is a road, the boundary between eligible area and ineligible area will be represented as the middle of the road. With this type of boundary line, one side of a road may be eligible, while the remaining side is ineligible.

- Boundary lines that are defined as city or town limits must be defined and labeled as of a specific date. Example – *Ineligible area is the Claremore, Oklahoma limits as of January 1, 2009*. Changes to the city limits such as annexation subsequent to the defined date will require review, public notification, preparation of a revised State Supplement, and update to the public eligibility website prior to implementation of the revised city limit boundary. In this example, the re-designated area becomes ineligible when the process for the change is complete. The update of the State Supplement and the website should be implemented at the same time to the extent feasible.

- Artificial buffer zones, such as an imaginary line 100 feet from a road will not be used.

Submitting Ineligible Area changes:

Requests for re-designation of ineligible area on the public website will be forwarded by the State Director together with the required State Supplement, in accordance with the instructions in Attachment 5-E. Please see Attachment 5-F, Eligibility System Modification Request Process, for detailed instructions and Attachment 5-G, Eligibility System Modification Workflow, is provided for visual purposes.

4. Notification of Determination

Members of the public should have access to information about ineligible areas through the public website, maps posted in the Field Office or handouts that list or show all ineligible areas. If an entire county is ineligible, that information should be posted at the Field Office in a public place and provided to the local news media.

If an area's designation changes from non-rural to rural (for example, due to a drop in population), public notification is required to ensure that all lenders and other interested parties are made aware of the availability of Agency credit in the newly-eligible area. The Agency will publish notification of this determination in the same manner as notice of intent to conduct a formal review of those areas recommended for re-designation.

5. Making Loans in Areas Changed to Non-rural

If an area's designation changes from rural to non-rural, the Loan Approval Official may approve loans in that area only under the circumstances listed below.

- If an applicant who applied before an area's designation changed selects a property in the newly designated non-rural area, a loan may be made for that property if it meets all other eligibility requirements.

- New conditional commitments may be issued in non-rural areas if a purchaser is found whose loan application was complete before the area's designation changed.

- Existing conditional commitments will be honored only if a purchaser is found whose loan application was complete before the area's designation changed.

- REO property sales and transfers with assumption may be processed in areas that have changed to non-rural.

- Subsequent loans may be made on a property that already has an Agency loan to: (1) make necessary repairs; (2) to pay equity in connection with an assumption of the Agency loan; or (3) to pay equity to a departing co-borrower.

5.4 MODEST SITES

Modest sites are defined by their size, value, and the presence of any outbuildings. Therefore, the Loan Originator must verify that the requirements listed below are met.

- **Size.** The site must not be large enough to be subdivided under local subdivision regulations.

- **Value.** The value of the site must not exceed 30 percent of the as-improved market value of the property. The 30 percent limitation may be exceeded if the site cannot be subdivided into two or more sites and the value of the site is typical for the area, as evidenced by the appraisal and the practices of other lenders.

- **Farm Buildings.** The property must not include farm service buildings; however smaller outbuildings such as storage sheds are allowed.

5.5 ADEQUATE WATER AND WASTEWATER SYSTEMS

The site must have water and wastewater disposal systems, whether individual, central, or privately-owned and operated, that meet the applicable water and wastewater disposal system requirements of RD Instruction 1924-C. There must be assurance of continuous service at reasonable rates for central water and wastewater disposal systems. A system owned or operated by a private party must have a legally irrevocable agreement which allows interested third parties to enforce the obligation.

Private companies usually inspect individual wells and septic system drainfields -- these companies provide written results of the inspection. In addition, the responsible local or State regulatory agency must verify, in writing, that the privately-owned water and wastewater disposal systems, that serve multiple households, comply with the Safe Drinking Water Act (42 U.S.C. 300h) and the Clean Water Act (33 U.S.C. 1341), respectively. Inspections are not required on public water and wastewater disposal systems.

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SECTION 2: DWELLING REQUIREMENTS *[7 CFR 3550.63(a)]*

5.6 MODEST HOUSING

To be considered "modest", the property must be one that is considered modest for the area, must not have a market value in excess of the applicable area loan limit, and must not have certain prohibited features.

A. Establishing Area Loan Limits Within a State

The National Office will provide State Offices the cost to construct a modest house. The cost will not include a site or typical site development costs. Each state must collect and maintain the typical market value of sites, the cost of water and sewage, driveways, and landscaping, etc. for each area. The market value must be based on comparable sales data for typical sites and improvements in each area. The cost to construct and the market value of the improved site will be added together to create the area loan limits.

B. Options for Establishing Area Loan Limits Within a State

State Directors have two options for establishing area loan limits within a state. With either option, the area loan limit will not exceed the local HUD 203(b) limit in effect unless approved by the Deputy Administrator, Single Family Housing. These options are:

1. Area loan limits may be established on a county, regional or statewide basis. Where needed, due to fluctuations in housing prices within a county, a state may publish more than one area loan limit for the county. Areas must be clearly defined;

or

2. States may choose to adopt the State Housing Authority (SHA) limit as long as the SHA limit is within 10 percent of the cost data plus the market value of an improved lot. If the State chooses to adopt the SHA limit and the SHA has different limits for new construction and existing dwellings, the State must adopt both limits. If the SHA uses targeted and non-targeted limits, the non-targeted limit will be used for our purposes.

Under no circumstances will States use the cost data plus the market value of an improved lot and the SHA limit. States **must** choose only 1 of the 2 options.

C. Notification

State Directors will issue a state instruction establishing which option will be used. Once an option is chosen, states are not authorized to alternate between options throughout the year without prior approval from the Deputy Administrator, Single Family Housing. Requests for a change must be accompanied by documentation to support the request. States will notify real estate agents, brokers, building contractors, lenders, partners, etc. of area loan limits as well as any changes throughout the year.

Individual exceptions to the Established Area Loan Limits may be granted to accommodate the specific needs of an applicant, for example, to serve exceptionally large households or to provide reasonable accommodation for a household member with a disability. Requests for exceptions may be approved by the State Director if the cost of the property will exceed the limit by $3,600 or less.

To request an exception, the Loan Originator must fully document the need for the exception.

- For accommodations for household members with disabilities, the Loan Originator must provide the cost of accommodations that demonstrates that these costs cannot be accommodated within the area's modest housing limit; and

- If approval is granted, the Loan Originator follow UniFi procedures for overriding the maximum loan limits.

D. Prohibited Features

1. Swimming Pools

Properties that include in-ground pools will not be financed. It is not acceptable to remove a pool before or after closing to meet this requirement.

2. Income-Producing Land or Structures

Properties that include income-producing land or buildings designed to accommodate a business or income-producing enterprise will not be financed. Homebased operations that do not require specific features such as child care, product sales, or craft production are not restricted.

5.7 DECENT, SAFE AND SANITARY DWELLINGS

To help ensure that dwellings are "decent, safe, and sanitary," the Agency has established minimum standards for new and existing dwellings.

A. Existing Dwellings

Existing dwellings must be structurally sound and functionally adequate, and be in good repair or be placed in good repair with loan funds. Homes with older effective age or in fair condition must be energy efficient and should be thoroughly and carefully inspected to ensure the overall soundness of the home.

To verify that all major systems are adequate State-licensed inspectors must certify that the dwelling has been inspected and meets Agency standards with respect to: (1) termites and other pests; (2) plumbing, water and sewage; and (3) heating and cooling; (4) electrical systems; and (5) structural soundness. When a State does not license inspectors, a qualified, independent, third-party inspector may provide these certifications.

If the loan does not exceed $7,500 and the repayment schedule does not exceed 15 years, the dwelling's major systems are not subject to inspection by State-licensed inspectors and the dwelling may lack some equipment or features after repairs such as a complete bath, kitchen cabinets, closets, or completed finished interior in some rooms. These dwellings must otherwise meet the housing needs of the applicant and provide decent, safe, and sanitary living conditions when the improvements financed with the loan are completed.

B. New Construction

All construction must meet the standards contained in RD Instruction 1924-A. The process for ensuring that the Agency's construction standards are met is described in Section 6 of this chapter.

C. Survey Requirements

A survey is required for any property which is currently not financed by the Agency. Typically the survey will be obtained as a loan approval condition to be made available to the Loan Approval Official before loan closing. The Loan Originator must determine that all existing and proposed structures are or will be located on the site. A title insurance policy with survey coverage may be accepted when the State Director determines it is an acceptable substitute for a survey in the State. When a new survey is needed, it must contain boundary lines, any improvements, encroachments on the subject or adjacent property, above-ground easements, set-backs imposed by either restrictive covenant or zoning, and any additional requirements needed to obtain title insurance. For new construction, the boundary corners must also be clearly marked. An existing survey may be used if it meets the requirements of the title insurance.

D. Flood-Related Requirements

Flood insurance is required for all dwellings located within the 100-year flood plain, unless FEMA has granted an exception, and flood insurance is available as part of the community's flood plain management regulations.

For all new construction and substantial improvements the lowest floor (including basement) must be elevated to or above the 100-year flood level. For existing dwellings, the first floor elevation of the habitable space must be at or above the 100-year (base) flood level.

In addition, for newly constructed and substantially rehabilitated dwellings, the construction materials and methods used must be for the purpose of making the structure resistant to flood damage, and minimizing any damage that may occur. RD Instruction 426.2 contains further guidance on the National Flood Insurance Program and flood-related requirements.

All dwellings within the 100-year flood plain must be served by public utilities that are located and constructed to minimize or eliminate flood damage, or have an on-site water supply and waste disposal system located and constructed to avoid contamination of the water supply by the septic system due to flooding.

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SECTION 3: ENVIRONMENTAL REQUIREMENTS

[7 CFR 3550.5]

5.8 PROTECTION OF ENVIRONMENTAL RESOURCES

The Agency considers environmental quality equally with economic, social, and other factors in its program development and decision-making processes. The environmental review process is intended to help Agency officials make decisions that are based on an understanding of the environmental consequences of a proposed action, and to take those actions that protect, restore, and enhance the environment.

Environmental Library

At a minimum, each Field Office should maintain the following information in order to facilitate completion of environmental reviews. The State Environmental Coordinator can provide assistance in obtaining or understanding this information.

- The State's Natural Resource Management Guide;
- Federal Emergency Management Agency (FEMA) floodplain maps;
- Natural Resources Conservation Service (NRCS) Soil Surveys and Important Farmland Soils; and
- U.S. Fish and Wildlife Service (USFWS) Coastal Barrier Resource System maps (as applicable).

This paragraph contains a general discussion of basic environmental requirements. Detailed environmental policies and procedures can be found in RD Instruction 1940-G, which contains compliance requirements for the National Environmental Policy Act (NEPA), as well as numerous other laws, Executive Orders, and Departmental regulations on a variety of other environmental issues.

A. Types of Environmental Reviews

NEPA requires that Agency actions be classified into 3 basic categories of actions: those that normally qualify as categorical exclusions and generally require the preparation of a brief checklist; those that normally require an environmental assessment (EA); and those that normally require an environmental impact statement (EIS). Due to the wide range of activities funded by the Agency, it has been allowed to establish 2 categories of actions requiring an EA: Class I actions, requiring an EA with limited detail and analysis; and Class II actions, requiring a fully detailed EA. This classification of actions provides the Agency with a starting point for beginning its environmental review. Most single family housing activities will qualify as a categorical exclusion; some will qualify for a Class I EA. For a complete list of housing actions and their classifications, refer to RD Instruction 1940-G.

1. Categorical Exclusions

A categorical exclusion is an action that does not, individually or cumulatively, have a significant impact on the qualify of the human environment, and therefore requires neither an EA nor an EIS, unless an extraordinary circumstance or cumulative impacts are involved. For each proposed action, a brief checklist, *Form RD 1940-22, Environmental Checklist for Categorical Exclusions*, is prepared to ensure that the specific proposal under consideration does in fact qualify as a categorical exclusion and that there are no extraordinary circumstances or cumulative impacts.

In general, extraordinary circumstances are considered to exist when the proposed action is or will be located on or near and/or has the potential to affect environmentally sensitive land uses or resources. Exhibit 5-2 provides a listing of the most common land uses and resources that must be considered. RD Instruction 1940-G contains detailed information on the proper implementation of requirements affecting categorical exclusions.

Exhibit 5-2

Environmentally Sensitive Land Uses and Resources

Wetlands	Natural Landmarks
Floodplains	Important Farmland
Wilderness Areas	Prime Forest Land
Wild or Scenic Rivers	Prime Range Land
Historical, Archeological Sites	Coastal Zone Management Area
Critical Habitat or Endangered or Threatened Species	Sole Source Aquifer Recharge Area
Coastal Barriers	State Water Quality Standard

2. Environmental Assessment

If it appears that extraordinary circumstances and/or cumulative impacts may be involved, a Class I EA must be prepared using *Form RD 1940-21, Environmental Assessment for a Class I Action*. Through this form, the Agency provides the necessary documentation to: (1) demonstrate compliance with requirements for protection of the resource, including the development of practical alternatives to either avoid or lessen the environmental impact; and (2) demonstrate why the potential impact on the resources is not considered to be significant and therefore, an EIS is not required.

B. Flood Hazard Determination

FEMA Form 81-93, Standard Flood Hazard Determination, states whether or not the property is located in a Special Flood Hazard Area (SFHA) identified by FEMA and, if so, states the availability of flood insurance for this property through FEMA's National Flood Insurance Program (NFIP). Property in a SFHA is ***not eligible*** for Federal financial assistance unless flood insurance through the NFIP is available. The information regarding floodplains on this form will assist in the preparation of the environmental review document, which must examine whether or not there is a reasonable alternative to a proposed purchase or construction in a floodplain. The Loan Originator will be responsible for accessing the *Flood Zone Determination Website* to obtain the FEMA Form 81-93 for each property. Certification will be a *"Life of Loan Determination,"* in which the Agency will be notified should the site designation change. Attachment 5-D provides detailed instructions on accessing the website. The Standard Flood Hazard Determination must be completed in conjunction with and attached to the environmental review.

C. Responsibility for Environmental Reviews

The Loan Originator is responsible for completing the appropriate level of environmental review. This includes the assembly and analysis of relevant material, the development and analysis of practical alternatives and mitigation measures (as appropriate), and the development of recommendations regarding environmental impacts and environmental compliance. Applicants may be requested to provide information needed for the analysis.

The Loan Approval Official will use the environmental review documents and, as appropriate, the recommendations of the State Environmental Coordinator, to make the Agency's final decision regarding an environmental impact determination and compliance with environmental requirements, as well as flood insurance requirements. This decision is evidenced by execution of the "Finding" on *Form RD 1940-22*, for categorical exclusions or by execution of the Finding of No Significant Impact for EAs.

State Environmental Coordinators are available to provide technical assistance and guidance. They also are available to assist in problem resolution on environmental issues. Environmental questions or problems should be referred promptly to the State Environmental Coordinator.

D. Noise Abatement

If a site is located near a major source of noise (see Attachment 5-B, question 5), that information should be made available to the appraiser for consideration in the appraisal. The information should be made available to the applicant, who may not be aware of the problem. The applicant, once informed, may wish to look for a different site or to consider some method of noise reduction. The loan approval official should consult with the State Architect and the State Environmental Coordinator on any proposals for noise reduction.

5.9 Management of Hazardous Substances

The Agency must consider the management of hazardous substances, including hazardous wastes and petroleum products, from two perspectives: liability under hazardous substance and hazardous waste laws, and the economic risks posed by the presence of hazardous substances. Both of these issues are addressed through due diligence. Due diligence is the process of inquiring into the environmental condition of real estate, in the context of a real estate transaction, to determine the presence of contamination from hazardous substances, including hazardous wastes and petroleum products, and to determine what impact such contamination may have on the market value of the property.

When visiting a property, Agency staff members should be alert for any indication that hazardous substances might be present. Appraisers also are required to notify the Agency if they observe contamination from hazardous substances, or if information from research or interviews with individuals knowledgeable about the property indicates that the property might contain hazardous substances.

If an Agency staff member or an appraiser notices that a property may contain hazardous substances, or if the Agency has any other reason to suspect that a property is contaminated, the Loan Approval Official must initiate a due diligence review by completing the Transaction Screen Questionnaire, ASTM Standard E-1528 (TSQ), the initial level of inquiry in the due diligence process. If the completed TSQ raises any concerns, it must be sent to the State Environmental Coordinator for further evaluation and guidance.

SECTION 4: SECURITY REQUIREMENTS

5.10 Acceptable Mortgage

Generally, there should be no non-Agency liens on the property at the time of or immediately after closing, unless they are part of a formal leveraging strategy, or the Agency loan is for essential repairs and a senior lien secures an affordable non-Agency loan. However, the Loan Originator may accept prior or junior liens as long as: (1) the lien will not interfere with the purpose or repayment of the Agency loan; (2) the total value of all liens on the property is less than or equal to the property's market value; and (3) the prior lien does not contain provisions that may jeopardize the Agency's security position or the applicant's ability to repay the loan.

5.11 Ownership Requirements *[7 CFR 3550.58]*

If the applicant defaults on the loan, the Agency must be able to foreclose on the property to settle the debt. Therefore, after the loan is closed, the applicant must have an ownership interest in the property that is acceptable to the Agency.

A. Responsibilities

In preparation for closing, the closing agent selected by the applicant must review the ownership interest the applicant will have to ensure that it meets the requirements established by the Agency in RD Instruction 1927-B. The closing agent must also ensure that the form of ownership conforms with the requirements of relevant State laws. After closing, the Loan Originator should compare the deed of trust or mortgage with the title opinion to assess lien priority, to verify recordation of the date and time, and to ensure that the loan closing instructions have been followed.

B. Acceptable Forms of Ownership

Several forms of ownership are acceptable to the Agency, but in all cases the applicant's ownership interest must be carefully documented.

1. Fee-Simple Ownership

The most common form of ownership is fee-simple ownership, under which the borrower holds a fully marketable title to the property. This title is evidenced by a deed that vests full interest in the property to the borrower.

Land Purchase Contracts

When the ownership interest is by virtue of a land purchase contract, the ownership interest must be converted to a deed/mortgage interest prior to closing the loan.

2. Secure Leasehold Interest

Although fee-simple ownership is preferable, the borrower may have a secure leasehold interest in the property. Leasehold interests are acceptable only when all of the following conditions apply.

- The applicant must be unable to obtain fee-simple title to the property, and the rent charged for the lease must not exceed the rate being paid for comparable leases.
- The lessor must own the fee-simple title (this provision does not apply to a lessor who is an American Indian possessing a leasehold interest on tribal allotted or trust land).
- Neither the leasehold nor the fee-simple title may be subject to a prior lien unless the Agency authorizes acceptance of the prior lien before loan approval. The amount of the Agency's loan, plus any prior liens, must not exceed the market value of the property including the value of the leasehold.
- The lease must be in writing, and must contain ***all*** of the following provisions:
  - ◊ The lessor's consent to allow the Agency's mortgage;
  - ◊ The right of the Agency to foreclose and sell the property without restrictions that adversely affect the market value of the property;
  - ◊ The right of the Agency to bid at a foreclosure sale or to accept voluntary conveyance of the property in lieu of foreclosure;

◊ The right of the Agency to occupy, sublet, or sell the property should the leasehold be acquired through foreclosure, voluntary conveyance, or abandonment;

◊ The right of the applicant to transfer the leasehold and Agency mortgage to an eligible transferee who will assume the Agency's debt, if the borrower defaults or is unable to continue with the lease;

◊ Advance written notice of at least 90 days to the Agency of the lessor's intention to cancel or terminate the lease;

◊ Provisions are negotiated with the lessor before the leasehold interest is approved regarding the Agency's obligation to satisfy unpaid rent or other charges accrued before or during the time the Agency has possession of or title to the leasehold. During negotiations, the Loan Originator should consider the length of time it will take to foreclose, how much the Agency would be responsible for, and when the Agency would have to pay;

◊ Provisions to ensure fair compensation to the borrower for any part of the property taken by condemnation; and

◊ The unexpired term of the lease must be at least 150 percent of the term of the mortgage, unless the loan is guaranteed by a public authority, Indian Tribe, or Indian Housing Authority. For guaranteed loans, the unexpired term of the lease must be at least 2 years longer than the mortgage term. In no case may the unexpired term of the lease be less than 25 years.

- The language, specified in Attachment 5-C, must be inserted in the mortgage.

3. Life Estate Interest

The applicant may hold a life estate interest with the rights of present possession, control, and beneficial use of the property. All persons with any remainder interests in the property must be signatories to the mortgage, except as described in Paragraph 5.11 B.4.

4. Undivided Interest

To be eligible for a loan if an applicant only has an undivided interest in the land, co-owners must also be unable to provide or obtain the financing for the improvements, either individually or jointly with the applicant. Generally, all legally competent co-owners must sign the mortgage. However, when one or more of the co-owners cannot be located, are not legally competent (and there is no legal representative who can sign the mortgage), or if the ownership interests are divided among so many co-owners that it is not practical to mortgage all of their interests, their interests may be excluded from the security requirements, as long as their interests do not exceed 50 percent of the property's value.

The loan amount shall be limited based on the percentage of the market value that is proportional to the percentage of the property interest owned by all persons signing the mortgage. The determination of market value should take into account any adverse effects that might result from selling mortgaged interests separately from nonmortgaged interests.

Only the State Director may approve the exclusion of co-owners' interests. The Loan Originator or the Loan Approval Official should prepare a recommendation for the State Director's review. The memo should include a full statement of ownership and the reasons for the proposed exclusion.

5. Possessory Rights

Possessory rights on an American Indian reservation or State-owned land, and the interest of an American Indian in land held in trust or deeds containing restrictions against alienation are acceptable forms of interest as long as the trust or restricted land will remain in trust or restricted status.

Tribal Allotted or Trust Land

Tribal allotted or trust land must remain in trust or restricted status. In these cases, the mortgage, deed of trust, leasehold interest or other security interest must be approved by the Secretary of the Interior. Each State should issue a supplement to give guidance about making loans under these circumstances.

5.12 EXCEPTIONS TO THE AGENCY'S SECURITY REQUIREMENTS

Exceptions may be made under the circumstances described below.

A. Unsecured (Note Only) Loans

A loan of less than $7,500 that is scheduled for repayment within 10 years from the date of the loan may be secured by a promissory note alone as long as the applicant:

- Has a credit history that indicates an ability and willingness to pay the debt when due;
- Has principal, interest, taxes, and insurance (PITI) and total debt (TD) ratios that indicate that the applicant will have sufficient income to meet all obligations; ***and***
- The applicant's equity in the real estate, as improved, equals or exceeds the amount of the proposed loan.

In order to verify the above conditions, the Loan Originator should review the applicant's credit history as described in Section 3 of Chapter 4. The applicant cannot receive payment subsidy on an unsecured loan.

B. Best Mortgage Obtainable

Except for unsecured loans described in Paragraph 5.12 A, loans must be secured by a mortgage. In addition, title clearance and the use of legal services as required by RD Instruction 1927-B are necessary, unless the total RHS indebtedness is less than $7,500 or the loan is a subsequent loan made for minimal essential repairs necessary to protect the Government's interest.

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SECTION 5: APPRAISALS *[7 CFR 3550.62]*

5.13 OVERVIEW

High-quality appraisals are key to ensuring that the Agency obtains adequate security for its loans. This section provides guidance about the types of appraisals that may be needed, when appraisals are required, how they are ordered, and how they must be reviewed.

5.14 REQUIREMENTS FOR APPRAISAL

Appraisals must meet the following requirements:

- **Qualified Appraiser**: Direct Single Family Housing appraisal assignments will be completed by a state licensed appraiser. Contract appraisers must be licensed (or registered for Non-Resident Temporary Practice) in the state in which the subject property is located. When using a contract appraiser, the Agency will contract with qualified state licensed appraisers that are active on the Appraisal SubCommittee website (www.asc.gov). However, when a contract appraiser is not available at an acceptable cost or is unable to complete an appraisal timely, a qualified Agency appraiser may conduct the appraisal. For credit transactions that are $100,000 or greater, Agency appraiser must possess the same qualifications as those required for contract appraisers, except that an Agency appraiser is only required to be certified in one State or Territory to perform real property appraisal duties as a Federal employee in all States and territories.

- **Standards**: All appraisals must comply with the current edition of the Uniform Standards of Professional Appraisal Practice (USPAP) available at www.appraisalfoundation.org and Agency appraisal requirements, as described in this chapter and in 7 CFR 3550.62(a).

- **Timelines**: The Loan Originator should order appraisals within 3 business days of an Agency determination that the property appears to be acceptable. Depending on the State, appraisals are conducted by either in-house Agency staff, or private appraisers under contract to the Agency. In-house appraisals are to be completed within 7 calendar days of receiving the appraisal order. Contract appraisals are to be completed within the time specified in the contract or Blanket Purchase Agreement (BPA).

- **Nondiscrimination**: The appraiser may not use factors that are discriminatory on the basis of race, color, religion, sex, disability, familial status, or national origin in conducting the appraisal and valuing the property.

- **Use of Third Party Appraisals**: The Agency may use appraisals for which it did not contract, including those obtained by participating lending institutions. The Agency reviewer should be especially diligent in reviewing these appraisals to ensure they meet USPAP and Agency appraisal requirements.

5.15 TYPES OF VALUES

Depending on the purpose of the proposed loan, an appraiser will either give the estimated value of the property in its current condition (the "as is" value) or, based on construction plans and specifications, give the estimated value of the property after development (the "as improved" value). The Loan Originator will determine the required type of value. The circumstances under which each type of value is required are as follows.

- **As improved value.** Loans for planned new construction or rehabilitation require an estimate of the as improved value.

- **As is value.** Loans for existing dwellings (including a new construction dwelling that has been completed at the time of appraisal) requiring no repairs require an estimate of as-is value. As-is value appraisals may also be needed to support a loan servicing action or to determine a disposition plan for Real Estate Owned (REO) property.

5.16 APPRAISAL METHODOLOGY

Real estate appraisers make judgments about a property's value based on many factors, including location, market conditions, construction quality, and amenities. Single Family Housing Appraisals require one, two, or three approaches to value, as described below, depending on the specific assignment.

- **Sales comparison approach.** Under this method, the appraiser uses the recent sales data of properties that are comparable in location and characteristics to the security property in order to estimate a market value for the property.

- **Cost approach.** Under this method, the appraiser derives an estimate of value using replacement cost estimates for the improvements, less depreciation and an estimate of the site value. The appraiser will identify the source of cost estimates, such as Marshall and Swift, used in the cost approach. The methodology used to estimate depreciation must be stated in the report. This method is required for new properties or properties that are less than one year old. The remaining economic life must be stated for all properties.

- **Income Approach**. Under this method the appraiser derives a value indication for an income-producing property by converting its anticipated benefits (cash flows and reversion) into property value. This conversion can be accomplished in two ways. One year's income expectancy can be capitalized at a market-derived capitalization rate or at a capitalization rate that reflects a specified income pattern, return on investment, and change in the value of the investment. Alternatively, the annual cash flows for the holding period and the reversion can be discounted at a specified yield rate. This method may only be used for Agency Non-Program Real Estate Owned Properties.

The appraisal must be completed using Fannie Mae Form1004/Freddie Mac Form 70, *"Uniform Residential Appraisal Report,"* for all one-unit, single family dwellings; Fannie Mae Form 1004C/Freddie Mac Form 70B, *"Manufactured Home Appraisal Report,"* for all manufactured homes; or Fannie Mae Form 1073/Freddie Mac Form 465, *"Individual Condominium Unit Appraisal Report"* for all individual condominium units.

5.17 ORDERING APPRAISALS

A. When Appraisals Are Needed

An appraisal is always required if the RHS loan is $7,500 or more and the Agency's debt plus prior liens against the property will exceed $15,000. (Another lender's appraisal is acceptable when the loan is part of a leveraging strategy under certain circumstances as described in Chapter 10.) If the total indebtedness against the property is less than or equal to $15,000, an appraisal is not required if the Loan Originator is confident that the property has sufficient value to serve as adequate security. Total indebtedness includes any prior liens on the property. The Loan Originator should include a statement of the property's value in the case file whenever an appraisal is not completed.

For subsequent loans, no appraisal is required if the loan is less than $7,500 and is for minimal essential repairs needed to ensure that the dwelling is decent, safe, and sanitary. An appraisal is not required when a subsequent loan is made to protect the Government's interest, regardless of the amount. The Loan Originator must include a statement of the estimated property value in the case file. If the subsequent loan is for $7,500 or more, no appraisal is needed unless the property will be taken as security and at least 1 of the following conditions exists:

- The latest appraisal report of the real estate is over 2 years old;
- The physical characteristics of the property have changed significantly;
- The Loan Originator is uncertain of the adequacy of the security; or
- The subsequent loan is in connection with a transfer of an existing loan.

B. Program Responsibilities

In accordance with RD Instruction 2024-A, contract services shall not involve decision making or other inherently Governmental functions. Accordingly, prior to initiating procurement action of appraisal of single family housing residential property, program personnel will conduct an on-site inspection of the dwelling and/or building site. The purpose of the inspection is to determine the following:

1. Suitability of the dwelling and/or site for retention in the program in accordance with 7CFR Part 3550.

2. Eligibility of the dwelling and/or site in accordance with 7 CFR Part 3550.

3. Environmental program compliance in accordance with RD Instruction 1940-G.

4. Repairs necessary to ensure the property meets the Agency's lending requirements. This list of repairs will be provided to the appraiser for the purpose of ensuring the appraisal reflects the "as-improved" value.

C. Required Information

When the Loan Originator or Staff Appraiser orders an appraisal, the appraiser should be provided with: (1) a copy of the option or sales agreement, with a legal description of the property; (2) a direction map; (3) certified building plans and specifications, and repair estimates, if applicable; (4) existing surveys; (5) a copy of the existing title; and (6) tax bills or assessments.

The applicant has until the expiration of their Certificate of Eligibility, as described in Paragraph 4.25, to present this information to the Loan Originator. Originals of this information should be kept in the case file, with copies provided to the appraiser.

D. Appraisal Disputes

In situations where an applicant disputes the results of the appraisal, the Loan Originator will send Handbook Letter 17 (3550), *Adverse Decision Involving an Appraisal*. Handbook Letter 17 informs the applicant of their opportunity to review the appraisal with the Local Office.

It also explains the applicant's right to a State Director review of the appraisal. If the State Director's review concurs with the original appraisal, the Loan Originator will send Handbook Letter 18 (3550), *Unfavorable Decision after State Director Review of an Appraisal*, with the appropriate attachment, to the applicant.

5.18 SELECTING AN APPRAISER

When a contract appraiser is to perform the appraisal, the contract appraiser must be selected following Agency contracting requirements. This may be achieved using a BPA or a Request for Contract services.

A. Blanket Purchase Agreement

A BPA allows the Agency to maintain a list of eligible contractors that can be engaged at any time. Regarding the BPA list of approved appraisers:

- The CO should develop a BPA list in accordance with Agency contracting procedures.
- When a contractor is needed, the Staff Appraiser or Loan Originator can contact an appraiser on the BPA list. At this time, the Staff appraiser or Designated Employee should:
  - ❖ Confirm that the contractor's price for the appraisal is within an acceptable range (based on experience with local costs).
  - ❖ Confirm that the appraiser can complete the appraisal within the required timeframe.
  - ❖ If the appraiser cannot meet these two criteria, the next appraiser on the list should be contacted, and the process should be repeated. When using the BPA list, appraisal staff or designated employee should make full use of the entire list. It is a good practice to rotate through the list to offer different appraisers the chance to perform the contract appraisal each time an appraisal is needed.

B. Request for Contract Services

The Agency may obtain appraisal services through a request for contract services. In this case, contracting staff will solicit bids for services and select the lowest responsive bid in

accordance with standard Agency contracting procedures. The CO will use the Statement of Work (SOW), developed by the appraisal staff, as the basis for the bid solicitation and the contract.

Once a contractor is selected, the CO or Contracting Officer Representative (COR) should arrange a post-award meeting with the contractor as described in Section 5.19 A.

5.19 WORKING WITH THE APPRAISER

A. Post-Award conference with the Appraiser

Before authorizing the contractor to start work, the COR should discuss the contract SOW with the appraiser to ensure that the work to be performed is well understood. This may be done by telephone or in a face-to-face meeting. Following the discussion, the COR must provide the appraiser with the following items:

- Statement of Work. The SOW should include all the information that the appraiser needs to determine the scope of work of the appraisal assignment. This includes information on the purpose and intended use of the appraisal as well as all pertinent property information. See paragraph B below for a complete description of the information included in the SOW.

- List of repairs if an “as-improved” value is requested.

- Agency appraisal regulations and instructions. The appraiser should be provided with instructions for accessing, via the internet, 7 CFR Part 3550, and this chapter of the handbook.

B. The Statement of Work

At a minimum the SOW should describe the following:

- The intended use and intended users of the appraisal.

- The types of value required.

- Required submissions. The SOW should specify the number of copies to be delivered, the address (es) to which the reports should be sent and the deadline for delivery. Acceptance of electronic submissions will be determined by the State Director.

5.20 APPRAISER RESPONSIBILITIES

The appraiser must provide the required estimates of value on the appropriate form. The appraiser may also be asked to provide a list of repairs deemed essential for the property to be made decent, safe, and sanitary.

If an appraiser observes potential contamination from hazardous substances, hazardous wastes, or petroleum products on the property, or obtains other information about such contamination, that information should be provided to the Agency together with an indication of its potential impact on the value of the property. The Loan Originator must initiate the due diligence process by completing a *Transaction Screen Questionnaire* (TSQ), ASTM E-1528. The completed TSQ must be sent promptly to the State Environmental Coordinator for further evaluation and guidance.

In-house appraisers must document comparable sales or complete *Form RD 1922-12*, *Nonfarm Tract Comparable Sales Data* for each comparable property considered. The in-house appraiser may use data from existing comparable sales or copies of *Form RD 1922-12* in conducting the sales comparison approach if the information is current and appropriate.

5.21 REVIEWING APPRAISALS

Appraisals will be reviewed for accuracy through a combination of administrative review and random spot-checks by State Appraisal Staff and Field Staff who have been assigned to this task. If an appraisal is found to be unacceptable by any review, other than a post review, the original appraiser can make corrections or a new appraisal can be ordered. The appraisal report must be acceptable before the loan-making process can continue.

A. Administrative Review

Administrative reviews are performed by the Loan Approval Official. They are to be performed on all contract appraisals and the contract appraiser's invoice cannot be paid until the appraisal review is complete. This review determined if there are inconsistencies in the appraisal report that warrant a future review of the property and the sales contract prior to loan approval, or if a technical review should be conducted by the staff appraiser prior to paying the appraiser's

invoice. Indicators that a future review may be required consist of the following: (1) Photos and maps are not consistent with the information provided in the appraisal; (2) Large variances in actual and effective age are not supported; (3) Comparables are located outside of the subject's market area or they are superior/inferior to the subject warranting adjustments that will inflate the final value; (4) Sales and Financing concessions are not reported or comparables are not properly adjusted when they are reported; (5) History of the subject property was omitted or not analyzed; and (6) Inconsistent information in the appraisal. *Form RD 1922-15, Administrative Appraisal Review for Single Family Housing* should be used for this review. Once completed, the form should be signed, dated, and forwarded to the State Appraisal Staff. The review should be completed as soon as possible, but must be completed within 7 days of receipt of the appraisal.

B. Technical Review

A technical review is performed to determine whether the appraisal was complete, was clearly reasoned, and had adequate support for the conclusion of value. Technical reviews are performed by Agency licensed appraisers. Technical reviews completed by Agency appraisers must follow current USPAP requirements which can be found at www.appraisalfoundation.org.

Technical reviews are completed for the first appraisal conducted by any contract appraiser. At the discretion of the State Appraisal Staff, additional technical reviews may be ordered if concerns were encountered on the first technical review. In addition to the initial review, technical reviews will be done in a random, spot-check method established by the State Director for both contract and in-house appraisals.

A technical review also may be requested by the Loan Approval Official when concerns are detected by the administrative review. These concerns must be significant and/or result in an appraisal that does not support the value. The concerns will be documented on *Form RD 1922-15*. The State Appraisal Staff must determine if the concerns merit a technical review before the appraiser can be paid or the loan approved.

C. Field Review

Field reviews involve on-site visits to the subject property and the comparables, and are completed by State Appraisal Staff on a random, spot-check basis to determine whether the contract appraiser has followed accepted appraisal techniques and arrived at a logical conclusion. Field reviews will be performed for each appraiser that does multiple appraisals in a 12-month period as determined by the State Director. Each contract appraiser should be

reviewed at least once in a 3-year period. When an applicant appeals the results of an appraisal, a field review will be completed prior to the appeal hearing. A *USPAP Standard 3 Review* is used for field reviews, as well as for technical reviews.

5.22 PAYING FOR APPRAISALS

The Agency will charge a $425.00 fee for each loan application that requires an appraisal. Within 3 business days of receiving a completed application, the Loan Originator will provide the applicant with *Form RD 440-58, Estimate of Settlement Costs*, which includes the amount of the appraisal fee.

At the applicant orientation described in Paragraph 8.6 A.1., the applicant must decide whether to finance the appraisal fee or pay it out of their own funds. If the fee is financed, the Loan Originator should include it in *Form RD 1940-41, Truth in Lending Statement*. In these cases, the total indebtedness may exceed the property value and Area Loan limit by the amount of the appraisal fee.

The Agency may waive the fee for appraisals done for subsequent loans needed to make minimal, essential repairs necessary to protect the Government's interest, or for leveraged loans if a participating lender is obtaining an appraisal that is acceptable to the Agency.

If there is a conditional commitment, the appraisal fee should be paid to the contractor at closing as reimbursement for the cost of the appraisal that was included in the conditional commitment fee.

5.23 APPRAISALS IN REMOTE RURAL AREAS, ON TRIBAL LANDS, OR WHERE THERE IS A LACK OF MARKET ACTIVITY

In remote rural areas, on Tribal lands, or areas with a lack of market activity it may be difficult to obtain adequate comparables to appraise a property. In these areas, the sales comparison approach is not required. Instead, *Form 1007, Marshall and Swift Square Foot Appraisal Form* must be used. These appraisals may be conducted by Agency staff appraisers or by contract appraisers.

Remote rural areas are identified by the State Director and are defined as areas with all of the following characteristics:

- Scattered population;
- Low density of residences;

- Lack of basic shopping facilities;
- Lack of community and public services and facilities; and
- Lack of comparable sales data.

The results of the cost analysis completed using *Form 1007* should be documented on the *Uniform Residential Appraisal Report* and efforts to obtain comparable market data must be documented in lieu of the sales comparison approach. External depreciation based on the remoteness of the site must not be considered; however, factors that impact the site such as immediate proximity to a feedlot, factory, or other similar considerations should be included. When a market is established in these areas, the Agency will again require complete appraisals.

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SECTION 6: MANAGING CONSTRUCTION

5.24 DESIGN

A. Disseminating the Standards

The applicant needs to know the standards the dwelling must meet before the design process begins. The Loan Originator should advise the applicant of the Agency's rehabilitation or construction standards.

The applicant and/or designer should also be provided with *Form RD 1924-2, Description of Materials*, prior to loan approval. This form may be used by the designer as a basis for preparing specifications. When other suitable specifications are available which will adequately describe the materials, equipment, and fixtures to be used on the job, this form need not be used.

B. Review and Approve the Drawings and Specifications

Once the drawings and specifications are finished, the Loan Originator should review them to ensure that they have been certified as meeting the Agency's minimum standards contained in RD Instruction 1924-A. The plans, specifications, calculations, and any modifications should be certified by the design professional on *Form RD 1924-25, Plan Certification,* to ensure that the appropriate codes and standards are met. If all applicable requirements are met, the Loan Originator may accept the documents. If they do not meet the applicable requirements, the Loan Originator should inform the applicant and designer, in writing, of the deficiencies or discrepancies. Once these issues are resolved, the Loan Originator should review the drawings and specifications again.

5.25 PREPARING FOR CONSTRUCTION

A. Selecting the Contractor

The applicant should select the contractor who will build or rehabilitate the dwelling. The contractor must have a valid State contractor's license if required in the State, and such license must be documented by the Loan Originator. The Loan Originator must also verify the validity of the license with the appropriate State entity and document the applicant's file. For new construction, the applicant will usually have a contractor in mind. For rehabilitation, the applicant should solicit a minimum of 3 bids, when this is feasible. If there is not a sufficient number of contractors in the area, the Local Office must be sure to review the bids that are obtained to ensure the bids are reasonable. A detailed set of specifications must be developed

prior to obtaining bids. Detailed Specifications must include a complete breakdown on materials and labor and describe the quantity, quality, grades, styles, model numbers, etc. to clearly identify the work and materials to be furnished. Bids should be solicited based on the developed set of specifications. Occasionally, the applicant may need help to find a suitable contractor. If the Agency maintains a list of contractors, this list can be provided.

If the applicant selects a contractor with whom the Field Office is not familiar, the Loan Originator should:

- Interview the contractor and inspect homes they have recently built;
- Obtain a certified financial statement;
- Obtain, at the contractor's expense, a commercial credit report on the firm and consumer credit reports on each of the principals for contractors that are for-profit individuals, partnerships or corporations. For non-profit organizations, a credit report will only be obtained for the organization and not for any of the principals;
- Check with the local consumer protection agency or Better Business Bureau for any complaints about the builder; and
- Talk to other homeowners about their experiences with the builder.

B. Pre-Construction Conference

Once the contractor has been selected, the Agency, the applicant, the designer (if applicable), and the contractor should hold a pre-construction conference. The purpose of the conference is to ensure that each party understands their respective roles and responsibilities. The parties should review the drawings and specifications to make sure everyone understands the scope of work, construction/thermal standards, environmental mitigation requirements, materials, inspection, change orders, and payment procedures.

For new construction, the Loan Originator should provide Exhibits F and G of RD Instruction 1924-A to the contractor at or before the preconstruction conference. These exhibits give details on the completion assurance (surety) that the contractor can elect to obtain. The Loan Originator also should provide the "*Equal Employment Is The Law*" poster, which explains the requirements of applicable fair labor standard laws to the contractor to post at the construction site.

The Loan Originator should prepare an agenda before the meeting and take minutes during the meeting. All parties should review and sign these minutes to indicate their approval. The Loan Originator may use *Form RD 1924-16, Record of Pre-Construction Conference,* as a

basis for preparing the agenda and recording the minutes, but the form itself is not a required document.

To prepare for loan closing, the contractor and applicant should undertake any pre-construction activities necessary to ensure that construction can begin shortly after closing. This might include getting building permits and lining up material suppliers.

C. Construction Contract

For new construction, a written construction contract is always required. Written contracts are strongly recommended for all rehabilitation-related construction, and are required if there is construction work involved that would affect the dwelling's structural integrity (otherwise, a rehabilitation plan with cost estimates and specifications may be used). The applicant and contractor must sign the construction contract at the loan closing, or within 5 business days after closing.

The Agency is not a party to this contract; however, the Agency provides many forms that should be used and attached to the contract, including:

- *Form RD 1924-6, Construction Contract*;
- *Form RD 400-1, Equal Opportunity Agreement*;
- *Form RD 400-3, Notice to Contractors and Applicants*; and
- *Form RD 400-6, Compliance Statement*.

D. Department of Labor Notification

For contracts greater than $10,000, the Loan Originator must prepare a letter within 10 days after the contract is signed to notify the U.S. Department of Labor (DOL) of the execution. The letter notifies the U.S. Department of Labor of the contract period and amount, and the contractor's name, address, and employer identification number. Exhibit C of RD Instruction 1901-E provides a format for the Loan Originator to use. To obtain the most current regional address, visit the DOL web site at http://www.dol.gov/esa/contacts/ofccp/ofcpkeyp.htm.

5.26 CONSTRUCTION PERIOD

Once the construction contract is in place, construction can begin. All construction work should be inspected periodically in accordance with RD Instruction 1924-A to

ensure that the work is done properly. An adult member of the household should attend all inspections and be available to sign checks for the work performed.

A. Qualified Inspector

Borrower's Responsibility for Inspection

The borrower is responsible for making inspections to protect his or her interest. The Agency's inspections are not intended to assure the borrower that the house is built according to the approved plans and specifications.

Construction work may be inspected by the Loan Approval Official, the Loan Originator, or a qualified third party. The Agency inspector must be qualified to do a construction inspection. A qualified third party includes a State-licensed inspector who inspects property according to a model code acceptable to the Agency, or an inspector certified by one of the following:

- International Congress of Building Officials (ICBO);
- Southern Building Code Congress International, Inc. (SBCCI);
- Building Officials and Code Administrators International, Inc. (BOCA); and/or
- Council of American Building Officials (CABO).

If inspections are conducted by a third party, the inspector should submit periodic inspection reports to the Agency (as described below). In the case of a county building inspector, the Loan Originator should request copies of the inspector's reports to be maintained in the file.

B. Periodic Inspections

The number and timing of inspections varies by the type and extent of work performed.

- **New construction and rehabilitation.** The Agency's inspector may conduct as many inspections as necessary, but a minimum of 3 generally are required: (1) footings while under construction; (2) after the dwelling is framed-in; and (3) a final inspection once all work is complete. In some cases, such as when rehabilitation only involves replacing a roof, the footing inspection is not required.

New Dwellings

If the borrower is purchasing a new dwelling, the Agency may accept the dwelling as "decent, safe, and sanitary" as long as the contractor provides a Certificate of Occupancy or other documents deemed acceptable by the State Office. The certificate alone, however, is not sufficient to justify 100 percent loan-to-value.

After each inspection, the inspector should complete and maintain in the file *Form RD 1924-12, Inspection Report*.

- **Minor rehabilitation.** All rehabilitation work must be inspected, but the Agency does not prescribe guidelines for inspecting rehabilitation work that does not involve new construction (such work might include repairing walls, painting, or installing carpet). The inspector should inspect the work at intervals that are appropriate for the extent of the repair work. Each Field Office should set its own schedule for inspections. The Loan Originator should maintain a record of the inspections conducted with the results. The inspector may use *Form RD 1924-12*, or another format that provides comparable information.

- **Environmental requirements.** If environmental mitigation measures are required, the Agency's inspector should follow up on the implementation of such measures and document compliance on *Form RD 1924-12*. Noncompliance with environmental mitigation measures should be reported to the Loan Originator and State Environmental Coordinator promptly.

C. Partial Payments

Example - Partial Payments

A contractor submits a payment request for $25,000 for work completed. The loan official prepares a payment for $15,000 (60 percent of the request), and withholds $10,000 (40 percent).

Partial payments for work completed can be issued after each inspection. The contractor and Loan Originator establish a draw schedule before loan closing. This schedule identifies when partial payments may be made, based on the amount of work completed. The amount of the payment is typically based on the value of the work, according to Exhibit A of RD Instruction 1924-A, or the Marshall and Swift guidelines. To ensure that all work will be satisfactorily completed, 40 percent of each payment request is typically withheld until the work is complete and final payment is made, as described in Paragraph 5.27. The amount withheld can be reduced to 10 percent if the contractor obtains a Surety Bond, Performance Bond, or Payment Bond, but this is extremely rare.

D. Changes During Construction

If changes to the approved drawings and specifications are required during construction, the applicant and contractor must sign *Form RD 1924-7, Contract Change Order*. All modifications must be certified on *Form RD 1924-25, Plan Certification*, if the modification is regulated by the applicable development standard. Before signing it, however, the Loan Approval Official must review and sign the change order to ensure that the change fits within the approved loan amount.

If the change order does not fit within the approved loan amount, several courses of action are possible:

- If the change is necessary and the borrower has repayment ability, the Agency may make a subsequent loan for the amount required to pay for the change;
- The scope of work may be scaled back to accommodate the change;
- The Agency may increase the loan amount if it can be supported by the appraisal, the cost of the property remains below the applicable area loan limit, and the borrower has repayment ability; or
- The borrower may be required to provide additional cash.

The environmental review for the project must be amended if there are changes to plan and specifications during construction (with or without the provision of additional financial assistance), which will alter the purpose, operation, location, or design of the project as originally approved.

5.27 CONSTRUCTION CLOSEOUT

Once construction and rehabilitation work is satisfactorily completed, the Agency will make final payment to the contractor. Before that can occur, the Loan Originator must ensure that the work has been done properly and that no one will make any claims against the property (such as dissatisfied subcontractors). The Agency provides several forms to help the Loan Originator close out the construction process, as listed below.

- **Certificate of Contractor's Release.** *Form RD 1924-9, Certificate of Contractor's Release* must be signed by the contractor; it certifies that the work has been completed according to the drawings and specifications and the Agency's standards.
- **Release by Claimants.** The contractor must have each subcontractor used during construction sign *Form RD 1924-10, Release by Claimants*. It certifies that the contractor has paid each subcontractor and that there are no outstanding claims against the property for work performed.
- **Builder's warranty.** A warranty is a guarantee of the quality of work or materials. The Agency must have a copy of 1 of the 2 acceptable forms of builder's warranties as listed below (the applicant keeps the original).

◊ *Form RD 1924-19, Builder's Warranty* is a 1-year warranty provided to the borrower by the contractor after the construction work has been accepted by the borrower and the Agency. A builder's warranty is issued for new construction (or rehabilitation involving construction) that has had appropriate periodic inspections conducted by the Agency (or third party). The warranty guarantees that the builder will repair or replace any defects in materials or construction that occur within 1 year from the date of acceptance. CSC will be responsible for notifying the borrower of the expiration of the builder's warranty within eleven months of acceptance of the final inspection.

◊ An insured 10-year warranty, as described in Exhibit L of RD Instruction 1924-A, is an insurance policy issued by a third party. It is purchased by the builder and insures the borrower against builder defaults and/or major structural defects. This policy is typically used when the borrower is purchasing an existing, newly constructed dwelling and the Agency does not have acceptable documentation of construction quality.

- **Other documentation.** The Agency should maintain the following documentation, if applicable:

  ◊ Certificate of Occupancy (in some localities, a certificate of occupancy from the local regulatory agency is required before a new or renovated structure may be occupied);

  ◊ Copies of building permits;

  ◊ *Form RD 1924-25, Plan Certification*;

  ◊ Certifications regarding the adequacy of all systems, as described in Paragraph 5.7 A.; and

  ◊ Additional certifications and warranties, including insulation, carpet, and major appliances.

  ◊ Thirty days after the final inspection and issuance of the Builder's Warranty, the Loan Originator will send Guide Letter 1924-1 of RD Instruction 1924-F informing the borrower that financial assistance may be available to them under the Compensation for Construction Defects Program.

5.28 SPECIAL SITUATIONS

A. Funds Remaining After Completion

When all planned construction or rehabilitation work has been completed, remaining loan funds may be used for any additional authorized loan purposes agreed upon by the applicant and the Agency. The Loan Originator must document the purposes for which the funds disbursed to the borrower will be used. The Loan Originator should adjust the development plan accordingly. Once the work is complete, the Loan Originator should maintain documentation of the work performed, such as invoices and receipts for materials, equipment or supplies. If no agreement can be reached, the Agency should apply the funds to the borrower's outstanding principal balance.

B. Construction Work that Cannot be Completed

If construction or rehabilitation work cannot be completed because the contractor is unable or unwilling to do so, and the applicant is unable to obtain another contractor (even with the Agency's assistance), funds should be applied to reduce the borrower's principal balance.

C. Deceased Borrowers

If a borrower dies before funds are disbursed for completed construction or rehabilitation work, the Loan Originator may authorize payment for work completed when there is written evidence (such as a letter) that the work was accepted as complete and satisfactory by the borrower or an authorized representative, and an authorized Agency representative has inspected the work and found it satisfactory. The authorized representative can endorse the check on behalf of the deceased borrower. If there is no authorized representative or the contractor files a mechanics lien, advice from the Office of the General Counsel (OGC) should be sought to ensure the Agency's interests are protected.

D. Compensation for Construction Defects

For newly built dwellings, the Government may pay for major defects in dwelling construction that are not repaired adequately by the builder (such defects are usually the result of poor workmanship and the contractor refuses to repair the defect or the repairs are inadequate). To be eligible, the borrower must submit a claim to the Field Office within 18 months after the date the borrower signs the final inspection report. Guidance on how to notify borrowers of this policy, as well as instructions on how to implement the policy, can be found in RD Instruction 1924-F. This option should only be used as a last resort after all other actions to correct the defects have failed.

ATTACHMENT 5-A

CHECKLIST FOR INITIAL ASSESSMENT OF EXISTING HOUSING

_____ _____
Applicant's Name Property Address

This checklist can be used for an initial assessment of an existing dwelling. Check "Yes" or "No" to indicate whether each element is in satisfactory condition. If an element does not exist, note "NA" in the comments column. If you need additional space to describe your observations, use the attached comment sheet.

Yes	No		Comments
		1. Streets. The site is accessible from a hard surfaced or all weather road in compliance with local requirements.	
		2. Walks and Driveway. The driveway is adequate. The walks pose no safety hazard.	
		3. Utilities. The house has adequate, safe, dependable utilities with sufficient easements.	
		4. Foundation. The foundation is sound, with no evidence of subsidence and with no cracks, or evidence of moisture intrusion into basements, slabs, or crawlspaces. The grade at the foundation provides positive drainage away from the house.	
		5. Exterior Walls. Exterior walls do not exhibit signs of structural fatigue, failure, or excessive bowing. The siding is free of any rot or paint that is loose, peeling, chipping, scaling, or cracking. Vinyl or aluminum siding is free of mildew. Brick or stone veneer is sound and exhibits no displacement.	
		6. Exterior Doors And Trim. All exterior doors, including sliding doors, have functional locks. All exterior doors are energy efficient, and are in good repair, including hardware.	
		7. Garages. The garage is in sound condition with no obvious defects. The garage door is functional. If the garage is an attached garage the required 1 hour fire wall is in place and properly maintained.	
		8. Porches/Decks. The porches/decks are sound with no deterioration.	

Yes	No		Comments
		9. Roof. The roof is free of leaks. The existing roof is expected to last for a minimum of 5 years.	
		10. Gutters And Downspouts. The gutters and downspouts are installed properly with splashblocks at the end of each downspout.	
		11. Framing. Floor, subflooring, ceiling joists, and partition framing are sound and exhibit no structural deficiencies.	
		12. Interior Walls And Ceilings. The walls and ceilings exhibit no bowing, sagging, or obvious defects. Wallcovering is adequate, with no loose, scaling, peeling, or chipping paint.	
		13. Interior Doors And Trim. The doors are free of holes and other serious damage. Trim is sound, with no broken or missing pieces.	
		14. Windows. The windows are functional and adequate and are energy efficient. There is no broken or cracked glazing, or loss of glazing compound, and all windows are lockable. Bedroom windows meet egress requirements.	
		15. Floor Covering. The floor covering is not damaged, heavily worn, or soiled. The existing floor covering is expected to last for a minimum of 5 years.	
		16. Cabinets And Vanity. The kitchen cabinets and counter tops are sound, with functional doors and drawers. The bathroom vanity is sound, with functional doors and drawers.	
		17. Stairs. All stairs are sound and exhibit no structural deficiencies. All stairs with 3 or more risers have a handrail unless the state building code prescribes a different standard.	
		18. Plumbing. The plumbing is functional and adequate.	
		19. Heating And Air Conditioning. The heating and air conditioning, including exhaust fans, are functional and adequate.	
		20. Electric Wiring. The electrical components are functional and adequate.	
		21. Sump Pumps. All sump pumps are functional and in compliance with local regulations.	
		22. Pests. The house is free of termites and other wood damaging pests and organisms.	
		23. Miscellaneous. Any other factors that are noted during the assessment.	

_____ _____

Rural Development Official Date

NOTE: Any problems identified must be cured with loan funds or before loan closing.

_____

Item Number	**Additional Comments**

ATTACHMENT 5-B

SINGLE FAMILY HOUSING SITE CHECKLIST

(To be used with New and Existing Dwellings)

_____ _____

Applicant's Name Property Address

Name of Subdivision: _____

Note: If the answer is "YES," provide comments and discuss with the appropriate State Office technical staff (Architect, Engineer, or State Environmental Coordinator) for further evaluation and guidance. The presence of any of the following conditions must be considered in the appraised value.

1. *SITE SUITABILITY, ACCESS, AND COMPATIBILITY WITH SURROUNDING DEVELOPMENT*

Has the site been used as a dump, sanitary landfill, or mine waste disposal area? ( ) Yes ( ) No

Is there indication of:

	Yes	No		Yes	No
distressed vegetation	( )	( )	oil/chemical spills	( )	( )
waste material/containers	( )	( )	abandoned machinery, cars, refrigerators, etc.	( )	( )
soil staining, pools of liquid	( )	( )	transformers, fill/vent pipes, pipelines, drainage structures	( )	( )
loose/empty drums, barrels	( )	( )			

Are there other unusual conditions on site which might indicate potential for contamination from hazardous waste, hazardous substances, or petroleum products? ( ) Yes ( ) No

Note: Complete a Transition Screen Questionnaire, if a "YES" answer is given to any of the above three items, before proceeding further with this application.

Is the site compatible with surrounding area in terms of:

	Yes	No		Yes	No
Land use	( )	( )	Building type	( )	( )
Height, bulk, mass	( )	( )	Building density	( )	( )

Will the site be unduly influenced by:

	Yes	No		Yes	No
Building deterioration	( )	( )	Transition of land uses	( )	( )
Postponed maintenance	( )	( )	Incompatible land uses	( )	( )
Obsolete public facilities	( )	( )	Inadequate off-street parking	( )	( )

2. *SOIL STABILITY, EROSION, AND DRAINAGE*

Slopes: ( ) Not applicable ( ) Steep ( ) Moderate ( ) Slight

Is there evidence of slope erosion or unstable slope conditions on or near the site? ( ) Yes ( ) No

Is there evidence of ground subsidence, high water table, or other unusual conditions on the site?
( ) Yes ( ) No

Is there any visible evidence of soil problems (foundations cracking or settling, basement flooding, etc.) in the neighborhood of this site? ( ) Yes ( ) No

Have soil studies or boring been made for the site or the area? ( ) Yes ( ) No ( ) Unknown

Do the soil studies or boring indicate marginal or unsatisfactory soil conditions? ( ) Yes ( ) No

Is there indication of cross-lot runoff, swales, drainage flows on the property? ( ) Yes ( ) No

Are there visual indications of filled ground? ( ) Yes ( ) No

Are there active rills and gullies on site? ( ) Yes ( ) No

If the site is not to be served by a municipal waste water disposal system, has a report of the soil conditions suitable for on-site septic systems been submitted? ( ) Yes ( ) No ( ) Not Applicable

3. *NUISANCES AND HAZARDS*

Will the site be affected by natural hazards:

	Yes	No		Yes	No
Faults, fracture	( )	( )	Fire hazard materials	( )	( )
Cliffs, bluffs, crevices	( )	( )	Wind/sand storm concerns	( )	( )
Slope-failure from rains	( )	( )	Poisonous plants, insects, animals	( )	( )
Unprotected bodies of water	( )	( )	Hazardous terrain features	( )	( )

Will the site be affected by built hazards and nuisances:

	Yes	No		Yes	No
Hazardous street	( )	( )	Railroad crossing	( )	( )
Dangerous intersection	( )	( )	Inadequate screened drainage catchments	( )	( )
Through traffic	( )	( )	Hazards in vacant lots	( )	( )
Inadequate separation of pedestrian/vehicle traffic	( )	( )	Chemical tank-car terminals	( )	( )
Traffic way	( )	( )	Other hazardous chemical storage	( )	( )
Inadequate street lighting	( )	( )	High-pressure gas or liquid petroleum transmission lines on site	( )	( )
Quarries or other excavations	( )	( )	Overhead transmission lines	( )	( )
Dumps/sanitary landfills or mining	( )	( )	Hazardous cargo transportation routes	( )	( )
Heavy industry	( )	( )	Oil or gas wells	( )	( )
Incinerators	( )	( )	Industrial operations	( )	( )
Power generating plants	( )	( )	Cement plants	( )	( )
Oil refineries	( )	( )			

Will the site be affected by nuisances:

	Yes	No		Yes	No
Gas, smoke, fumes	( )	( )	Unsightly land uses	( )	( )
Odors	( )	( )	Abandoned vehicle	( )	( )
Vibration	( )	( )	Vermin infestation	( )	( )
Vacant/boarded-up buildings	( )	( )	Industrial nuisances	( )	( )
			Other _____	( )	( )

4. *WATER SUPPLY, SANITARY SEWERS, AND SOLID WASTE DISPOSAL*

Is the site served by an adequate and acceptable:

water supply ( ) Yes ( ) No ( ) Municipal ( ) Private;

sanitary sewers and waste disposal systems ( ) Yes ( ) No ( ) Municipal ( ) Private;

and trash collection and solid waste disposal ( ) Yes ( ) No ( ) Municipal ( ) Private.

If the water supply is non-municipal, has an acceptable "system" been approved by appropriate authorities and agencies?
( ) Yes ( ) No

If the sanitary sewers and waste water disposal systems are non-municipal, has an acceptable "system" been approved by appropriate authorities and agencies?
( ) Yes ( ) No

5. *NOISE ABATEMENT*

Is the site located near a major noise source, i.e., civil airports (within 5 miles), military airfields (15 miles), major highways or busy roads (within 1000 feet), or railroads (within 3000 feet)? ( ) Yes ( ) No

6. *AIRPORT HAZARDS*

Is the project within 3,000 feet from the end of a runway at a civil airport? ( ) Yes ( ) No

Is the project within 2-1/2 miles from the end of a runway at a military airfield? ( ) Yes ( ) No

7. *OTHER CONDITIONS*

Are there any field conditions not specified above that would adversely affect the acceptability of the lots/sites? ( ) Yes ( ) No

_____ _____
Inspected By Date

ITEM NUMBER	ADDITIONAL COMMENTS

ATTACHMENT 5-C

AMENDMENTS TO MORTGAGES WITH LEASEHOLD INTEREST

The following paragraphs must be inserted in the mortgage. The first paragraph should be placed directly before the legal description of the real estate.

> "All Borrower's right, title, and interest in and to the leasehold estate for a term of _____ years beginning on _____, 20____, created, executed and established by certain Lease dated _____, 20____, by _____, Page ____ of ____ Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate."

> "Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect."

ATTACHMENT 5-D

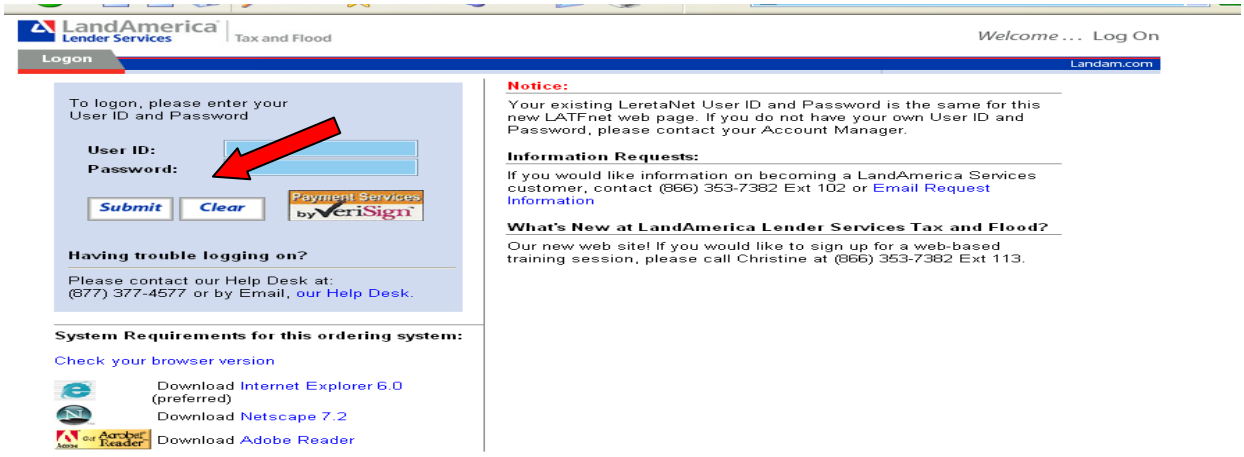
WEB ACCESS INSTRUCTIONS TO OBTAIN FLOOD HAZARD DETERMINATIONS

BACKGROUND: The Rural Housing Service (RHS) has contracted with a private vendor to provide Flood Hazard Determination Certifications through an Internet based system for **all Section 502 and 504 loans with an original principal balance more than $5,000 and a repayment term of one year or more. This also includes 504 grants more than $5000**. All files must contain a copy of the certification prior to loan approval. This service provides RHS not only with the initial determination, but will also include life-of-the-loan coverage (as new flood zones are identified, the vendor notifies the Centralized Servicing Center of the change and the requirement for flood insurance). **A Flood zone determination request should be made at the time of the initial site visit. If not, a request must be made prior to or at the time of ordering the appraisal**.

1. **Log into the web site at**: **www.LATFnet.com.**

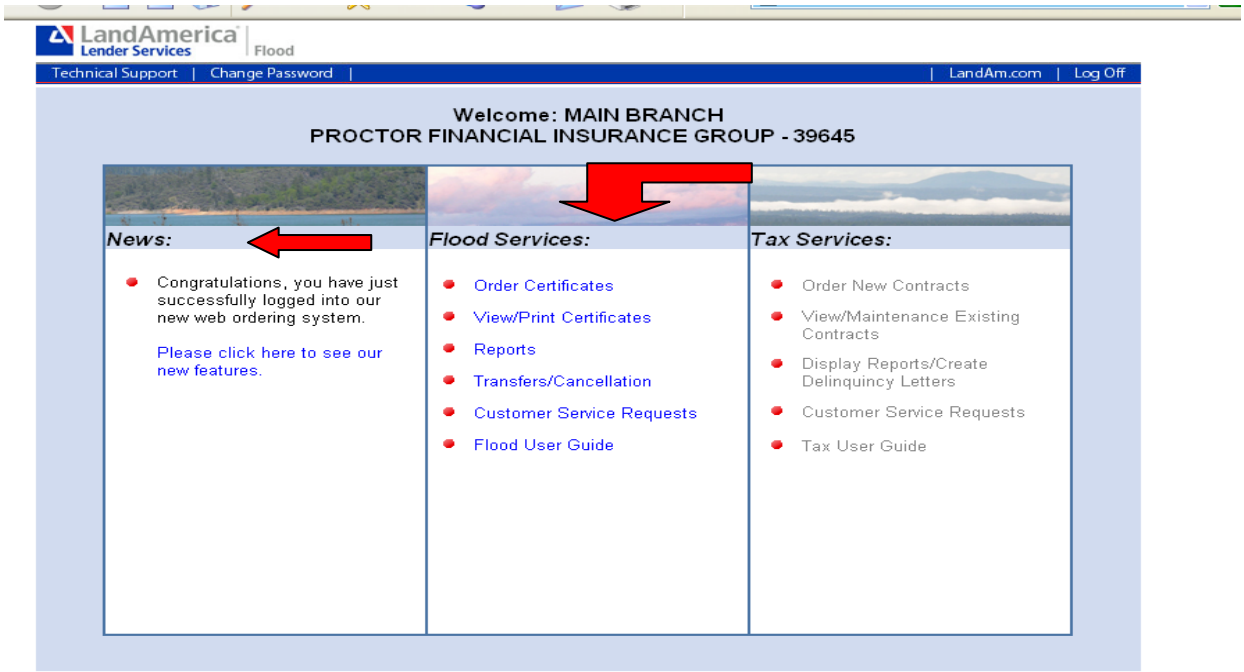
2. Individual user IDs and passwords were setup and distributed in August of 2006. To establish an individual user ID and password for an employee, the State Office should contact the Escrow and Front-End Management Branch of CSC with the employee's full name, e-mail address, office address, phone number, fax number, and five-digit servicing branch code. Existing users experiencing problems with logging into the system should call LandAmerica's Help Desk at (877) 377-4577 or by e-mail at LATFnetTechSupport@landam.com.

3. **Click** "*Submit*"



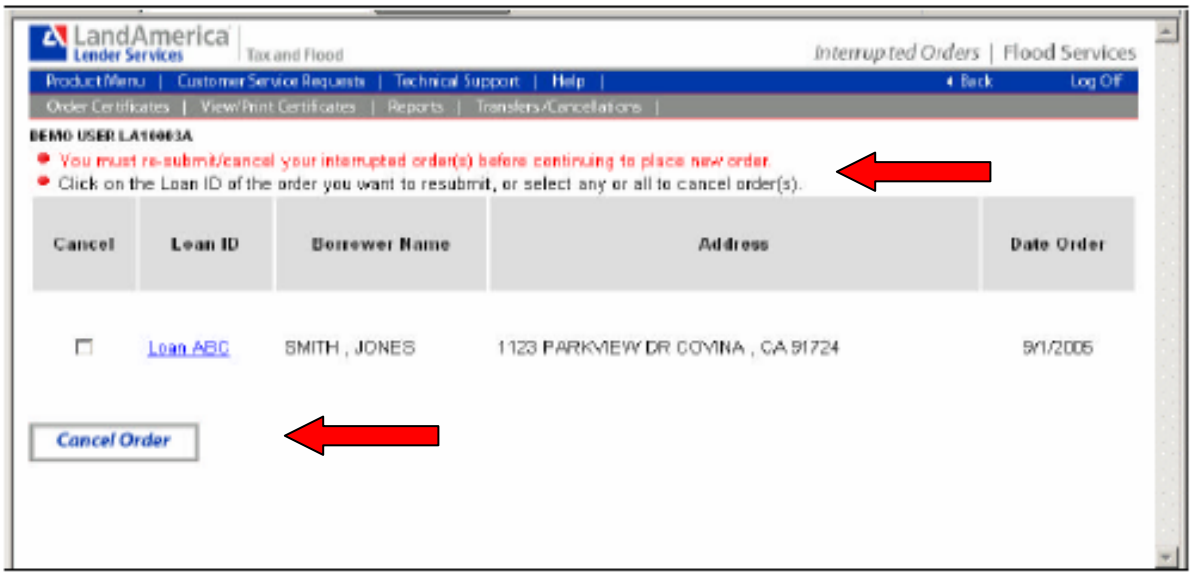
4. The Main Menu may contain five choices, "**Order Certificates," "View/Print Certificates," "Reports," "Transfers/Cancellations," "Customer Service Requests," and "Flood User Guide."**

NOTE: More detailed instruction on the web site may be found by clicking on "Flood User Guide."



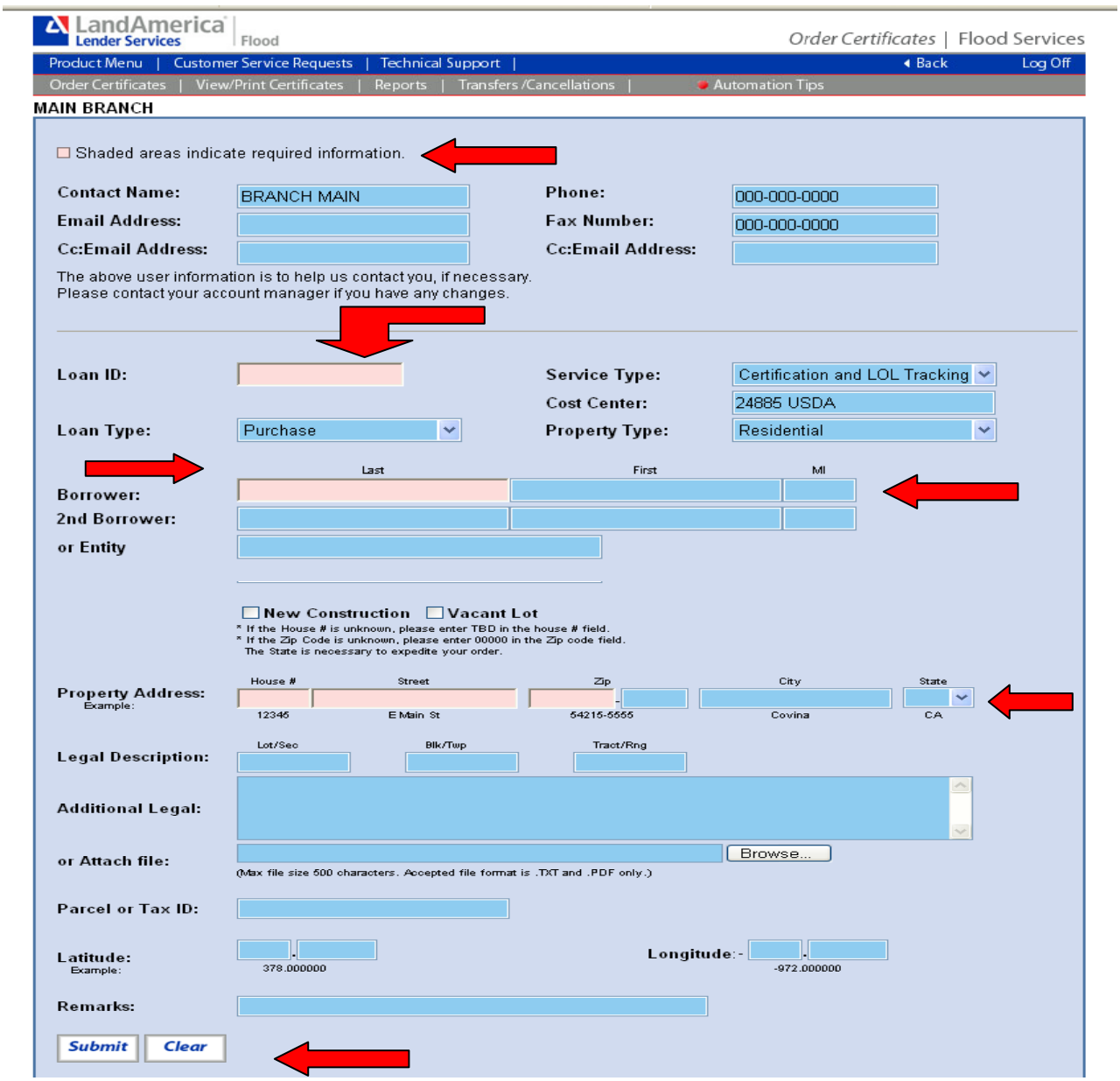
5. **News:** Visit this Main Menu option to display any new features/enhancements made to the web site before continuing with your operation.

6. **Resubmit Interrupted Orders:** This Main Branch option will display only if there was a system interruption when the order was placed. If this option is not displayed, there are no interrupted orders pending. To utilize this function, **click** "**Resubmit Interrupted Orders**" on the Main Menu. The following screen will appear:



7. Review any orders listed. You will have the choice to resubmit the order or cancel the order. To resubmit, **click** on the **Loan ID** and the original order will proceed with either an automatic or manual search. You may also **click** "*Cancel Order*."

8. **Order Certificates: Click "Order Certificate"** on the Main Menu. The following screen will be displayed:

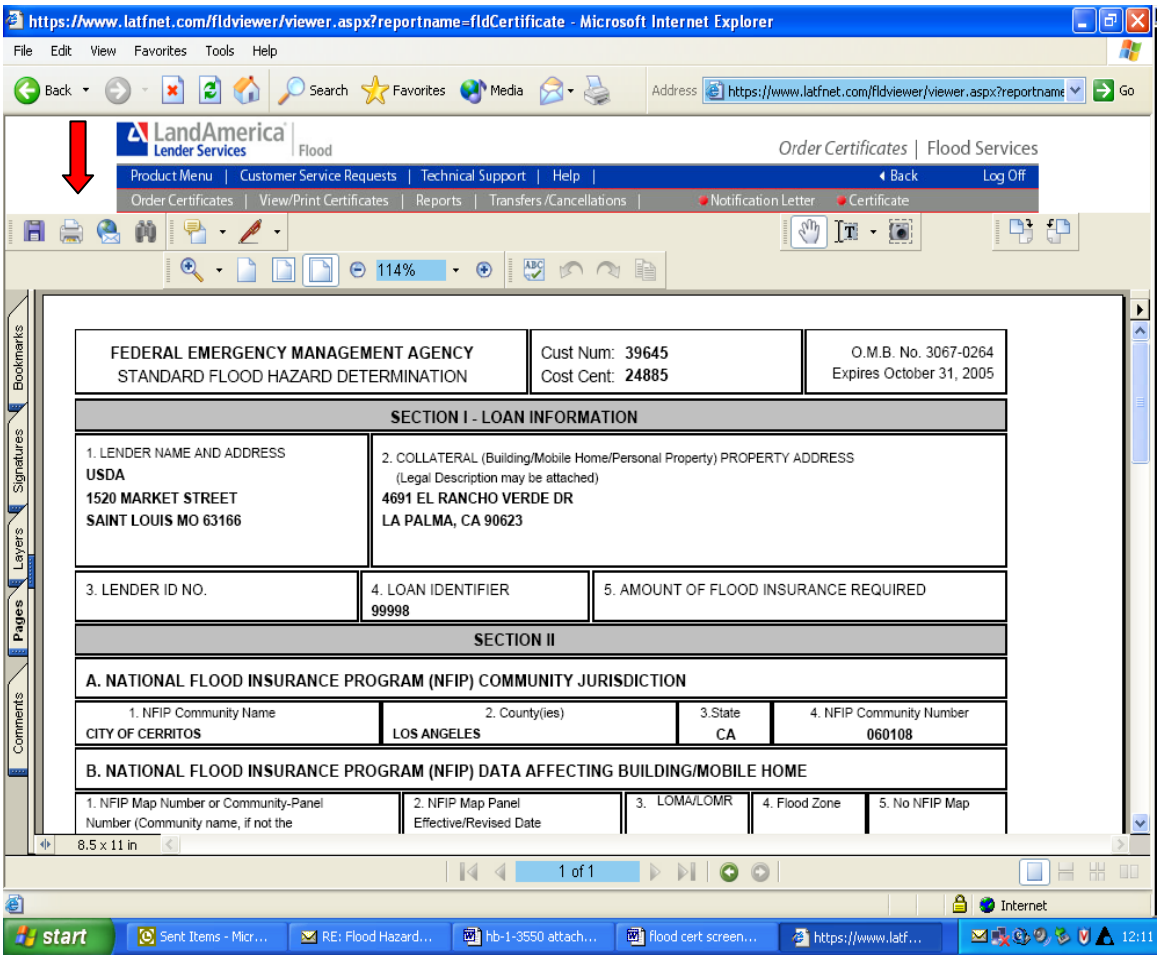


9. **Use the TAB key to move between the fields. Insert** <u>required information in the shaded areas</u>: Loan ID, Borrower Name, and Property Address.

10. The **SERVICE TYPE** field will default to "Certification and Life of Loan (LOL) Tracking."

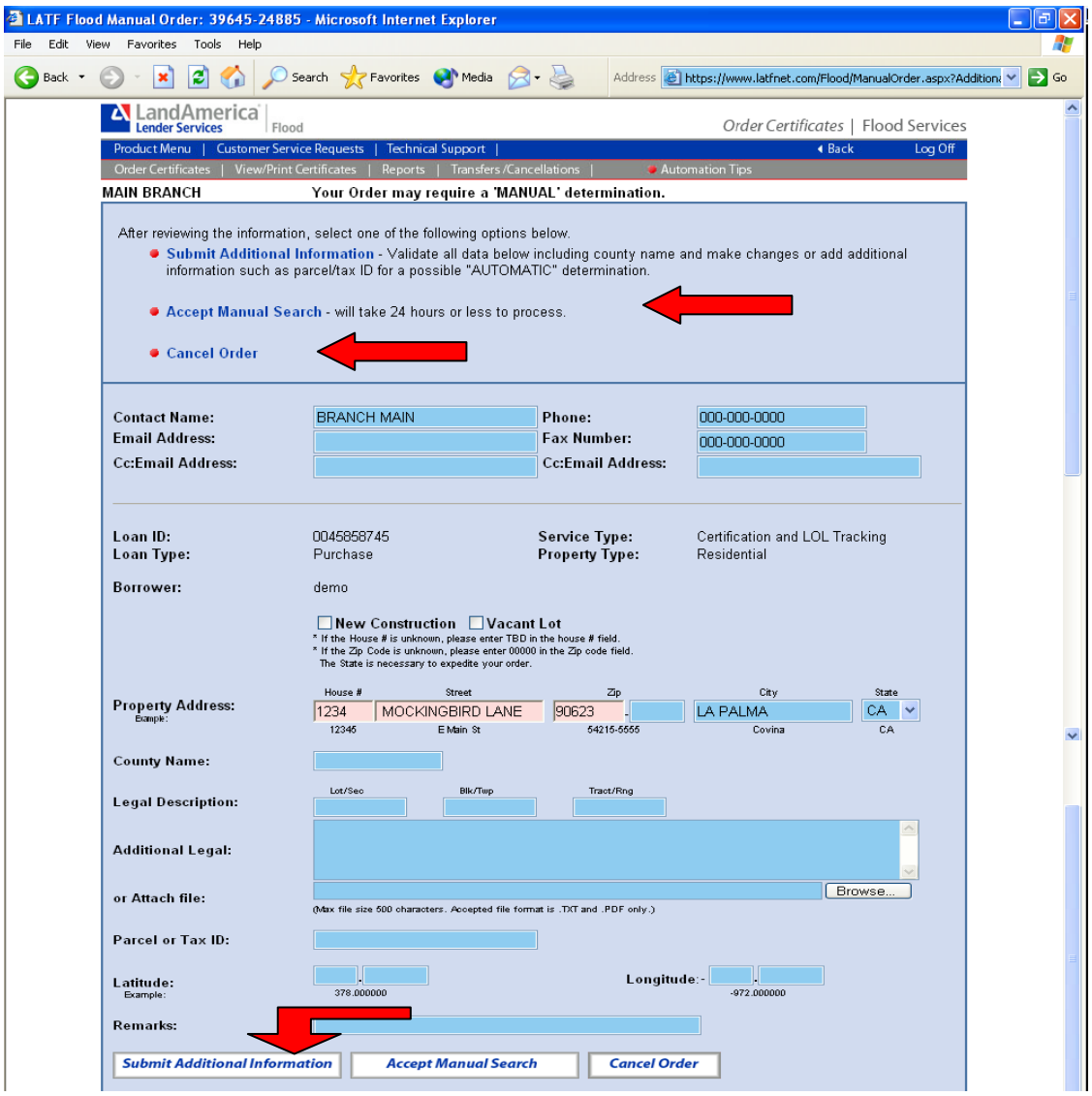
11. **Click** *"Submit"* as shown above to order the determination after all required information has been entered.

12. If the address entered is located in the database, you will be able to view and print your completed certificate immediately. The following screen will be displayed:



13. **Click** the **printer icon** in the tool bar to print the certificate. If the Standard Flood Hazard Determination does not print on one page, adjust the margin widths under the Microsoft Internet Explorer Page Setup Options.

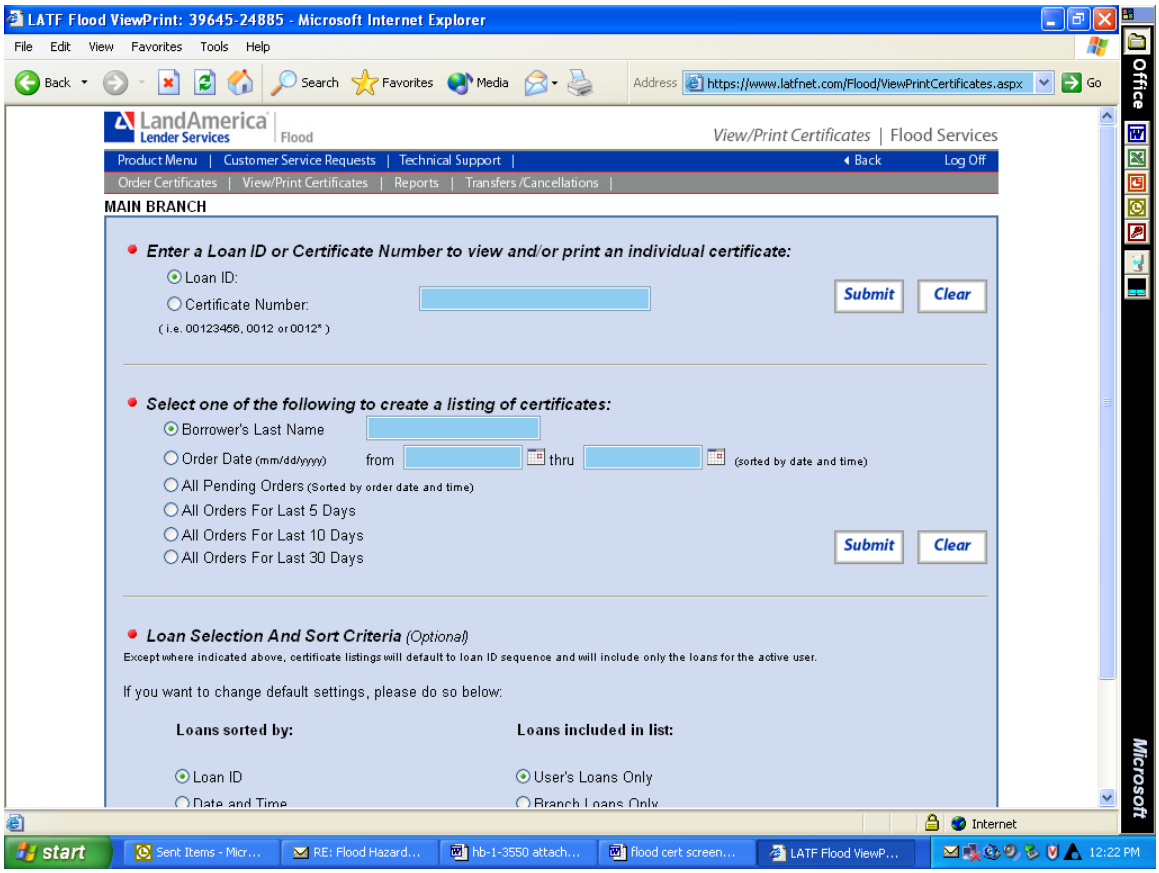
14. If the address entered is not located in the database, it will be necessary for LAFTnet to search the property manually. If necessary, the following screen will be displayed:



15. Three choices are available at this screen: "*Submit Additional Information*," "*Accept Manual Search*," and "*Cancel Order*."

16. Completed orders will be available for viewing and printing from the "*View/Print Completed Certificates*" option within 24 hours unless otherwise notified of a delay.

17. **View/Print Certificates: Click "View/Print Certificates"** from the toolbar or the Main Menu. The following screen will appear:



18. You may search for completed certificates by "*Loan ID Number,*" "*Borrower's Last Name,*" "*Pending Orders,*" or "*Order Date.*" Select the appropriate option and **click** "*Submit.*"

19. Select the desired report from the subsequent list and obtain your certificate.

20. To print, **click** the "Microsoft Internet Explorer print icon."

CHAPTER 6: UNDERWRITING THE LOAN

SECTION 1: OVERVIEW OF THE UNDERWRITING PROCESS

6.1 INTRODUCTION

The underwriting process brings together the applicant eligibility requirements discussed in Chapter 4 and the property requirements discussed in Chapter 5 with the loan and subsidy requirements that are discussed in detail in this chapter. By putting all of this information together, the Loan Originator can determine the applicant's repayment ability, whether a loan can be approved, and the amount of the loan. This chapter is structured as follows:

- Section 1 reviews the concept of underwriting;
- Section 2 describes loan terms and requirements;
- Section 3 provides policies and procedures for determining whether the applicant is eligible for payment subsidy and the amount of the subsidy; and
- Section 4 provides policies and procedures for underwriting a loan for a specific property and preparing the loan approval recommendation.

6.2 WHAT IS UNDERWRITING?

Through the underwriting process, the Loan Originator evaluates an applicant's circumstances and the condition and value of the property to determine whether making a particular loan is a prudent use of funds. Exhibit 6-1 summarizes key underwriting decisions.

Underwriting has both objective and subjective elements. For example, income eligibility is an objective factor -- if the applicant's income exceeds program income limits, the applicant cannot receive a program loan. On the other hand, analyzing an applicant's credit history and estimating the value of the property both involve some degree of judgment. The underwriter's challenge is to make both objective and subjective decisions in a fair and impartial manner for all applicants.

The Agency's underwriting standards and procedures are similar in many respects to those used by private lenders. However, because the Agency's mission, in part, is to serve home buyers who are unable to obtain private credit, the underwriting process differs in 4 key respects:

- The Agency's criteria for an acceptable credit history are somewhat less stringent than those used by private lenders;
- Agency loan-to-value requirements enable many applicants to become homeowners with little or no down payment;
- In most circumstances, the Agency has the ability to offer subsidies that enhance an applicant's ability to repay the loan; and
- The Agency conducts quality checks on new loans as well as on withdrawn and rejected applications to confirm that the Loan Originator complied with the underwriting standards and procedures. Refer to Attachment 6-C for guidance on monitoring requirements.

Exhibit 6-1

Key Underwriting Decisions

Does the Applicant Meet Program Requirements?

The applicant must:

- Have the legal capacity to enter into a loan agreement;
- Have the financial resources to repay the loan;
- Have an acceptable credit history; and
- Meet the specific requirements for participation in the program, such as eligibility based on income and citizenship status.
- A first-time homebuyer must complete a homeownership education course prior to loan closing.

Does the Property Meet Program Requirements?

The property must:

- Meet Agency standards regarding location and housing quality;
- Not have legal hindrances to the borrower's ownership of the property; and
- Have sufficient value to protect the Agency's financial investment in the property.

Does "The Deal" Work?

- Can the Agency offer loan terms and conditions that enable the applicant to afford the loan?
- Is the applicant willing and able to meet the terms and conditions the Agency can offer?

6.3 USING UNIFI TO FACILITATE UNDERWRITING

UniFi automatically completes most of the underwriting calculations discussed in this chapter. However, the Loan Originator must understand how the calculations are made, in order to enter the correct information into the system and, more importantly, to be able to explain the results to applicants.

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SECTION 2: LOAN TERMS AND REQUIREMENTS

6.4 ELIGIBLE LOAN PURPOSES AND USES *[7 CFR 3550.52]*

The Section 502 program is intended to help those who do not currently own adequate housing buy, build, relocate, rehabilitate, or improve a property to use as a permanent residence. All improvements must be on land that, after closing, is part of the security property. Eligible costs are listed below.

A. Site-Related Costs

Eligible site-related costs include:

- Providing a minimum adequate site, as described in Section 1 of Chapter 5, if the applicant does not already own an adequate site;
- Providing adequate utilities, including adequate and safe water supply and wastewater disposal facilities; and reasonable connection fees, assessments, or the pro rata installment costs for utilities such as water, sewer, electricity and gas; and
- Site preparation, including grading, foundation plantings, seeding or sodding, trees, walks, yard fences, and driveways.

B. Dwelling-Related Costs

In addition to costs for acquisition, construction, repairs, or the cost of relocating a dwelling, eligible dwelling-related costs include:

- Special design features or equipment necessary because of a physical disability of a member of the applicant's household;
- Approved energy saving materials, equipment, or construction methods (heating systems must use a type of fuel that is commonly used, economical, and dependably available);
- Storm cellars and similar protective structures; and
- Purchase and installation of essential equipment including range, refrigerator, clothes washer and/or dryer, if these items are normally sold with dwellings in the area, and if the purchase of these items is not the primary purpose of the loan.

C. Fees and Related Costs

Other eligible costs include:

- Legal fees; architectural and engineering services; costs of title clearance and loan closing services; the Agency-approved appraisal fee; surveying, environmental and tax service services; personal liability insurance fees under Mutual Self-Help Housing; and other incidental expenses approved by the Loan Approval Official (commissions, finders' fees, homeowner association fees and placement fees are ***not*** eligible costs);

- Fees for acceptable homeownership education under 7 CFR 3550.11 provided the fee does not exceed the reasonable costs determined by the State Director. Fees may be added to the loan amount in excess of the area loan limit and the appraised value of the house in cases where the borrower requests it be included in the loan;

- The buyer's portion of real estate taxes that the applicant must pay at the time of closing including delinquent taxes on a property owned by the applicant;

- Real estate taxes that become due during the construction period on houses to be built;

- The borrower's share of Social Security taxes and similar taxes for labor hired by the borrower in connection with making the planned improvements;

- Establishment of escrow accounts, including the initial escrow deposit, for the payment of taxes and property insurance premiums, except the first years property insurance premium;

- Payment of recapture amounts deferred by a former borrower;

- Costs associated with implementation of mitigation measures to ensure environmental compliance;

- For leveraged loans, lender charges and reasonable fees related to obtaining the non-Agency loan; and

- Fees to public agencies and private nonprofit organizations that are tax exempt under the Internal Revenue Code for the packaging of loan applications. The charges must be reasonable considering the services provided and the cost of similar services in the same or a similar rural area. The fee cannot exceed the amount listed in Attachment 3-A and the package must comply with the requirements outlined in the aforementioned attachment.

D. Loan Restrictions *[7 CFR 3550.52(e)]*

Agency loans cannot be used to finance properties that include in-ground swimming pools. It is not acceptable to remove a pool before or after closing to meet this requirement.

Agency funds cannot be used to purchase or improve structures designed for income-producing purposes or income-producing land. Home-based operations such as child care, product sales, or craft production that do not require specific features are not restricted.

6.5 REFINANCING

In general, Agency funds should not be used to refinance existing debt and are ***never*** to be used to refinance existing Agency debt when a property is sold to a new Agency borrower. In such cases, an assumption on new rates and terms transfers the debt to the new owner. However, refinancing is permitted in limited circumstances.

A. Refinancing Agency Debt [7 CFR 3550.52(c)]

Borrowers with Agency loans approved before August 1, 1968 or made on above-moderate or non-program terms are not eligible for payment subsidy. Borrowers with these types of loans may be permitted to refinance if the borrower is eligible to receive a program loan, the property is program-eligible, and the borrower is in danger of losing the property due to circumstances beyond the borrower's control.

B. Refinancing Non-Agency Debt *[7 CFR 3550.52(b)]*

1. Situations in Which Refinancing is Permissible

Refinancing of non-Agency debt, except for debt on manufactured homes, is permissible in 3 circumstances.

- **Refinancing for an existing home at risk of foreclosure.** An applicant who owns a home but is clearly unable to continue making payments and is at risk of losing it through foreclosure may be eligible for Agency refinancing if the delinquency is due to circumstances beyond the applicant's control, for example, loss of a job or illness. An increase in the interest rates or change in repayment terms for adjustable rate loans, interest-only loans, short-term rate locks and other forms of specialty lending are not considered to be beyond the borrower's control.

- **Refinancing for an existing home in need of repairs.** Debt on an existing home may be refinanced if the home is in need of repairs totaling $5,000 or more to correct major deficiencies and make the dwelling decent, safe, and sanitary; and refinancing is necessary for the borrower to show repayment ability. In such cases the owner need not be at risk of losing the property through foreclosure.

- **Refinancing for a site without a dwelling.** Agency funds may be used to refinance non-Agency debt on a building site without a dwelling if the debt is for the sole purpose of purchasing the site, the applicant is unable to pay the debt, and the applicant is otherwise unable to acquire decent, safe, and sanitary housing. The site must meet the conditions described in Section 1 of Chapter 5. The Agency loan must include adequate funds to construct a dwelling on the site that conforms to the requirements of Section 2 of Chapter 5, and the applicant must occupy the property once it is constructed.

In any of these circumstances, a non-Agency loan can be refinanced only if the Agency will have adequate security.

2. Eligible Debt

In general, Agency funds can be used to refinance only debt that was incurred for eligible purposes, as described in Paragraph 6.4. For applicants who are in danger of foreclosure, Agency funds also may be used to repay a protective advance made by a mortgagee for costs related to the delinquency, such as accrued interest, insurance premiums, real estate tax advances, or preliminary foreclosure costs.

The primary debt to be refinanced must be secured with a lien against the security property and must have been made at rates and terms that were customary for long-term residential financing in the area at the time the debt was incurred. Periodic changes in the repayment terms of a loan should not be the focal point for consideration of the need to refinance.

For existing dwellings, but not for sites without a dwelling, short-term or unsecured debts also may be included in the refinancing if refinancing of these debts is necessary to establish sound repayment ability, the debts were incurred for purposes that are eligible under Section 502, and they do not represent a significant portion of the loan.

3. Timing of the Debt

In general, the debt to be refinanced must have been incurred before the application was filed. Costs incurred after the application date, but before loan closing, may be refinanced if: (1) they are incurred for legal fees or other technical services related to the property, or for materials, construction or site acquisition; (2) the applicant is unable to pay the costs from personal resources or to obtain credit from other sources; and (3) failure to authorize the use of Agency funds to pay such costs would jeopardize the applicant's ability to repay the loan. The applicant should consult with the Loan Originator before incurring such expenses.

4. Verification of Debt

To verify that the debt to be refinanced meets these requirements, the Loan Originator should send *Form RD 3550-30, Verification of Debt Proposed for Refinancing*, to each creditor whose debt is proposed for refinancing. The form, which asks for account information as well as a copy of the original debt and security instrument, should be accompanied by a preaddressed, postage-paid envelope (sufficient enough to cover the cost of and large enough to hold the multiple-paged instruments) and *Form RD 3550-1, Authorization to Release Information*, which authorized the respondent to release this information.

6.6 MAXIMUM LOAN AMOUNT *[7 CFR 3550.63]*

Unless an exception is granted, a loan may not exceed the area loan limit. The loan may exceed the area loan limit in an amount necessary to cover the Agency-approved appraisal fee, the tax service fee, and any required contribution to an escrow account for taxes and insurance (excluding the first year insurance premium). Appendix 10 contains the current area loan limits.

Effects of the Area Loan Limit

Market Value of the Property. The market value of the property can not exceed the area loan limit. Market value is generally accepted to mean the price for property agreed upon between a willing and informed buyer and a willing and informed seller and/or contractor under usual and ordinary circumstances when the property is exposed for sale on the open market with reasonable time allowed to find a purchaser. This determination shall be made at the time the purchase agreement or construction package is submitted and is not dependent on the appraised value.

Maximum Loan Amount. The total amount of the Agency loan, loans from other sources, or the applicant's own funds, including but not limited to the value of the site, cannot exceed the applicable area loan limit.

Costs of Appraisal or Closing. The loan an applicant receives must not exceed the area loan limit unless the applicant chooses to finance the appraisal fee, tax service fee, or the initial contribution to fund the escrow account, in which case the loan can exceed the area loan limit by the cost of these items.

A. Granting Exceptions

The State Director, or designee, is responsible for monitoring the number and dollar amount of the exceptions made under the following paragraphs. A log similar to Attachment 6-B will be maintained on a fiscal year basis. At a minimum, the log will capture the dollar amount that exceeds the area loan limit and whether the amount is due to closing costs (other than the appraisal fee, tax service fee, or the initial contribution to fund the escrow account) or the cost of acquisition or construction.

Exceptions to the area loan limit may be granted on a case-by-case basis when the current limit is insufficient to provide adequate housing. Exceptions may be granted to accommodate the specific needs of an applicant, for example, to serve exceptionally large households or to provide reasonable accommodation for a household member with a disability. Requests for exceptions may be approved by the State Director if the cost of the property will not exceed $3,600.

To request an exception, the Loan Originator must fully document the need for the exception. If approval is granted, the Loan Originator should follow UniFi procedures to override the maximum mortgage limits.

Exceptions also can be granted for subsequent loans that may cause the entire indebtedness to exceed the area loan limit only if necessary to protect the Government's interests. The State Director can authorize subsequent loans that exceed the area loan limits to accommodate the cost of necessary repairs, reasonable closing costs, and allowable excess costs (including the appraisal fee, tax service fee, and initial deposit to fund the escrow account), without authorization from the Deputy Administrator, Single Family Housing, even if the increase exceeds $3,600.

B. Special Situations

To further ensure that only modest housing is financed, the maximum loan amount will be limited in the following situations:

1. Housing Other than Self-Help

- If the applicant owns the building site free and clear or if an existing non-Agency debt on the site will not be refinanced with Agency funds, the market value of the lot will be deducted from the area loan limit.

- If Agency funds will be used to refinance non-Agency debt on the building site, the equity (market value minus the debt owed against the site) will be deducted from the area loan limit.

- When the applicant is purchasing a site below the market value, the difference between the market value and the sales price will be deducted from the area loan limit.

- When an applicant is receiving a housing grant or other form of affordable housing assistance for eligible loan purposes other than closing costs, the amount of such grants and other affordable housing assistance will be deducted from the area loan limit.

2. Self-Help Housing

The maximum loan amount for self-help housing will be determined by adding the total of the market value of the lot (including reasonable and typical costs of site development), the cost of construction, and the value of sweat equity. The total of these factors cannot exceed the area loan limit for the area.

6.7 LOAN-TO-VALUE (LTV) RATIO *[7 CFR 3550.63(b)]*

The LTV ratio is the relationship between the amount to be financed, including all leveraged loans and grants, and the market value of the security property. The value of the property is determined using the appraisal procedures described in Section 5 of Chapter 5. A loan may exceed the LTV limitations discussed in Paragraphs 6.7 A. and B. to allow the borrower to finance certain allowable excess costs. For any Agency loan, the amount that can be financed in excess of the allowable LTV includes the Agency-approved appraisal fee, the tax service fee, and the initial contribution to the escrow account.

Allowable Excess Costs

- Appraisal fee
- Tax service fee
- Initial contribution to escrow

A. Loans for Existing Dwellings (100% LTV)

For existing dwellings, the LTV limitation for a Section 502 loan, plus any other liens on the security property, is 100 percent of value plus allowable excess costs.

B. Loans for New Dwellings (90-100% LTV)

For loans on new dwellings, the permitted LTV ratio depends upon whether the applicant provides documentation that the construction quality is acceptable to the Agency. If construction that meets the Agency standards can be documented, the LTV limitation is 100 percent of value plus allowable excess costs.

If construction quality is not adequately documented, loans for new dwellings are limited to 90 percent of the market value plus allowable excess costs.

The following are acceptable documentation of construction quality.

- The Agency has issued a conditional commitment and inspected the property, as described in Section 1 of Chapter 9.

Example - Maximum Loan Based on Loan to Value Ratios

$50,000 Appraised Value
$51,740 Total Costs Including:

$49,500	Purchase Price
$ 340	Appraisal and Tax servicing
$ 1,500	Closing Costs
$ 400	Costs to Establish Escrow

If the allowable LTV is 100%, the maximum loan is $50,740 (the appraised value plus allowable excess costs). $1,000 of the closing costs must be paid by the borrower in cash.

If the allowable LTV is 90%, the maximum loan is $45,740 (90% of the appraised value plus allowable excess costs). $6,000 must be paid by the borrower in cash.

- The dwelling is covered by an approved 10-year warranty plan, as described in RD Instruction 1924-A, and there is a certificate of occupancy when issued by the local governing agency. In areas where there is no local authority to issue a certificate of occupancy or similar document, the State Office will provide appropriate guidelines for what will be considered acceptable documentation of a dwelling's or unit's livable condition.

- The loan will be closed prior to the start of construction so that the Agency can monitor the construction following the procedures described in Section 6 of Chapter 5.

- The new dwelling is a manufactured home that meets the requirements set forth in Section 3 of Chapter 9.

- Applicant provides a complete set of plans and specifications and, to demonstrate that the construction was properly inspected, copies of all construction-phase reports prepared by a licensed construction inspector. In the case of properties inspected by the Federal Housing Administration (FHA) or Veterans Affairs (VA), a certification that the dwelling was built in accordance with approved plans and specification may be submitted in lieu of construction-phase reports.

C. Subsequent Loans for Necessary Repairs

If necessary to protect the Government's security interest, the Agency may make a subsequent loan that causes the total indebtedness to exceed the market value of the property and/or the area loan limit. The excess amount cannot exceed the cost of the necessary repairs, reasonable closing costs, and allowable excess costs. The Loan Originator should review the status of the borrower's account in MortgageServ and coordinate with the Centralized Servicing Center (CSC) as necessary.

D. Subsequent Loans for Closing Costs Only

When the Agency makes a subsequent loan to a program borrower for closing costs only at the time of the sale of an REO property or a property transfer and assumption, total indebtedness may exceed the market value and/or the area loan limit by up to 1 percent, plus allowable excess costs.

E. Refinanced Loan for Existing Agency Borrower

When the Agency refinances an existing Agency loan, the loan may exceed the market value of the property and/or the area loan limit only as necessary to cover the borrower's outstanding indebtedness, closing costs associated with the new loan, and allowable excess costs.

F. Affordable Housing Products

In those cases where participation may include a soft, silent or forgivable subordinate affordable housing product, which includes funding for purposes that are not listed in the eligible loan purposes (Paragraph 6.4) but are consistent with our objectives in affordable housing, the loan to value ratio may exceed the market value by 5 percent or by the amount of those costs, whichever is lower. The sources of the additional funding should define the purpose. Examples include, but are not limited to, homeownership education, credit counseling, and gap funding.

Only affordable housing products that result in a lien against the property need to be considered in evaluating the loan to value ratio. Grants and similar funding that do not result in a lien and are not required to be paid back should not be considered in evaluating the loan to value ratio.

6.8 REPAYMENT PERIODS *[7 CFR 3550.67]*

Loans must be scheduled for repayment over a period that does not exceed the useful life of the property. The standard maximum loan term for most Section 502 loans is 33 years.

A. Exceptions to the Standard 33-Year Maximum Term

Repayment may be scheduled over a 38-year term for:

- Initial loans, or subsequent loans made in conjunction with an assumption, if the applicant's adjusted income does not exceed 60 percent of the applicable area median income and the longer term is necessary to show repayment ability; and

- Subsequent loans ***not*** made in conjunction with an assumption, if the borrower's initial loan was for a period of 38 years, the borrower's adjusted income at the time the subsequent loan is approved does not exceed 60 percent of the applicable area median income, and the longer term is necessary to show repayment ability.

The repayment period is limited to a maximum of 10 years for loans under $2,500 and for unsecured loans as described in Paragraph 5.12 A. Manufactured homes are eligible for a maximum loan term of 30 years.

B. Effect of Repayment Period on Payment Subsidy

Loans may be approved for less than the maximum period. However, before approving a loan with a payment term that is less than the maximum period, the Loan Originator should consider the effect this may have on any payment subsidy for which the applicant may be eligible. Because a shorter loan term could require the Agency to contribute a higher payment subsidy, an applicant with an initial loan term of less than 25 years cannot obtain payment subsidy. An applicant may receive payment subsidy on a secured subsequent loan with a term of less than 25 years if the initial loan had a term of 25 years or more. Section 3 of this chapter provides additional information about payment subsidies.

6.9 INTEREST RATES *[7 CFR 3550.66]*

A. Note Rates

The note rate is the interest rate shown in the promissory note. Exhibit B of RD Instruction 440.1 provides current interest rates for program and nonprogram loans. For program loans, the note rate used for the promissory note must be the lower of the Rural Housing (RH) 502 low or moderate interest rates in effect at loan approval or loan closing.

For non-program loans, the non-program rate in effect at loan approval must be used for the promissory note. For program and non-program loans, the date the loan was approved must be the same date the loan was obligated in MortgageServ. If the dates differ, the date of obligation will be used when determining the interest rate; not the date of approval.

B. Subsidized Rate

As described in Section 3, borrowers who qualify may receive payment subsidies based upon a lower interest rate. The subsidized rate does not affect the promissory note. Instead, a separate agreement is executed annually (or more often if the subsidy amount changes) to document the amount of payment subsidy provided
.

Example - Effect of Interest Rate and Repayment Period on Monthly Payments

Loan Amount	Loan Term	Monthly Payment
$50,000 @ 7%	33 years	$324.05
$50,000 @ 7%	38 years	$313.79
$50,000 @ 1%	33 years	$148.29
$50,000 @ 1%	38 years	$131.84

6.10 USE OF ASSETS *[7 CFR 3550.64]*

A. Asset Limits

Applicants with assets in excess of established limits must use those assets for a down payment or other costs associated with the purchase of the property. Section 2 of Chapter 4 discusses assets in detail. Applicants may choose to use assets that fall below the established limits toward the purchase, even though they are not required to do so.

- Nonelderly applicants must use nonretirement assets in excess of $15,000 toward the purchase of the property.

- Elderly applicants must use nonretirement assets in excess of $20,000 toward the purchase of the property.

- All applicants must use retirement assets in excess of the applicable adjusted median income limit toward the purchase of the property unless the applicant is retired and derives income from either retirement assets alone or in combination with other retirement income.

B. Exception to the Asset Limits

In cases in which the family is experiencing unreimbursed medical expenses in excess of 3 percent of annual income, the Loan Approval official may increase the applicable asset limit by the amount of the medical expenses in excess of 3 percent of annual income. The reasons for the waiver must be documented carefully.

C. Eligible Uses of Assets

Eligible uses for excess assets or assets the applicant has elected to contribute include making payments to:

- Reduce the principal balance;
- Pay architectural, engineering, inspection, or testing fees related to new construction or repairs;
- Establish the escrow account for taxes and insurance; and
- Pay closing costs and related fees.

D. Ineligible uses of Assets

If an applicant has excess assets, those assets can not be used for purposes other than those listed in Paragraph 6.10 C.

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SECTION 3: PAYMENT SUBSIDIES *[7 CFR 3550.68]*

6.11 AN OVERVIEW OF PAYMENT SUBSIDIES

The Agency uses payment subsidies to enhance an applicant's repayment ability for Section 502 loans. UniFi calculates the applicant's payment subsidy. The sample calculations provided in this section are intended to help the Loan Originator understand how the calculation works so that it can be explained to the applicant.

A. Three Types of Subsidy

1. Interest Credit

A borrower who initially received subsidy in the form of interest credit can continue to do so as long as the borrower remains eligible and continuously receives interest credit assistance. Subsequent loans to these borrowers should be subsidized with interest credit. Paragraph 6.13 describes the method for calculating subsidies using the interest credit method.

2. Payment Assistance Method 1

A borrower currently receiving payment assistance using payment assistance method 1 will continue to receive it for the initial loan and for any subsequent loan for as long as the borrower is eligible for and remains on payment assistance method 1. Paragraph 6.12 B describes the method for calculating subsidies using payment assistance method 1.

3. Payment Assistance Method 2

All other eligible applicants will receive payment assistance method 2. This includes: applicants who receive new initial loans; borrowers obtaining subsequent loans who qualify for payment subsidy, but who are not currently receiving interest credit or payment assistance method 1; and applicants who assume loans under new rates and terms. Borrowers who cease to receive interest credit or payment assistance method 1 for 6 months or more will receive payment assistance method 2 if they subsequently begin to receive payment subsidies. Paragraph 6.12 A describes the method for calculating payment assistance method 2.

B. Applicant Eligibility

1. Income Eligibility

Applicants who obtain loans on nonprogram terms are not eligible for payment subsidies. To be eligible for an initial loan at the time of origination, an applicant must be income-eligible for the Section 502 loan -- that is, have adjusted income that does not exceed the applicable low-income limit at the time of loan approval and the applicable moderate-income limit at the time of loan closing. Initial approval of payment subsidy for borrowers who become eligible after loan closing is the responsibility of CSC. A borrower who is receiving payment subsidy can continue to receive it, even if their income exceeds the moderate income limit, as long as their subsidized rate does not exceed the note rate.

2. Occupancy Requirement

To be eligible to receive a payment subsidy, the applicant must personally occupy the dwelling, unless during the term of the loan the Agency determines that the dwelling is uninhabitable or that the borrower may be absent temporarily from the property for reasons acceptable to the Agency, such as seasonal or migratory employment, military call-ups, or hospitalization.

C. Loan Requirements

1. Loan Term

For an applicant to be eligible for a payment subsidy, initial loans and subsequent loans made in conjunction with a new rates and terms assumption must have a term of at least 25 years. Borrowers can receive a payment subsidy for a subsequent loan ***not*** made in conjunction with an assumption with a term of less than 25 years, if the initial loan had a term of at least 25 years.

2. Type of Loan

To receive payment subsidy, the loan must be made on program terms and must be secured by a mortgage on the property.

3. Pre-August 1, 1968 Loans

Payment subsidies are not available for loans that closed prior to August 1, 1968, even if the loan is assumed on new rates and terms after that date. Borrowers whose loans were made with funds provided prior to August 1, 1968, may be eligible to refinance the loan in order to receive payment subsidy, as described in Paragraph 6.5 A.

D. Annual and Interim Reviews

In general, borrower income must be reviewed annually to determine whether the borrower is eligible to continue to receive payment subsidies. Annual and interim reviews of borrowers receiving payment subsidies are the responsibility of CSC. Borrowers who receive payment subsidies must notify the Agency if any adult household member changes or obtains employment, the household composition changes, or if income increases by more than 10 percent. Borrowers may report other changes that would result in increased payment subsidies. The review period may be different in certain circumstances. Borrower(s) receiving payment assistance via method 1 with adjusted incomes above 80 percent of the applicable adjusted median income will pay the Equivalent Interest Rate (EIR) for the appropriate income contained in Exhibit 6-4.

1. Self-Employed Applicants

For a self-employed applicant, the initial payment subsidy agreement will run from the effective date to 3 months after the end of the applicant's business fiscal year, but not more than a 12-month period. This will allow subsequent agreements to coincide with the applicant's business fiscal year, with a 3-month overlap, to provide sufficient time for the applicant to supply verification of the previous year's income.

2. Unemployed Applicants

For an applicant receiving unemployment benefits, the agreement will be effective for the period during which the applicant will receive unemployment benefits, or, if the period is unknown, no longer than 6 months. The expiration date of the agreement will be established by the Loan Originator.

3. Annual Payment Borrowers

For an applicant currently paying an annual installment who receives a subsequent loan, the initial payment subsidy agreement, including the subsequent loan, will be in effect until the next January 1st.

E. Recapture Requirement

Borrowers are required to repay all or a portion of the payment subsidy received over the life of the loan when the title to the property transfers or when the borrower ceases to meet the occupancy requirement described in Paragraph 6.11 B.2. The borrower must sign *Form RD 3550-12, Subsidy Repayment Agreement,* at the time of loan closing for existing properties, when a construction loan is converted to a permanent loan, or whenever the borrower qualifies for payment subsidy for the first time.

6.12 CALCULATING PAYMENT ASSISTANCE

A. Payment Assistance Method 2

The amount of payment assistance granted is the lesser of the difference between:

- The annualized promissory note installments for the combined RHS loan and eligible leveraged loans plus the cost of taxes and insurance less 24 percent of the borrower's adjusted income, or

- The annualized promissory note installment for the RHS loan less amount the borrower would pay if the loan were amortized at an interest rate of 1 percent.

Borrowers receiving payment assistance method 2 must pay the greater of:

- A payment to RHS based on 24 percent of their adjusted annual income less the amortized payment for the eligible leveraged loan less the cost of taxes and insurance; or

- A payment to RHS based on an interest rate of 1 percent plus the amortized payment for the eligible leveraged loan plus the cost of taxes and insurance.

An eligible leveraged loan is a loan with payments amortized over a period of not less than 30 years and an interest rate that does not exceed 3 percent.

B. Payment Assistance Method 1.

The amount of payment assistance granted is the difference between the installment due at the promissory note rate and the amount the borrower must pay based upon income. Borrowers receiving payment assistance method 1 must pay the ***greater of***:

- A floor payment calculated as a percentage of adjusted income, less the cost of taxes and insurance; or
- The loan payment amortized at the applicable EIR.

Borrowers who receive leveraged loans are not subject to floor payments. Exhibit 6-3 provides a sample payment assistance method 1 calculation.

1. Establishing the Floor Payment

The floor payment is a minimum percentage of adjusted income that the borrower must pay for Principal, Interest, Taxes, and Insurance (PITI).

- Very low-income borrowers must pay a minimum of 22 percent.
- Low-income borrowers with adjusted incomes below 65 percent of the applicable adjusted median income must pay a minimum of 24 percent.

Exhibit 6-2

Sample Payment Assistance Method 2 Calculation

The Jones family wishes to purchase a home for $90,000. They have been approved for a $60,000 loan from RHS and a $30,000 Affordable Leveraged Loan.

	Principal Amount	Payment Period	Note Rate
RHS Loan	$60,000	33 years	6.0%
Affordable Leveraged Loan	$30,000	30 years	3.0%

The family's adjusted income is $23,000; monthly taxes and insurance are estimated at $150/month.

(1) Calculate the combined Annual Payment at the Note Rate plus Taxes and Insurance less 24% of the Adjusted Annual Income (AAI).

$349	RHS Loan ($60,000 @ 6% for 33 years)
$127	Affordable Leveraged Loan ($30,000 @ 3% for 30 years)
$150	Estimated Monthly Taxes and Insurance (T&I)
$626	Combined Principal, Interest, Taxes and Insurance (PITI at Note Rate)
-$460	AAI ($23,000 X 24%)
$166	Total Monthly Subsidy

(2) Calculate the annualized RHS note installment less the annualized 1% installment.

$349	RHS Monthly Note Installment
-$178	RHS 1% Payment ($60,000 @ 1% for 33 years)
$171	Total Monthly Subsidy

PAYMENT SUBSIDY WILL BE THE LESSER OF (1) OR (2).

$166	Monthly Subsidy

Calculate Monthly Installment (P&I)

$460	24% of AAI
-$127	Affordable Leverage
-$150	T&I
$183	Total Monthly P&I Installment

Exhibit 6-3

Sample Payment Assistance Method 1 Calculation

The Jones family has received payment assistance method 1 on their initial loan since it was approved. They have recently been approved for a subsequent loan to make needed repairs.

The following financial information is needed to calculate the payment assistance.

	Principal Amount	Repayment Period	Note Rate
Initial Loan	$60,000	33 Years	7%
Subsequent Loan	$30,000	33 Years	6%

The family's Adjusted Annual Income is $23,000. The Adjusted Median Income is $36,500.

$23,000	Adjusted income
63%	Percent of adjusted median ($23,000 ÷ $36,500)
$150	Monthly taxes and insurance

(1) Calculate the Payment at the Note Rate

$389	Initial Loan payment at the note rate (amortized amount for $60,000 @ 7% for 33 years)
$174	Subsequent Loan payment at the note rate (amortized amount for $30,000 @ 6 % for 33 years)
$563	Total

(2) Calculate the Floor Payment for PI*

24% Floor payment percentage for applicant @ 63% of median income

$460	Floor payment for PITI* ($23,000 ÷ 12 months x 0.24)
$310	Floor payment for PI* ($460 - $150 for taxes and insurance)

(3) Calculate the Payment at the EIR*

4% EIR* for applicant at 63% of median

$273	Initial Loan payment at the EIR (amortized amount for $60,000 @ 4% for 33 years)
$137	Subsequent Loan payment at the EIR (amortized amount for $30,000 @ 4% for 33 years)
$410	Total Payment at EIR

(4) Compute Monthly Payment Assistance

$563	Payment at the note rate (combine initial and subsequent loans)
-$410	Required payment is the greater of (2) or (3)
$153	Monthly payment assistance

* PI = Principal and Interest.
PITI = Principal, Interest, Taxes, and Insurance
EIR = Equivalent Interest Rate

Low-income borrowers with adjusted incomes between 65 and 80 percent of the applicable adjusted median income must pay a minimum of 26 percent.

2. Calculating the Payment at the EIR

The EIR is determined by comparing the applicant's adjusted income to the applicable adjusted median income for the area in which the security property is located. The payment at the EIR is calculated by amortizing the loan using the applicant's loan amount, the term of the loan, and the EIR for which the applicant qualifies. Exhibit 6-4 provides the EIRs to be used.

Exhibit 6-4

Equivalent Interest Rates

Use the equivalent interest rate for the income range applicable to the applicant's adjusted income.

Adjusted Median Income Range	Equivalent Interest Rate*
0%-50%	1.0%
50.01%-55%	2.0%
55.01%-60%	3.0%
60.01%-65%	4.0%
65.01%-70%	5.0%
70.01%-75%	6.0%
75.01%-80%	6.5%
80.01%-90%	7.5%
90.01-100%	8.5%
100.01%-110%	9.0%
110.01%-greater	9.5%

* EIR can never exceed the note rate.

6.13 CALCULATING INTEREST CREDIT

The amount of interest credit granted is the difference between the installment due at the promissory note rate and the amount the borrower must pay.

- 20 percent of adjusted monthly income, less the cost of taxes and insurance; or
- A loan payment reflecting the loan amount amortized at an interest rate of 1 percent.

Exhibit 6-5 provides a sample interest credit calculation.

Exhibit 6-5

Sample Interest Credit Calculation

The Joneses have received an interest credit subsidy on their initial loan since it was approved and have recently been approved for a subsequent loan to make needed repairs. The terms of the 2 loans are as follows:

	Principal Amount	Payment Period	Note Rate
Initial Loan	$60,000	33 years	7.0%
Subsequent Loan	$15,000	33 years	6.5%

The family's adjusted income is $22,000; monthly taxes and insurance are estimated at $90/month.

(1) Calculate the Annual Payment at the Note Rate

$389	Initial Loan (Amortized amount for $60,000 @ 7% for 33 years)
$ 92	Subsequent Loan ($15,000 @ 6.5% for 33 years)
$481	Total

(2) Calculate the Minimum Payment for Principal and Interest

$367	Minimum amount for PITI* ($22,000 ÷ 12 months x 0.20)
$277	Minimum amount for PI* ($367 - $90)

(3) Calculate the Required Payment at 1 Percent

$222	Monthly payment at the subsidized rate ($75,000 @ 1% for 33 years)

(4) Compute Monthly Interest Credit

$481	Monthly payment at the note rate
-$277	Required payment is the greater of (2) or (3)
$204	Monthly payment subsidy

* PI = Principal and Interest
PITI = Principal, Interest, Taxes, and Insurance
EIR = Equivalent Interest Rate

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SECTION 4: UNDERWRITING A LOAN FOR A SPECIFIC PROPERTY

6.14 APPROVING A SPECIFIC PROPERTY

F. Applicant Submission

Underwriting for a specific property begins after the applicant has been determined eligible and submits information about the property.

- Applicants who do not currently own the property must submit an option or sales contract and a location map with directions to the property. The sales contract must specify whether the purchaser or seller will be paying for the inspections and certifications. The location map should have sufficient detail to show the approximate boundaries and the relationship of the site to any roads, existing structures or other landmarks.

- Applicants who already own the property must submit evidence of ownership as described in Paragraph 5.11, a legal description, a property survey showing all structures on the site, and directions to the property.

G. Evaluation of the Property

Within 7 business days of submission by an applicant, who has been determined eligible for RHS assistance, the Loan Originator must visit the property to do a preliminary evaluation of the property to determine whether, with any planned construction or rehabilitation, it will meet the Agency's site, dwelling or environmental requirements, as described in Chapter 5. If the property appears to be acceptable, the Loan Originator requests an appraisal of the property. If the property is not acceptable, the Loan Originator must notify the applicant and provide a new *Form RD 1944-59, Certificate of Eligibility.*

6.15 FUNDS AVAILABLE FOR CLOSING

If the applicant must pay for closing costs that cannot be financed, or plans to make a down payment to reduce the loan amount, the Loan Originator must obtain complete copies of the borrower's two most recent consecutive bank statements to ensure that the applicant has sufficient funds to pay the required costs, or can demonstrate that the funds will be available before closing. If additional funds are to be received from an outside source, the Loan Originator must ensure that the applicant has completed *Form RD 3550-2, Request for Verification of Gift/Gift Letter* to certify that the additional funds will not need to be repaid.

6.16 CALCULATING THE APPROVABLE LOAN AMOUNT

Once the Loan Originator verifies and enters all applicable applicant information and receives the appraisal, the UniFi can be used to determine whether the applicant appears to qualify for the needed loan amount, and if not, determine whether there are ways to make the loan feasible.

H. Calculating the Approvable Loan at Standard Terms

Once the required information is entered, the worksheet automatically computes the PITI and TD ratios, determines whether the applicant is eligible for a payment subsidy and the amount, and determines whether the applicant can afford the selected property using standard loan terms. If UniFi indicates that the loan can be approved, the Loan Originator should prepare the loan approval package, as described in Paragraph 6.17.

B. Working with Applicants Who Do Not Qualify Using Standard Terms

If the applicant cannot be approved for a loan using standard terms, the Loan Originator should determine whether any of the adjustments described below are possible. If any of the adjustments make the loan feasible, the Loan Originator should prepare the loan approval package, as described in Paragraph 6.17.

1. Possible Applicant Actions To Make A Loan Feasible

The Loan Originator should discuss with the applicant options for enhancing their ability to obtain Agency financing including: (1) identifying additional parties to the note; (2) seeking down payment assistance or other assistance programs to supplement the Agency loan; (3) providing an additional cash down payment to reduce the principal amount of the loan; (4) seeking a less expensive dwelling; or (5) obtaining leverage funds with terms more favorable than available from the Agency.

2. Possible Agency Actions to Make A Loan Feasible

The Loan Originator should first consider any compensating factors, as described in Paragraph 4.24 A., that have not yet been considered and does not result in multiple risk layering. The Loan Originator should then recompute the loan using a 38 year term provided the applicant’s income qualifies for a 38 year loan.

In the case of a subsequent loan, the Agency may authorize reamortization of the initial loan if the borrower cannot reasonably be expected to meet installment payments unless the account is reamortized. The Loan Originator should consult with CSC to determine whether reamortization is appropriate.

6.17 APPROVING CREDIT

The results of the underwriting analysis are summarized on UniFi's Eligibility Summary. The Eligibility Summary must be signed, dated, and filed in Position 3, and must reflect the verified applicant and property information at the time of loan underwriting.

If the results of the analysis indicate that the applicant's loan is feasible, the Loan Originator should recommend that it be approved. Before forwarding the case file, the Loan Originator should review it to ensure that all documentation required for approval, as listed in Attachment 6-A, is included. The Loan Originator also should reconfirm that the documentation in the case file demonstrates that:

- The applicant is eligible, as described in Chapter 4;
- The property is eligible, as described in Chapter 5; and
- The loan is feasible at approvable loan terms, as described in this chapter.

When the case file is complete, the Loan Originator forwards the case file to the Loan Approval Official for review and approval. Refer to Attachment 6-A for guidance on the documentation required prior to loan approval.

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ATTACHMENT 6-A

DOCUMENTATION REQUIRED PRIOR TO APPROVING A LOAN

APPLICANT ELIGIBILITY

APPLICATION

RD 410-4, Uniform Residential Loan Application
RD 3550-1, Authorization to Release Information
RD 1944-12, Rural Housing Loan Application Package (if applicable)

CREDIT HISTORY

Documentation, CAIVRS and MortgageServ's Borrower Cross Reference Screen
Documentation, Residential Mortgage Credit Report (The RMCR cannot be more than 6 months old when the underwriting decision is being made.)
RD 410-8, Applicant Reference Letter (if applicable)
RD 1944-60, Landlord's Verification (if applicable)
RD 1944-61, Credit History Worksheet (if applicable)
RD 3550-30, Verification of Debt Proposed for Refinancing (if applicant is seeking the refinancing of existing, non-Agency debt)

INCOME

Oral Verification of Employment supplemented by four (4) weeks worth of consecutive paytubs.
RD 1910-5, Request for Verification of Employment (if applicable)
RD 1944-62, Request for Verification of Deposit (if applicable)
RD 3550-2, Request for Verification of Gift/Gift Letter (if applicable)
RD 3550-4, Employment and Asset Certification (if applicable)
Documentation, Income Tax Return
Documentation, Documentation of Other Income (verification of assets deposited, public assistance, child support payments, unemployment benefits, pensions and annuities, Social Security award or benefit letter, copies of year end statement for mutual funds or 401K)
Documentation, Documentation of Deductions (child care expenses, medical expenses, educational assistance expense, full-time student status)
RD 1944-4, Certification of Disability or Handicap (if applicable)
Documentation, Separation Agreement (if applicable)
Documentation, Divorce Decree (if applicable)

SETTLEMENT INFORMATION

RD 1940-41, Truth in Lending Statement
RD 440-58, Estimate of Settlement Costs

OTHER REQUIREMENTS

Documentation, Evidence of Alien Status (if applicable)

PROPERTY ELIGIBILITY

PROPERTY INFORMATION

Sales Contract or *RD 440-34, Option to Purchase Real Property*
Metes and Bounds Description
Plot Plan (new construction and major rehabilitation only)
Map to Locate Property and Comparables

ENVIRONMENTAL INFORMATION

RD 1940-22, Environmental Checklist for Categorical Exclusions
FEMA Form 81-93, Standard Flood Hazard Determination
RD 1940-21, Environmental Assessment for Class I Action (as appropriate)

APPRAISAL INFORMATION

Uniform Residential Appraisal Report
Form 1007, Marshall and Swift Square Foot Appraisal Form (required only if comparables are not strong)
RD 1922-15, Administrative Appraisal Review for Single Family Housing

CERTIFICATES (for existing housing and already-existing new construction not covered by a 10-year warranty)

Termite Inspection Certificate
Plumbing/Water/ Sewage Certification
Electrical Heating/Cooling Certification

EXISTING HOUSING

Documentation of Inspection
Contractor's Estimate or Bid (if applicable)

NEW CONSTRUCTION OR REHABILITATION

Drawings and Specifications (for new construction must have *RD 1924-25, Plan Certification*)
RD 1924-2, Description of Materials
RD 1924-19, Builder's Warranty or Insured 10-Year Home Warranty

ATTACHMENT 6-B

STATE DIRECTOR EXCEPTION(S) TO AREA LOAN LIMITS

STATE: _____ DATE: _____

Date of Request	Name/ Case Number	$ Amount of Request over Area Loan Limit	Reason for Exceeding Area Loan Limit ($ Amt) (paragraph 6.6)		Affordable Housing Products (paragraph 6.7)	SD Action Appr'd	Denied
			Closing Costs (other than the allowable fees)	Cost(s) of Purchase or Construction			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			
		$	$	$			

ATTACHMENT 6-C

LOAN UNDERWRITING REVIEW

Quality loan underwriting ensures that the Agency properly and prudently uses funds and contributes to reducing the first year delinquency rate when coupled with homeownership education.

A. State Office Monitoring

The National Office will generate a list of severely delinquent new loans (loans that were three plus installments behind or in foreclosure, bankruptcy, or moratorium) for State Office review. The list will be generated at least two times (more often if the State's new loan delinquency rate warrants) during the fiscal year. State Offices will conduct the review using the questions below. Upon receiving an e-mail notice from the National Office, the State Office will have 30 days to review the selected new loans in-house and then scan and e-mail the individual review results to the National Office at SFHDIRECTPROGRAM@wdc.usda.gov.

State Office Loan Underwriting Review

Borrower's Name: _____
Account Number: _____
Reviewer's Name: _____

When answering the questions below, focus on the documentation at the time of loan closing.

Income Eligibility:

Were all income sources:
Properly classified (annual and/or repayment)? Yes or No
Verified using preferred or alternative methods? Yes or No
Evaluated for stability and dependability? Yes or No

Were applicable deductions verified? Yes or No

Reviewer is to perform their own income calculations (annual, adjusted, and repayment).

	Annual Income	Adjusted Income	Repayment Income	Difference
Loan Originator				
Reviewer				

Are the Loan Originator's income projections within 10 percent of the reviewer's income calculations? Yes or No

Creditworthiness:

What was the credit score(s) for the applicant(s)? Applicant: _____ Co-applicant: _____

If the applicant's reliable credit score was under 640, was Form RD 1944-61 used to evaluate the RMCR? Yes or No

If the applicant's credit history as reported on the RMCR and third party verifications indicated unacceptable credit handling:
Were the circumstances properly documented? Yes or No
Was an allowable exception approved by the Loan Approval Official? Yes or No

Qualifying Ratios:

Were all debts reported on the credit report included in the debt-to-income ratios? Yes or No

If no, which debts were excluded and what kind of documentation was used to support the decision?

_____
_____
_____

Based on the reviewer's repayment income calculation as determined above as well as the established and verified factors at the time of loan closing (loan amount, monthly taxes and insurance, liabilities listed on the RMCR, etc.), were the resulting qualifying ratios within the applicable parameters? Yes or No

_____

If no, was a compensating factor properly used and documented?: Yes or No

Was an exception approved by the Loan Approving Official or by a higher level supervisor when required? Yes or No

NOTE: If the Certificate of Eligibility was issued between April 1, 2008 and the date UniFi was modified to calculate payment assistance method 2, the interim calculator, which is found at http://mortgageserv.sc.egov.usda.gov/, should have been used to determine the eligibility.

Eligible Loan Purposes:

Were Agency funds used for eligible purposes? Yes or No

Eligible Rural Area:

Was the property located in an eligible area per http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do? Yes or No

If a printout from this site is not on file, the reviewer should enter the property address into this site.

Debts vs. Market Value:

Were the total of all debts secured by the property less than or equal to the property's market value as determined by the appraisal, except by allowable excess costs? Yes or No

A. National Office Monitoring

The National Office will hold separate teleconferences with State Offices to discuss their submitted review results and actions they have or will take to address noted underwriting weaknesses or trends.

CHAPTER 7: ESCROW, TAXES, AND INSURANCE

7.1 INTRODUCTION

Besides loan payments, other costs associated with being a homeowner include real estate taxes, hazard and flood insurance premiums, and related costs such as street or water assessments. The Agency has an interest in making sure that these costs are paid in order to protect the property from tax sale or foreclosure, and to make sure that funds will be available to repair the property should it be damaged.

SECTION 1: ESCROW *[7 CFR 3550.60]*

7.2 OVERVIEW

To ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due, the Agency requires borrowers who receive new loans -- whether initial or subsequent -- to deposit monthly funds to an escrow account in order to be used to pay the borrower's tax and insurance bills. These funds are included in the borrower's regular monthly payment. An escrow account must be established at loan closing for all loans with a total outstanding indebtedness greater than $15,000 (be it 502, 504, or combination thereof) except new construction. This is because loan payments are not due during construction. Since the exact amount of taxes, insurance premiums and assessments are not known in advance, a cushion is established at closing to help ensure that there will be sufficient funds available to pay the bills. If the Agency underestimates the amount needed, the Agency will advance funds to pay the tax or insurance bill, and raise the borrower's escrow payments during the following year to repay the amount advanced. If the Agency overestimates the funds needed, a refund may be issued if the amount is greater than $50.00. If the amount of overage is less than $50.00, it will be credited to the next year's escrow. Annual-pay borrowers are exempt from the escrow requirement, but are responsible for timely payment of taxes and insurance premiums. The Agency will not escrow where the security property is located on a farm tract also financed by the Farm Service Agency (FSA), and we are unable to obtain a separate tax bill. FSA will be responsible for paying taxes in these situations. The only exception to this is for a Section 504 loan over $15,000 on a farm tract (see Paragraph 12.10).

The Agency will establish and administer escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) and section 501(e) of the Housing Act of 1949.

The Agency requires most borrowers who receive new loans to escrow funds for taxes and insurance. Borrowers are exempt from escrow if they:

- Are current on an annual payment plan;
- Have a leveraged loan and the escrow is maintained by the primary lending institution;
- Have received only a Section 504 grant;
- Have a Section 504 loan(s) with a total outstanding balance of $15,000 or less, and the Agency determines there is no risk to the Government's security interest in the property;
- Assumed a loan on same rates and terms; or
- Have security property which includes a farm and the property is not subdivided between the farm and non-farm tract. In these cases, the Agency may still elect to require escrow where the housing represents the majority of the value of the security property or it is in the Agency's best interest to require escrow.

The Centralized Servicing Center (CSC) is responsible for administering the escrow account. However, the Loan Originator is responsible for determining the monthly escrow deposit contribution during the first year, ensuring that the appropriate amount is collected at closing to establish the escrow account and to educate the borrower about what escrow accounts are and how they work.

7.3 ESCROW DEPOSITS

Escrow accounts are funded from 3 sources -- monthly payments, an initial deposit required at closing, and funds from the seller to cover taxes accrued prior to closing. Exhibit 7-1 illustrates the calculation of the initial deposit and monthly escrow payments.

A. Monthly Payment

The borrower's monthly installment includes not only the amount due for principal and interest, but also 1/12 of the anticipated amount required for taxes, insurance, other assessments for the year, plus a cushion as authorized by RESPA.

B. Borrower's Initial Deposit to the Escrow Account

Over the course of a year the borrower's monthly payments should provide the amount needed to pay all tax, insurance,(Including flood insurance as applicable) and other assessment bills. However, the timing of the payments may be such that a bill comes due before the borrower has made sufficient payments to cover the cost. To avoid this problem, the borrower is required to make an initial deposit to the escrow account that is large enough to ensure that all anticipated payments can be met when they come due, but that at its low point the account contains no more than the equivalent of 2 monthly escrow payments.

C. Seller's Tax Liability

Taxes must be pro rated between the buyer and the seller. To ensure that funds from the seller's prorata share of the taxes are available to pay the taxes when they come due, it is collected at closing and deposited in the borrower's escrow account.

7.4 CALCULATING ESCROW AMOUNTS

The Loan Originator must provide UniFi with tax and insurance figures that are then used to estimate the maximum loan amount, to determine the amount of loan funds to obligate, and to establish monthly payments and the initial deposit to the escrow account.

Although tax and insurance information used early in the process will be based on rough estimates, the Loan Originator should make every effort to obtain accurate information about historic and future costs so that later entries will be as accurate as possible. For construction loans, when calculating the escrow payment for closing, the field office is to use the amount needed to cover the Real Estate taxes for the upcoming 12 months. The Local Office must be sure to consider that there may be a re-assessment of the Real Estate taxes upon the completion of the dwelling and the escrow calculations should be made accordingly.

Exhibit 7-1

Escrow Account Funding

The initial escrow balance and the escrow payment amount are calculated in accordance with Real Estate Settlement and Procedures Act (RESPA). UniFi prepares *Form RD 3550-9, Initial Escrow Account Disclosure Statement* described in Paragraph 6.6. The following example is intended to show how escrow accounts are funded each year.

Assumptions:

(1) The loan closing occurs on February 12, 1996 with the first payment due April 1, 1996
(2) Taxes of $214.88 are paid in July and December
(3) Hazard Insurance of $319.00 is paid in January
(4) The Agency requires a minimum balance equal to 2 months of payments

Monthly Payment Calculation:

$214.88
$214.88
$319.00
$748.76 Total anticipated escrow disbursements divided by 12 equals
$ 62.39 per month escrow payment

Month	Payments to Escrow	Disbursements	Balance
Loan Closing	$249.64	$ 0.00	$249.64
April	$ 62.39	$ 0.00	$312.03
May	$ 62.39	$ 0.00	$374.42
June	$ 62.39	$ 0.00	$436.81
July	$ 62.39	$214.88	$284.32
August	$ 62.39	$ 0.00	$346.71
September	$ 62.39	$ 0.00	$409.10
October	$ 62.39	$ 0.00	$471.49
November	$ 62.39	$ 0.00	$533.88
December	$ 62.39	$214.88	$381.39
January	$ 62.39	$319.00	$124.78
February	$ 62.39	$ 0.00	$187.17
March	$ 62.39	$ 0.00	$249.56

The borrower will be required to pay $62.39 per month and will also be required to fund the escrow account at closing in the amount of $249.64. Part of the tax payment component of the initial escrow deposit will be contributed by the seller for the period from January 1st to the closing on February 12th.

According to RESPA, the lending institution may at some time during the year achieve an escrow balance that does not exceed 2 monthly escrow payments. In this example the balance equal to 2 monthly payments ($124.78), occurs in January after the payment for hazard insurance.

CSC is required to perform an escrow analysis within 12 months of the first payment and every year thereafter. The actual running escrow balance from the prior year will become the basis for projecting the necessary escrow payment for the next year. The low point achieved will be compared to the projected minimum of $124.78. If the low point is below $124.78, the loan will be deemed to have a shortage. If the low point is greater than $50.00, the loan will have a surplus, which will be refunded to the borrower. If the surplus is less than $50.00, the amount will be credited to the next year's escrow.

7.5 CLOSING

The Closing Agent/Attorney will use *Form RD 1940-59, Settlement Statement*, to prorate real estate taxes for the current year between the seller and the buyer.

Form RD 3550-9, Initial Escrow Account Disclosure Statement will be completed by the Loan Originator and sent to the Closing Agent/Attorney at loan closing.

The Closing Agent/Attorney will collect the escrow funds at closing, and in most cases will provide them to CSC along with the closing documents. If real estate taxes are due within 60 days of the date of closing, the Closing Agent/Attorney should pay the real estate taxes and provide the remaining amount to CSC.

7.6 CONSTRUCTION LOANS

During the construction period, borrowers must be counseled that they are responsible for payment of taxes which come due since loan payments are not due during the construction period. The borrower is also responsible for the initial escrow deposit when construction is complete. Field Staff should complete Attachment 7-A to determine the borrower's full tax and insurance needs during the construction period. Funds for the payment of taxes during construction, and for the initial escrow deposit which includes both taxes and insurance, can be handled by one of the following two methods.

- One method would be to include any taxes that must be paid during construction and the initial escrow deposit in the loan amount. This option is at the discretion of the applicant, and is subject to loan underwriting standards. If this option is used, the applicant must be counseled that they are responsible for delivering the tax bill to the Field Staff so a loan check can be requested to pay the taxes. The applicant is responsible to follow-up with Field Staff, or the taxing authority, to ensure their tax payments were paid on time. If the initial escrow deposit was included in the loan, the applicant must also be counseled that they are responsible for funding any shortages. This may occur if the construction is delayed.

- The other method would be for the applicant to pay any taxes which come due during construction for personal funds while saving funds to make the initial escrow deposit at the end of the construction period. Should an applicant choose this option, they must be counseled to pay the tax bills when due and provide a copy to the Field Office. The applicant must also be counseled on how much will be required at the end of the construction period to adequately fund the initial escrow deposit.

Insurance is paid for one year in advance by loan closing. Therefore, an insurance bill should not come due during the construction period. If a bill does come due during construction, the borrower is responsible to pay the full annual premium. If the borrower does not pay tax bills or insurance bills which become due during construction, or there are insufficient funds to establish the escrow account when the loan is converted, the Field Office will cue CSC and provide the estimated amount of shortage, and the facts in the case. CSC will generally increase the monthly payments scheduled for the remainder of the escrow cycle to compensate for any shortage. CSC may also elect to charge the borrower's account for the shortage and reamortize the loan.

7.7 SERVICING ESCROW ACCOUNTS

CSC will handle ongoing actions related to escrow accounts, including collecting monthly payments, depositing funds into the escrow account, and handling all tax and insurance payments. CSC will conduct the annual escrow account analysis and send annual escrow disclosure statements to borrowers to give an escrow account history for the past year, including any differences between what was estimated and what was actually disbursed.

SECTION 2: TAXES

7.8 ESTIMATING THE AMOUNT OF TAXES

The Loan Originator can gather tax information from several sources. For existing properties, the Loan Originator can contact the real estate agent, the seller, and/or the local taxing authority to determine current taxes and whether any reassessment or tax rate increase is anticipated.

It will be more difficult for the Loan Originator to estimate taxes when dealing with planned new construction or a newly constructed property that has not yet been assessed. To make this estimate, the Loan Originator will use comparable existing residential property values in the market area for the first year, in order to prevent significant increases in the second year escrow payment as a result of the increase in property value to make this estimate. Any prorated amount of taxes to be paid by the seller should be based on the current assessment, even if it is not recent and does not reflect the actual value of the house.

7.9 TAX SERVICE FEE

Each new borrower will be charged a one-time tax service fee at the time of loan closing. The fee covers the cost of a tax monitoring service to track tax payments due, determine the most advantageous time to pay them, and arrange for payment of the taxes to be disbursed from the borrower's escrow account. State Directors are responsible for determining the tax exempt status of Native American reservation, tribal, and trust land and notifying those Field Offices which are affected. If the land is tax exempt, meaning no real estate taxes are assessed or charged, then a tax service fee will not be collected. Individual plots that are typically owned in fee simple are generally subject to taxation and a tax service fee will be collected. Borrowers who are obtaining a subsequent loan will not pay a second tax service fee. Refer to the tax service fee schedule shown in Attachment 7-B to determine the fee charged for new loans and new rates and terms assumptions.

7.10 TAX INFORMATION SHEET

At closing, the local office will review, update, and return a copy of the completed *Form RD 3550-15, Tax Information*, to the Closing Agent/Attorney with other closing documents. *Form RD 3550-15* should list all of the local taxing authorities to which taxes are due, the amounts, the due dates, the parcel identification number, and a legal description of the property. All of this information is needed to allow CSC to manage the escrow account effectively and to protect the borrower from a shortage in their escrow account.

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SECTION 3: INSURANCE *[7 CFR 3550.61]*

7.11 OVERVIEW

The borrower is responsible for obtaining and continuously maintaining insurance on the security property until the loan is paid in full. During the applicant orientation the Loan Originator must counsel the applicant about the Agency's requirements and the borrower's responsibilities.

After the loan is closed, CSC is responsible for handling most insurance issues. The Field Office is likely to become involved only if CSC requests assistance to determine whether adequate repairs have been made to a property for which an insurance claim has been paid.

7.12 TYPES OF INSURANCE

A. Hazard Insurance

Most borrowers are required to maintain hazard insurance to protect the property against fire and weather-related damage (these policies may also be called "Fire and Extended Coverage," "Homeowner's," "All Physical Loss," or "Broad Form" policies). Hazard insurance is not required if the total outstanding Agency debt and any senior liens against the property are equal to or less than $15,000.

Master Policies

A master policy is one containing substantially the same standard provisions adopted or recommended by legislative action or by order of the State's insurance authority and ensures that the policy meets local State requirements. The Loan Originator should require a master policy, unless State statutes exempt the company from the regulations requiring its use. In order for a company's policy to be approved by the Agency, it must submit a copy of the master policy and all attachments to the State Office for review and approval.

In States without master policies, Field Staff should ensure that policies meet the requirements of Attachment 7-C.

Many State Directors issue State Supplements to help Field Staff identify acceptable insurance policies.

B. Flood Insurance

Flood insurance is required for any property located in a Special Flood Hazard Area (SFHA), as identified by the Federal Emergency Management Agency (FEMA) and described in RD Instruction 426.2, except for loans and grants with an original principal balance of $5,000 or less. *FEMA Form 81-93, Standard Flood Hazard Determination* is used to document whether a property is in a SFHA and whether flood insurance is available under FEMA's National Flood Insurance Program. If the property is in a SFHA and flood insurance is required, the Loan Originator should notify the applicant using Form RD 3550-6, Notice of Special

Flood Hazards, Flood Insurance Purchase Requirements, and Availability of Federal Disaster Relief Assistance. The applicant must sign and return Form RD 3550-6 at or before loan closing. If the applicant cannot secure flood insurance through FEMA's National Flood Insurance Program in a SFHA, the property is not eligible for Federal financial assistance.

C. Builder's Risk Policies

A builder's risk policy is acceptable while the dwelling is under construction as long as it meets the Agency's requirements. An acceptable policy either: (1) names the borrower as the insured; or (2) contains a builder's risk endorsement for a policy issued to the borrower. A policy issued only to a contractor is not an acceptable substitute for the property insurance a borrower is required to provide. A builder's risk policy should automatically convert to full coverage when the dwelling is completed. Otherwise, acceptable insurance must be obtained to coincide with the expiration of the builder's risk provisions of the policy.

7.13 EVIDENCE OF INSURANCE

For loans secured by a first lien, the applicant must provide the original policy or declaration page, and evidence that 1 full year's premium has been paid. For loans secured by other than a first lien, a copy of the policy or declaration page, or other evidence of insurance, is acceptable. The applicant may submit a written binder in lieu of the policy or declaration page, as long as the policy will be submitted to CSC within 60 days of closing. Existing borrowers already on escrow submitting an application for a subsequent loan are not required to provide evidence of a full years paid premium.

7.14 AUTHORIZED INSURANCE PROVIDERS

Borrowers must purchase their policies from approved insurance companies licensed to do business in the State where the property is located. If the required insurance is not available at comparable rates from a State-licensed insurance company, the Loan Originator may accept insurance from another company if:

- The Office of General Counsel (OGC) confirms that policies issued by the company are enforceable despite the fact that the company is not licensed to conduct business in the State, and the company is a legal entity that may be sued in the State where the property is located; and

- The State Director determines that the company is reputable and financially sound, based on the company's financial statements, industry rating standards, or information available from the State insurance authority, or other lending institutions.

7.15 REVIEWING INSURANCE POLICIES

The borrower must submit evidence of insurance to the closing agent before or at the time of closing. The closing agent will review the policy, declaration page, or binder to ensure that it meets the requirements outlined in Attachment 7-C. If it is acceptable, the evidence of coverage should be kept in the borrower's case file after closing. If the borrower's policy or evidence is insufficient, the closing agent should explain why it is not acceptable (for example, there is not an adequate amount of coverage, it is not in the correct name, or the premium has not been paid). The closing will be postponed until suitable evidence has been provided to the closing agent.

ATTACHMENT 7-A

CALCULATION OF ESTIMATED TAXES DUE THROUGH CONSTRUCTION PERIOD
AND INITIAL ESCROW DEPOSIT

	Date Prepared: _____
Customer Name: _____	County/Parish: _____
Loan Amount: $_____	Loan Closing Date: _____
Number of Months in Construction Period: _____	Annual Insurance Premium Amount: $_____
Estimated Real Estate Taxes (Lot Only): $_____	Annual Real Estate Taxes (As Improved): $ _____

STEP 1

Estimate the taxes and insurance costs over the next 12 months:

Taxes $_____ divided by 12 = $ _____ monthly

Insurance $_____ divided by 12 = $ _____ monthly

TOTAL Estimated Monthly Escrow $_____(STEP 1)

STEP 2

Estimate the actual tax bills that will come due during the construction period.

Due: _____ Amount $_____

Due: _____ Amount $_____

Due: _____ Amount $_____

Total Taxes Due During Construction $_____(STEP 2)

STEP 3

Estimate the two month cushion by taking the monthly escrow calculated in STEP 1 and multiplying it by two.

Estimated Monthly Escrow (from STEP 1) $_____ x 2 = $_____(STEP 3)

STEP 4

Estimate the initial escrow deposit for property insurance by taking the annual premium, dividing by 12, and then multiplying the result by the number of months for construction .

Monthly Insurance $_____ x _____ (# of months to construct) = $_____(STEP 4)

STEP 5

Estimate the initial escrow deposit for taxes by taking the annual taxes due, dividing by 12, multiplying the result by the number of months for construction, and then subtracting the amount estimated in STEP 2.

Monthly Taxes $ _____ x _____ (# of months to construct) = $_____

minus $_____(result of STEP 2) = Total (enter "0" if negative) $_____(STEP 5)

STEP 6

Estimate the borrower's total financial needs for taxes and insurance by adding the results of STEPS 2 through 5 = **GRAND TOTAL $_____(STEP 6)**

NOTE: The "GRAND TOTAL" is the amount of taxes due during the construction period plus the initial escrow deposit.

STEP 7

Estimate the initial escrow deposit by adding the results of STEPS 3, 4, and 5 =

TOTAL ESTIMATED INITIAL ESCROW DEPOSIT $_____(STEP 7)

For borrowers who so elect, and subject to loan underwriting requirements, the Grand Total (STEP 6) may be included in the loan amount. The taxes due in STEP 2 will be paid during the construction period from loan proceeds. The estimated initial escrow deposit will be forwarded to CSC when construction is complete and the loan is converted to an active account. If STEP 6 is not included in the loan amount, the borrower must be counseled to save this amount during the construction period and pay taxes when due.

CASE STUDY #1

Susan Smith has been selected to participate in the Self-Help housing program. She will be borrowing $75,000. The construction period is estimated to be 11 months, and loan closing is May 1, 1998. Real estate taxes are paid twice a year - on June 30 and December 30. Taxes on the lot are $240 per year and are estimated to be $1,200 when the house is complete. The local county will reassess taxes on the completed house at an undetermined time after the Certificate of Occupancy is issued and the first full tax bill will be issued at the beginning of next full tax cycle. Annual insurance is estimated at $360.

See Page 3 of 4 for the results.

CASE STUDY #2

Tony Williams is a mason and owns his own lot. He obtained a building permit several months ago and has recently constructed a full foundation on his site. Mr. William's loan for $55,000 was just approved and loan closing scheduled for July 1, 1998. The local county will reassess taxes each October, and taxes are due January 1 and July 1. The taxes are currently $360 per year on the site (including the foundation), and are estimated to be $1800 when the house is complete. Construction will take approximately 60 days. Since construction will be completed prior to October (tax assessment time) the January 1 tax bill will reflect the full tax assessment. Annual insurance is $600 per year.

See Page 4 of 4 for the results.

ATTACHMENT 7-A

CALCULATION OF ESTIMATED TAXES DUE THROUGH CONSTRUCTION PERIOD
AND INITIAL ESCROW DEPOSIT

	Date Prepared : 4/1/98
Customer Name: Susan Smith	County/Parish: Carolina
Loan Amount: $ 75,000	Loan Closing Date: 5/1/98
Number of Months in Construction Period: 11	Annual Insurance Premium Amount: $ 360
Estimated Real Estate Taxes (Lot Only): $ 240	Annual Real Estate Taxes (As Improved) $ 1,200

STEP 1

Estimate the taxes and insurance costs over the next 12 months:

Taxes $ 240 divided by 12 = $ 20 monthly
Insurance $ 360 divided by 12 = $ 30 monthly

TOTAL Estimated Monthly Escrow $ 50 (STEP 1)

STEP 2

Estimate the actual tax bills that will come due during the construction period.

Due: 6/30/98 Amount $ 120
Due: 12/30/98 Amount $ 120
Due: _____ Amount $_____

Total Taxes Due During Construction $ 240 (STEP 2)

STEP 3

Estimate the two month cushion by taking the monthly escrow calculated in STEP 1 and multiplying it by two.

Estimated Monthly Escrow (from STEP 1) $50 x 2 = $ 100 (STEP 3)

STEP 4

Estimate the initial escrow deposit for property insurance by taking the annual premium, dividing by 12, and then multiplying the result by the number of months for construction .

Monthly Insurance $ 30 x 11 (# of months to construct) = $ 330 (STEP 4)

STEP 5

Estimate the initial escrow deposit for taxes by taking the annual taxes due, dividing by 12, multiplying the result by the number of months for construction, and then subtracting the amount estimated in STEP 2.

Monthly Taxes $ 20 x 11 (# of months to construct) = $ 220
minus $ 240 (result of STEP 2) = # -20 Total (enter "0" if negative) $ 0 (STEP 5)

STEP 6

Estimate the borrower's total financial needs for taxes and insurance by adding the results of STEPS 2 through 5 = **GRAND TOTAL $ 670 (STEP 6)**

NOTE: The "GRAND TOTAL" is the amount of taxes due during the construction period plus the initial escrow deposit.

STEP 7

Estimate the initial escrow deposit by adding the results of STEPS 3, 4, and 5 =

TOTAL ESTIMATED INITIAL ESCROW DEPOSIT $ 430 (STEP 7)

For borrowers who so elect, and subject to loan underwriting requirements, the Grand Total (STEP 6) may be included in the loan amount. The taxes due in STEP 2 will be paid during the construction period from loan proceeds. The estimated initial escrow deposit will be forwarded to CSC when construction is complete and the loan is converted to an active account. If STEP 6 is not included in the loan amount, the borrower must be counseled to save this amount during the construction period and pay taxes when due.

ATTACHMENT 7-A

CALCULATION OF ESTIMATED TAXES DUE THROUGH CONSTRUCTION PERIOD AND INITIAL ESCROW DEPOSIT

	Date Prepared: 6/98
Customer Name: Tony Williams	County/Parish: South
Loan Amount: $ 55,000	Loan Closing Date: July 1, 1998
Number of Months in	Annual Insurance
Construction Period: 2	Premium Amount: $ 600
Estimated Real Estate	Annual Real Estate
Taxes (Lot Only): $ 360 (includes existing foundation)	Taxes (As Improved) $ 1,800

STEP 1

Estimate the taxes and insurance costs over the next 12 months:

Taxes $ 1,800 divided by 12 = $ 150 monthly (Note: Full taxes were used since next
Insurance $ 600 divided by 12 = $ 50 monthly tax bill will reflect a completed house)

TOTAL Estimated Monthly Escrow $ 200 (STEP 1)

STEP 2

Estimate the actual tax bills that will come due during the construction period. The first bill may be able to be reduced by the amount of any prorated taxes collected from the seller at closing.

Due: 7/1/98 Amount $ 180 *(Note: Being paid at loan closing 7/1/98)
Due: _____ Amount $_____
Due: _____ Amount $_____

Total Taxes Due During Construction $ 0 * (STEP 2)

STEP 3

Estimate the two month cushion by taking the monthly escrow calculated in STEP 1 and multiplying it by two.

Estimated Monthly Escrow (from STEP 1) $ 200 x 2 = $ 400 (STEP 3)

STEP 4

Estimate the initial escrow deposit for property insurance by taking the annual premium, dividing by 12, and then multiplying the result by the number of months for construction .

Monthly Insurance $ 50 x 2 (# of months to construct) = $ 100 (STEP 4)

STEP 5

Estimate the initial escrow deposit for taxes by taking the annual taxes due, dividing by 12, multiplying the result by the number of months for construction, and then subtracting the amount estimated in STEP 2.

Monthly Taxes $ 150 x 2 (# of months to construct) = $ 300

minus $ 0 (result of STEP 2) = Total (enter "0" if negative) $ 300 (STEP 5)

STEP 6

Estimate the borrower's total financial needs for taxes and insurance by adding the results of STEPS 2 through 5 = **GRAND TOTAL $ 800 (STEP 6)**

NOTE: The "GRAND TOTAL" is the amount of taxes due during the construction period plus the initial escrow deposit.

STEP 7

Estimate the initial escrow deposit by adding the results of STEPS 3, 4, and 5 =

TOTAL ESTIMATED INITIAL ESCROW DEPOSIT $ 800 (STEP 7)

For borrowers who so elect, and subject to loan underwriting requirements, the Grand Total (STEP 6) may be included in the loan amount. The taxes due in STEP 2 will be paid during the construction period from loan proceeds. The estimated initial escrow deposit will be forwarded to CSC when construction is complete and the loan is converted to an active account. If STEP 6 is not included in the loan amount, the borrower must be counseled to save this amount during the construction period and pay taxes when due.

ATTACHMENT 7-B

TAX SERVICE FEE SCHEDULE

The tax service fee will be charged according to the timetable listed below:

Tax Service Fee:	New Loans approved through September 30, 2002	$95
	New Rates and Terms Assumptions*	$10

New Loans Approved	October 1, 2001– September 30, 2002	$98
	October 1, 2002 – September 30, 2003	$101
	October 1, 2003 – September 30, 2004	$104
	October 1, 2004 – September 30, 2005	$107
	October 1, 2005 – September 30, 2006	$110
	October 1, 2006 – September 30, 2007	$113
	October 1, 2007 – September 30, 2008	$116
	October 1, 2008 – September 30, 2009	$119
	October 1, 2009 – September 30, 2010	$122
	October 1, 2010 – September 30, 2011	$125

* The tax service fee for new rates and terms assumption will remain $10 through September 30, 2011.

Loan Transaction	Tax Service Fee Charged
INITIAL 502 LOAN Primary loan greater than $7500	$95 ***** or other amount based on the approval date of loan as outlined on page 1
504 LOANS If the total outstanding indebtedness is more than $15,000 and taxes & insurance are not escrowed through another lender.	$95 ***** or other amount based on the approval date of loan as outlined on page 1
NEW RATES AND TERMS ASSUMPTION WITH OR WITHOUT SUBSEQUENT LOAN New Borrower pays $10 regardless of what previous borrower paid. No additional charges apply.	$10
SAME RATES AND TERMS ASSUMPTION	$0
CREDIT SALE WITH OR WITHOUT SUBSEQUENT LOAN Same as Initial Loan	$95 * or other amount based on the approval date of loan as outlined on page 1
SUBSEQUENT LOAN If greater than $15,000 and borrower does not have an established escrow account. If borrower has an existing escrow account	$95 ***** or other amount based on the approval date of loan as outlined on page 1 $0

ATTACHMENT 7-C

INSURANCE POLICY REQUIREMENTS

A. Loss or Damage Covered

Hazard insurance policies must insure buildings against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke. The flood insurance, if applicable, must cover any damage due to flooding conditions.

B. Amount

The Loan Originator should encourage borrowers with a total indebtedness of more than $15,000 to obtain hazard insurance to cover the dwelling and any other essential buildings (such as a garage) in an amount that is equal to the insurable value (i.e. the cost to restore the property back to its state prior to a loss) of the dwelling and other essential buildings or the unpaid principal balance. Flood insurance must cover the ***lesser of*** the outstanding principal balance of the loan or the maximum amount of coverage allowed under FEMA's National Flood Insurance Program (NFIP).

The policy must state whether or not the building is on a leasehold. State Supplements provide guidance on specific State insurance requirements pertaining to leasehold interests.

C. Borrower's Deductible

The borrower's deductible may not exceed the generally accepted minimums based on current industry standards and local market conditions. Typically, the borrower's deductible will not exceed the higher of 1 percent of the face value of the policy or $1,000 unless State law requires a higher maximum deductible amount. In areas where such deductibles are not reasonably available due to local market conditions, i.e. areas on coastal lines or prone to high winds, State Supplements will be issued for prior National Office approval to provide guidance for current market deductibles. The supplemental guidance must identify the specific areas, the associated amount and the detailed justification for each area in the State that is authorized for higher deductibles. For flood insurance, these deductibles apply unless the insurance carrier requires a higher deductible amount.

D. Term

The policy must have a term of at least 1 year, with evidence that 1 year's premium has been paid.

E. Effective Date

If there are insurable buildings on the property (as opposed to vacant land to be built upon), the policy must be in force at the time the loan is closed. When a dwelling is to be constructed, the insurance coverage must be effective as of the date the materials are delivered to the property. No payments from loan funds for labor or materials can be made unless insurance coverage is in place.

F. Construction Specifications and Use Conditions

If the insurance policy specifies certain standards of construction or prescribes certain uses of the property, the policy will be acceptable only if the property meets the specifications or conditions.

G. Names and Location

The policy must include the legal names of all parties being insured. It also must contain a description of the property's location, although a legal metes and bounds description is not required.

H. Mortgagee Clause

A mortgagee clause ensures that the Agency will be reimbursed in the event of a loss by identifying the Agency as the secured party on the lien (the "mortgagee"). The standard mortgagee clause adopted by the State must be attached to or printed in the policy, and must identify the Agency as the mortgagee. Specifically, the Agency must be identified as the "United States of America, acting through the Rural Housing Service or its successor agency." The Agency, and all other mortgagees whose interests are insured under the policy, must be shown in either the mortgagee clause or on the declaration page in the order of priority of their mortgages. The address should be:

USDA, Rural Development
Centralized Servicing Center
Attn: Insurance Department
P.O. Box 66876
St. Louis, Missouri 63166

Whenever a new mortgagee clause is issued after the policy has been in force, the new mortgagee clause must be signed by an authorized agent or officer of the company that issued the policy.

When an approved mortgagee clause is not printed in the policy, a “loss payable clause,” which lists all the parties that would receive payment in case of a loss, is acceptable, provided the Agency will receive payment in case of loss, even in circumstances in which the company would not be liable to the borrower. The closing agent must verify that an authorized official of the insurance company has sent a signed letter to the State Director stating that all insurance policies issued by the company in the State incorporate all the provisions of the standard mortgagee clause and that the Agency is named in the loss payable clause (a State Supplement will be issued offering guidance on the requirements of this letter and can be found in Appendix 7).

CHAPTER 8: LOAN APPROVAL AND CLOSING

8.1 INTRODUCTION

Once the Loan Originator has completed all of the procedures described in Chapters 3 through 7 and has decided based on the qualifications of the applicant, the characteristics of the property, and the results of the underwriting analysis that the loan should be made, the case file is submitted to the Loan Approval Official for final review and approval. Section 1 of this chapter describes the procedures used to notify the applicant of the Loan Approval Official's decision and to obligate loan funds, if appropriate. Section 2 describes the steps the Loan Originator and the closing agent must take to prepare the loan for closing. Section 3 describes the steps required to actually obtain funds for the closing and ensure that the closing is accomplished. Section 4 describes the process for administering construction loans.

SECTION 1: LOAN APPROVAL AND OBLIGATION

8.2 THE LENDING DECISION

If the underwriting analysis indicates that the loan should be approved, the Loan Originator must submit a complete case file to the Loan Approval Official. The Loan Approval Official should review all of the documents contained in the case file to ensure that they are completed properly, and must confirm that the Loan Originator's underwriting decision is sound. The Loan Approval Official must approve or reject the loan within 30 days of receiving a complete case file.

> Prior to approval, the loan Approval Official must review the applicant and loan information entered into loan origination and servicing systems to ensure that it is accurate and complete. For 502 Direct Loans, this review should be done using the 502 Direct Loan Data Check Query, located in Hyperion's canned report section.

A. Rejection

If the loan is rejected, the Loan Originator should speak to the applicant directly to explain the reasons for the rejection. This conversation offers an opportunity to counsel the applicant about specific actions the applicant can take to permit the Agency to approve a loan in

B. Approval

If the loan is approved, the Loan Originator must notify the applicant, and typically will set up an in-person meeting to discuss the loan. The meeting provides an opportunity for the applicant to sign *Form RD 3550-7, Funding Commitment and Notification of Loan Closing*, to hold the applicant orientation described in Paragraph 8.6 A.1, and to remind the applicant that documentation of the homeownership education requirement must be submitted prior to closing on the loan. *Form RD 3550-7* must be signed and returned to the Loan Originator within 15 days.

8.3 OBLIGATING FUNDS

> A loan must only be approved when funds are available to obligate the loan.

A. Initial Obligation

A loan must be approved and obligated the same day.

Form RD 3550-7 must be signed and dated by the Loan Official at the time of loan approval and obligation. Therefore, *Form RD 3550-7*or any approval letter must not be issued to the applicant unless the loan has been approved and obligated.

As soon as the Loan Approval Official approves the loan, the Loan Originator will obligate funds through MortgageServ. If, after 15 days *Form RD 3550-7* is not signed and returned, the Loan Originator must deobligate the loan. Once the loan has been deobligated, the application is withdrawn. Should the applicant express interest in another loan, a new application must be filed, and would be processed based on the new application date.

B. Changing the Loan Amount

If the loan amount must be increased or decreased prior to loan closing, any paperwork that reflects or is affected by the loan amount must be revised. The closing agent and the applicant must return any loan closing forms that have already been distributed so that they can be revised appropriately. Exhibit 8-1 illustrates the steps for making changes to the loan amount.

If a loan amount must be increased or decreased for a prior fiscal year, the field office should contact the Centralized Servicing Center (CSC) Disbursement Unit. All requests to increase the obligation amount for a direct loan with prior fiscal year funds are subject to the

availability of funds at the time for the request. The CSC Disbursement Unit will make the required corrections to the obligation amount. **NOTE: Although it is understandable that errors sometimes occur when obligating and closing loans, field offices are required to make every effort to adhere to the guidelines outlined in this handbook for correctly obligating loans.**

Exhibit 8-1
Steps for Changing the Loan Amount

Increase Amount of Loan	Decrease Amount of Loan
Verify availability of funds.	If the check has not yet been sent to the Field Office, cancel the request. If the check has already been sent, void the check and return it to the CSC.
If the check has not yet been sent to the Field Office, cancel the request. If the check has already been sent, void the check and return it to the CSC.	Amend the original obligation in MortgageServ.
Cancel the obligation for the loan in MortgageServ.	Update the new loan information in UniFi.
Update the new loan information in UniFi.	Request a new check through MortgageServ.
Reobligate the loan for the correct amount and request a new check through MortgageServ.	

C. Canceling a Loan

To cancel the entire loan prior to loan closing, the Loan Originator must deobligate the loan and cancel the check request in MortgageServ. If the check has already been sent to the Field Office, it must be voided and returned to CSC with the completed Forms RD 1940-10, Cancellation of U.S. Treasury Check and/or Obligation," and RD 3550-17, "Funds Transmittal Report." The Agency's or applicant's decision to cancel the loan must be documented carefully. The following instructions are to be followed for returning checks to CSC for cancellation:

Return Checks via FED-EX overnight to:

USDA, Centralized Servicing Center
ATTN: FC-243 (Disbursement Unit)
4300 Goodfellow Blvd., Bldg 105E
St. Louis, MO 63120-1703

The required information for this packet is:

1) *Form RD 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation;"*
2) *Form RD 3550-17, "Funds Transmittal Report;" and*
3) Check

After the check has been returned, the Loan Originator must notify the applicant and closing agent of the loan cancellation using Handbook Letter 15 (3550), Standardized Adverse Decision Letter. In situations where the cancellation is not the applicant's choice, the Loan Originator must indicate on Handbook Letter 15 (3550) any action that can be taken to correct or appeal the decision. It is the applicant's responsibility to notify the seller and any contractors of the cancellation.

SECTION 2: PREPARING FOR CLOSING

8.4 TITLE INSURANCE AND CLOSING AGENTS

For most loans, the Agency requires title insurance, and requires that the loan closing be conducted by a closing agent who meets the Agency's standards. This paragraph summarizes the Agency's requirements for title insurance and closing agents, and the procedures for approving the individuals and firms that provide those services. Details about these procedures can be found in RD Instruction 1927-B.

A. Title Insurance

Title insurance is required for most loans unless the State Director determines that the use of title insurance is not possible, is not economically feasible for the type of loan involved, or in the area of the State where the loan will be made. In these cases, an attorney's opinion can be accepted. If the total outstanding balance of any combination of any unsecured Section 502 and 504 loans that is less than $7,500 title insurance is not required. Title insurance is required on Section 504 loans only when the total outstanding balance is $7,500 or greater.

B. Closing Agents

An attorney or title company may act as a closing agent and close Agency real estate loans, provide necessary title clearance services, and perform other closing-related duties prescribed by the Agency. A closing agent approved by the Agency is required for all section 502 and 504 loans of $7,500 or greater.

C. Approvals

State Offices maintain a list of title insurance companies that are authorized to provide title insurance in the State. Each approved title insurance company may provide a master list of title companies and attorneys that are covered by its closing protection letter and are thereby authorized to perform closings on behalf of that title insurance company. The State Office determines which title insurance companies will be authorized to issue title insurance policies for Agency loans based on RD Instruction 1927-B.

Since a title insurance company is not regulated by the State, the approval process will be repeated at least every 5 years, or more often if adverse information becomes available, to insure continued compliance by the title insurance company.

If an applicant selects a title company or attorney that is on the State Office list, no further verifications are necessary. If the attorney or title company selected is not on the list, they should provide an acceptable closing protection letter from an approved title insurance company.

Alternatively, title companies may submit *Form RD 1927-20, Certification of Title Insurance Company* and attorneys may submit *Form RD 1927-19, Certification of Attorney*, to request Agency approval.

D. Procedures

If the applicant selects a title company or attorney that is not on the State Office list, the Loan Originator must send the title company or attorney *Form RD 1927-20* or *Form RD 1927-19*, whichever is appropriate. The title company or attorney must return *Form RD 1927-20* or *Form RD 1927-19* to the Loan Originator for review. Standards for evaluating a title company or attorney's qualifications are contained in RD Instruction 1927-B.

To notify a title company or attorney of their selection and approval, the Loan Originator should send *Form RD 1927-4, Transmittal of Title Information* and attach *Form RD 1927-9, Preliminary Title Opinion* if an attorney is performing loan closing.

8.5 RESPONSIBILITIES OF THE CLOSING AGENT/ATTORNEY

The Loan Originator must provide *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement* to the Closing Agent/Attorney. This form provides information about the amount of personal funds required from the applicant, the appropriate disbursement of funds, any remaining requirements that the applicant must meet, and the instruments and forms required for loan closing. The Loan Originator also should attach all forms needed for loan closing as well as copies of other documents to facilitate the Closing Agent's/Attorney's review (e.g., tax bills, legal descriptions, or surveys). Closing documents may be sent via e-mail **"IF THE E-MAIL ATTACHMENT IS ENCRYPTED WITH A SECURITY PASSOWRD TO PROTECT THE APPLICANT'S/BORROWER'S SENSITIVE INFORMATION WHICH INCLUDES THE SOCIAL SECURITY NUMBER, ADDRESS, DATE OF BIRTH, etc."** *Form RD 3550-25* need not be executed until loan closing, and must be returned, along with the other closing documents.

The Closing Agent/Attorney is required to perform a number of tasks, including:

- Provide a title insurance binder (or prepare *Form RD 1927-9, Preliminary Title Opinion*) within 10 days of the date of the transmittal letter;
- Secure a title insurance policy within 60 days of loan closing or a final title opinion within 14 days of loan closing;
- Establish a mutually convenient date for the loan closing;
- Assess whether, after closing, the borrower will have an ownership interest in the property that is of the priority required by the Agency and subject only to those exceptions approved by the Agency;
- Ensure that the applicant provides a copy of an acceptable hazard insurance policy or insurance binder, and evidence that 1 year's premium has been paid;
- Confirm that the applicant has flood insurance, if applicable;
- Collect any other information the Agency has instructed the applicant to provide;
- Ensure that the applicant is aware of any funds that must be brought to closing; and
- ***On the day of the loan closing***, confirm that the applicant has no outstanding judgments. If any additional entries of record are identified, the loan cannot be closed until these entries are cleared or approved.

The Closing Agent/Attorney must complete *Form RD 1940-59, Settlement Statement*, which itemizes the costs to be paid by the applicant and seller at closing. UniFi will provide much of the information needed for *Form RD 1940-59*, including the amount of the initial deposit to the escrow account. The Closing Agent/Attorney must pro rate real estate taxes between the seller and borrower using *Form RD 1940-59* to determine the actual payment amount.

The Closing Agent/Attorney also must ensure that there are no outstanding demands for payment from a contractor or supplier for construction or repair work. If required by State Supplement, *Form RD 1927-5, Affidavit Regarding Work of Improvement*, must be signed at closing by the seller or, in the case of a subsequent loan, by the borrower, to certify that there are no outstanding claims.

8.6 RESPONSIBILITIES OF THE LOAN ORIGINATOR

The Loan Originator is responsible for coordinating all aspects of the process so that the required pieces come together on the day of closing. Between the time the loan is approved and the day of closing, the Loan Originator must: (1) work with applicants to be sure they understand and carry out their obligations; (2) work closely with the closing agent and review his or her work, as appropriate; (3) re-verify income, eligibility and validate the interest rate; and (4) prepare the documents that the Agency must provide for closing.

A. Prepare the Applicant

Most applicants have never purchased a home before, and are unfamiliar with the details of the Agency's loan requirements. The Loan Originator must work with applicants to ensure that they understand the steps required to reach closing successfully, and that they are fully aware of the responsibilities they will assume when the loan closes.

1. Applicant Orientation

When the loan is approved, the Loan Originator typically sets up an in-person meeting, as described in Paragraph 8.2 B. for the applicant to sign *Form RD 3550-7, Funding Commitment and Notification of Loan Closing*, and to hold the applicant orientation.

> Under no circumstances can a loan be closed without signed evidence that the applicant orientation took place.

The applicant orientation is an opportunity for the Loan Originator to introduce the applicant to the Agency's loan closing and servicing guidelines, and to discuss the Agency's expectations of their borrowers. The Loan Originator must follow *Form 3550-23, Applicant Orientation Guide*, to ensure that all relevant topics are covered, including paper check processing through electronic funds transfer (EFT) as required by Check 21. The applicant must initial each item in Part II, and sign and date the document. Should the applicant want more information than *Form 3550-23* offers, the Loan Originator can provide additional information. In unusual cases where a face-to-face meeting cannot occur, the orientation can take place over the telephone. However, *Form 3550-23* must be sent to the applicant for initials and signature. Loan closing cannot take place unless *Form 3550-23* has been completed. The orientation should take place as soon after loan approval as possible.

2. Notification of Loan Closing

The Loan Originator must notify the applicant of the conditions to be met and

information to be provided at or before loan closing using *Form RD 3550-7,Funding Commitment and Notification of Loan Closing*. The applicant must review, sign, and return *Form RD 3550-7* to the Loan Originator within 14 days from the date of the form. The loan cannot be closed unless *Form RD 3550-7* has been signed and all obligations listed on the form have been met.

3. Closing Costs

The applicant may be required to bring funds to closing for a variety of purposes, including assets that must be contributed as a down payment, funds to pay for closing costs, or resources to fund the initial deposit to the escrow account. Borrowers receiving a subsequent loan may be required to prepay interest at closing. An estimate of the required amount, determined by the Loan Originator, is provided on *Form RD 3550-7*. The Closing Agent/Attorney makes the final determination of the actual amount required from the applicant.

B. Review Title Insurance Binder (or Preliminary Title Opinion)

Upon receipt of a title insurance binder (or *Form RD 1927-9, Preliminary Title Opinion*), the Loan Originator must carefully review it and consider the issues identified in Exhibit 8-2. The Loan Originator should review any exceptions listed to determine if the lien position is in jeopardy. If the exceptions will adversely affect the property's title, suitability, or security value, the loan cannot be closed.

If prior liens will be present as part of a leveraging strategy, *Form RD 1927-8, Agreement with Prior Lien holder*, must be executed by the lien holder and recorded in the appropriate real estate mortgage records.

If any required information is omitted, or if the title insurance binder (or *Form RD 1927-9*), is not satisfactory, the Loan Originator should return it to the Closing Agent/Attorney for corrections.

Exhibit 8-2

Reviewing the Title Insurance Binder (or Preliminary Title Opinion)

- After closing, the borrower must become the owner of record of the real property.
- Any liens or recorded claims that would prevent the Agency from obtaining an enforceable mortgage must be removed.
- Outstanding judgments, bankruptcy, insolvency, or probate proceedings must be resolved.
- All property rights intended to be taken as security must be available.
- If wetlands easements or other conservation easements have been placed on the property, they must be acceptable to the Agency.
- If there are any exceptions of record, they must be acceptable to the Agency.

C. Re-verifying Employment and Income

The Loan Originator must obtain an oral verification of employment (VOE) within 10 business days prior to the closing date. A written verification of employment, also dated within 10 business days prior to settlement, may be accepted in lieu of a oral VOE. Documentation to re-verify the applicant's income must be updated before loan closing if: (1) the closing will occur more than 120 days after the date on the employment verification documents; (2) there is evidence to indicate a change in financial status; or (3) the applicant's employment status had changed within 4 months prior to submission of the application. All re-verification activity should be documented carefully.

If the income re-verification indicates a significant change in income, the Loan Originator should take the following steps:

- Verify that the applicant is still income-eligible. A program loan cannot be granted if the applicant's adjusted income exceeds the moderate-income level at closing. Regardless of whether the applicant's income decreases or increases to change their status from very-low or low income, no changes are needed on the loan obligation. (There are no income restrictions for non-program applicants.)

- Determine whether the applicant is eligible for payment subsidy. Payment subsidy may be granted if the applicant's adjusted income is at or below the applicable moderate-income limit.

- Consider whether the applicant could obtain 100 percent private financing and refer the applicant to a private lender, if appropriate.

- Confirm that the applicant has adequate repayment ability.

D. Re-verify Eligibility

The applicant's circumstances may have changed since loan approval/obligation and must be reviewed as part of closing preparations. *Form RD 3550-7, Funding Commitment and Notification of Loan Closing*, should be reviewed to be sure all obligations are included on the most recent Eligibility Summary. After all re-verifications have been completed, the Loan Originator will print out and sign a new UniFi Eligibility Summary and place it in position 3 of the applicant case file.

E. Validate the Interest/Note Rate

Before preparing the loan closing documents, the Loan Originator must validate the note rate. The validation process involves reviewing the information in UniFi and MortgageServ to ensure that both systems have the same and correct interest rate.

The Loan Originator should use the following process to validate the note rate.

- Review the interest rate history to determine if an interest rate change occurred between loan approval/obligation and loan closing.
- Determine which of the interest rates is lower. **The Loan Originator must use the applicable interest rate in effect at loan approval or loan closing, <u>whichever is lower.</u>**
- If the interest rate at closing is lower than the one in effect at the loan obligation/approval date, both UniFi and MortgageServ must be updated to reflect the lower rate.
- Ensure that documents printed from UniFi, especially those affected by the interest rate such as the Promissory Note, Truth-in-Lending and Form RD 410-4, are accurate, consistent with the information in MortgageServ, and in compliance with program guidelines.

F. Prepare Loan Documents

The Loan Originator should assemble the forms needed for closing, and forward them to the Closing Agent/Attorney with *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement*. Closing documents may be sent via e-mail **"IF THE E-MAIL ATTACHMENT IS ENCRYPTED WITH A SECURITY PASSOWRD TO PROTECT THE APPLICANT'S/BORROWER'S SENSITIVE INFORMATION WHICH INCLUDES THE SOCIAL SECURITY NUMBER, ADDRESS, DATE OF BIRTH, etc."** The Closing Agent/Attorney is responsible for completing the appropriate forms, preparing the security instruments, and obtaining signatures at closing, as needed. Attachment 8-A lists the documents needed for loan closing.

In unusual circumstances, changes must be made to the text of a security instrument or promissory note. For example, in the case of a non-program borrower, the clauses relating to refinancing to other credit and prohibition on leasing will be stricken. The Loan Originator should draw a line through only the specific language to be deleted, and alert the Closing Agent/Attorney of the deletions. All persons signing the security instrument or promissory note must initial the changes in the margin.

1. Special Documents for Assumptions

Whether new funds are obligated or existing loan funds are recycled through an assumption is primarily an accounting function, and is largely transparent to the purchaser and seller. However, there are 3 procedural differences that will affect the purchaser and the seller. First, the purchaser must sign *Form RD 3550-22, Assumption Agreement Single Family Housing* at closing. Second, the original note is not returned to the seller. Instead, the note is amended to indicate that it has been assumed. The original Promissory Note, with a copy of *Form RD 3550-22* attached, is kept in a locked fire-proof file. Copies are placed in the purchaser's case file. Third, *Form RD 3550-16, Release from Personal Liability* is provided to the seller at closing. The agreement is executed to release the seller from all personal liability for the amount of debt being assumed. In cases where the debt is not being assumed in full, CSC will handle the settlement of the remaining debt and any release of liability for that portion of the debt not being assumed.

2. Special Documents for Subsequent Loans

Applicants who are obtaining a subsequent loan have a legal right to cancel the loan within 3 business days from whichever of the following activities occurs last:
(1) execution of the mortgage or deed of trust; (2) receipt of *Form RD 1940-41, Truth in Lending Statement*; or (3) receipt of *Form RD 1940-43, Notice of Right to Cancel*. The Loan Originator or Closing Agent/Attorney cannot disburse funds to the applicant until the 3 business days have passed, unless a hardship exists and the applicant waives his or her right to cancel the loan in writing.

SECTION 3: CLOSING

8.7 OBTAINING FUNDS FOR CLOSING

The Agency utilizes an automated process for the electronic disbursement of loan funds known as the Automated Clearing House (ACH) network. This process pertains only to initial disbursements on section 502 loans. At the appropriate time, funds are released via ACH into the Closing Agent's/Attorney's account in order to close the loan. Under no circumstances will the loan closing proceeds be transferred from one Closing Agent's/Attorney's bank account to another. In the event the funds were sent to the wrong Closing Agent/Attorney, call CSC at the Field Support/ACH Help Desk.

The ACH process is **not** utilized for subsequent disbursements on construction loans, section 504 Loan and Grant combos, 504 grants, and 504 loans. Subsequent disbursements on construction loans, section 504 Loan and Grant combos, 504 loans, and 504 grants only are requested via the MortgageServ system.

Any loan that is closed in the Field Office will use a paper check, i.e. Native American loans closed via Office of General Counsel (OGC) and section 502/504 Note only loans. Checks are generated the day they are requested and are dated for 3 days later.

8.8 ESTABLISHING THE DISBURSEMENT SCHEDULE

Some borrowers will be able to occupy their dwellings immediately, while others will need to remain in other housing until construction or rehabilitation is complete. To avoid requiring borrowers to repay an Agency loan while continuing to pay other housing costs, borrowers who cannot occupy the property within 30 days are permitted to defer loan payments.

A. Permanent Loans

If the loan funds are used to purchase an existing dwelling or newly built house, or to complete minor repairs, such as painting or carpeting, the borrower should be able to occupy the property within 30 days. In these situations, a permanent loan is made and the borrower's repayment obligation begins immediately. Funds for permanent loans are requested in a single advance. In general, the loan funds are disbursed in full at closing. If funds for repairs are not fully disbursed at loan closing, the undisbursed loan proceeds are deposited into an escrow account supervised by the Closing Agent/Attorney, or into a supervised bank account and disbursed in accordance with RD Instruction 1902-A.

B. Construction Loans

> Interest will always accrue at the subsidized rate during the construction period.

If loan funds are to be used to build a new dwelling or to undertake repairs that will prevent the borrower from occupying the dwelling for more than 30 days, the loan is made as a construction loan. Funds for construction loans are disbursed in multiple advances that begin to accrue daily simple interest as of disbursement at the borrower's Subsidized Rate and will not exceed the note rate. When activating the construction loan, and to ensure that interest accrues at the subsidized rate during construction, the Loan Originator must enter the subsidized rate into MortgageServ.

The Loan Originator will post each disbursement into MortgageServ. MortgageServ will calculate and record the amount of the interest accrual during the construction period. The Loan Originator must generate the Eligibility Summary from UniFi and place it in the borrower's case file when the construction loan is activated. The construction loan is converted into a permanent loan in MortgageServ when the final disbursement is made.

8.9 ESTABLISHING A REPAYMENT SCHEDULE

A. Monthly Installments

The Loan Originator must indicate the appropriate monthly payment schedule on *Form RD 1940-16, Promissory Note*. **Under no circumstances** will a new loan be scheduled with an annual installment.

Borrowers with existing loans specifying annual payments may request conversion to monthly payments, and must convert to a monthly payment schedule before any subsequent loan or new payment subsidy is approved.

B. Housing Assistance Program (HAP)

HAP payments made from the Housing Choice Voucher-Homeownership Program should be handled in the following manner. The Loan Originator should:

- Encourage the Public Housing Authority (PHA) to send the HAP (principal, interest, taxes and insurance portion only) directly to Rural Development (via the appropriate lockbox) or to the leveraged lender versus sending it directly to the family.
- Notify the PHA of the appropriate lockbox address and inform the PHA that the check **must** include the borrower's name and account number at a minimum.

- If the PHA elects to use any other payment method, field offices will be responsible for monitoring these accounts, which will require coordination with CSC to ensure they remain current.
- Accounts that use the Housing Choice Voucher should be designated a "Yes" in the field called "Section 8 Vouchers" in the "New Application Additional Set Up Screen" in UniFi.

8.10 ORIGINAL EQUITY

Original equity is calculated using the market value at the time of loan approval/obligation for both new and existing properties. Original equity is the difference between current market value and the total of all Agency and leveraged assistance (including subordinate affordable housing products and/or grants). Prepaid taxes and insurance are not considered original equity, nor are contributions toward closing costs. *Form RD 3550-12, Subsidy Repayment Agreement*, contains the original equity amount. Only one agreement should be executed by the subject borrower for the subject property. A new agreement should not be completed when extending additional financing (i.e. subsequent loans) to an existing borrower with an active agreement.

When an applicant is purchasing a program Real Estate Owned (REO) property and the purchase price is less than the market value due to an administrative price reduction, the equity to be credited to the borrower (if any) is any difference between the actual purchase price and the loan amount. Administrative price reductions do not affect original borrower equity.

8.11 LOAN CLOSING

The Closing Agent/Attorney should review the information provided during the applicant orientation with the applicant again at loan closing. The Closing Agent/Attorney also must review each closing document with the applicant, obtain signatures, as appropriate, and collect and disburse all required funds. Attachment 8-A provides a list of the documents that may be required at closing.

A. Loan Closing Document Submission

Many of the legal documents and other information used in underwriting the loan must be provided to CSC in order to assist with quality assurance and servicing.

Prior to loan closing the Loan Originator must complete the following items to be submitted to the Closing Agent/Attorney:

Special Loan Closing Requirements

- See Chapter 9 for condominiums, community land trusts, planned unit developments, or manufactured homes.
- See Chapter 10 for leveraged loans.

1. *Form RD 3550-19, Transmittal – Closing Documents*, with the appropriate documents as indicated on the transmittal.

2. *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement*, which includes the required forms to be signed by the borrower(s) at loan closing.

Once loan closing has occurred the Closing Agent/Attorney will send to CSC via overnight mail:

1. *Form RD 3550-17, Funds Transmittal Report*, and

2. A check for total fees collected as shown on Form RD 3550-17.

Clear signed copies of all pages of the applicable loan closing documents will be faxed to CSC by the Closing Agent/Attorney within **1 working day** from loan closing or by the Rural Development Field Office within **3 working days** of loan closing, using Form RD 3550-19, "Transmittal-Closing Documents," as the fax cover sheet.

The Closing Agent/Attorney should return all original documents to the loan originator to be retained in the case file. However, the original Promissory Note must be retained in a separate, secured storage area. The title insurance policy (or final title opinion) will be sent only to the Loan Originator and applicant by separate envelope. CSC does not receive a copy of the Final Title Policy.

The loan docket for construction loans should not be sent to CSC until the loan is converted to a permanent loan and the Promissory Note is amended.

B. Review Closing Documents

The Loan Approval Official must review the closing documents to verify that the Agency has received the proper lien priority. The Loan Approval Official also should check *Form RD 3550-7, Funding Commitment and Notification of Loan Closing* to confirm that the applicant submitted all required information. The Loan Approval Official then signs *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement* to certify that the loan was closed in accordance with the instructions provided.

C. Activate the Loan

The Loan Originator activates the loan in MortgageServ after loan closing to signal CSC that the loan has been closed, and that servicing should begin. CSC does not begin to service construction loans until they are converted to permanent.

D. Record Mortgage or Deed of Trust

The Closing Agent/Attorney must record *Form RD 3550-14* after loan closing. The Closing Agent/Attorney should submit an unrecorded copy to the Loan Originator along with the other closing documents. The recorded copy should be provided to the Loan Originator as soon as it is completed. If the original is retained by the filing official, a conformed copy showing the date and place of recordation must be provided.

E. Secure Title Insurance Policy

The Closing Agent/Attorney must secure the title insurance policy and deliver it to the Loan Originator and applicant. A copy of the binder/commitment letter must be faxed to CSC with other closing documents.

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SECTION 4: CONSTRUCTION LOANS

8.12 ADMINISTER CONSTRUCTION FUNDS

When funds are used for construction or rehabilitation, the Loan Originator must supervise their use. The Loan Originator and the borrower must each inspect the work when the contractor wishes to receive payment. If applicable, proper implementation of mitigation measures required by the environmental assessment also should be reviewed. If the work is acceptable, the Loan Originator must write "Pay to the Order of (insert name of Contractor)" on the back of the check, and provide it to the borrower for endorsement and payment to the contractor. The inspection and payment process can be expedited if the Loan Originator, borrower, and contractor meet at the dwelling for the inspection.

The amount of each disbursement for construction loans is determined by the draw schedule, which is developed based on the value of the work, according to Marshall and Swift guidelines. To ensure that all work will be completed satisfactorily, the Agency holds back 40 percent of each payment to the contractor, unless the contractor has obtained a Surety Bond, Performance Bond, or Payment Bond, in which case only 10 percent is held back. Holdbacks are released with the final payment.

8.13 CONVERT CONSTRUCTION LOANS

When a construction loan is made, the promissory note is written at the promissory note rate; however when the loan is activated, the subsidized rate the borrower will receive is entered in MortgageServ as the note rate. This causes interest during the construction period to accrue at the subsidized rate.

A construction loan is converted to a permanent loan once the house passes the final inspection. When the loan is converted to a permanent loan, the Loan Originator must change the note rate in MortgageServ to the note rate that was in effect when the construction loan was made, so that it matches the borrower's note.

Loan conversion and the final inspection can occur on the same day provided the local office receives a copy of the final occupancy permit or other equivalent inspection report prior to the date of final inspection and funds have been fully disbursed.

A. Modify Note and MortgageServ

On the conversion date, the Loan Originator updates *Form RD 1940-16, Promissory Note*, to reflect the new principal amount of the loan, including the interest generated during the construction period. The borrower should initial the note to acknowledge the change. The Loan Originator then amortizes the new principal amount over the remaining term of the loan. The Loan Originator also must change the note rate in MortgageServ, which was entered at the applicable subsidized rate, to reflect the note rate in effect when the construction loan was made, and change the account number, as directed by CSC, to reflect the conversion from a construction loan to a permanent loan. Conversion to the permanent loan number will signal CSC to take over servicing responsibilities.

B. Update Payment Subsidy

If the borrower is eligible for payment subsidy, the Loan Originator must reverify income if more than 120 days have passed since the last verification of employment or there is evidence to indicate a change in financial status since the construction loan was made. Written verifications may be valid for an additional 60 days with oral reverifications at the end of the 120 days. The Loan Originator must generate *Form RD 1944-14, Payment Assistance/Deferred Mortgage Assistance Agreement* or *Form RD 1944-6, Interest Credit Agreement* and *Form RD 3550-12, Subsidy Repayment Agreement* and obtain the appropriate signatures. The appraisal obtained in connection with the loan approval/obligation must be used to determine market value on *Form RD 3550-12, Subsidy Repayment Agreement*, regardless of the length of the construction process.

ATTACHMENT 8-A

DOCUMENTS TO BE SIGNED OR SUBMITTED AT LOAN CLOSING

RD 410-4	*Uniform Residential Loan Application (printed from UniFi)*
RD 3550-14	*Real Estate Mortgage or Deed of Trust for (State)*
RD 1940-16	*Promissory Note*
RD 1927-9	*Preliminary Title Opinion* or Title Insurance Binder
Document	Evidence of Completion of Homeownership Education (if applicable)
RD 3550-7	*Funding Commitment and Notification of Loan Closing*
RD 1940-41	*Truth in Lending Statement* (if applicable)
RD 1940-43	*Notice of Right to Cancel* (if applicable)
RD 1940-59	*Settlement Statement (or equivalent form)*
RD 1944-6	*Interest Credit Agreement* (if applicable)
RD 1944-14	*Payment Assistance/Deferred Mortgage Assistance Agreement* (if applicable)
RD 3550-12	*Subsidy Repayment Agreement* (if applicable)
Document	Evidence of Insurance and receipt for 1st year premium
RD 3550-15	*Tax Information*
RD 3550-9	*Initial Escrow Account Disclosure Statement*
RD 1927-5	*Affidavit Regarding Work of Improvement* (within 45 days)
RD 1927-8	*Agreement with Prior Lienholder* (if applicable)
RD 3550-22	*Assumption Agreement - Single Family Housing* (if applicable)
RD 3550-16	*Release from Personal Liability* (if applicable)
RD 3550-17	*Funds Transmittal Report*
RD 3550-19	*Transmittal-Closing Documents and Attachments listed on Form (if applicable)*
RD 1955-49	*Quitclaim Deed* or Warranty Deed (if applicable)
RD 3550-10	*Condominium Rider* (if applicable)
RD 3550-11	*Planned Unit Development Rider* (if applicable)

RD 3550-25	*Loan Closing Instructions and Loan Closing Statement*
	Authorization Agreement for Preauthorized Payments (if applicable)
RD 3550-29	*Document Errors and Omissions Agreement*
	First payment coupon generated from UniFi

ATTACHMENT 8-B

UNLIQUIDATED OBLIGATION REVIEW

Obligation of funds should not occur until the loan or grant has been fully underwritten in accordance with the procedures described in Chapters 3 thru 7 of this handbook. Once funds are obligated, they must be disbursed in a timely manner. Loan approval and obligation implies that the Agency has determined the applicant has an immediate need for and will promptly use the funds. Therefore, it is imperative that unliquidated obligations are monitored to ensure that the funds are still needed and will be used by the applicant.

Periodic reviews of obligations are important to the Agency in order to properly report and certify the validity of obligation balances, prevent the loss of loan funds that expire at the end of a fiscal year, make funds available that otherwise would not be used and reduce the risk of fraud, waste and abuse.

1. State Office Monitoring

RD Instruction 2009-B requires a review of obligations twice a year. In addition to this review, the State Office should conduct a review of unliquidated obligations at the end of each quarter. The review official may review Report Code 205, "Status of Loan and Grant Obligations Allotments or Distributions" prepared by the Finance Office, or utilize Hyperion to obtain a detailed report of unliquidated obligations. The Hyperion report is titled "Undisbursed Obligations" and provides a detailed listing of all unliquidated obligations that are more than 180 days old. The report of unliquidated obligations will contain a close code of "1, 4 or 9". An obligation with a close code of "4" is classified as an application, indicating the loan has not yet closed, while obligations with a close code of "1 or 9" are classified as active accounts, signifying a closed loan.

The review official's sample must consist of all unliquidated obligations that have been inactive for twelve months or more. In addition, at least half of the unliquidated obligations that have been inactive for less than 12 months must be reviewed. Obligations selected shall be reviewed to determine whether the intended purpose of the loan or grant is expected to occur. The following review guide entitled, "Single Family Housing Unliquidated Obligations" must be utilized for completion of the review. After completion of the review guide, the review official will inform the Field Office if the obligation may remain outstanding or if de-obligation is required.

This review is intended to disclose unliquidated obligations for loans or grants:

(a) That do not have a legal basis, or are not properly authorized and supported by appropriate documentation;

(b) Which have been completed and have not been closed out; and

(c) Under which no future expenditures are expected.

Once a determination is made that an obligation can be deobligated, the Loan Originator will take the applicable action as per the instructions in HB-1-3550, Chapter 8, paragraph 8.3 B or C as appropriate.

Single Family Housing Unliquidated Obligation Review

State Office Reviewer STATE_____

Title Review Date_____

Applicant's Name: _____ Account Number: _____

Date of Obligation: _____

1. Has the loan/grant closed? Yes___ No___
2. If the loan/grant has not closed, has the applicant provided all the necessary information and does the file contain documentation as to why the loan has not closed? Yes___ No___ NA___

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3. Are legal or construction issues preventing disbursal of funds or the loan from closing? Yes___ No___ NA___
4. Has the planned construction period expired? Yes___ No ____ NA ____
5. Have funds been spent consistent with percentage of construction completion? Yes___ No___ NA___
6. Has the customer received any supplemental or subsequent loans or other additional funds? Yes___ No___
7. If the answer above is yes, is there justification for increase in funding levels? Yes___ No ____ NA ___
8. Is there a period of inactivity? Yes___ No___

If yes, explain and document the reasons below.

_____

_____

9. Is the undisbursed obligation justified? Yes___ No___

If yes, explain justifications and basis to continue with loan below..

_____

_____

10. Should the obligation be canceled? Yes_____ No____

If no, establish a completion date for closing out the obligation below,.

_____

_____

2. National Office Monitoring

The National Office will periodically request loan/grant files to conduct reviews of undisbursed obligations. The results of the review will be shared with the State Offices. If the National Office review concludes the unliquidated obligation is not justified, the State Office must inform the Field Office to de-obligate the funds and follow-up to ensure that it is accomplished in a timely manner.

CHAPTER 9: SPECIAL SITUATIONS

9.1 INTRODUCTION

This chapter describes the requirements for processing loans in several special situations. Section 1 discusses conditional commitments. Section 2 deals with processing requirements surrounding condominium ownership, community land trusts, and planned unit developments. The chapter concludes with Section 3, which describes the specific processing differences for manufactured homes.

SECTION 1: CONDITIONAL COMMITMENTS *[7 CFR 3550.70]*

9.2 OVERVIEW OF CONDITIONAL COMMITMENTS

A conditional commitment is a written assurance from the Agency to a qualified builder, dealer-contractor, or seller that a dwelling to be constructed or rehabilitated will be certified as acceptable for purchase by qualified loan applicants, as long as the construction and sales price meet certain conditions. The conditional commitment does not reserve loan funds, nor does it guarantee that an eligible loan applicant will be available to purchase the property. It does, however, provide a reasonable assurance to the builder that the home will be eligible for financing once it is completed. If the area does not remain rural, the conditional commitment will not be honored unless a purchaser is found who applied for a loan before the rural area designation changed.

9.3 APPLICATION AND FEE

Builders, dealer-contractors, or sellers interested in becoming conditional commitment contractors must apply using *Form RD 1944-36, Application for Conditional Commitment*. A single application form may be used to request conditional commitments for multiple dwellings. All required attachments must be included for each dwelling for which a conditional commitment is requested, including the proposed selling price, address, evidence of building site ownership, and detailed descriptions of all proposed construction.

Applicants must include a $500 fee for each dwelling for which a conditional commitment is requested. If a preliminary inspection of the property or investigation of the conditional commitment applicant indicates that a conditional commitment will not be issued, the application fee should be refunded. Once the appraisal is conducted, the application fee cannot be refunded. When a loan on a property with a conditional commitment is closed, the appraisal fee collected from the purchaser is disbursed to the conditional commitment contractor.

9.4 EVALUATING THE CONDITIONAL COMMITMENT APPLICATION

An application for a conditional commitment is evaluated based on the criteria discussed below.

- **Ownership.** The applicant must have an adequate ownership interest in the property, as described in Paragraph 5.11, before beginning construction.

- **Capacity.** The applicant must have the experience and ability to complete any proposed work competently and must be financially responsible and able to finance or obtain financing for any proposed work. The capacity of applicants for conditional commitments should be evaluated in the same manner as for any construction contractor, as discussed in Paragraph 5.25 A.

- **Legal capacity.** The applicant must have the legal capacity to enter into the required agreements. Legal capacity can be verified by checking the applicant's business license and registration.

- **Civil rights.** The applicant must agree to comply with all applicable laws, regulations, and Executive Orders relating to civil rights, as described in Paragraph 1.9.

- **Affirmative marketing.** Any company that receives 5 or more conditional commitments during a 12-month period must develop an acceptable Affirmative Fair Housing Marketing Plan, as described in RD Instruction 1901-E.

- **Site requirements.** The proposed site must meet the requirements listed in Section 1 of Chapter 5.

- **Dwelling requirements.** If the dwelling is to be constructed or substantially rehabilitated, it must meet the requirements listed in Section 2 of Chapter 5. If it is a new manufactured home, it must meet the requirements of Paragraph 9.19.

- **Environmental Requirements**. An environmental review must be completed as described in Section 3 of Chapter 5.

- **Start of construction.** Conditional commitments for new or substantially rehabilitated dwellings will not be issued after construction has started.

- **Local market demand.** The number of conditional commitments issued in any locality should not exceed existing market demand. In particular, the number of outstanding commitments in the area must not exceed the number of loans that can reasonably be expected to be made within 3 months of dwelling completion. To determine this, the Loan Originator should consider the availability of loan funds and the number of loan applications typically received in the office.

- **Proposed price.** The proposed price must not exceed the applicable area loan limit, as described in Paragraph 6.6.

9.5 PRELIMINARY APPROVAL

In general, the Loan Originator must review the application materials and visit the site for which a commitment is requested within 7 days of receiving a completed application. During the site visit, the Loan Originator should ensure that construction has not begun and that the site meets the requirements of Section 1 of Chapter 5. In addition, the Loan Originator will initiate an environmental review as discussed in Section 3 of Chapter 5. Unless there are unresolved environmental issues, the Loan Originator must determine within 7 days of completing the site visit, whether the application for a conditional commitment should be accepted or rejected. If there are environmental issues that will take additional time to resolve, the Loan Originator must inform the conditional commitment applicant about the outstanding issues.

A. Rejecting the Application for Conditional Commitment

If any of the requirements outlined in Paragraph 9.4 are not met, the Loan Originator must deny the application for a conditional commitment. The documents attached to the application must be returned to the applicant, along with a letter explaining why the application was not approved. The application, a copy of the supporting documents, and a copy of the rejection letter should be retained in the conditional commitment applicant's file.

If no appraisal has been conducted, the letter should indicate that the application fee will be refunded separately. In this case, the Loan Originator should provide CSC with the information needed to send the refund check. If the application was not approved because of the Loan Originator's assessment of the applicant's experience or financial capacity, the letter should specify that the applicant has the right to appeal the decision to the National Appeals Division (NAD).

B. Ordering an Appraisal

If the site visit and document review indicate that all of the requirements outlined in Paragraph 9.4 can be met, an appraisal should be ordered in accordance with the guidelines set forth in Paragraph 5.17. Because the application fee cannot be refunded after the appraisal is conducted, the appraisal should never be ordered until the site visit and document review are complete.

9.6 FINAL APPROVAL

The final decision about approving an application for a conditional commitment depends on the results of the appraisal. The proposed selling price listed on the conditional commitment application must not exceed the property's appraised value or the area loan limit, whichever is lower.

A. Proposed Price Too High

If the proposed selling price exceeds the property's appraised value, the Loan Originator must notify the conditional commitment applicant that the application cannot be approved unless the selling price is reduced. If the conditional commitment applicant decides to reduce the proposed price, this decision must be provided to the Loan Originator in writing; the Loan Originator cannot make changes based on verbal instructions. If the conditional commitment applicant elects not to reduce the proposed price, the documents attached to the application should be returned along with a letter explaining why the application was not approved.

B. Proposed Price Acceptable

If all of the eligibility requirements are met and the proposed price is acceptable, a conditional commitment can be issued. The Loan Approval Official should complete and sign *Form RD 1944-11, Conditional Commitment*, and forward a copy to the conditional commitment applicant.

9.7 DURATION OF COMMITMENT

Conditional commitments are valid for 12 months from the date of issuance. At the conditional commitment contractor's request, the Loan Approval Official may extend the commitment period for up to an additional 6 months if there have been unexpected delays in construction caused by such factors as bad weather, materials shortages, or marketing difficulties. In order to document the extension, the Loan Originator should modify *Form RD 1944-11, Conditional Commitment*.

A conditional commitment will be canceled if construction does not begin within 60 days after the commitment is issued, unless the Loan Approval Official determines that there were unavoidable circumstances that justified the delay. The Agency's construction inspector should visit the site to verify that construction has begun. If the inspector finds that construction has not begun, the Loan Originator should send a letter to the contractor indicating that the conditional commitment has been canceled and specifying the reasons.

9.8 CHANGES IN PLANS, SPECIFICATIONS, OR COMMITMENT PRICE

The Loan Approval Official may approve changes in project plans, specifications, or commitment price if the conditional commitment contractor requests the changes in writing, and the conditions discussed below have been met.

- The property must continue to meet applicable development standards after any changes;
- If a change is requested after a loan applicant has exercised an option on the property, the change may be approved only if the loan applicant and the contractor both agree to the changes in writing;
- Any increase in costs must have been caused by factors beyond the control of the commitment holder, such as an unforeseeable materials shortage;
- The increased commitment price must remain at or below both the property's appraised value and the applicable area loan limit; and
- If the proposed change will alter the purpose, operation, location, or design of the project as originally approved, the environmental review for the project must be amended (or a new environmental review completed) prior to approval of the change.

Changes to plans and specifications must be noted on *Form RD 1924-25, Plan Certification*.

If an approved change will alter the value of a property, a revised appraisal report (to be paid for by the conditional commitment contractor) should be ordered, and *Form RD 1944-11, Conditional Commitment*, should be revised based upon the appraisal. The revised commitment should be initialed and dated by the Loan Approval Official, and initialed by the commitment holder. A new appraisal is not required if the new price does not exceed the appraised value.

9.9 PROPERTY INSPECTIONS

Property inspections will be performed according to the procedures for new construction and major rehabilitation set forth in Section 6 of Chapter 5. If the contractor fails to correct any deficiencies detected during an inspection or to complete the work according to previously approved plans and specifications, the Loan Approval Official may cancel the conditional commitment.

9.10 BUILDER'S WARRANTY

The builder or seller, as appropriate, must execute either *Form RD 1924-19, Builder's Warranty*, or provide a 10-year insured warranty when construction is completed. Builder's warranties are discussed in Paragraph 5.24.

9.11 CONDITIONAL COMMITMENTS INVOLVING PACKAGING OF APPLICATIONS

A conditional commitment may be made to a seller, builder, or dealer-contractor who packages a loan application for a prospective purchaser. In cases where the dwelling is to be constructed for sale to a specific eligible applicant, all of the following conditions listed below must be met.

- The conditional commitment will not be approved until the applicant's loan has been approved.

- Construction will not begin until funds are obligated for the loan. Exceptions may be made when it appears likely that funding will be forthcoming and as long as the Agency's lien priority is not jeopardized. The sales agreement must indicate that the loan has been approved, but not funded and must provide that if the loan is not closed within 90 days of the date of approval, the contractor may terminate the sales agreement and sell the property to another party. If the sales agreement is terminated, the conditional commitment will be honored for another eligible loan applicant for the remaining period of the commitment.

- The Agency loan will be closed only after the dwelling is constructed or the required rehabilitation completed, and final inspection has been made.

SECTION 2: SPECIAL FORMS OF OWNERSHIP

9.12 OVERVIEW

This section discusses processing requirements for loans for dwellings with three types of special ownership: condominiums, community land trusts, and planned unit developments. Unless otherwise indicated in this section, the same basic requirements for loan approval discussed elsewhere in this handbook apply to these loans, along with the additional requirements specified here. Documents related to the establishment and operation of community land trusts must be reviewed by the Office of the General Counsel (OGC) to determine whether the Agency's rights are sufficiently protected. Other forms of ownership will be referred to OGC when the Loan Approval Official determines it necessary to ensure the Agency's rights are protected.

9.13 LOANS FOR CONDOMINIUM UNITS *[7 CFR 3550.71]*

Loans may be made to finance the purchase of dwellings in condominium developments if the conditions described in this paragraph are met, and the applicant and the property otherwise meet the requirements outlined in this handbook.

A. Definition

A condominium is defined as a real estate project in which each unit owner has title to a unit in a building, an undivided interest in the common areas of the project, and sometimes the exclusive use of certain limited common areas. The project may include dwelling units in detached, semi-detached, row, garden-type, low or high rise structures.

B. Financing Approval

Loans cannot be approved for condominium units unless the project has been approved for financing by the Department of Housing and Urban Development (HUD), the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac) or the State Housing Finance Agency (SHFA). The applicant must submit documentation from the appropriate agency showing that the project is acceptable for financing. HUD approved projects can be found by conducting a search for condominium on their website at www.hud.gov and a list of Fannie Mae approved projects can be found on their website at www.efanniemae.com. Freddie Mac does not currently publish a list of approved projects on their website.

Projects can be approved for financing by HUD through their Project Eligibility Review Service (PERS). The Fannie Mae website can be found at: https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/condogls/pers.jsp

C. Condominium Status

Agency financing will not be considered for any condominium regardless of how the project was approved unless, at the time of loan approval, the status of the condominium projects meets the conditions listed below.

- At least 70 percent of the units must have been sold. (Multiple purchases of condominium units by one owner are counted as one sale when determining if the sales requirements have been met.)

- No more than 15 percent of the unit owners can be more than 1 month delinquent in payment of homeowners' association dues or assessments at the time the Agency loan is approved.

- The condominium project must consist of a structure or structures containing four or more units and must not contain any commercial space. Units in a rental project which was converted to condominium ownership are not eligible. In addition, condominium projects that are considered ineligible by HUD, Fannie Mae or Freddie Mac, such as condominium hotels, timeshares or houseboats, are not eligible for Agency financing.

D. Protection of Agency Rights and Lien Position

A loan may not be approved unless condominium documents preserve the rights and lien position of the Agency described below.

1. Right of First Refusal

Any right of first refusal in the condominium documents must not impair the rights of the Agency to: (1) foreclose or take title to a condominium unit under the remedies in the mortgage; (2) accept a deed in lieu of foreclosure if a mortgagor defaults; and (3) sell or lease a unit it acquires.

2. Agency Obligation for Charges

If the Agency obtains title to a condominium unit under the remedies in its mortgage or through foreclosure, it will not be liable for more than 6 months of the unit's unpaid regularly budgeted dues or charges accrued before it acquired title to the unit. The homeowners' association's lien may include the cost of collecting unpaid dues.

All taxes, assessments, and charges that may become liens prior to the first mortgage under local law must relate only to the individual condominium units and not to the condominium project as a whole.

3. Provisions in the Case of Condemnation or Substantial Loss

In the case of condemnation or substantial loss to the units or common elements of the condominium project, unless at least 51 percent of the first mortgagees of the individual condominium units have given their consent, the homeowners' association may not:

- By act or omission seek to abandon or terminate the condominium project;
- Change the pro rata interest or obligations of any condominium unit in order to levy assessments or charges, allocate hazard insurance proceeds or condemnation awards, or determine the share of ownership in the common elements;
- Partition or subdivide any condominium unit;
- Seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements by act or omission (the granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the condominium project is not a transfer within the meaning of this clause); or
- Use hazard insurance proceeds for losses to any condominium property (whether units or common elements) for purposes other than the repair, replacement, or reconstruction of the condominium property

- The condominium documents must not give the condominium unit owner (or any other party) priority over the Agency's right to insurance proceeds or condemnation awards for losses to, or taking of, condominium units or common elements.

E. Closing Documents

Form RD 3550-10, Condominium Rider, must be used to amend and supplement the security instruments to accommodate special requirements that apply because the owners' association may hold title to the property. For example, hazard insurance may be paid by the owners' association, rather than by the borrower.

9.14 LOANS FOR UNITS IN A COMMUNITY LAND TRUST

Loans may be made to finance the purchase of dwellings located on land owned by community land trusts if the conditions described in this paragraph are met, and the applicant and the property otherwise meet the requirements outlined in this handbook.

A. Definition

A community land trust is defined as a private nonprofit community housing development organization that:

- Is organized under State or local laws;
- Has no part of its net earnings benefiting any member, founder, contributor, or individual;
- Complies with standards of financial accountability;
- Has among its purposes significant activities related to the provision of decent housing that is affordable to low- and moderate-income people;
- Maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents with regard to decisions on the design, sitting, development, and management of affordable housing;
- Has its corporate membership open to any adult resident of a particular geographic area specified by the by-laws of the organization; and

- Is established to carry out all of the following activities:

  ◊ Acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

  ◊ Transfer ownership of any structural improvements located on such leased parcels to the lessees; and

  ◊ Retain a pre-emptive option to purchase any such structural improvements at a price determined by a formula that is designed to ensure that the improvement remains affordable to low- and moderate-income people in perpetuity.

B. Preservation of Agency Rights and Lien Position

The relevant legal documents must contain language that ensures that all restrictions relating to community land trusts will automatically and permanently terminate upon foreclosure or Agency acceptance of a deed in lieu of foreclosure. Language that merely subordinates the restrictions to the mortgage is not sufficient -- the restrictions also cannot be forced upon subsequent purchasers following resale by the Agency.

C. Restrictions on Resale Price

Restrictions on the limits to the resale price of the property or recapture of equity are permitted. A maximum sales price may be imposed or the sales proceeds due the borrower may be limited, with any excess payable to a governmental body or nonprofit organization for reuse in the community land trust. When such restrictions apply, the requirements listed below must be met.

- The borrower must be permitted to recover at least the original purchase price, sales commission, and cost of capital improvements when the borrower sells the property.

- The borrower must be permitted to recover a reasonable amount of appreciation as determined by the Agency. Appreciation is measured by the difference between the original purchase price and the actual price at which the property is resold.

- If the program permits the borrower to sell the property at market value but recaptures part of the equity, the Agency considers a reasonable share of appreciation to be at least 50 percent. The Agency does not object to situations whereby the borrower's share of appreciation is on a sliding scale beginning at 0, provided that within 2 years the homeowner would be permitted to retain 50 percent of the appreciation.

- If the program sets a maximum sales price restriction, the borrower must be permitted to retain 100 percent of the appreciation.

Other arrangements for sharing appreciation may be approved by the State Director.

D. Right of First Refusal

One method commonly used to ensure that housing remains part of an affordable housing program is for the community land trust to hold a right of first refusal or an option right that can be exercised when the borrower proposes to sell the home to a purchaser not eligible for the program benefits. Such a provision is permitted if all of the requirements listed below are met.

- The rights must be held only by a governmental body or eligible nonprofit organization and exercised by them or someone they have identified as an eligible purchaser.

- Any right must be exercised within 45 days after the holder of these rights may exercise them (for example, the rights are often triggered by a notice of sale from the borrower).

Any option price must allow the borrower to recover the borrower's investment plus a reasonable share of appreciation.

- **Payment Subsidy Recapture**

The borrower's ability to repay payment subsidies may be affected by the resale restrictions of the community land trust. Case-by-case exceptions to Agency recapture requirements may be approved by the Administrator if necessary to accommodate the restrictions imposed by the land trust.

E. Appraisals

A property located on a site owned by a community land trust must be appraised as a leasehold interest.

9.15 PLANNED UNIT DEVELOPMENTS

Loans may be made to finance the purchase of dwellings located in Planned Unit Developments (PUD) if the conditions described in this paragraph are met and the applicant and property otherwise meet the requirements outlined in this handbook.

A. Definition

A Planned Unit Development is a project or subdivision that includes common property that is owned and maintained by a homeowners' association for the benefit of and use by the individual PUD unit owners. A PUD can consist of Condominiums or Town Homes (which must also meet the requirements of paragraph 9.13 of this Handbook). Detached Single Family Homes that are in a PUD and served by a homeowners' association are not part of this definition and are exempt from this requirement?.

B. Preservation of Agency Rights and Lien Position

The Owners Association must be controlled by the homeowners and any restrictions imposed on the owners in the PUD Constituent Documents must not jeopardize the Agency's rights or lien position. The "Constituent Documents" are the declaration, articles of incorporation, trust instrument or any equivalent document which creates the Owners Association and any by-laws or other rules or regulations of the Owners Association.

C. Closing Documents

Form RD 3550-11, "Planned Unit Development Rider" must be used to amend and supplement the security instrument to accommodate special requirements. For example the Owners' Association may maintain a "master" or "blanket" Hazard Insurance Policy.

SECTION 3: MANUFACTURED HOMES *[7 CFR 3550.73]*

9.16 AUTHORIZED LOAN PURPOSES

A. Definition

Manufactured homes are built to different construction standards and codes and have different inspection requirements than those manufactured structures generally referred to as "modular" or "panelized" homes. The major difference between manufactured homes and modular or panelized homes is the construction standard or code to which they are built and the inspection requirements. Modular or panelized homes, as described in Exhibit B of RD Instruction 1924-A, are not affected by the requirements of this section.

B. Authorized Loan Purposes

When a real estate mortgage or deed of trust covers the unit ***and*** the site, Section 502 loans may be used to finance the following:

- Site development work that conforms to the requirements of RD Instruction 1924-A;
- Purchase of an eligible new unit, transportation and set-up costs, and purchase of an eligible site if not already owned by the applicant;
- Subsequent loans for equity or repair in conjunction with an assumption or Real Estate Owned (REO) sale; and
- Subsequent loans for repair of units that are financed with Section 502 loans.

C. Loan Restrictions

The Agency will not use Section 502 loan funds to finance:

- The purchase of an existing unit and site, unless the property is already financed with a Section 502 loan or is Agency REO property;
- The purchase of a site without also financing the unit;
- A unit that does not meet Federal Manufactured Home Construction and Safety Standards (FMHCSS);

A unit that does not meet or exceed the FMHCSS thermal requirements for the county in which the home is to be located (see Attachment 9-B, Thermal Requirements for a Manufactured Home).

- Alteration or remodeling of the unit when the initial loan is made, unless repairs are needed in conjunction with an assumption or REO sale;

- Repairs not associated with a transfer, REO sale, or unit that is already financed with a Section 502 loan;

- Existing debt owed by the applicant; or

- Furniture, including movable articles of personal property such as drapes, beds, bedding, chairs, sofas, divans, lamps, tables, televisions, radios, stereo sets, and other similar items of personal property (furniture does not include wall-to-wall carpeting, refrigerators, ovens, ranges, washing machines, clothes dryers, heating or cooling equipment, or other similar equipment).

9.17 DEALER-CONTRACTOR REQUIREMENTS

No loans will be made on a manufactured home sold or serviced by any entity that is not an approved dealer-contractor. Once the applicant has submitted the name of the selected dealer-contractor, the Loan Originator should check the State Office's list of approved dealer-contractors. If the dealer-contractor is approved, the Loan Originator should notify the applicant of what information must be submitted to the Agency for review and approval.

If the dealer-contractor is not approved, the Loan Originator should offer the applicant the opportunity to select another dealer-contractor who is on the approved list, or to request that the Loan Originator inform the dealer-contractor about the Agency's procedures for approval.

The applicant and the dealer-contractor will be notified of the Agency's thermal requirements for the county in which the home is to be located. Rural Development accepts the FMHCSS Uo Value Zones for new manufactured homes financed by the Agency. Attachment 9-B lists the FMHCSS Uo Value Zones for each state, by county, and Puerto Rico.

All new manufactured homes built to the FMHCSS are provided with a Comfort Heating and Cooling Certificate. This certificate (which may be combined with the Data Plate) is affixed in a permanent manner near the main electrical panel or other readily accessible and visible location inside the unit. The certificate specifies to FMHCSS Uo Value zone of the home as Zone 1, 2 or 3. (The U/O Value Zone Map on the certificate does not apply.) An example of the Comfort Heating and Cooling Certificate is provided as Attachment 9-A.

An entity may apply to become an approved dealer-contractor by submitting *Form RD 1944-5, Manufactured Housing Dealer-Contractor Application*, credit reports and supplementary data sources, such as financial statements and tax returns should be used to verify or determine employment, income, held assets and credit history. An entity that owns multiple locations within a state, and will be responsible for meeting all of the Agency requirements for each branch location listed on the application needs only submit one application. The entity must identify sales personnel, sales area, and number of branches as well as the addresses of all branch locations to be covered by the individual application. Independent retailers of manufactured homes are required to obtain individual approval in their company name. To qualify to participate, a dealer-contractor must be: (1) financially responsible; (2) qualified and equipped to set up the unit on a site-built permanent foundation and develop the site; and (3) willing to provide a warranty acceptable to the Agency.

The evaluation of applications for dealer-contractor status involves a joint effort by Loan Originators, Loan Approval Officials, and State Directors.

When evaluating these applications, the Loan Originator should perform the following tasks.

- Maintain an operational file for each dealer-contractor who submits *Form RD 1944-5* and a certified financial statement.

- Obtain a commercial credit report on the firm and consumer credit reports on each of the principals for contractors that are for-profit individuals, partnerships or corporations through the appropriate Regional Coordinator assigned to order Dun & Bradstreet reports. For non-profit organizations, a credit report will only be obtained for the organization and not for any of the principals. Do not use UniFi to order individual reports.

- Make direct checks on trade and bank references and check with the local Better Business Bureau.

- Inspect the dealer's place of business to determine its permanency and the adequacy of available equipment.

- Obtain copies of brochures, descriptive literature, guarantees, sales contracts, and price lists.

- Determine that the dealer-contractor has the necessary equipment and experience to perform or subcontract all site development work. If the firm uses subcontractors, obtain the names of the subcontractors and their qualifications. A field inspection of recently-developed sites and set-ups is desirable in determining whether the dealer-contractor has the necessary experience.

- Carefully analyze the collected information to determine if the dealer-contractor is able to provide the full service of sales, service, erection, and warranty of manufactured units and developing sites for them. Based on this analysis, the Loan

- Originator should develop a recommendation with supporting documentation as to whether or not the dealer-contractor is acceptable.

- If necessary, the Loan Originator should maintain a complaint file to establish a basis for limiting future business with the dealer-contractor.

The Loan Approval Official should review the Loan Originator's recommendations and forward them, with any additional comments, to the State Director for review.

The State Director will make the decision on the dealer-contractor's acceptability and, if applicable, issue a letter of acceptance. The State Director also will issue a list of acceptable dealer-contractors in the State. The list of dealer-contractors should include only acceptable dealer-contractors that are active. Active is defined as a dealer-contractor who has sold a manufactured home within the last two years that was financed by a Rural Development direct or guaranteed loan borrower. Dealer-contractors that have not been active in a two year period may be removed from the active list of approved dealer-contractors. If the State Director determines that the dealer-contractor is not acceptable, appeal rights will be granted. Any dealer-contractor determined to be unacceptable may reapply for acceptance at any time the dealer-contractor has reason to believe the conditions leading to the determination have been removed.

9.18 PROCESSING PROCEDURES

A. Submission Requirements

In addition to the documents required for a standard Section 502 loan, the applicant must submit the following before the loan can be approved:

- A plot plan and site development plan as described under RD Instruction 1924-A, Exhibit C;
- A foundation plan per RD Instruction 1924-A, Exhibit C adapting manufacturer's design to the specific site conditions. Specific site conditions that may require modification may include slope, soils type, frost depth and requirements of FD adopted code and/or local codes.
- Certification of site and foundation designs on Form FD 1924-25;
- An itemized cost breakdown of the total package, including the base unit, eligible options, site development, installation, set up, lot costs, and any credit for wheels and axles;
- A statement signed by the dealer-contractor indicating that any cash payment or rebate as a result of the purchase will be deducted from the price of the unit and not paid to the applicant; and
- A statement signed by the dealer-contractor that the proposed cost is the full price of the unit and all development activities, and if furniture is being purchased by the applicant with other funds, that a lien will not be filed against the Agency's security property.

B. Appraisal Techniques

The site and unit must be appraised before loan approval, using normal single family residential appraisal techniques. Since other manufactured units and sites provide the most similar comparables, every effort must be made to obtain such comparables, even if their distance from the subject property is greater than preferred. If units are not available within a reasonable distance, the appraiser may use homes other than manufactured homes, after adjusting for factors such as location, construction material, size, and quality.

The appraiser will use Marshall and Swift cost data for average-construction manufactured housing to determine the appraised value using the cost approach. The National Office may authorize the use of an alternate cost method. For more information on appraisals, see Section 5 of Chapter 5.

C. Loan Rates and Terms

The interest rates for manufactured homes are the same as for other real estate loans made with Section 502 loan funds, but the maximum loan term is 30 years. Applicants for Section 502 loans on manufactured homes may receive payment subsidy, if they are eligible.

9.19 CONSTRUCTION AND SITE REQUIREMENTS

The unit must meet the requirements for new dwellings contained in Section 2 of Chapter 5 and must have a floor area of 400 square feet or more, and a width of 12 feet or more for a single-wide unit, and 20 feet or more for a double-wide unit. In addition, the unit must meet the Agency's Thermal Performance Standards as set forth in RD Instruction 1924-A, for the winter degree day zone where the unit will be located. Finally, site development and set up must conform to Exhibit J of RD Instruction 1924-A, and the environmental requirements of RD Instruction 1940-G must be met. Development under the Mutual Self-Help and borrower construction methods is not permitted for manufactured homes.

9.20 LOAN CLOSING

In general, loan closing procedures are the same whether the Section 502 loan is made for the purchase of a manufactured home or another type of single family home. However, the Loan Originator should be aware of the following requirements.

A. Contract Requirements

The dealer-contractor must sign *Form RD 1924-6, Construction Contract*, which will cover both the unit and site development work. Multiple contracts are prohibited, but a dealer-contractor may use subcontractors if the dealer-contractor remains solely responsible for all work under the contract. Payment for all work will be made in accordance with *Form RD 1924-6* and RD Instruction 1924-A, except that no payment will be made for materials or property stored on site (for example, payment for a unit will be made only after it is permanently attached to the foundation).

B. Lien Release Requirements

All firms furnishing materials or labor in connection with the contract must sign *Form RD 1924-10, Release by Claimants*, except for the manufacturer of the unit. The manufacturer of the unit must furnish an executed manufacturer's certificate of origin indicating that the unit is free and clear of all legal encumbrances. *Form RD 1924-10* and the manufacturer's certificate of origin should be filed in the case file.

C. Warranty Requirement

A dealer-contractor must provide the borrower with a warranty in accordance with the provisions of RD Instruction 1924-A. The warranty must identify the unit by serial number. The dealer-contractor must certify that the unit substantially complies with the plans and specifications, and the home has sustained no hidden damage during

transportation. If the home was manufactured in separate sections, the dealer-contractor also should certify that the sections were properly joined and sealed according to the manufacturer's specifications. The dealer-contractor must furnish the applicant with a copy of all manufacturer's warranties.

D. Real Estate Tax Requirement

Whether manufactured homes are considered personal or real property may vary state-to-state. When the loan closes, the unit and site must be taxed as real estate by the jurisdiction in which it is located, if such taxation is permitted under applicable law.

ATTACHMENT 9-A

SAMPLE COMFORT HEATING AND COOLING CERTIFICATE

Manufacturer Address

Plant Number

Date of Manufacture	HUD Label No.(s)

Manufacturer's Serial Number and Model Unit Designation

Design Approval by (D.A.P.I.A.)

This manufactured home is designed to comply with the federal manufactured home construction and safety standards in force at time of manufacture. (For additional information, consult owner's manual.)

The factory installed equipment includes:

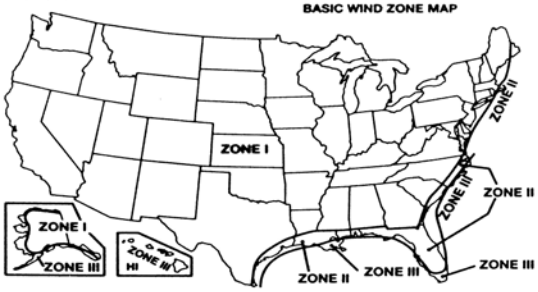
Equipment	Manufacturer	Model Designation
For heating		
For air cooling		
For cooking		
Refrigerator		
Water Heater		
Washer		
Clothes Dryer		
Dishwasher		
Garbage Disposal		
Fireplace		

HOME CONSTRUCTED FOR ☐ Zone I ☐ Zone II ☐ Zone III

This home has not been designed for the higher wind pressure and anchoring provisions required for ocean/coastal areas and should not be located within 1500' of the coastline in Wind Zones II and III, unless the home and its anchoring and foundation system have been designed for the increased requirements specified for Exposure D in ANSI/ASCE 7-88.

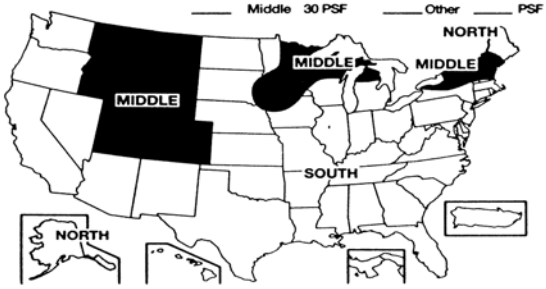
This home has____ has not____ been equipped with storm shutters or other protective coverings for windows and exterior door openings. For homes designed to be located in Wind Zones II and III, which have not been provided with shutters or equivalent covering devices, it is strongly recommended that the home be made ready to be equipped with these devices in accordance with the method recommended in manufacturers printed instructions.

BASIC WIND ZONE MAP



DESIGN ROOF LOAD ZONE MAP

_____ North 40 PSF _____ South 20 PSF
_____ Middle 30 PSF _____ Other _____ PSF



COMFORT HEATING

This manufactured home has been thermally insulated to conform with the requirements of the federal manufactured home construction and safety standards for all locations

within U/O value zone _____ . (See map at bottom)
Heating equipment manufacturer and model (See list at left).
The above heating equipment has the capacity to maintain an average 70° F temperature in

this home at outdoor temperatures of _____°F.
To maximize furnace operating economy, and to conserve energy, it is recommended that this home be installed where the outdoor winter design temperature (97 1/2%) is not higher than

_____degrees Fahrenheit.
The above information has been calculated assuming a maximum wind velocity of 15 mph at standard atmospheric pressure.

COMFORT COOLING

☐ **Air conditioner provided at factory (Alternate I)**

Air conditioner manufacturer and model (see list at left).

Certified capacity_____ B.T.U./hour in accordance with the appropriate air conditioning and refrigeration institute standards.
The central air conditioning system provided in this home has been sized assuring an

orientation of the front (hitch end) of the home facing _____ . On this basis the system is designed to maintain an indoor temperature of 75° F when outdoor

temperatures are _____°F dry bulb and_____°F wet bulb.

The temperature to which this home can be cooled will change depending upon the amount of exposure of the windows of this home to the sun's radiant heat. Therefore, the home's heat gains will vary dependent upon its orientation to the sun and any permanent shading provided. Information concerning the calculation of cooling loads at various locations, window exposures and shadings are provided in Chapter 22 of the 1989 edition of the ASHRAE Handbook of Fundamentals.

Information necessary to calculate cooling loads at various locations and orientations is provided in the special comfort cooling information provided with this home.

☐ **Air conditioner not provided at factory (Alternate II)**
The air distribution system of this home is suitable for the installation of central air conditioning.

The supply air distribution system installed in this home is sized for a manufactured home

central air conditioning system of up to _____ B.T.U./hr. rated capacity which are certified in accordance with the appropriate air conditioning and refrigeration institute standards, when the air circulators of such air conditioners are rated at 0.3 inch water column static pressure or greater for the cooling air delivered to the manufactured home supply air duct system.
Information necessary to calculate cooling loads at various locations and orientations is provided in the special comfort cooling information provided with this manufactured home.

☐ **Air conditioning not recommended (Alternate III)**
The air distribution system of this home has not been designed in anticipation of its use with a central air conditioning system.

To determine the required capacity of equipment to cool a home efficiently and economically, a cooling load (heat gain) calculation is required. The cooling load is dependent on the orientation, location and the structure of the home. Central air conditioners operate most efficiently and provide the greatest comfort when their capacity closely approximates the calculated cooling load. Each home's air conditioner should be sized in accordance with Chapter 22 of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Handbook of Fundamentals 1989 edition, once the location and orientation are known.

INFORMATION PROVIDED BY THE MANUFACTURER NECESSARY TO CALCULATE SENSIBLE HEAT GAIN

Walls (without windows and doors) ..... "U"_____
Ceilings and roofs of light color ..... "U"_____
Ceilings and roofs of dark color ..... "U"_____
Floors ..... "U"_____
Air ducts in floor ..... "U"_____
Air ducts in ceiling ..... "U"_____
Air ducts installed outside the home ..... "U"_____

The following are the duct areas in this home:

Air ducts in floor ..... _____ sq. ft.
Air ducts in ceiling ..... _____ sq. ft.
Air ducts outside the home ..... _____ sq. ft.

U/O VALUE ZONE MAP

ED-69 ©Dec-O-Art, Inc. REV. 10/91

ATTACHMENT 9-B

THERMAL REQUIREMENTS FOR MANUFACTURED HOMES

BACKGROUND: The minimum thermal requirement for new manufactured homes acceptable to Rural Development is the Federal Manufactured Home Construction and Safety Standard (FMHCSS) Uo Value Zone(s) indicated on the Comfort Heating and Cooling Certificate for the following States:

NOTE: For a FMHCSS Uo Value Zone 1 or higher, higher means a FMHCSS Uo Value Zone 2 or 3. For a FMHCSS Uo Value Zone 2 or higher, higher means a FMHCSS Uo Value Zone 3.

ALABAMA

FMHCSS Uo Value Zone 1 or higher is acceptable for all counties in the State.

ALASKA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

ARIZONA

FMHCSS Uo Value Zone 2 or higher is acceptable for the following counties:

Cochise	Greenlee	Mohave	Santa Cruz
Gila	La Paz	Pima	Yuma
Graham	Maricopa	Pinal	

FMHCSS Uo Value Zone 3 is acceptable for all other counties.

ARKANSAS

FMHCSS Uo Value Zone 2 or higher is acceptable for all counties in the State.

CALIFORNIA

FMHCSS Uo Value Zone 3 is acceptable for the following counties:

Alpine	Modoc	Nevada	Sierra
Lassen	Mono	Plumas	Siskiyou

FMHCSS Uo Value Zone 2 or higher is acceptable for all other counties.

COLORADO

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

DELAWARE / MARYLAND

FMHCSS Uo Value Zone 3 is acceptable for all counties in both States.

FLORIDA / VIRGIN ISLANDS

FMHCSS Uo Value Zone 1 or higher is acceptable for the following Florida counties and the Virgin Islands:

Brevard	Hardee	Levy	Palm Beach
Broward	Hendry	Manatee	Pasco
Charlotte	Hernando	Marion	Pinellas
Citrus	Highlands	Martin	Polk
Collier	Hillsborough	Monroe	Sarasota
Dade	Indian River	Okeechobee	Seminole
DeSoto	Lake	Orange	St Lucia
Glades	Lee	Osceola	Sumter
			Volusia

FMHCSS Uo Value Zone 2 or higher is acceptable for all other counties.

GEORGIA

FMHCSS Uo Value Zone 1 or higher is acceptable for all counties in the State.

HAWAII

FMHCSS Uo Value Zone 1 or higher is acceptable for all counties in the State.

IDAHO

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

ILLINOIS

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

INDIANA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

IOWA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

KANSAS

FMHCSS Uo Value Zone 2 or higher is acceptable for the following counties:

Barber	Cowley	Harper	Neosho
Chautauqua	Crawford	Labette	Sumner
Cherokee	Elk	Montgomery	Wilson
Comanche			

FMHCSS Uo Value Zone 3 is acceptable for all other counties.

KENTUCKY

FMHCSS Uo Value Zone 2 or higher is acceptable for all counties in the State.

LOUISIANA

FMHCSS Uo Value Zone 1 or higher is acceptable for all counties in the State.

MAINE

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

MASSACHUSETTS / RHODE ISLAND / CONNECTICUT

FMHCSS Uo Value Zone 3 is acceptable for all counties in the three States.

MICHIGAN

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

MINNESOTA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

MISSISSIPPI

FMHCSS Uo Value Zone 1 or higher is acceptable for all counties in the State.

MISSOURI

FMHCSS Uo Value Zone 2 or higher is acceptable for the following counties:

Barry	Jasper	Newton	Scott
Butler	McDonald	Oregon	Stoddard
Cape Girardeau	Mississippi	Ozark	Stone
Dunklin	New Madrid	Pemiscot	Taney
Howell		Ripley	

FMHCSS Uo Value Zone 3 is acceptable for all other counties.

MONTANA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

NEBRASKA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

NEVADA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

NEW JERSEY

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

NEW MEXICO

FMHCSS Uo Value Zone 2 or higher is acceptable for the following counties:

Bernalillo	Eddy	Lea	Quay
Chaves	Grant	Lincoln	Roosevelt
Curry	Guadalupe	Luna	Sierra
De Baca	Hidalgo	Otero	Socorro
Dona Ana			

FMHCSS Uo Value Zone 3 is acceptable for all other counties.

NEW YORK

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

NORTH CAROLINA

FMHCSS Uo Value Zone 2 or higher is acceptable for all counties in the State.

NORTH DAKOTA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

OHIO

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

OKLAHOMA

FMHCSS Uo Value Zone 3 is acceptable for the following counties:

Beaver	Cimarron	Texas

FMHCSS Uo Value Zone 2 or higher is acceptable for all other counties.

OREGON

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

PENNSYLVANIA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

PUERTO RICO

FMHCSS Uo Value Zone 1 or higher is acceptable for all of Puerto Rico.

SOUTH CAROLINA

FMHCSS Uo Value Zone 1 or higher is acceptable for all counties in the State.

SOUTH DAKOTA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

TENNESSEE

FMHCSS Uo Value Zone 2 or higher is acceptable for all counties in the State.

TEXAS

FMHCSS Uo Value Zone 1 or higher is acceptable for the following counties:

Cameron	Kenedy	Starr	Zapata
Hidalgo	Kleberg	Willacy	

FMHCSS Uo Value Zone 2 or higher is acceptable for all other counties.

UTAH

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

VERMONT / NEW HAMPSHIRE

FMHCSS Uo Value Zone 3 is acceptable for all counties in both States.

VIRGINIA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

WASHINGTON

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

WEST VIRGINIA

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

WISCONSIN

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

WYOMING

FMHCSS Uo Value Zone 3 is acceptable for all counties in the State.

CHAPTER 10: LEVERAGED LOANS

SECTION 1: UNDERSTANDING LEVERAGED LOANS

10.1 OVERVIEW

A leveraged loan is an Agency loan that is supplemented by an affordable housing loan or grant from another funding source that is provided at the same time the Agency loan is closed. Only eligible leveraged loans will be considered in the payment subsidy calculation. For the purpose of payment subsidy only, an eligible leveraged loan is defined as an affordable housing loan that is characterized by long term (not less than 30 years), amortized payments with a note interest rate equal to or less than 3 percent. Detailed guidance for calculating payment subsidy is provided in Paragraph 6.12. This does not preclude other types of participating leveraging. Leveraging reduces the loan amount the Agency must provide to help an applicant obtain adequate housing. The additional funding source may be a private lender that provides home financing at market rates and terms, a State or local government, or a nonprofit organization that provides subsidized loans or grants. Leveraged loan payment, security, and processing requirements may vary from non-leveraged loans as provided in this chapter. This chapter provides basic information about leveraging and describes the modifications to regular loan processing procedures that are made when a loan is to be leveraged.

A. Advantages of Leveraged Loans

Leveraged loans offer advantages to both the Agency and applicants. By combining its resources with those of other lenders, the Agency can assist more borrowers. For this reason, loan packages that receive an affordable housing loan from an Agency recognized source will receive a processing priority when the supplemental funding reduces the amount otherwise needed from the Agency by at least 20 percent with loan funds or 15 percent if entirely grants, forgivable loans or deferred payment loans. See Paragraph 3.14 B.

Who Can Be a Participating Lender?

"Lender," as it is used in this chapter, refers to an organization that provides long term, amortized loans for housing, including private lenders, State and local governments, and nonprofit organizations. The Agency encourages grant funding when it is available. However, a grant provider is not considered a "lender."

For some applicants, purchasing a home through a leveraged loan will be the first opportunity to establish a relationship with a private lender. For other applicants, combining the

Agency loan with a grant or low-interest loan from another subsidy program may be the only way to make homeownership possible. Leveraging is especially encouraged in the case of assumptions on new rates and terms, since the applicant may be able to obtain a non-Agency loan for purchase costs above the outstanding balance to be assumed.

B. Two Separate Financial Agreements

When a loan is leveraged, each lender enters into a separate financial agreement with the applicant. The combined resources that are provided enable the applicant to purchase a home. Although each lender remains responsible for final underwriting decisions for its loan, the application and underwriting processes should be streamlined whenever possible to avoid duplication of effort and extra burden on the applicant.

10.2 SOURCE OF LEVERAGED FUNDS

Agency funds may be supplemented by funds from a variety of sources. One of the challenges for the Loan Originator will be to understand the implications for the applicant and the Agency of the requirements that may be imposed by these sources.

A. Market Rate Financing

Market rate financing may be appropriate under some circumstances. The applicant's repayment ability must be considered in determining whether it is appropriate for referral to market rate sources. Market rate loans will not be considered in the payment assistance formula. Private lenders generally have a variety of loan products that are tailored to fit specific circumstances, for example, different products for new purchases, refinancing, and home improvement loans. The private lender loan must be a long-term, fixed rate mortgage of at least 30 years or a term no shorter than 15 years with a balloon payment and installment based on at least a 30-year amortization schedule. The Agency will not accept an adjusted rate mortgage (ARM) or an interest only mortgage. The Agency will not participate in loan packages that involve interest rates that are more than 2% (200 basis points) above the Agency note rate. Loan Originators may need to work with the lender and applicant to identify an appropriate loan product that meets lender and Agency requirements.

B. Other Subsidized Financing

Although there are many variations in the specifics, the subsidized funds that can supplement Agency funds will generally come in one of the forms described below.

- **Grants without long-term restrictions.** Some grants are provided with no restrictions, as long as the applicant is eligible and the funds will be used for an eligible purpose.

- **Forgivable loans.** Some sources provide funds that require repayment only if the home buyer fails to comply with program requirements or restrictions. For example, a funding source may provide funds for a down payment or rehabilitation that need not be repaid if the home buyer remains in the property for a specified period of time. The funds are generally provided as a loan to permit the funding agency to record the circumstances under which repayment is required.

- **Deferred payment loans.** Deferred payment loans may be used to provide funds that are repaid only upon transfer of the property or as a balloon payment at the end of a specified period. These funding arrangements often include a provision for the funding source to share any appreciation that occurs with the home buyer.

- **Affordable Housing Loans.** In many areas, low-interest loans are offered by State and local government agencies. These loans require repayment on a monthly basis and may include provisions for the funding source to share in any appreciation.

Grants, forgivable loans, deferred payment loans, and any other nonamortizing loans are not considered in calculating the monthly principal, interest, taxes, and insurance (PITI) or total debt (TD) ratios. The Agency's ability to recapture subsidy funds may be affected by the provisions of these loans. Agency loans should be subordinated only in the case of an amortizing loan of 20 to 30 percent of the total transaction. While an applicant may obtain a loan from another source of less than 20 percent of the total transaction, such a loan **would not** receive benefits such as lien priority, or processing priority. Further, USDA payment assistance is used to make the home affordable rather than to make the participating financing affordable.

10.3 KEY DIFFERENCES IN POLICIES AND PROCEDURES

This paragraph highlights major policy and procedural differences between qualifying leveraged loans and other participation loans. Detailed processing guidance for originating leveraged loans is provided in Section 2 of this chapter.

A. Eligible Loans and Grants

Cash contributions by the applicant, gifts from individuals, and donations of land do not count as leveraged or participation amounts. These are applicant contributions. Likewise, seller contributions or assistance from organizations that require seller participation or seller contributions do not count towards leveraged or participation amounts. Subsequent loans cannot be leveraged unless they are used in conjunction with assumptions on new rates and terms.

The Agency will not consider leveraging arrangements with market-rate financing sources in which the lender's loan amount is less than 20 percent or greater than 50 percent of the combined transaction amount. When all the leveraging consists of subsidized financing (affordable housing products, such as down payment assistance except funds that come directly or indirectly from seller contributions, forgivable loans, etc.), the minimum acceptable leveraging is 15 percent.

Other financing totaling less than 20 percent for lenders or 15 percent from other subsidized housing assistance is permissible. However, Rural Development will not subordinate its lien position to the lender if the loan is less than these required thresholds. However, these loans will receive processing priority when funds are limited.

B. Lien Position

To encourage participation by other lenders, the Agency will subordinate its lien position to a leveraged lender providing at least 20 percent of the financing. However, liens related to other subsidized funds provided in the form of grants and nonamortizing loans, such as deferred payment or forgivable loan, must be subordinated to the Agency's loan. In those cases where there is a soft, silent or forgivable lien, the total debt may exceed the market value as prescribed in Paragraph 6.7 F.

C. Payment Subsidy Calculation

Regardless of the percentage of the loan that is financed by the leveraged lender, the monthly note installment of an eligible leveraged loan as described in paragraph 10.1, will be considered in the payment subsidy calculations. Detained guidance for calculating payment subsidy is provided in Paragraph 6.12.

Will the leveraged loan payment be considered when calculating payment subsidy?

Only when the eligible leveraged loan is amortized for at least 30 years with an interest rate that does not exceed 3 percent.

Exhibit 6-2 provides a sample payment subsidy calculation.

D. Availability of Mortgage Credit Certificates (MCC)

Under current tax law some State and local issuers of mortgage bonds may issue MCC to provide a Federal income tax credit to assist low-income home buyers and home owners. The credit permits an eligible household to claim a specific percentage of the annual interest paid on a mortgage as a tax credit rather than a deduction. If an applicant will receive the credit, the benefit of the credit may be considered when completing the "grossing up" income calculation described in Paragraph 4.4 H. MCCs are issued through private lenders.

E. Section 8 Housing Choice Vouchers (HCV)

Housing Choice Vouchers may be used with or without a leveraged loan. The voucher itself is not considered leveraging.

F. Origination

Many processing steps can be conducted by the participating lender, rather than Agency staff. For example, the Agency may accept application and income information provided by the lender and permit the participating lender to conduct appraisals and inspections when the lender has some risk of loss at stake, based on applicant repayment or over-valuation of the security. However, even when the Agency relies on the work of the participating lender, it retains internal control, final underwriting, and loan approval responsibility for the Agency loan. Responsibility for compliance with environmental requirements remains with the Agency, although the lender may be asked to assist in collecting needed environmental information. Section 2 of this chapter provides detailed processing guidance for originating leveraged loans.

G. Servicing

Leveraged loans are eligible for the same servicing actions as any other Section 502 loan. It is imperative that any leveraging arrangement be structured so that applicant rights are preserved. However, servicing strategies may be different because of the Agency's lien position and the need to coordinate servicing strategies with the participating lender.

1. Tax Service Fee (Tax and Insurance Escrow)

The Agency will collect a tax service fee on all leveraged loans. Either the participating lender with at least 20 percent of the total amortized loan amount or the Agency may maintain the escrow account. Lenders with less than 20 percent and all affordable housing product agencies **may not** maintain the escrow account. When necessary, the Agency may make advances to pay taxes or insurance premiums.

The Agency is customarily in a subordinate lien position with the largest portion of the loan amortized for the longer term and is at more risk than the other lender. An exception to this may be agreed to with the prior lien holder when the tax service vendor

agrees in writing to cover both the Agency's and the leveraged lender's loans. The vendor must also agree to make annual real estate tax searches and report any delinquencies to the Centralized Service Center in St. Louis, Missouri.

2. Special Servicing

The Agency will aggressively pursue all available special servicing remedies to help solve applicant problems. If foreclosure is necessary, each lender has an independent responsibility to protect its interest. *Form RD 1927-8, Agreement with Prior Lienholder*, which must be executed and recorded in the appropriate Real Estate Mortgage Records, requires the participating lender to notify the Agency before accelerating any loan and permits, but does not require, the Agency to pay or reinstate the prior lien to protect the Agency's interest.

10.4 DEVELOPING STATE-BY-STATE APPROACHES TO LEVERAGING

The way in which leveraging is most effectively handled will vary state-to-state and community-to-community, depending upon market conditions, the availability of Government subsidy funds, and the interest of private lenders. For this reason, each State Director should develop an independent leveraging strategy that will encourage and facilitate the use of leveraged loans.

Elements of an Effective Lending Strategy

- Lender Outreach and Marketing
- Effective Borrower Education
- Streamlined Processing Procedures

A. Lender Outreach

Each state should implement lender outreach activities that encourage participation by all prospective lenders. For example, Field Staff should:

- Collect and maintain sales information for each market area that will enable the Loan Originator to assess whether applicants are candidates for 100 percent private financing or for leveraging.

- Identify lenders who are active in the State and provide information about the Agency's loan programs and how leveraging arrangements might work.

- Identify the sources of loan and grant funds that may be available from State and local governments, and nonprofit sources. Provide information on the Agency's loan programs to active and appropriate sources, and describe how leveraging arrangements might work.

- Consider maintaining lists of interested lenders, and information on their loan rates and terms. Care should be taken to provide information to applicants in a manner that does not provide preferential treatment to specific lenders or borrowers.

B. Borrower Education

Each State should develop briefing materials that explain the leveraging concept and why leveraging funds may be advantageous. Some applicants may need guidance and assistance in identifying and contacting appropriate non-Agency funding sources.

C. Streamlined Processing Procedures

Lenders will be less interested in working with the Agency if the leveraging process greatly increases their processing time or their documentation requirements. However, streamlining procedures must be balanced with prudent lending and internal control practices. Each Field Office should develop streamlined procedures for coordinating with participating lenders and for reviewing underwriting determinations made by those lenders. Each State Director should consider the following approaches:

- Develop a separate application package specifically for applicants seeking leveraged loans.

- Inform participating lenders in advance of the Agency's requirements for the qualification of appraisers, inspectors, and closing agents and, if requested, provide advance approval of lender staff or contractors who routinely provide these services for lenders’ loans.

- Provide staff training to ensure expedited review of leveraged loans.

- Develop and enter into a Memorandum of Understanding (MOU) with active lenders covering basic policies and procedures, rather than operating on a loan-by-loan basis. See Attachment 10-A for a list of topics shat should be considered in developing a Memorandum of Understanding.

- The terms of the MOU, including requirements for leveraged loans outlined in this chapter, should be negotiated up front. A good MOU eliminates future misunderstandings, is a good public relations opportunity, and is strongly recommended for all partners. A copy of the MOU in each leveraged loan file is suggested.

- Over time, use information from MortgageServ to generate information about the performance of leveraged loans to inform lenders, and to adjust processing procedures. To assure this information is accurate and useful, inconsistencies (such as First National Bank v. 1st Natl. Bank) should be avoided. The leveraged lender ID field in Unifi, including the lender's Tax ID number, must be completed.

SECTION 2: ORIGINATING LEVERAGED LOANS

10.5 TAKING APPLICATIONS

If the applicant applies directly to the Agency, the application procedures described in Chapter 3 should be followed. When the applicant has already completed an application to another funding source, a copy of that loan or grant application may be accepted if the other funding source used a version of the Uniform Residential Loan Application (pages 1-5 of *Form RD 410-4*). However, the applicant also must complete *Additional Information Required for RHS Assistance*, pages 6 through 9 of *Form RD 410-4, Uniform Residential Loan Application.*

10.6 REFERRING APPLICANTS TO PARTICIPATING LENDERS

Because both loan and grant funds may leverage Agency financing, any applicant for an Agency loan is a potential candidate for leveraging. The Loan Originator should provide information about other sources of subsidized loans or grants to applicants. Applicants should be referred to entities offering affordable housing products such as grants, forgivable loans, deferred interest loans, and below-market interest rate loans when such funding sources are available in the local area for which they appear to qualify.

The applicant may be a candidate for a leveraged loan because they are working with or have already completed an application to another funding source prior to coming to the Agency for a loan.

10.7 DETERMINING APPLICANT ELIGIBILITY

> **Community Reinvestment Act (CRA)**
>
> CRA requires lenders to help meet the credit needs of the communities in which they are chartered to do business.

Applicants for Section 502 leveraged loans must meet the eligibility requirements described in Chapter 4. In addition, they may have to meet additional eligibility requirements imposed by participating lenders. Participating lender credit requirements may be more stringent than the Agency's, but the Loan Originator can encourage lenders to work with applicants who meet Agency requirements. In talking with the participating lender, the Loan Originator should stress that the Agency will be sharing risk with the participating lender and that the participating lender will hold the first lien position. Also, the lender may receive CRA credit for making loans in partnership with the Agency. Leveraged loans may be sold on the secondary market though the lender must notify Rural Development upon sale and assure the investor/buyer is aware of leveraging arrangements and all requirements.

10.8 ISSUING THE CERTIFICATE OF ELIGIBILITY

To issue *Form RD 1944-59, Certificate of Eligibility* in conjunction with a leveraged loan, the Loan Originator should follow the procedures described in Paragraph 4.25, with the following exceptions. For leveraged loans, *Form RD 1944-59* will contain:

- The total maximum loan for which the applicant qualifies -- not just the Agency's portion of that loan;
- The expected Agency and lender shares of funds to be provided; and
- A time frame of <u>60 days</u> for the applicant to identify a property -- 15 days longer than other applicants receive to allow time to work with the participating lender.

10.9 UNDERWRITING LEVERAGED LOANS

A. Lender vs. Agency Underwriting

> The Agency is responsible for making sound underwriting decisions regardless of another lender's participation.

There are many underwriting processes that may be performed by either the Agency or the lender, such as income verification, credit checks, and title clearance. Lenders should be allowed to do the primary legwork involved in collecting underwriting information, but only when all or a portion of their loan is at risk. Allowing lenders to collect underwriting

information does not imply that the Agency is relieved of its responsibility to make sound underwriting decisions, only that information collected by the lender is generally acceptable to use in making these decisions.

B. Property Requirements and Appraisal

The property must meet all of the requirements described in Chapter 5. The Loan Originator may accept property inspections and appraisals conducted by the participating lender, as long as evidence of the qualifications of the individuals performing these activities is provided and accepted. The Loan Originator must still inspect the property to determine eligibility. An administrative review of the appraisal must be completed before the appraisal is accepted. The environmental review remains the responsibility of the Agency; however, the participating lender may be requested to provide environmental information.

C. Loan-to-Value Ratio

When loans are funded solely by the Agency, the applicant's total debt may exceed the market value of the property by the total of the Agency appraisal and tax monitoring fees, plus the required contribution to establish the escrow account. Down payments are required only if the applicant's nonretirement assets exceed $7,500 ($10,000 for elderly families) or available retirement assets exceed the applicable adjusted median income. (See Paragraph 4.7.)

Some lenders may be willing to participate in a loan when the total debt exceeds the value of the property because their risk is limited by the Agency's participation in the loan. However, others will require that applicants have some equity in the property, because they believe an investment in the property improves the likelihood that the applicants will fulfill their commitments. This means that applicants with leveraged loans may need to contribute more cash than other applicants. The Loan Originator should explain to the applicant whether a cash contribution will be necessary and work with the lender to lower their usual equity requirements.

D. Loan Terms and Fees

Lenders are expected to charge reasonable and customary interest rates and fees. The Loan Originator may be able to help the applicant negotiate favorable terms.

The leverage loan interest rate must be the rate the lender typically charges to its best mortgage applicant customers – an extra amount may not be charged because of low income or other high risk factors. The interest rate may be no more than 2 percent (200 basis points) above

the Agency note rate in effect at loan closing. Also, the lender may not include "points" to buy down or pre-pay the interest. If funds are available from the applicant, they must be used to reduce the amount borrowed (reducing the cost to the government).

Non-Agency loans must be amortized over a 30-year period, but may contain provisions for a balloon payment at the end of the 15th year.

Loan fees must be kept as low as possible. All fees must be reasonable. "Underwriting fees" and similar add-ons are not permitted. The total fees paid to the lender may not exceed 3-1/2 percent of the lender's loan. (This limitation on the lender applies regardless of whether the buyer or the seller pays the fees.) However, an additional amount may be considered when the lender does most or all of the loan packaging (including the Rural Development loan) and the additional amount is for reimbursements, such as fees for appraisals, inspections, etc.

In general, the loan originator must assure loan fees are minimized. The 3-1/2 percent is a maximum, not a baseline. The total Rural Development loan may not be considered when the lender is establishing fees. Lender fees must be commensurate with the amount of service provided by the lender.

E. Determining Loan Amount

The Agency loan may include costs for the initial contribution to the escrow account for taxes and insurance, even if the participating lender will manage the escrow account. The loan amount for leveraged loans is determined using the procedures described in Chapter 7, with the following exceptions.

- The note installment of an eligible leveraged loan (loan amortized for at least 30 years and an interest rate that does not exceed 3%) will be considered in the payment subsidy calculation.

- Agency loans leveraged with private financing should always be at the standard terms. If the loan is not affordable at standard rates and terms, the Agency's share of the loan should be increased, rather than extending the loan term. Loans requiring 38-year repayment terms should never be leverage with market rate financing.

- Use the Agency's cost for an appraisal to determine total allowable debt, even when the appraisal is performed by the participating lender's appraiser.

- Packages involving affordable housing products or grants that primarily pay loan packaging fees or costs other than an eligible loan purpose, as defined in Chapter 6, do not count toward the 15/20 percent limitations for the loan to automatically receive leveraged loan benefits.

F. Agreements with the Participating Lender Regarding Construction

For loans that involve new construction or rehabilitation, the Agency and lender must agree on how construction inspections, payment draws, and final acceptance of the work will be handled. This may be accomplished by an agreement developed for the specific loan or through a general memorandum of understanding that covers multiple loans.

1. Inspections

Interim construction inspections completed by the participating lender may be accepted if the Field Office has approved the qualifications of the inspector. However, an Agency representative must participate in the final inspection. The participating lender may be asked to provide the Agency with a status report on implementation of any mitigation measures required by the Agency's environmental assessment; however, the ultimate responsibility for compliance rests with the Agency.

2. Construction Draws

Typically, construction draws should be made by each lender in proportion to the amount of the loan each is contributing. For example, if the Agency provides 60 percent of the loan and the participating lender 40 percent, 60 and 40 percent of each draw would be paid by the Agency and the participating lender, respectively. However, there are circumstances in which another arrangement would be appropriate. For example, a participating lender might prefer to fully fund the acquisition of the site at the beginning of the construction period. If the participating lender is unwilling to provide construction funding until the Agency loan funds have been used, the Agency can provide the construction funding up to the maximum amount of the Agency's loan.

10.10 LOAN CLOSING

The Agency loan approval official must review the leveraged loan package and the lender's "Good Faith Estimate" to determine if fees are reasonable and proposed use of loan funds is permissible. The loan approval official will not approve a transaction where the fees are questionable or excessive.

A joint closing generally will be held for Agency and participating lender loans. If the leveraged loan will close after the Agency loan is closed, a written, firm loan commitment from the participating lender must be provided to the Agency by the time of the Agency's loan closing. Closing procedures for the Agency's loan are identical to those described in Chapter 8. When the Agency's lien will be subordinated, the prior lien holder must execute *Form RD 1927-8, Agreement with Prior Lienholder*.

Field offices should work closely with leveraged lenders to minimize loan closing costs. It may be possible to use one title insurance policy to cover both the participating lender and Rural Development. The State Director should check with the Regional Attorney to assure this is an acceptable practice and obtain any special instructions to assure the government's interests are protected.

Leveraged loan packages that include any type of broker referral fee are not acceptable. Some mortgage lenders pay these fees for loans closed at a higher than prevailing interest rate. These fees must be disclosed in accordance with the Real Estate Settlement Procedures Act (RESPA). They are found on the *Form HUD-1, Settlement Statement*, as yield spread premiums, yield differentials, rate participation fees, par-plus pricing, or similar terms.

Mortgage insurance is **not** acceptable. This includes Private Mortgage Insurance (PMI), Mortgage Insurance Premium (MIP), and similar products.

Some lenders offer additional insurance products at loan closing, including mortgage payment insurance. Generally, the Agency will not approve a loan with such supplemental coverage unless the customer makes a written request for such coverage.

A. Required Documentation

In addition to the documentation required to support the Agency's loan, a copy of the mortgage, promissory note, evidence of title and hazard insurance, and closing documents for the non-Agency loan or grant must be provided for the borrower's case file.

There should be only one *Form HUD-1*. It should include all details of the transaction including Agency and leveraged financing. If the leveraged lender requires a separate *Form HUD-1*, a copy must be provided to Rural Development. The loan approval official will review the settlement statement(s) to assure leveraged customers are charged fees as agreed prior to closing. The review will include fees that are not part of the leveraged loan amount and/or those paid by the seller.

B. Recording the Lien/Legal Documents

The closing agent should be informed of the lien position the Agency will take.

In addition to recording the real estate mortgage or deed of trust, the closing agent will record the executed *Form RD 1927-8*. Among other features, this agreement requires the lender to notify Rural Development prior to declaring the security instrument to be in default and accelerating the loan.

ATTACHMENT 10-A

SAMPLE TOPICS TO BE ADDRESSED IN A MEMORANDUM OF UNDERSTANDING

In general, the lender will recognize Rural Development requirements for leveraged loans, particularly in providing required notices. A good Memorandum of Understanding (MOU) avoids future problems and strengthens partnerships.

ORIGINATION

- Agency will subordinate to permit lender to obtain first lien position when at least 20 percent of the total financing is provided.
- Lender must use standard application form and obtain Agency approval of qualifications for the appraiser, inspector, and closing agent.
- Agency will be responsible for the appropriate level of environmental review; however, the lender may be asked to assist in the collection of needed environmental data.
- The lender rates and terms will be the same as those offered to best customers obtaining similar mortgage financing.
- Agency makes independent underwriting decisions based upon reviewing the participating lender's origination package.
- A joint closing will be conducted and a single settlement statement provided. Closing costs will be controlled.
- For construction loans:
  - ◊ Describe how the lender will participate during the construction process (e.g., will the lender provide construction financing? will the lender defer amortization until the borrower occupies the dwelling?);
  - ◊ Describe how draws will be paid (a pro rata share from each lender is preferred);
  - ◊ Describe how inspections will be completed (e.g., if the lender completes inspections, the Agency must receive a copy of the inspection before making draw payments and an Agency inspector must make the final inspection); and
  - ◊ Describe what will happen if the Agency loan will close before the participating loan. For example, the lender must provide a firm commitment at the time of Agency loan closing, contingent only upon successful completion of the construction.

SERVICING

- Describe who will establish and maintain the escrow account. If the lender maintains the account, the lender must report annually to the Agency on the state of tax and insurance payments.

- Describe what information will be shared between lenders (e.g., results of periodic inspections, delinquency or default information). Note: Information provided by the applicant cannot be released to another party without the applicant's permission.
- Describe how each lender will:
  - ◊ Pursue joint special servicing actions if a problem arises;
  - ◊ Notify the lender in the case the loan is declared in default or accelerated;
  - ◊ Provide a reasonable period for the other lender to cure the default (i.e., through a new loan or advance) with the borrower; and
  - ◊ Pursue a joint foreclosure action if the borrower is in default on both accounts.
- Describe graduation review and the role of lender, customer, and Rural Development.
- Describe reporting requirements, if any.
- A copy of the MOU should be filed in each affected individual casefile.

CHAPTER 11: NONPROGRAM LOANS *[7 CFR 3550.74]*

11.1 INTRODUCTION

A nonprogram loan is an extension of credit to a borrower who does not qualify for program credit, or an extension of credit to allow a buyer to purchase a property that does not qualify as a program property. The Agency will make nonprogram loans to:

- Allow the assumption of an existing program loan on new rates and terms; or
- Expedite the sale of a Real Estate Owned (REO) property.

Unless otherwise specified in this chapter, nonprogram loan applications should be accepted, evaluated, and closed following the procedures described for Section 502 loans in Chapters 2 through 10. For a summary of the differences between program and nonprogram loans, see Attachment 11-A.

A. Nonprogram Assumptions

When an existing Agency borrower wishes to sell a security property, the Agency will assist that borrower by allowing any creditworthy buyer to assume the outstanding Section 502 debt, even if the purchaser is not eligible for a program loan or the property does not qualify as a program property. This helps the borrower sell the property and reduce the chances that the borrower will default without requiring the Agency to obligate new funds. The amount assumed is reamortized over a full new loan period.

Same Rate and Terms Assumptions

In certain cases, generally those involving transfers of title between family members, a loan may be assumed under the same rates and terms by someone who is not program-eligible. However, such a loan is not considered a nonprogram loan.

B. Nonprogram Loans to Purchase REO Property

When the Agency has REO property to dispose of and funding is available, credit may be extended on nonprogram terms in order to facilitate the sale of the property. Field Staff should consult with the State Office to ensure that funds for nonprogram REO sales are available before offering credit. Nonprogram credit may only be offered after the expiration of any restriction period on program properties. Chapter 16 provides additional guidance on REO sales.

11.2 PRE-QUALIFICATION

The pre-qualification step is substantially the same as for program loans, as described in Section 1 of Chapter 3. When a potential applicant expresses interest in nonprogram credit, the Loan Originator explains the Agency's nonprogram requirements and uses UniFi to determine whether the potential applicant has adequate repayment ability. Although the potential applicant may submit an application regardless of the outcome of the pre-qualification, this step can save the applicant and Agency staff time in the long run by letting potential applicants know in advance about any reasons they may not be eligible for a nonprogram loan.

11.3 APPLICATION PROCESSING

This step is substantially similar to the process for a program loan described in Section 2 of Chapter 3. The nonprogram applicant must submit *Form RD 410-4, Uniform Residential Loan Application*. The Loan Originator then determines whether the application is complete, asks followup questions needed to understand the applicant's situation, and conducts a preliminary credit check, as described in Paragraph 4.11. The Loan Originator then makes a preliminary eligibility determination and notifies the applicant.

Unlike applicants for program loans, applicants for nonprogram credit must submit a nonrefundable $100 application fee. The application fee is waived for applicants who are public bodies or nonprofit organizations.

11.4 ELIGIBILITY

Nonprogram applicants are not subject to the income eligibility, asset, citizenship, or occupancy requirements described in Chapter 4 for program borrowers. They may own other properties and are not required to first seek private sources of financing. However, they must comply with other requirements found in Section 4 of Chapter 4 relating to legal capacity, truthful applications, and suspension or debarment, and must meet the credit requirements outlined in Section 3 of Chapter 4.

11.5 PROPERTY REQUIREMENTS

Properties financed with nonprogram loans are not required to meet the site and dwelling requirements described in Sections 1 and 2 of Chapter 5, but are required to meet the environmental requirements described in Section 3 of Chapter 5. Chapter 16 describes disclosure and documentation requirements for REO properties being disposed of that are not decent, safe, and sanitary or that may contain hazards.

11.6 UNDERWRITING THE LOAN

A. Down Payment Requirement

Nonprofit organizations and State and local governments are not required to contribute a down payment. Other nonprogram applicants are required to make a down payment. Nonprogram borrowers who intend to occupy the property must contribute 2 percent of the purchase price. Nonprogram borrowers who do not intend to occupy the property must contribute 5 percent of the purchase price.

B. Amount to be Financed

For assumptions, Agency credit is limited to the lesser of the sales price or the amount of the existing borrower's outstanding debt, less the purchaser's down payment. If the purchaser requires additional funds to purchase the property, the funds must come from another source.

For REO sales, Agency credit is limited to the sales price, less the purchaser's down payment. Closing costs and fees, tax service fees, and any required initial deposit to the escrow account cannot be financed.

C. Interest Rate

The interest rate charged for nonprogram loans is the nonprogram rate in effect at the time of loan approval. Nonprogram rates can be found in Exhibit B of RD Instruction 440.1.

D. Loan Repayment Period

The repayment period for nonprogram loans depends on whether the applicant intends to personally occupy the property.

For nonprogram applicants who intend to personally occupy the property, the maximum loan term is 30 years. If an applicant already has a nonprogram loan, a new 30-year loan is not permitted, even if the applicant intends to occupy the new property.

For nonprogram applicants who do not intend to personally occupy the property, the maximum loan term is 10 years. If more favorable terms are necessary to facilitate the sale, the loan may be amortized over a period of up to 20 years, with payment in full due not later than 10 years from the date of closing.

E. Repayment Ability

Chapter 6 provides detailed guidance on the use of the principal, interest, taxes, and insurance (PITI) and total debt (TD) ratios. For nonprogram applicants the ratios permitted depend upon whether the applicant intends to personally occupy the property. For nonprogram applicants who intend to personally occupy the property, the PITI ratio must not exceed 33 percent of repayment income, and the TD ratio must not exceed 41 percent. For nonprogram applicants who do not intend to occupy the property, the TD ratio must not exceed 41 percent. No analysis of the PITI ratio is required.

11.7 LOAN APPROVAL AND CLOSING

As with program loans, once the Loan Originator has completed the underwriting analysis, loans recommended for approval are forwarded to the Loan Approval Official. When the loan is approved, the applicant selects a closing agent who conducts title clearance, reviews security requirements to verify that they conform to the Agency's standards, and works with the Loan Originator to ensure that all required closing documents are prepared for signature at closing.

Because the same closing forms are used for both program and nonprogram borrowers, the Loan Originator must modify the security instruments, promissory note, and, if applicable, the assumption agreement to delete:

- Any conditions related to financing or refinancing with other credit, restrictions on leasing, and consent to junior lien encumbrances; and

- Any references to borrower eligibility for payment subsidies and special servicing actions.

Chapter 8 provides detailed instructions for closing both program and nonprogram loans.

11.8 SERVICING NONPROGRAM LOANS

After closing, the Loan Originator activates the loan in MortgageServ and prepares a loan docket to send to the Centralized Servicing Center (CSC) for servicing, as described in Chapter 8. Nonprogram borrowers are not subject to periodic reviews of their ability to refinance with private credit and are not eligible for payment subsidies, moratoriums, or subsequent loans.

ATTACHMENT 11-A

SUMMARY OF DIFFERENCES BETWEEN PROGRAM LOANS AND NONPROGRAM LOANS

Topic	Section 502 Program Loan	Nonprogram Loan
Income	Borrower must not be above low-income at loan approval and must not be above moderate-income at loan closing.	No income eligibility restrictions.
Application	No application fee.	$100 application fee except from public bodies or nonprofit organizations.
Interest Rate	Promissory note rate is the lower of the program rate in effect at loan approval and loan closing. Program interest rate is used.	Promissory note rate is the nonprogram rate in effect at loan approval. Nonprogram interest rate is used.
Payment Subsidy	Borrower may be eligible for payment subsidies.	No payment subsidy available.
Loan Term	Standard term is 33 years; some may qualify for a 38 year term.	Maximum term for an occupant is 30 years; maximum term for a nonoccupant is 10 years.
Down Payment	Borrowers required to contribute nonretirement assets above $7,500 (above $10,000 for elderly borrowers) and retirement assets in excess of the applicable adjusted median income.	Purchasers who will be occupants are required to contribute 2 percent of the purchase price as a down payment. Purchasers who will be nonoccupants must contribute 5 percent.
Repayment Ability	Very low-income borrowers must not exceed a 29 percent principal, interests, taxes, and insurance (PITI) ratio, and 41 percent total debt (TD) ratio. Low-income borrowers must not exceed a 33 percent PITI ratio, and 41 percent TD ratio.	Borrowers who will personally occupy the property must not exceed a 33 percent PITI ratio and 41 percent TD ratio. Borrowers who will not personally occupy the property must not exceed a 41 percent TD ratio.

Topic	Section 502 Program Loan	Nonprogram Loan
Closing Costs	Closing costs may be financed with Agency funds to the extent that the total debt does not exceed the property's market value and the area loan limits.	Closing costs cannot be financed with Agency funds.
Escrow Fees	Initial escrow deposit, tax service fee, and appraisal fee may be financed with Agency funds, even if these amounts cause the loan to exceed the market value of the property or the area loan limit.	Initial escrow deposit, tax service fee, and appraisal fee cannot be financed with Agency funds.
Eligibility for Servicing Actions	Borrowers are eligible for a variety of servicing actions, including payment subsidies.	Payment moratoriums, payment subsidies, and subsequent loans are not permitted. If both the borrower and property are eligible, the loan may be refinanced with Agency credit to permit payment assistance.
Refinancing with Private Credit	Borrower must refinance with private credit when able to do so.	No requirement for refinancing with private credit.
Leasing Restrictions	Borrower cannot lease property for more than 3 years and cannot offer the renter an option to purchase.	Borrower may lease property for any period of time, and with purchase options.

CHAPTER 12: SECTION 504 LOANS AND GRANTS

12.1 INTRODUCTION

> Only those procedures that differ from Section 502 loans are described in this chapter.

The objective of the Section 504 loan/grant program is to help very low-income owner occupants of modest single family homes in rural areas repair those homes. Loan funds are available for repairs to improve or modernize a home, make it safer or more sanitary, or remove health and safety hazards. For homeowners 62 and over who cannot repay a loan, grant funds are available to remove health or safety hazards, or remodel dwellings to make them accessible to household members with disabilities. Attachment 12-A provides a summary of the differences between Section 504 loans and Section 504 grants, and Attachment 12-B provides the differences between Section 502 and Section 504 loans.

Unless otherwise specified in this chapter, Section 504 loan/grant applications should be accepted, evaluated, and closed following the same procedures described for Section 502 loans in Chapters 2 through 10. However, Section 504 loans ***cannot*** be assumed except on Same Rates and Terms as in Paragraph 2.4 B. In addition, a property survey is not required for a Section 504 loan or grant unless a mortgage or deed of trust is being filed and there is a compelling reason to question the placement of the dwelling on the property; or, in farm acreage cases, where the house site is subdivided from a larger parcel. The cost of a survey can be included in the loan if there is sufficient equity.

12.2 ELIGIBLE PURPOSES FOR 504 FUNDS *[7 CFR 3550.102]*

> **Hazards and Major Hazards**
>
> A ***hazard*** is a property condition that jeopardizes the health or safety of the occupants or members of the community, but that does not make it unfit for habitation. A ***major hazard*** is a condition so severe that it makes the property unfit for habitation.

Section 504 loan funds may be used to make general repairs to improve or modernize the property, as long as the dwelling remains modest. Loan Originators may approve any of the eligible costs listed in Paragraph 6.4, unless specifically prohibited in this chapter. Section 504 grant funds may be used only for repairs and improvements that will remove health and safety hazards, or to repair or remodel dwellings to make them accessible and useable for household members with disabilities.

A. Restrictions on the Use of 504 Funds

Section 504 loan or grant funds cannot be used to:

- Assist in the construction of a new dwelling;
- Make repairs to a dwelling in such poor condition that when the repairs are completed, the dwelling will continue to have major hazards;
- Move a mobile home or manufactured home from one site to another;
- Pay for any off-site improvements except for necessary installation and assessment costs for utilities;
- Refinance any debt or obligation that the applicant incurred before the date of application (except for payment of the installation and assessment costs of utilities);
- Purchase or install equipment in the property (e.g., ranges, refrigerators, washers or dryers);
- Pay packaging fees to for-profit entities;
- Provide site preparation (e.g., grading, foundation plantings, seeding or sodding, trees, walks, yard fences, or driveways to a building site);
- Construction of new decks (existing decks may be repaired if a safety hazard exists);
- Installation of concrete or asphalt driveways; or
- Landscaping.

B. Repairs to Mobile or Manufactured Homes

Section 504 loan and grant funds can be used to repair mobile or manufactured homes if:

- The applicant owns the home and the site and occupied the home prior to filing an application;
- The repairs are needed to remove health or safety hazards; and

- The home is on a permanent foundation, or will be put on a permanent foundation with Section 504 funds.

Permanent Foundation

A permanent foundation is either: (1) a full below-grade foundation; or (2) blocks, piers, or some other type foundation with skirting, and anchoring with tie-downs.

12.3 APPLICATIONS *[7 CFR 3550.104]*

Applications for Section 504 loan or grant funds are made on the same form as applications for Section 502 loan funds. Applications are generally processed in the same way; however the processing priorities for Section 502 loans do not apply to Section 504 applicants. Section 504 applications for assistance to remove health or safety hazards should receive priority processing, and the veteran's preference described in Paragraph 3.14 C. should be used in cases where multiple applications to remove health or safety hazards are received on the same day.

For any Section 504 loan or grant, the Loan Originator must visit the property within 30 days of determination of eligibility to identify which repairs are essential. There must be sufficient documentation in the applicant's case file to justify the existence of health and safety hazards for each repair or to make the dwelling accessible and usable for household members with disabilities to insure that funds are used for eligible purposes. The identified health and safety hazards should be separated from the loan improvements and other sources of partnership funds. Photographs of the property and the items needing repairs should be taken during this visit and at final inspection. The applicant will be provided a detailed set of specifications, which will be utilized to solicit at least 3 bids when feasible. If there are not a sufficient number of contractors in the area, the local office must be sure to review the bids that are obtained to ensure they meet the established specifications.

By submitting applications for a grant, applicants certify that they will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant.

12.4 APPLICANT ELIGIBILITY *[7 CFR 3550.103]*

A. Income

In order to be eligible for a Section 504 loan or grant, the adjusted household income at the time of loan/grant approval and at loan closing must not exceed the applicable very low-income limit. Low-income applicants cannot receive assistance under Section 504.

B. Credit Requirements

The Loan Originator need not evaluate the credit history of grant applicants, except that an applicant who is subject to an outstanding judgment obtained by the United States in a Federal court, other than in the United States Tax Court, is not eligible for a Section 504 grant. Credit reports will not be ordered for 504 grant applicants.

For loans, applicants must have a credit history that indicates a reasonable ability and willingness to meet debt obligations. The indicators of unacceptable credit described in Paragraph 4.11 for Section 502 loans can be used to evaluate the applicant's credit history, however, general credit requirement may be less stringent than those for section 502 loans. Late payments for housing costs should not be considered as an indicator of unacceptable credit.

Regardless of the size of the loan being requested, the Loan Originator should check both the Infile Credit Report and HUD's Credit Alert Interactive Voice Response System (CAIVRS), as described in Paragraph 4.11. Credit reports are required with all applications for loans of $7,500 or greater, but the cost of the report is not charged to the applicant.

C. Asset Requirements

Asset requirements are identical to those imposed by Section 502, except that only assets that can be converted to cash in 90 days or less are included in the calculation of nonretirement assets. The limitation on nonretirement assets for nonelderly households is $15,000 and $20,000 for elderly.

D. Repayment Ability

To qualify for a Section 504 loan, the applicant must have a reliable income source sufficient to allow repayment of the loan. If the applicant lacks the ability to repay the entire amount through a loan, he or she may be eligible for a grant to cover the portion that cannot be funded through a loan.

In order to determine the amount an applicant is able to repay, the Loan Originator must work with the applicant to complete *Form RD 1944-3, Budget and/or Financial Statement*. This form must also be prepared for grant applicants in order to document the fact that they do not have the ability to repay a loan. This form should be prepared with the applicant at the same time the application is completed.

E. Age for Section 504 Grants

At least one applicant must be 62 or older for a household to qualify for a grant.

F. Ownership of Property *[7 CFR 3550.107]*

The applicant must own and occupy the property to be eligible for Section 504 funds, and must be able to document ownership, as described in Paragraph 5.11, with 3 exceptions.

First, the time restrictions for leasehold interests are different. In general, Section 502 loans must have a leasehold interest with an unexpired term that is at least 150 percent of the term of the mortgage. For Section 504 loans, the property must be covered by a lease with an unexpired portion of not less than 2 years beyond the term of the promissory note, and for grants, the remaining lease period must be at least 5 years.

Second, a land purchase contract is acceptable if the applicant is current on all payments and has the ability to remain current.

Third, if standard evidence of ownership, as described in Paragraph 5.11, is not available, Section 504 loan/grant applicants may demonstrate ownership by presenting any of the following:

- Records of the local taxing authority that show the applicant as owner and that demonstrate that real estate taxes for the property are paid by the applicant;
- Affidavits by others in the community stating that the applicant has occupied the property as the apparent owner for a period of at least 10 years, and is generally believed to be the owner; or

- Any instrument, whether or not recorded, that is commonly considered evidence of ownership, such as a deed or mortgage.

12.5 PROPERTY ELIGIBILITY

A. Property Requirements *[7 CFR 3550.106(a)]*

To be eligible for Section 504 funds, the property must be considered modest for the area, must not have an in-ground pool, and must not have a value in excess of the area loan limit. Individual exceptions may be granted by the Deputy Administrator, Single Family Housing. Requests for exceptions must be accompanied by documentation to support the request.

A Section 504 loan or grant may be made for a property that has income-producing land or structures, as long as the loan or grant is to be used to improve the residential portion of the property.

B. Determining Property Value *[7 CFR 3550.111]*

Appraisals for Section 504 loans are to be performed only by Agency employees whenever feasible. Contract appraisals may be used when it is not feasible to have Agency employees complete the appraisals. Section 504 applicants are required to pay an appraisal fee. The cost of the appraisal may be included in the 504 loan amount.

An appraisal is always needed for a Section 504 loan when the RHS loan is $7,500 or more and the Agency debt plus any prior liens exceeds $15,000. In all other situations, the Loan Approval Official will determine whether an appraisal is needed to assure adequate security exists for the proposed loan. Appraisals are only needed if a security interest will be taken.

When an appraisal is not required, the person who inspects the property for required repairs should estimate its value. The estimated value and the method used to develop the estimate should be documented carefully in the running case record. For additional guidance on appraisals see Section 5 of Chapter 5.

C. Construction Standards *[7 CFR 3550.106(c)]*

Dwellings repaired with Section 504 loan or grant funds must remain modest and all work must be completed in accordance with local codes and standards. They need not be brought to Agency development standards, nor must all of the existing hazards be removed, provided the property does not continue to have major health or safety hazards after the planned repairs are made. Please refer to Section 6, Chapter 5 for all construction management information.

D. Environmental Requirements

Section 504 loans and grants are subject to the same environmental requirements as Section 502 loans, as described in Section 3 of Chapter 5.

12.6 INTEREST RATE AND LOAN TERM *[7 CFR 3550.113]*

Section 504 loans have an interest rate of 1 percent and a maximum term of 20 years. The term should be as short as possible based on the applicant's repayment ability. However, any loan made in conjunction with a grant must be made for the full 20-year term to minimize the amount of grant funds required.

Loan/Grant Combinations

Loans made in combination with grants must be amortized over the full 20 years. This will maximize the loan amount while minimizing the grant amount.

If the loan amount is less than the maximum that the applicant could repay, the loan term should be shortened so that the applicant will pay the maximum amount he or she can afford each month during the term of the loan. For example, if an applicant's repayment ability calculations indicate the ability to repay a loan in 10 years, the loan should be written for a 10-year term rather than for the maximum term.

Annual payment terms are not permitted under Section 504.

12.7 MAXIMUM LOAN AND GRANT AMOUNTS *[7 CFR 3550.112]*

A. Maximum Loan Amount

The maximum loan that an individual applicant may receive is limited by the 3 factors discussed below.

- **Outstanding loan amount.** The sum of the outstanding balance on all Section 504 loans can never be more than $20,000.

- **Repayment ability.** The applicant must demonstrate repayment ability based on an analysis of *Form RD 1944-3, Budget and/or Financial Statement*.

- **Eligible costs.** The applicant can only receive loan funds to cover eligible costs. (For example, if the applicant has only $5,000 of eligible repairs to make, the maximum loan allowed is $5,000.)

B. Grant Limits

Grant funds are limited by 2 factors:

- **Ability to repay a loan.** An applicant is only eligible for a grant if a budget analysis based on *Form RD 1944-3* indicates that the household would be unable to repay a loan for the amount needed over 20 years. If a budget analysis indicates that a grant applicant has partial repayment ability, as much of the amount as possible must be issued as a loan, with only the remainder issued as a grant.

- **Lifetime maximum.** The lifetime grant assistance to any applicant cannot exceed a cumulative total of $7,500.

12.8 LOAN APPROVAL AND CLOSING *[7 CFR 3550.108]*

A. Loan Approval

Notifications of loan approval or denial of credit should be handled with use of *Handbook Letter 12 (3550), Notification of Approval*, and *Handbook Letter 15 (3550), Standardized Adverse Decision Letter*, respectively. Preparation of all forms needed to close the loan should be handled in accordance with Chapter 8.

B. Security Requirements

If the total Section 504 indebtedness is $7,500 or more, it must be secured by a mortgage on the property. The Agency does not require first lien position, but the total of all debts secured by the property must not exceed the property's market value, except by the amount of any required contributions to an escrow account for taxes and insurance and the tax service fee.

C. Loan Closing

Loans less than $7,500 may be closed by the Loan Originator or designee. Loans of $7,500 and greater must be closed by a closing agent. The process for selecting a closing agent is the same as for a Section 502 loan, and is detailed in Paragraph 8.4.

12.9 GRANT APPROVAL AND DISBURSEMENT

A. Grant Approval

Grant recipients should be notified by sending *Handbook Letter 12(3550), Notification of Approval (504 Grant)*, that the grant has been approved.

B. Grant Repayment Agreements *[7 CFR 3550.114]*

Before any grant funds are disbursed, the recipient must sign *Form 3550-24, Grant Agreement*. The agreement states that if a home repaired with a Section 504 grant is sold within 3 years of grant approval, the full amount of the grant must be repaid. In the case of a life estate interest or an undivided ownership interest, as described in Paragraph 5.11, all co-owners living or planning to live in the household must sign *Form 3550-24*. The original *Form 3550-24* should be filed with the promissory notes in a locked file cabinet with a copy to the case file and a copy provided to the recipient.

C. Documentation of Grants

In order to ensure that applicants do not receive more than the maximum allowable grant assistance of $7,500, the Loan Originator must document the amount of any grant provided to each grantee. This information should be maintained on a single list which is retained in an operational file. The list should include: (1) the grantee's name, address, and case number; (2) the amount of the grant; and (3) the date the grant was approved.

12.10 ESCROW, TAXES, AND INSURANCE *[7 CFR 3550.109, 7 CFR 3550.110]*

If the total outstanding indebtedness is more than $15,000, Section 504 borrowers are responsible for furnishing and maintaining hazard insurance, as described in Section 3 of Chapter 7. If funds are not escrowed through another lender to pay for taxes and insurance, the borrower must contribute the appropriate amount to an escrow account managed by the Agency. Escrow is also not required where the security property includes a farm and the property is not subdivided between the farm and non-farm tract unless the housing represents the majority of the value of the security property or it is in the Agency's best interest.

Flood insurance is required in Special Flood Hazard Areas (SFHA) throughout the term of a loan, except for loans with an original principal balance of $5,000 or less. For grants of more than $5,000, flood insurance is required when the grant is approved, unless grant funds will be used to obtain the insurance.

ATTACHMENT 12-A

SUMMARY OF DIFFERENCES BETWEEN SECTION 504 LOANS AND GRANTS

Note: *This attachment summarizes key requirements to assist the reader in comparing Section 504 loans and grants. It is not a comprehensive description of all requirements.*

Topic	Section 504 Loan	Section 504 Grant
Use of Funds	May be used to: (1) improve or modernize; (2) make dwelling decent, safe, and sanitary; (3) remove hazards. Cannot be used for acquisition or new construction. Specific prohibitions are listed in Paragraph 12.2 A.	May be used only to remove health and safety hazards or to make dwelling accessible to household member with disabilities.
Drug-Free Workplace	N/A	Applicants must certify that they will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant.
Credit Reports	Needed if loan > $7,500, but no fee charged.	N/A
Age of Applicant	N/A	62 or older
Leaseholds	The property must be covered by a lease with an unexpired portion of not less than 2 years beyond the term of the promissory note.	The remaining lease period must be at least 5 years.
Appraisals	Fee charged if appraisal completed. Appraisal performed by Agency employee or contractors if loan over $15,000.	N/A
Maximum Assistance	$20,000 outstanding at one time.	$7,500 lifetime limit.
Security	If Section 504 loan is >or equal to $7,500, a mortgage is required.	No security required.
Insurance	If indebtedness >$15,000, property insurance is required. Flood insurance is required in Special Flood Hazard Areas (SFHA)> $5,000.	Flood insurance is required in SFHA at grant approval for grants of >$5,000.

ATTACHMENT 12-B

DIFFERENCES BETWEEN SECTION 502 AND SECTION 504 LOANS

Note: *This attachment summarizes key requirements to assist the reader in comparing Section 502 and 504 loans. It is not a comprehensive description of all requirements.*

Topic	Section 502 Loan	Section 504 Loan
PROGRAM PURPOSES AND PRIORITIES		
Program Purpose	Assist applicants who are not homeowners to become homeowners.	Assist current homeowners with necessary improvements and repairs.
Processing Priorities	Multiple priorities may apply. Applications that meet special criteria are processed immediately upon funding availability.	Applications for assistance to remove health and safety hazards receive priority processing.
LOAN PURPOSES		
Eligible Purposes	In general, funds may be used to buy, build, rehabilitate, improve, or relocate an eligible dwelling and provide related facilities for the borrower to personally occupy. No initial loans for repair of manufactured homes.	Remove health and safety hazards. Repair or remodel dwelling to make more accessible and useable for household members with a disability. General repairs to improve or modernize a home. Repair mobile or manufactured homes.
APPLICANT ELIGIBILITY		
Income	Applicant income must not exceed low-income limit at loan approval and must not exceed moderate-income limit at loan closing.	Applicant income must not exceed the very low-income limit at loan approval and closing.

Topic	Section 502 Loan	Section 504 Loan
APPLICANT ELIGIBILITY		
Credit Requirements	Credit history must demonstrate ability and willingness to pay. Costs for credit reports are charged to applicant.	The same criteria are used for evaluating a loan applicant's credit history. However, general credit requirements maybe less stringent than those for section 502 loans. Costs for credit reports are not charged to the applicant.
Asset Requirements	Applicants are required to contribute nonretirement assets above $7,500 ($10,000 for elderly), and available retirement funds in excess of applicable median income limit toward the purchase of the property. Exceptions can be made for households with high medical expenses.	Same as Section 502, except nonretirement assets include only assets that can be converted to cash within 90 days.
Repayment Ability	Applicants must show repayment ability based on ratios.	Applicants must show repayment ability based on a budget. Applicants 62 and over who lack the ability to repay the entire amount of the loan may be eligible for grant funds.
Ownership	The applicant need not own the property. A leasehold must have an unexpired term of at least 150% of the term of the mortgage, unless the loan is guaranteed by a public authority, Indian tribe, or Indian Housing Authority. No exceptions on ownership evidence.	The applicant must own the property. A leasehold must have an unexpired term of at least 2 years beyond the term of the mortgage. If standard evidence of ownership is unavailable, exceptions may be made.

Topic	Section 502 Loan	Section 504 Loan
PROPERTY REQUIREMENTS		
Area Loan Limit	Individual exceptions are allowed.	No individual exceptions.
Property Standards	The property must meet the Agency's site and dwelling standards.	The property: (1) need not be brought to Agency development standards; (2) need not have all hazards removed; ***but*** (3) must have all major health or safety hazards removed.
Appraisals	Appraisals may be conducted by an Agency employee or an outside contractor satisfactory to the Agency. Applicants are required to pay an appraisal fee.	Applicants are required to pay an appraisal fee if loan is greater than $15,000.
LOAN TERMS		
Interest Rate and Loan Terms	The applicable Rural Housing (RH) Section 502 low or moderate interest rate in effect at loan approval or closing, whichever is lower. Standard term is 33 years; some applicants may qualify for a 38 year term. Borrowers may be eligible for payment subsidies that reduce the effective interest rate.	1 percent interest rate and a maximum loan term of 20 years.
Loan Amount	Total secured indebtedness must not exceed the area loan limit or the market value.	Total secured indebtedness must not exceed the area loan limit or the market value limitation. The outstanding balance on the sum of all Section 504 loans cannot exceed $20,000.

Topic	Section 502 Loan	Section 504 Loan
LOAN APPROVAL AND CLOSING		
Loan Closing	Loans must be closed by a closing agent.	Loans of $7,500 or less may be closed by the Loan Originator or a designee.
Security	First liens are generally required, but Agency interests may be subordinated in some circumstances.	First lien position is ***not*** required.
INSURANCE		
Insurance Requirements	If indebtedness is greater than $15,000, property insurance is required.	If indebtedness is greater than $15,000, property insurance is required.

504 SINGLE FAMILY HOUSING LOAN AND GRANT CHECKLIST

"THIS CHECKLIST DOES NOT REPLACE THE RUNNING RECORD!"
(This document should be filed in position 1)

Applicant: _____ **Co-Applicant:** _____

POS *DATE* PRE-QUALIFICATION/PRELIMINARY ELIGIBILITY

3 _____**Enter pre-qualification information from potential applicant into UniFi & Registration Screen (Use Requested Product Code 999 if no actual application).**
3 _____**Use Pre-Qual Worksheets/Maximum Loan Amount to evaluate potential applicant**
3 _____**RD 3550-1, Authorization to Release Information –** signed by each adult member of household. Attach copy to any verification that does not have applicant's signature. **(HB-1, 3.3)** (Although not required at pre-qual, the preliminary credit check described in HB-1, 4.11 may be completed when a signed RD 3550-1 is received)
3 _____**Infile Credit Report (HB-1, 3.3, 4.11)**
4 _____**HB Letter 19 (3550)** as applicable to counsel the customer (should only be used for pre-qualifications without an application). Document pre-qual discussion in running record **(HB-1, 3.3)**
3 _____**Print out Eligibility Summary from pre-qual** – sign and date - must be in file prior to rejection, withdrawal or approval **(Enter actual loan/grant amounts, if known)**

Review application for completeness within 3 business days of receipt. Call or write the applicant to request any missing information. Follow up with a letter advising applicant of a 30-day deadline for submission or the application will be withdrawn. Mark files as inactive until complete. ***(HB-1, 3.6)***

POS *DATE* APPLICATION PROCESSING

3 _____**RD 410-4, Uniform Residential Loan Application,** include information sheet similar to Attachment 3-D and **RD 3550-1, Authorization to Release Information** (if not completed at Pre-qual) **(HB-1, 3.5)**
3 _____**Infile Credit Report** (if not completed at pre-qual) **(HB-1, 3.3, 4.11)**
3 _____**Check on-line HUD CAIVRS,** print pages and file in applicant file (if not completed at pre-qual) **(HB-1, 3.3, 4.11)**
3 _____**Check MortgageServ CUS/XRE/SOC screens** (if not completed at pre-qual) **(HB-1, 3.3, 4.11)**
3 _____**Check list of 504 Grant recipients for prior assistance** ($7,500 lifetime limit**) and 504 loan balances for subsequent loans** ($20, 000 maximum outstanding balance) **document in running record**
3 _____**Photographic Identification** and **Verification of age** (grants only) **(HB-1, 4.21)**
5 _____**Evidence of homeownership and occupancy:** (copy of Deed, RE Tax Statement, etc.) **(HB12-4)**
6 _____**Verify eligibility of subject property. (HB-1, 5.1)**
http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do
3 _____**Enter application complete date in stage updating of UniFi and on Form RD 410-4**
3 _____**Forward Attachment 3-H, Credit Score Disclosure, to applicant–** (date Attachment 3-H, page 2 returned _____) **(HB-1, 3.6)**
4 _____**Funds Available; send HB Letter 11, Selected for Processing/Request Information (HB-1, 3.14)**
4 _____**Funds Not Available; send HB Letter 2 , Pre-eligible (HB-1, 3.13)**

POS ***DATE*** **ELIGIBILITY PROCESSING**

3 _____**1944-3, Budget and/or Financial Statement** (compare debts with application and credit report) Review with applicants and document food stamps, utility, or other assistance. **Enter information in Cash Expense Screen of UniFi**

INCOME

3 _____**RD 1910-5, Request for Verification of Employment –** If alternative verification source is used, document justification in running record **(HB-1, 4.3)**:
_____1) if no response in 14 days, call and document carefully
_____2) if respondent will not complete written verification, obtain oral documentation
_____3) if VOE is over 120 days old update by phone & document to extend another 60 days

3 _____**Other Income/Asset documentation (HB-1, 4.3, 4.5):**
_____Public Assistance/AFDC
_____Child Support/Alimony
_____Unemployment Benefits
_____Latest filed & signed Federal Income Taxes
_____Self-employment income
_____Social Security/VA Benefits
_____Pensions/Annuities
_____Other
_____Employment and Asset Certification (Forn RD 3550-4) – If applicant self certifies that their household's combined net assets exceed $5,000, verify assets as outlined in HB-1, 4.3.

3 _____**Attachment 4-A, Sample Worksheet for Computing Income (HB-1, 4.2)**

DEDUCTIONS

3 _____**Deduction documentation (HB-1, 4.4):**
_____Child Care
_____Elderly/Disabled (**RD 1944-4, if applicable)**
_____Medical Expenses
_____Other
_____Educational Assistance Expenses
_____Full-time Student status
_____Minor Dependent

3 _____**Separation/Divorce/Paternity/Property Settlement Agreement,** if applicable

CREDIT

3 _____**Residential Mortgage Credit Report (RMCR) documentation** (Only loans $7,500 or greater [no grants] – no charge to the applicant) **(HB-1, 4.12 & 12.4):**
_____Report: Requested_____Received_____
_____Document in item 19 of RD 410-4
_____Credit Scores: Applicant _____ Co-Applicant _____

3 _____**Credit score is less than 640 (HB-1, 4.12 & 4.13):**
_____Applicant Reference Letter **(RD 410-8)**
_____Credit History Worksheet **(1944-61)**

OTHER

3 _____**RD 3550-2, Request for Verification of Gift/Gift Letter,** if applicable - **(HB-1, 4.3 & 6.15)**

3 _____**Document applicant has lack of personal assets and meets asset limitations** ($7,500 for non-elderly and $10,000 for elderly) **(HB-1, 4.6, 6.10, and 12.4)**

3 _____**Citizenship status** (if not a citizen, see HB-1-3550, Attachment 4-D (S.A.V.E.) **(HB-1. 4.20)**

3 _____**Document Eligibility on originally submitted Application** - **item 17.** Update UniFi/Stage Updating, print, and sign Eligibility Summary

POS DATE PROPERTY ELIGIBILITY

3 _____**Visit property within 30 days of eligibility determination** (document in running record) **(HB-1, 12.3)** **Date of visit: _____**

6 _____**HB-1-3550, Attachment 5-A (HB-1, 5.1)**

6 _____**Photographs of property and essential repairs** (during initial visit and final inspection). **Prepare a list of all repairs (HB-1, 12.3)**

8 _____**Appraisal Report, or document Statement of Value** (appraisal if loan is greater than $7,500 needed and Agency debt plus prior lien is greater than $15,000 **(HB-1, 12.5)**

8 _____**RD 1922-15, Administrative Appraisal Review for Single Family Housing** - within 7 days of appraisal **(HB-1, 5.21); Reviewed and Accepted _____ (initial and date)**

6 _____**Lead Based Paint (LBP) Compliance Key and Print Out (houses built prior to 1978)** http://teamrd.usda.gov/rd/rhs/PSS/Lead_Paint/lead_based_paint_key.htm

3 _____**RD 1940-22, Environmental Checklist for Categorical Exclusions or RD 1940-21, Environmental Assessment for Class I Action** (loans only) **- as applicable (1940-G & HB-1, 5.8)**

6 _____**FEMA 81-93, Standard Flood Hazard Determination (HB-1, 5.1)** (http://www.LATFnet.com)

3 _____**RD 3550-6, Notice of Special Flood Hazards, Flood Insurance Purchase Requirements, and Availability of Federal Disaster Relief Assistance,** as applicable (mail 10 days prior to closing) **(HB-1, 5.1)**

POS DATE CONSTRUCTION

6 _____**Provide applicant with detailed cost estimates/specifications from bidders.** (Attempt to obtain 3 bids) **(HB-1, 5.25 and 12.3)**

6 _____**Review detailed bids from contractor(s)** with cost breakdown or labor and materials **(HB-1, 5.25)**

6 _____**RD 1924-2, Description of Materials,** if applicable **(HB-1, 5.24)**

6 _____**RD 1924-1, Development Plan**

6 _____**RD 1924-6, Construction Contract (Send Exhibit C, RD Instruction 1901-E** within 10 days**) (HB-1, 5.25) DOL web site (http://www.dol.gov/esa/contacts/ofccp/ofcpkeyp.htm)**

6 _____**RD 1924-16. Record of Pre-Construction Conference** or other documentation **(HB-1, 5.25)**

6 _____**"400 Series" (400-1, 400-3, 400-6, posters and Exhibit C of 1901-E,),** as applicable **(http://www.dol.gov/esa/contacts/ofccp/ofcpkeyp.htm) (HB-1, 5.25)**

2 _____**RD 402-1, Deposit Agreement and RD 402-2, Statement of Deposits and Withdrawals,** if applicable

6 _____**RD 1924-7, Contract Change Order,** if applicable

6 _____**RD 1924-12, Inspection Report,** frequency as appropriate for type of rehab. Final Inspection Report dated and signed by borrower, contractor, and RD Inspector **(HB-1, 5.26)**

6 _____**RD 1924-9, Certificate of Contractor's Release & RD 1924-10, Release by Claimants,** as applicable

6 _____**RD 1924-19, Builder's Warranty** if construction contract used **(HB-1, 5.27)**

POS DATE UNDERWRITING/APPROVAL

3 _____**Reverify income** - if over 120 days old **(HB-1, 8.6)**

3 _____**Update Eligibility Summary with correct information, sign and date** – must be in file at rejection/approval **(HB-1, 6.17)**

2 _____**Verify UniFi Program Type Code** (must match income type) **Program Type Code: _____**

POS	***DATE***	**UNDERWRITING/APPROVAL (CONTINUED)**
2	_____	**Update all screens in MortgageServ before uploading file; check Display History Screen for correct loan amount.**
4	_____	**If rejected, use HB Letter 15 (3550), Standardized Adverse Decision Letter, and attach review & appeal rights (HB-1, 1.9 & 8.2)**
2	_____	**RD 3550-7, Funding Commitment and Notification of Loan Closing** (loans only) – issued day of approval/obligation in MortgageServ (if not signed and returned in 15 days, must de-obligate) **(HB-1, 8.2)**
2	_____	**RD 3550-23, Applicant Orientation Guide (HB-1, 8.6)**
4	_____	**Handbook Letter 12 (3550), Notification of Approval** – send once loan and/or grant funds are obligated
2	_____	**RD 1940-41, Truth in Lending Statement** – printed from UniFi **Date returned: _____**
2	_____	**Obligate through MortgageServ (HB-1, 8.7)**

POS	***DATE***	**CLOSING**
5	_____	**RD 1927-4, Transmittal of Title Information (HB-1, 8.4)**
5	_____	**Title Insurance** required for loans $7,500 or greater **(HB-1, 8.4)**
5	_____	**RD 1927-9, Preliminary Title Opinion** (loans $7,500 or greater), as applicable **(HB-1, 8.4)**
7	_____	**Hazard Insurance Binder & Receipt for 1st year premium** for loans $15,000 or greater **(HB-1, 7.12)**
7	_____	**Flood Insurance Binder & Receipt for 1st year premium** required for properties located in Special Flood Hazard Area (Loans and grants $5,000 or greater)
5	_____	**Review Title Insurance Binder/Preliminary Title Opinion and verify legal description is correct** If exceptions noted affect the security value, loan cannot close **(HB-1, 8.5)**
3	_____	**Update and print Eligibility Summary with correct information –** sign, date, and file in case file
7	_____	**RD 3550-15, Tax Information** – loans $15,000 or greater **(HB-1, 7.10)**
5	_____	**RD 3550-9, Initial Escrow Account Disclosure Statement,** loans $15,000 or greater **(HB-1, 7.5 & 12.10)**
5	_____	**RD 3550-25, Loan Closing Instructions and Loan Closing Statement –** for loans $7,500 or greater (should include documents to be signed at closing) **(HB-1, 8.11)**
5	_____	**Re-verify Closing Agent's account numbers,** if necessary
5	_____	**IN-1 Closing Select/Add Agent Screen**
2	_____	**RD 3550-17, Funds Transmittal Report** for tax service & appraisal fees, escrow funds, etc. (copy in Collections Operational File) **(1951-B, if applicable)**
5	_____	**RD 3550-19, Transmittal-Closing Documents & Attachments,** as applicable (Grant documents are not sent to CSC) **(HB-1, 8.11)**
3	_____	**RD 410-4, Uniform Residential Loan Application - PRINTED FROM UniFi**
3	_____	**Check EPLS for all parties** (http://epls.arnet.gov) **–** print hard copies for file **(1940-M)**
5	_____	**RD 1927-5 "Affidavit Regarding Work of Improvement"** (if required by State Supplement) send blank to closing **(1927-B, 1927.58)**
2	_____	**RD 1940-16, Promissory Note** (original in safe) - all loans **(HB-1, 8.9)**
5	_____	**RD 1940-59, Settlement Statement or HUD 1** (loans $7,500 or greater using closing agent – sent blank) **(HB-1, 8.5)**
2	_____	**RD 1940-43, Notice of Right to Cancel** - for junior liens if mortgage taken **(HB-1, 8.6)**
5	_____	**RD 3550-14, Real Estate Mortgage** or **Deed of Trust for (State)** – ($7,500 or greater – sent blank) **(HB-1, 8.11)**

POS ***DATE*** **CLOSING (CONTINUED)**

5 _____**RD 1927-10, Final Title Opinion,** if applicable
5 _____**RD 1927-8, Agreement with Prior Lienholder,** if applicable **(HB-1, 8.6)**
2 _____**RD 3550-24, Grant Agreement** (original in safe; copy in case file) **(HB-1, 12.9)**
5 _____**RD 3550-29, Document Errors and Omissions Agreement (HB-1. Attachment 8-A)**

POS ***DATE*** **POST CLOSING**

5 _____**Verify closing documents faxed to CSC in required time frame (HB-1, 8.11)**
_____Verify proper lien position.
_____Post 1 month follow-up for recorded Real Estate Mortgage.
_____Post follow-up for Title Insurance Policy **(60 days)** or Final Title Opinion **(14 days**).
(If not received, contact Closing Agent by mail with a copy of the letter to the insurance company.)

2 _____**Activate loan and verify mailing address in MortgageServ. (Loans with rescission rights do not activate until rescission period has expired) address must received a code 1 or 2 to be valid or must explain and document discrepancy (HB-1, 5.1)**
(http://eligibility.sc.egov.usda.gov/eligibility/addressVerification)

5 _____**RD 3550-25 – Loan Approval Official approves after all forms are returned, reviewed, and correct (HB-1, 8.11)**

2 _____**Delinquent/Lienholder Screen –** complete MortgageServ screen for each leveraged partner – Include forgivable loans from CDCs and Non-Profits
_____**Set up and monitor 504 loans for 1st year delinquency**

CHAPTER 13: SERVICING AND LIQUIDATION FUNCTIONS

13.1 INTRODUCTION

This chapter provides guidance about the role of Field Staff in servicing loans that are under the jurisdiction of the Centralized Servicing Center (CSC) and the liquidation process after a loan has been accelerated. Servicing is largely the role of CSC, however, Field Staff participation is important to maintain quality customer service and to protect the Government's interest.

Whenever local assistance is needed to support a CSC servicing action, CSC will request Field Staff support through the MortgageServ work queue or via phone. These requests will provide direction about the work to be accomplished. Appendix 13 contains a Field Office Reference Guide with helpful information on working effectively with CSC.

Several servicing functions have been permanently assigned to Field Staff. These include certain borrower actions requiring approval, assessing the borrower's ability to refinance with private credit, managing Real Estate Owned (REO) and custodial property, the disposition of REO property, and providing satisfactions when loans are paid off. Borrower actions requiring approval and loan satisfactions are discussed in this chapter. The remaining functions are described in detail in the chapters that follow.

Section 1 of this chapter describes servicing actions in which CSC may request assistance from Field Staff. This servicing action is the responsibility at CSC; however, assistance may be needed from the Field so that CSC can adequately service the loan. Section 2 deals with servicing actions which are the responsibility of Field Staff with Field Staff making the final decision. Section 3 deals with liquidation responsibilities after CSC accelerates a loan.

13.2 TRANSITION TO CSC

New borrowers know the Agency only through the Field Staff they have dealt with directly during the loan approval process. After loan closing, those borrowers must make the transition to dealing with CSC. Field Staff can help borrowers with this transition by discussing the post-closing role of CSC with the applicant throughout the origination process, and emphasizing, during the applicant orientation, the importance of dealing directly with CSC. Once the loan is closed, CSC will contact the borrower in writing before the first billing statement to explain its role as servicer.

SECTION 1: WORKING WITH CSC

13.3 REGULAR SERVICING

A. Newly-Activated Borrower Account

When CSC receives a new borrower's loan docket, it will be reviewed to ensure that the documents are correct, and that the information contained in the legal documents matches the information that has been entered into MortgageServ. This will provide a check on the accuracy of all data entry, as well as offering an opportunity to identify and correct clerical errors that could otherwise result in unauthorized assistance. When CSC encounters apparent discrepancies, Field Staff may be asked to assist in correcting problems.

B. Payments

Field Staff should help borrowers understand the importance of dealing directly with CSC, while still providing appropriate levels of assistance. If a borrower brings a payment to the Field Office, Field Staff should remind the borrower that payments must be sent to the lockbox. Field Staff can forward a payment to the lockbox on the borrower's behalf; however, the borrower should be advised that bringing the payment to the Field Office will only delay arrival at the correct destination, and the borrower will be more likely to incur a late fee than if the payment is sent directly. Late fees are set at 4 percent of the borrower's scheduled payment for principal and interest, and are assessed if the scheduled payment is more than 15 days past due.

Fees on payments accepted by the field office will be recorded on Form RD 1951-49, "Register of Collections," and will be safeguarded in accordance with RD Instruction 1951-B and Form RD 1951-44, "Management Control and Review of Field Office Collection Activities, and related Forms Manual Insert.

C. Approval Actions

CSC must approve a variety of actions borrowers may wish to take during the course of their loans, including leasing mineral rights, obtaining a partial release of security, transferring title to someone who will assume the indebtedness, and obtaining Agency consent to temporarily not occupy the property or subordinate the Agency loan. In some circumstances, these actions may require on-site expertise.

If the borrower requests a partial release of security or authorization to lease mineral rights, Field Staff may be asked to examine the site to determine whether the proposed action will have an adverse effect on the security property. A local perspective may be particularly useful, for example, if Field Staff are familiar with nearby properties that have experienced similar mineral activity.

CSC is responsible for most subordination requests, and may request assistance from the Field Office. The Field Office may approve a subordination in the case of a borrower who is obtaining private credit for repairs to the security property, and the lender requires a prior lien.

All servicing actions are subject to the environmental requirements contained in RD Instruction 1940-G. Field Staff are responsible for completing necessary environmental reviews.

D. Appraisals

Field Staff may be asked to conduct appraisals for CSC. In these cases, Field Staff also are responsible for conducting administrative and technical reviews of these appraisals. Section 5 of Chapter 5 provides detailed guidance on conducting appraisals. All appraisals done as part of a servicing action must include the appropriate level of due diligence, which includes completing the *Transaction Screen Questionnaire, ASTM Standard E-1528 (TSQ).*

E. Insurance Claims

Borrowers will generally notify CSC of property insurance losses. When the loss claim check exceeds $2,500 or the account is past due, the case will be handled by CSC and the claim check will be sent to the Hazard Insurance Claims Department in CSC. Field Staff may be asked to inspect property damage or the progress of repairs and make a final inspection to ensure that the repair work is properly completed. Section 6 of Chapter 5 provides guidance regarding how inspections should be conducted and documented.

In situations where it becomes necessary to issue construction draws, CSC claims processors will work closely with the borrower until the repairs are complete. Field Office staff will be requested to inspect any repairs and obtain *Form RD 1924-10, "Release by Claimants,"* or similar document from the contractor.

In cases where the amount of the loss claim check is less than $2,500 and the account is current, Field Offices are authorized to endorse insurance claim checks without recourse provided the borrower provides a copy of the adjuster's worksheet and documentation that repairs will be made, or have been completed. If the borrower does not have this documentation, the Field Office will contact the Hazard Insurance Section in CSC for further guidance.

When Field Offices have endorsed an insurance check for less than $2,500, they will cue CSC utilizing Task 285 and provide the claim check amount and date of the loss. If a borrower notifies a Field Office of an uninsured loss, the Field Office will cue CSC utilizing Task 285 and provide the estimated amount of damage to the property and the date of loss. CSC may force place insurance and submit a claim to the carrier. CSC will cue the Field Office if further actions are needed at the Field Office level.

F. Reamortizations and Other Documents Requiring Borrower Signature

Certain servicing actions may require that a borrower sign a loan document which is imperative to continue servicing the loan. Most times, CSC will mail such documents to the borrower. In some cases, especially when the document will remain in the Field Office, executing the document locally makes better sense. In these cases, CSC will advise the borrower to call and make an appointment with the local Field Office to sign the documents. CSC will also notify the Field Office and will provide specific instructions on what actions must be taken. For example, when a loan is reamortized, the borrower must execute *Form RD 3550-18, Reamortization Agreement*. CSC will prepare the form and contact both the borrower and Field Office with instructions on executing this form. Since the form modifies some terms of the promissory note, upon execution, the Field Office would file *Form RD 3550-18* with the borrower's original promissory note, provide a copy to the borrower, and notify CSC that the borrower has executed the document.

For reamortizations, the Field Office will type the following statement below the signatures on the original note or assumption agreement:

> "A Reamortization Agreement dated _____ in the principal sum of $ _____ has been given to modify the payment schedule of this note."

G. Payoffs

Generally, a request for a loan payoff balance is made directly to CSC. In certain cases, Field or State Offices may need to obtain a payoff statement on a borrower's account. When needed, Field /State Offices should submit Attachment 13-A, Request for Payoff Statement, to the Payoff Unit at CSC. If the payoff statement is to be used for internal purposes only, the documentation for determining market value, capital improvements, and closing costs should be maintained in the Field State Office. If the payoff statement is to be provided to a third party, all documentation should be faxed to CSC along with the attachment.

Attachment 13-A along with supporting documentation must be reviewed by a person other than the Rural Development employee making the request. The reviewer should be the first line supervisor, or designee, of the Rural Development employee making the request. The name and initials of the person making the request and the reviewer must be on the attachment.

H. Final Payments and Satisfactions

When a borrower makes a final payment, CSC will notify the Field Office. Since the methods and forms for releasing security instruments vary by State, the Field Office is responsible for preparing the necessary satisfaction or other release documents. When the account is fully satisfied, including any subsidy recapture, the Field Office will submit these documents to the borrower, along with the satisfied note and mortgage, unless requested to submit them to another lender or closing agent, as appropriate. In States where the security instruments are not released when the borrower refinances their debt, but are assigned to the new lender, Field Staff may execute the necessary documents to authorize the assignment. The borrower's case file must be retained for 1 full fiscal year after the account is satisfied.

In cases where the account is not fully satisfied, such as in the case of a borrower who has elected to defer the repayment of recapture, the security instruments are not released. In these cases, CSC may advise the Field Office to prepare a subordination of the security instruments. Field Offices need to follow CSC instructions carefully to ensure that the correct documents are executed when releasing any security. Satisfaction documents are never sent to a borrower who has deferred payment of recapture until the recapture amount is paid in full.

13.4 SPECIAL SERVICING ACTIONS

A. Borrower Counseling

If a borrower notifies Field Staff that there may be a problem with loan repayment, Field Staff must not offer special servicing options or counsel the borrower about specific alternatives. Instead, Field Staff should help the borrower place a call to CSC to obtain this type of assistance.

It is important for Field Staff to understand the servicing tools available to CSC in order to be able to refer borrowers most effectively. However, it is the responsibility of CSC to provide specific information and counseling to borrowers. Field Staff must use extreme caution in providing information to borrowers, since detailed information about changes in servicing procedures will be disseminated primarily at CSC.

The Rural Development portion of a leveraged/participation loan is eligible for the same servicing actions as Section 502 and 504 loans. However, servicing strategies may be different because of the Agency's lien position and the need to coordinate servicing actions with the leveraged/participation lender.

CSC has the primary responsibility of servicing these accounts. On occasion, it may be necessary to request the Field Office to provide information on the leveraged/participation lender that is otherwise not available. Likewise, if the leveraged/participation lender contacts the Field Office regarding a specific account, they may wish to refer the lender to CSC for assistance.

B. Protective Advances

When CSC is contemplating a protective advance for physical repairs based on a borrower's report that the property is in need of repairs, Field Staff may be asked to visit the property to determine whether the repair is actually needed, and whether the condition of the property warrants additional investment. CSC also may request that Field Staff conduct inspections of work completed with a protective advance.

Field Staff who notice significant damage or deterioration in a property that secures an Agency loan should report that information to CSC. CSC can then contact the borrower to discuss the condition of the property, and determine whether additional action is warranted. Potential contamination from hazardous substances, hazardous wastes, or petroleum products should be reported promptly to the State Environmental Coordinator for further evaluation and guidance.

C. Refinancing

Borrowers who have nonprogram loans, above-moderate loans, or loans originated before August 1968, even if they have been assumed, are not eligible for payment subsidy. If a borrower with one of these types of loans experiences difficulty, is in danger of losing the home, and it appears that the borrower would otherwise qualify for payment subsidy, Field Staff may be asked by CSC to consider refinancing the loan.

D. Subsequent Loans

Originating subsequent loans is always the responsibility of Field Staff. However, there may be times when CSC becomes aware the borrower may need a subsequent loan and will refer the borrower to the Field Office.

E. Bankruptcies

If a borrower's bankruptcy petition is received in the Field Office, it should be forwarded immediately to CSC.

F. Missing Borrowers

When CSC is unable to locate a borrower, Field Staff may be asked to use local connections in an effort to find them. This might include checking with neighbors or friends, contacting local utilities, or checking with area schools. If the borrower cannot be located, Field Staff may be asked to take custody of the property to protect the Government's interest. Procedures for managing custodial property are described in Chapter 15.

G. Payment Subsidy Renewals

Payment subsidy renewals are the responsibility of CSC. On occasion, it may be necessary to request that the field office make a personal contact with the borrower to assist with the payment subsidy renewal process. Personal contact by the field is necessary when CSC has not received required documentation from the borrower to renew the payment subsidy and CSC has been unable to make a personal contact. A personal contact is made when verbal communication is made with the borrower either by phone or through a face-to-face meeting or through written communication from the borrower.

CSC sends a renewal request to the borrower 90 days prior to the expiration date of the subsidy agreement. When the borrower fails to send the necessary paperwork to renew the subsidy, CSC attempts to contact the borrower by phone and mail. Approximately 45 days prior to the expiration of the current subsidy agreement, if CSC is unsuccessful in obtaining the required documentation, the field office will be requested through Task # 526 to contact the borrower. This task must be completed within 30 days. When this task is received, the field office will make a personal contact with the borrower, or determine that a personal contact is not necessary.

Within 30 days of receipt, the field office will close Task # 526 and clearly document the contact or reason why contact is not necessary through Task # 115 entering the "message" in the task or by using "GLOBAL NOTES."

If the field office determines the borrower is not eligible for subsidy or no longer desires subsidy, close Task # 526 and clearly document in "GLOBAL NOTES" why the borrower does not want or qualify for payment subsidy. A personal contact is also not required if the property is abandoned. If the property is abandoned, close Task # 526 and respond to CSC with Task # 100.

A monthly report will be provided to State Directors showing the number of tasks not completed. State Directors will be responsible for monitoring incomplete tasks within their state jurisdiction.

H. Preacceleration Personal Contact

To ensure that a personal contact has been made with a borrower prior to an acceleration, the field office may be requested to personally contact the borrower. Exhibit 13-1 provides an overview of the Personal Service Review process. The field office will be requested to contact the borrower when CSC has been unable to make a personal contact with the borrower within the last 60 days and all required servicing letters have been sent, attempted phone contacts have been made, and monthly billing statements have been mailed to the borrower. A personal contact is made when verbal communication is reached with the borrower either by phone or through a face-to-face meeting or through written communication from the borrower. Field offices may be able to obtain financial information which can be used to recommend actions to CSC such as reamortization, moratorium, debt settlement or acceleration.

Exhibit 13-1

Personal Service Review Process

Account Review

- Review for correct delinquency status and that all monies have been applied.
- Ensure that payment subsidy has been offered and that there are no outstanding documents.
- Ensure moratorium processing is not outstanding.
- Ensure a reamortization is not in process.
- Ensure CSC has no open research tasks.

Contact Review

- Determine if CSC has spoken to the customer since the account was 60 days past due and three attempts have been made within the last 60 days.

Resolution

- A task or callback is requested to ensure the servicing needs of the customer have been met. If the CSC cannot contact the customer, a task is opened to the Field to make a personal attempt.
- A Personal Contact will be made by CSC or the Field Office prior to referral for foreclosure.

In cases where CSC's attempts to make a personal contact have been unsuccessful, the field office will be requested to contact the borrower using Task # 8. Field offices will have 30 days to complete the task. When Task # 8 is received, the field office must review the "DEL/LOAN/HISTORY" and "DIS/HISTORY" screens before contacting the borrower. Once the screen is displayed, tab to the "DSP" field and type the word "ALL." This will provide information on all letters, calls, and notes. Prior to closing the task all contacts and attempts must be documented in "GLOBAL NOTES." If it appears that additional servicing options are needed, the "Account Issue and Suggested Resolution Sheet" shown as Attachment 13-B will be used to notify CSC that servicing assistance is needed.

If the field office has attempted contacts (either by phone or mail) and left a message through a door hangar or a business card, CSC will be notified using Task # 18 which will allow the borrower 15 days to make a call back to the field office or CSC. If after 15 days no attempt is made by the borrower to contact the field office or CSC, and the defaults have not been cured, CSC will direct the account to the acceleration unit.

If after reviewing the account the field office believes that personal contact is not necessary and the account should be accelerated, CSC will be tasked using Task # 17 to indicate the account has been reviewed and "Acceleration is necessary" and document why acceleration of the account is necessary and a personal contact is not necessary by entering the "message" in the task or by using "GLOBAL NOTES." An example of when personal contact is not necessary is when the security property has been abandoned. In abandonment cases the field will notify CSC using Task # 100.

A monthly report will be provided to State Directors showing the number of tasks not completed. State Directors will be responsible for monitoring incomplete tasks within their state jurisdiction.

13.5 VOLUNTARY SALE

Sale of security property is generally the most desirable option for both the Agency and a borrower who is unable to continue the loan. For the Agency, a sale to another party avoids the potential costs of liquidation, as well as costs related to owning and disposing of a property. For the borrower, it offers the best opportunity for being released from the debt without a major credit history blemish. A borrower may sell a property to a third party even after the account is accelerated. Field Offices may become aware of a borrower who desires to sell their property through notification from CSC or directly from the borrower. If the initial contact was not made through CSC, the Field Office should notify CSC of the proposed sale. If it appears that the sale of the property may not pay the debt in full, the Field Office should provide the borrower with a Debt Settlement Packet.

If a borrower proposes to sell the property for an amount which may be insufficient to pay the Agency debt, prior liens, and authorized selling expenses, the Agency may consent to the sale when it is determined to be in the best interests of the Agency. The Agency may also advance authorized selling expenses to facilitate the sale. To determine if the proposed sale is in the Agency's best interest, a copy of the sales contract, appraisal, and sales expenses are needed. Another lender's appraisal may be used if it meets Agency appraisal guidelines.

Whether the short sale request is approved for less than the debt or if the request is denied, a Loan Approval Official should provide their decision in writing to the homeowner. Handbook Letter 20 provides sample language for letters that may be used.

Authorized Selling Expenses

Authorized selling expenses are those which a seller customarily and legally pays to convey title and includes such items as a typical real estate commission, up to three points to enable the buyer to secure credit (but not to reduce the interest rate), real estate taxes, junior liens, deed preparation, abstract and title fees, termite and related inspections, title insurance, surveys, and deed and revenue stamps.

At a minimum, the approval letter should include the approved sale price, amount of net proceeds due to the Agency and a Debt Settlement Package with instructions to return the completed package to the Centralized Servicing Center. The homeowner is to be made fully aware that while the Agency is agreeing to release the lien they are still responsible for any remaining debt, which can be settled through the debt settlement process.

The denial letter should state, at a minimum, that the Agency has reviewed the request for consent to sell the property for the proposed sale price and provide specific reasons why the Agency does not consent to the sale. The Field Office should be listed as the contact.

In cases where a junior lien exists, the State Director may approve settlement of a junior lien to effect sale of the property when it is determined to be in the Agency's best interest. Field Staff will negotiate the lowest cost to have the junior lien released from the security property, bearing in mind the Agency only seeks to have the lien released (and not necessarily satisfied). The junior lienholder may still seek recovery from the debtor, if permitted by State law.

The Agency's objective is to minimize any potential loss to the Government and to the borrower. The Agency may consent to a sale for as low as the market value of the property, minus the prior liens and authorized sales expenses. When the proposed sales price is less than the market value, a net recovery valuation is required. Either action is handled in the Field Office and the final decision to concur with the proposed sale lies with a Loan Approval Official.

Example - Sale for Less Than Debt

A borrower's debt is $30,000, the sales price of the property is $28,000, authorized sales expenses are $3,000, and the market value is $28,000. In this case, the Loan Approval Official may consent to the proposed sale since it will net the Agency $25,000 ($28,000 minus $3,000 in authorized selling expenses). If the proposed sales price was less than the market value ($28,000), a net recovery valuation would be required.

When sales proceeds will not fully satisfy the debt, CSC will make the determination of whether the borrower will be released from personal liability. This determination is based upon a Debt Settlement Package completed by the borrower and forwarded to CSC for review and approval. A completed Debt Settlement Package is required to be submitted at or before loan closing for all sales for less than the debt, and sales proceeds must be submitted by certified or cashiers check. In cases where the borrower is not able or willing to complete the Debt Settlement Package, the Field Office may still release the mortgage when it is determined to be in the best interest of the Agency. This generally occurs when the borrower has moved out of the area or failure to close the loan will result in liquidation and the Agency receiving less than the anticipated net recovery value. The Debt Settlement Package, if available, and proceeds from the sale will be transmitted to the Cash Section of the Loan Administration Branch in CSC. *Form RD 3550-17, Funds Transmittal Report*, with the final payment coded "00" will be used to transmit the loan proceeds.

The Field Office will enter in GLOBAL/NOTES the date of the sale or assumption, purchase price, outstanding vouchers, and the date funds were submitted to CSC. On accounts which were accelerated, the Field Office will also update the FCL/INFO screens with third party information. When proceeds have been posted or the assumption processed, CSC will notify the Field Office of such action through Task #86, "Approved short sale, release mortgage/deed only," and will provide further guidance on release of the promissory note or debt settlement action, as appropriate.

Debt Settlement

A Debt Settlement Package consists of:

- *Form RD 3550-20, Application for Settlement of Indebtedness*
- *Form RD 3550-21, Payment Subsidy Renewal Certification*
- Copies of last two months bank statements for all accounts
- Verification of Income (last 2 pay stubs, benefit letter, etc.)
- Copy of most recent Federal Income Tax Return
- Copy of Net Recovery Worksheet, if applicable
- Estimated selling expenses
- Any other relevant information

A Debt Settlement Package can be requested from CSC by utilizing Task 569 or assembled in the Field Office. For emergency releases on debt settlement cases, the above information may be faxed to the Special Assistance Section, ATTN: QR Debt Settlement, in CSC at (314) 457-4451 or (314) 457-4551. Please ensure the borrower's telephone number is provided. Non emergency cases should be sent to the aforementioned section in CSC.

13.6 DEBT SETTLEMENT

Debt settlement procedures are implemented when there are debts owed the Agency, including balances remaining on an account after liquidation, debt remaining after a sale, subsidy recapture receivable or grant repayment amounts due, or unauthorized assistance due. Debt settlement begins when

the security has been disposed of. An account may be debt settled through compromise, adjustment, chargeoff, or cancellation.

CSC handles debt settlement, but Field Staff may be asked to assist in efforts such as locating missing borrowers or joint debtors, or checking local records to identify a debtor's assets. CSC will generally send the satisfaction to the Field Office with instructions to return the satisfaction and satisfied note to the debtor.

13.7 ADDITIONAL INPUT

Even when CSC has the primary responsibility for servicing, Field Staff have an obligation to report information that comes to their attention indicating risks to the security property or changes in borrower circumstances. Such items might include knowledge of hazardous dwelling conditions, environmental hazards, nonoccupancy, abandonment, or changes in income. Field Staff who learn of borrower difficulties also may recommend that the borrower contact CSC for assistance.

Using Personal Knowledge

Field Staff must consistently report information that comes to their attention if it is relevant to Agency loans or security properties to ensure that all borrowers are treated equally.

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SECTION 2: BORROWER ACTIONS REQUIRING APPROVAL
[7 CFR 3550.159]

13.8 OVERVIEW

A borrower must obtain approval from the Agency before taking actions that may affect the security value of the property. Since these actions involve security property, they are handled in Field Offices. Key actions that require approval from the Agency include subordination, lease of mineral rights, partial release of security, lease of security property, and assumption of indebtedness.

When CSC becomes aware of borrower actions requiring approval, they will cue the local Field Office and provide any necessary information to facilitate processing of the borrower's request. Field Offices will approve or disapprove the actions outlined in this section and will cue CSC with the outcome.

This section first covers general guidelines and procedures for evaluating a borrower's request for approval of an action, with the exception of assumptions of indebtedness. Specific guidelines for each of the actions, including assumptions, follow the discussion of general guidelines.

13.9 GENERAL GUIDELINES

A. Reviewing Requests

To request approval for subordination, mineral leases, partial release of security, and lease of security property, a borrower must submit *Form RD 465-1, Application for Partial Release, Subordination, or Consent*. If the information provided is not sufficient to allow for a thorough evaluation, the Field Office must request additional information from the borrower.

B. Obtaining an Appraisal and an Environmental Review

An appraisal is required for the Agency to subordinate its interests or to approve a partial release of security if the amount of consideration exceeds $5,000. The borrower must pay for the appraisal, although the cost for an appraisal can be charged to the borrower's account.

An existing appraisal may be used if it is less than 1 year old and appears to reflect market value. An Agency appraisal is not required if a lender is involved and can provide an appraisal or broker's price opinion that adequately reflects market value.

Actions requiring Agency approval, including subordination, mineral leases, partial releases of security, lease of security property, and assumption of indebtedness, are subject to the environmental requirements of RD Instruction 1940-G prior to the approval.

C. Evaluating and Approving the Request

Once the information needed to evaluate the request has been submitted, the Field Office must analyze the effect of the proposed action on the security property and document the conclusions on *Form RD 465-1*. Some factors to consider in the analysis include:

- The market value of the property before and after the transaction;
- The physical effects of the action on the security property; and
- The assignment of initial and subsequent payment proceeds.

If the analysis indicates that the Agency's security will not be put at risk by the action, an approval official may sign *Form RD 465-1*. The Office of the General Counsel (OGC) or the State Office may need to provide relevant forms needed to complete the approval. Signed copies of *Form RD 465-1* should be distributed to CSC, the borrower, and the lender, as appropriate. The original should be maintained in the borrower's case file at the Field Office.

D. Using Proceeds

Proceeds that arise from the sale of a portion of the security, granting an easement or right-of-way, damage compensation, and all similar transactions should be used in the following order.

- To pay customary and reasonable costs related to the transaction that must be paid by the borrower, such as:
  - ◊ Real estate taxes that must be paid to conclude the transaction;
  - ◊ Cost of title examination, survey, abstract, and reasonable attorney's fees; and
  - ◊ Costs necessary to determine a reasonable price, such as appraisal of minerals, when the necessary appraisal cannot be obtained without costs.
- To be applied on a prior lien debt, if any.

- To be applied to the Agency indebtedness or used for improvements to the security property in keeping with the purposes and limitations applicable for the use of Agency loan funds. Proposed development will be planned and performed in accordance with RD Instruction 1924-A and supervised to ensure that the proceeds are used as planned.

The use of proceeds should be reflected on *Form RD 465-1* and agreed to by the borrower and the Agency. Proceeds from the transaction to be applied to the Agency indebtedness will be remitted to the Cash Management Branch in CSC using *Form RD 3550-17, Funds Transmittal Report*, with Reason Code "00," together with a brief statement as to the source of the proceeds, a copy of *Form RD 465-1*, and any related documentation. The Field Office will also notify CSC using Task 178, "Legal Description Correction."

13.10 SUBORDINATION [7 CFR 3550.159(b)]

Subordinations are generally handled by CSC. The Field Office may approve a subordination of the Agency's security interests to allow a borrower to obtain a subsequent loan with private credit to make needed repairs or improvements to the property.

A. Criteria for Subordination

Requests for subordination can be approved if:

Nonprogram Borrowers

Subordination cannot be authorized for nonprogram loans.

- The other lender verifies that the funds will be used for Agency-eligible purposes;

- Based on repayment ratios, the prior lien debt will be on terms and conditions that the borrower can reasonably be expected to meet without jeopardizing repayment of the Agency indebtedness;

- Any proposed development will be planned and performed in accordance with Agency construction standards, as described in RD Instruction 1924-A or directed by the other lender in a manner that is consistent with that subpart; and

- The prior lien holder agrees in writing to provide at least 30 days prior written notice to the Agency before initiating any foreclosure action on the prior lien.

To document that the subordination conforms to the Agency's requirements, the borrower should ask the other lender to provide the Agency with a memorandum that states the purpose of the loan, along with its terms and conditions.

B. Amount of Subordination

The maximum amount of subordination is the market value of the security property minus the unpaid balance of all Agency loans (exclusive of recapture).

13.11 MINERAL LEASES *[7 CFR 3550.159(a)]*

Borrowers must obtain Agency authorization before leasing mineral rights on their security property. Such requests are rare, but do occur in situations such as a property in a town located above a coal mine or a property located on a water source. OGC should be involved in mineral lease decisions because State and local laws vary. Subordination of an Agency loan to a mineral lease does not entitle the leaseholder to any proceeds from the sale of the security property. If the lease of mineral rights is approved, rental proceeds not assigned to the Agency are treated as income and any payment subsidy must be adjusted accordingly.

The Agency should consent to the lease of mineral rights and the subordination of its liens to the lessee's rights and interests in the mineral activity if the security property will remain suitable as a residence, and the Government's security interest will not be adversely affected.

To make this determination, the Agency must consider the effects of leasing on the security property including the potential for the lessee's rights of surface entry on the property. The Agency also must ensure that the property remains decent, safe, and sanitary and the value of the security property is not decreased below the amount of the loan.

- **No decrease in value.** If the proposal is not likely to decrease the value of the security property, the lease may be approved if the borrower agrees: (1) to use any damage compensation received from the lessee to repair damage to the site or dwelling; or (2) to assign it to the Agency to be applied to reduce principal.

- **Likely decrease in value**. If the proposed activity is likely to decrease the value of the security property, the Agency should consent to the lease of mineral rights only if: (1) the borrower assigns 100 percent of the lease income to the Agency to be applied to reduce principal; and (2) the rent to be paid is at least equal to the estimated decrease in market value.

When an assignment of income is required, the borrower must submit an assignment of income in a format that is designed to comply with State law and approved by OGC.

13.12 PARTIAL RELEASE OF SECURITY *[7 CFR 3550.159(c)]*

A borrower may request a partial release of security to accommodate a need to sell or exchange part of the property or grant a right-of-way across the security property. For example, the owner of an adjoining property may want to trade 10 feet of the side yard for 10 feet of the back yard, or the local government may wish to purchase land that borders a highway slated for widening.

The Agency may consent to transactions affecting the security and grant a partial release of security if the following conditions are met.

- The borrower will receive adequate compensation:

  ◊ The sale of any part of the security property must result in a payment equal to the value of the security being released or rights granted;

  ◊ The exchange of security property must result in another parcel of property acquired that has value equal to or greater than that being released; or

  ◊ The granting of an easement or right-of-way must result in benefits that are equal to or greater than the value of the security property being released.

- The security property, after the transaction is completed, must be adequate, decent, safe, and sanitary. For a program loan, the security after the transaction is completed must also remain modest.

- Repayment of the Agency debt must not be jeopardized.

- The environmental requirements of RD Instruction 1940-G must be met, if applicable.

To process a partial release, the Field Office must complete the following actions.

- Complete any required State release forms.

- For an ***exchange*** of all or a portion of the security property, obtain title clearance for the new security before the release of the existing security. Security instruments must be obtained for the new property.

- For a ***sale*** of all or a portion of the security property, deliver the release when full payment is received.

- Update the legal descriptions of the property, as necessary.

The Field Office may approve, after notifying CSC of the approval, the following releases:

- **Additional security.** At any time prior to payment of the loan in full, the Agency may authorize a release from the Agency's lien any real estate taken as additional security. This is authorized provided the market value of the remaining security is adequate to secure the loan balance. Additional security does not include any part of the tract purchased with Section 502 loan funds or part of the minimum adequate site on which the dwelling is located.

- **Mutual Mistake.** The Agency may authorize the release of property from the Agency's lien caused through mutual mistake when substantiated by facts and when the Agency can determine, with the advice of OGC, that a mutual error existed at the time the property was included in the security instrument.

- **No evidence of indebtedness.** The Agency's lien may be released in situations where there is no evidence of an existing secured indebtedness in the Field Office or in CSC. Before releasing the lien, the Field Office should consult with the Borrower Assistance Branch in CSC.

- **Valueless Lien.** In liquidation cases, if a net recovery valuation indicates the Agency's lien is valueless (that is, there is no or a negative potential recovery), the lien may be released. The Field Office should immediately contact the Borrower Assistance Branch in CSC. This is necessary to ensure that taxes and insurance are no longer paid by the Agency, and a debt settlement package is sent to the borrower by CSC.

13.13 LEASE OF SECURITY PROPERTY *[7 CFR 3550.159(d)]*

Program borrowers must notify the Agency if they lease the property. If the Agency becomes aware of a borrower who is leasing their property, the borrower is not eligible for payment subsidy or special servicing benefits during the period of the lease. Field Offices will notify CSC and provide any applicable documentation. If they become aware that a borrower has leased the security property, the Agency also should assess the borrower's ability to refinance with private credit. If the lease is for a term of more than 3 years or contains an option to purchase, the Agency may liquidate the loan. Nonprogram borrowers are free to lease their properties without restriction.

13.14 ASSUMPTION OF INDEBTEDNESS *[7 CFR 3550.163]*

A. New Rates and Terms Assumptions

In most cases, Agency indebtedness is only assumed as part of a sale. In these situations the debt is assumed on new rates and terms as part of loan origination and is addressed in other chapters of this Handbook. Field Offices are authorized to release the former borrower from personal liability for the amount of debt being assumed utilizing *Form RD 3550-16, Release from Personal Liability.* In cases where the debt is not being assumed in full, CSC will handle the settlement of the remaining debt and any release of liability for the portion of debt not being assumed.

B. Same Rates and Terms Assumptions

In certain limited cases, generally those involving transfers of title between family members, a standard industry assumption is permitted. It is known in the Section 502 program as a ***same rates and terms assumption***. Same rates and terms assumptions are handled and approved in the Field Office. Under this type of assumption, the existing note and terms, including the interest rate and the remaining repayment period, do not change. If the account is past due at the time an assumption is executed, the new borrower will be referred to CSC to resolve the delinquency.

Same rates and terms assumptions are permitted for the following types of transfers:

- A transfer from the borrower to a spouse or children not resulting from the death of the borrower;
- A transfer to a relative, joint tenant, or tenant by the entirety resulting from the death of the borrower;
- A transfer to a spouse or ex-spouse resulting from a divorce decree, legal separation agreement, or property settlement agreement;
- A transfer to a person, other than a deceased borrower's spouse, who wishes to assume the loan for the benefit of persons who were dependent on the deceased borrower at the time of death, if the dwelling will be occupied by and or more persons who were dependent on the borrower at the time of death and there is a reasonable prospect of repayment;
- A transfer into an inter vivos trust in which the borrower does not transfer rights of occupancy in the property; and
- Any subsequent transfer of title, except upon death of the inheritor or between inheritors to consolidate title, will be treated as a sale.

C. Agency Approval

The due-on-sale clause contained in all Agency mortgages stipulates that the borrower must obtain approval from the Agency before the title of a security property can be transferred with an assumption of the indebtedness. Prior approval is not required for same rates and terms assumptions.

The Agency will approve a transfer of title and assumption of indebtedness if it is in the best interest of the Government. The new owner will be liable for the loan, and the terms and conditions of the assumption depend upon the eligibility of the new purchaser and the property's characteristics.

Unauthorized assistance will not be pursued when an individual who is eligible for a same rates and terms assumption has been occupying the security property, receiving subsidy based on their household income and executes a same rates and terms assumption. As these cases are identified, the CSC will notify the individuals occupying the security property in writing that unauthorized assistance will be pursued unless an assumption agreement is signed within 90 days.

A task will be sent to the Field Office informing them of the unauthorized assistance and a request to have the individuals execute a same rates and terms assumption. If the assumption is not executed within 90 days and the Field Office has not requested an extension to complete the processing of the assumption, collection of the unauthorized assistance will be pursued.

The new owner need not have a low or moderate income. However, payment subsidy can be continued for the new owner only if he or she is eligible for assistance and only at the level for which the new household qualifies. If the transferee is a very low- or low-income person, it may be more beneficial for the transferee to assume the loan under new rates and terms. For example, if current interest rates are lower or a longer repayment period is necessary, a new rates and terms assumption may be of benefit to the new owner. In those cases, if the new owner applies and is program-eligible, the loan will be assumed under new rates and terms. In cases where the assuming party has a moderate- or above moderate-income, the party will be informed of the Agency's refinancing requirements, and if applicable, the loan will be reviewed for refinancing.

In most cases, if the borrower sells a security property with a due-on-sale clause without obtaining prior authorization from the Agency, the assumption will not be approved and the loan may be liquidated. If the Agency determines it is in the best interest of the Government to continue the loan, the account will be serviced in the original borrower's name, and the original borrower will remain liable for the loan under the terms of the security instrument.

A new owner who obtains property through a transaction eligible for a same rates and terms assumption is not required to obtain Agency approval or assume the loan. The Agency is not permitted to liquidate the loan if the new owner continues to make scheduled payments and meets all other obligations of the loan. However, a new owner who does not assume the loan is not eligible for payment assistance or a moratorium.

D. Procedural Requirements

The new owner must sign *Form RD 3550-22, Assumption Agreement - Single Family Housing*. For assumptions, the original note is not returned to the seller. Instead, the note is filed with other original notes, with the original *Form RD 3550-22* attached.

Releasing a Departing Borrower From Liability

Changes in household composition may trigger the need to adjust who is responsible for repayment of the loan. The need for a change most often occurs when one party to the note wishes to be released of liability. For example, after a divorce the departing spouse may wish to be relieved of responsibility for the balance of the mortgage. The Agency will authorize such a release only when:

- The divorce decree or property settlement document did not make the departing borrower responsible for loan payments;
- The departing borrower's interest in the security property is conveyed to the person with whom the loan will be continued; and
- The remaining borrower meets the maximum total debt ratio requirements and credit history requirements.

Form RD 3550-16 is used to release the departing borrower from liability. CSC generally handles these releases but may cue the Field Office for assistance.

13.15 PROTECTIVE ADVANCES *[7 CFR 3550.206]*

The Agency may advance funds to pay for fees and services that are needed to protect the Government's interest in either program or nonprogram property. Protective advances are generally only considered when the Agency cannot provide a subsequent loan for such purpose to the borrower. This could occur because the borrower does not meet current eligibility standards, lack of funds, or unwillingness of the borrower to cooperate. The Agency recovers the amounts advanced by charging the borrower's account. Amounts advanced are due with the next scheduled payment. If the borrower is unable to repay the advance in a lump sum, the Field Office may request that CSC schedule repayment consistent with the borrower's ability to pay or reamortize the loan.

A. Advances for Property Repairs

Protective advances for property repairs are made only to protect the Government's interest in the security property and should be considered only if the repairs cannot be financed through a subsequent loan. Advances will bear interest at the promissory note rate of the loan against which they are charged. Advances for borrowers with multiple loans secured by the same property should be charged against the largest loan.

1. Determining the Need for Repairs

The need for repairs may be identified by either the borrower, Field Office, or CSC. Field Offices are responsible for completing an inspection of the property, an environmental review, developing a description of the work required, preparing a cost estimate, and approving the protective advance.

2. Alternative Sources of Funding

Before processing the advance, the Field Office must first determine whether it appears that the borrower qualifies for a subsequent loan. If a subsequent loan appears feasible, a loan application will be processed immediately. If the need for a protective advance is so urgent or if it is clearly apparent that the borrower would not qualify for a loan, is uncooperative, or that a protective advance is more appropriate, the Field Office may proceed immediately with an advance.

B. Advances for Other Purposes

In order to protect the Government's interest, protective advances also may be used for other purposes. These types of advances will be processed and approved by Field Offices or CSC, as appropriate. Field Staff will coordinate efforts with CSC for any loan which is still under the jurisdiction of CSC. Protective advances for other purposes include such items as:

- Paying off a senior lien holder who intends to foreclose in cases where the Agency is a junior lien holder;
- Paying taxes or insurance premiums; or
- Paying for local assessments.

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SECTION 3: LIQUIDATION

13.16 OVERVIEW

The decision to liquidate a loan is made at CSC. After acceleration and any ensuing appeals, the case is sent to the State Office for completion of the liquidation. Once legal proceedings have concluded, the property will be sold at a foreclosure sale. To complete the foreclosure process, the State Office must determine how much to bid and enter that bid at the sale. A net recovery valuation is required. ***Estimated net recovery value*** represents the amount that the Agency could expect to recover from a property if it was liquidated after considering all costs associated with liquidating, holding, and selling the property. Appendix 11 contains a net recovery value worksheet to aid in this calculation. ***Actual net recovery value*** is the amount the Agency in fact does recover from the sale of a property, after accounting for all costs.

13.17 NET RECOVERY VALUE

A. Establishing Market Value

Calculation of Net Recovery Value

Market value
(less) Costs
(plus) Income
Net recovery value

The market value of the property is the fundamental basis for establishing the estimated net recovery value. All calculations undertaken on the net recovery value worksheet provide additions or deductions from market value. In no case will a "distressed sale" or similar reduced value be used, resulting in a "double discount" and less recovery for the Government. Costs of liquidation and ownership are considered as deductions from the market value in the net recovery value calculation. Conversely, likely major costs, such as lead-based paint assessment and abatement on an older home or other major repairs, must be included to accurately determine the Government's costs of ownership.

B. Environmental Considerations

The estimate of market value must take into consideration potential environmental hazards that may pose a liability issue for the Agency and the presence of environmental resources for which the Agency will have an affirmative responsibility to take protective measures once it owns the property. Exhibit 13-2 provides a partial list of environmental factors for consideration.

In order to minimize Agency liability, the Agency must ensure, ***prior*** to acquiring property through foreclosure, that the property has been examined for potential contamination from hazardous substances, hazardous wastes, and petroleum products, including underground

storage tanks. This should be accomplished by requesting that Field Staff complete the *Transaction Screen Questionnaire, ASTM Standard E-1528 (TSQ)*. If the completed questionnaire raises any concerns it should be submitted to the State Environmental Coordinator for further evaluation and guidance.

The Agency also should examine the property prior to acquisition and consider any costs associated with environmental resources the Agency might be required to protect.

For additional information, refer to Chapter 16 and to RD Instruction 1940-G.

Exhibit 13-2

Environmental Hazards

Environmental Hazards

- Traffic or noise
- Hazardous materials or waste
- Radon, asbestos, or urea formaldehyde
- Lead-based paint or other lead contaminants

Protected Environmental Resources

- Aquifer recharge areas
- Coastal barrier resources
- Coastal zone management areas
- Endangered/threatened species or critical habitat
- Floodplains, wetlands, or flood hazard areas
- Historical or archeological sites
- Important farmland, prime forest land, or prime rangeland
- National landmarks
- Wild and scenic rivers
- Wilderness areas

C. Ordering An Appraisal

Information about conducting appraisals is contained in Chapter 5. The point at which a formal appraisal is actually conducted will vary.

1. Valueless Lien

If the net recovery valuation suggests that the lien may be valueless, an appraisal should be obtained immediately. If the appraisal indicates that the lien is in fact valueless, it should be released without incurring servicing costs.

2. Deed in Lieu of Foreclosure

If, after acceleration, the borrower offers a deed in lieu of foreclosure, an appraisal should be obtained immediately so the Servicer can determine whether it is in the Government's interest to accept the deed.

3. Foreclosure

If the property will be going to foreclosure, no appraisal should be obtained until shortly before the sale is scheduled to take place. In areas where the foreclosure process can be lengthy, the value of the property could change before the sale if it is conducted too far in advance.

D. Holding Period

Nearly all costs and income used in the net recovery value calculation are affected by the holding period. For estimated net recovery value, the length of the holding period is estimated differently, depending on the likely method of disposition. The holding period should be estimated as the time between the date the net recovery worksheet is being filled out and the anticipated date for:

- Filing of the deed and the expiration of redemption rights (foreclosure);
- Filing the warranty deed (deed-in-lieu of foreclosure);
- Filing the release (release of valueless lien); or
- Payoff and release (debt settlement offer subsequent to acceleration).

The time for marketing and disposition, if acquired, should also be considered when estimating the holding period.

E. Deductions from Market Value

Costs associated with liquidation and ownership of the property must be considered when determining the net recovery value, including the following costs.

- **Prior liens to be paid by the Agency.** In a case where a prior lien is involved, the amount required to repay the prior lien holder must be included in the calculation.
- **Junior liens to be paid by the Agency.** If the Agency pursues foreclosure, junior liens are not paid. However, in the case of a deed in lieu of foreclosure, it may be to the Agency's advantage to pay off a junior lien holder. The Field Office should conduct a title search to identify the position and the amount of each lien against the property.
- **Selling expenses to be paid by the Agency.** All of the transaction costs involved in selling the property including advertising, commissions for selling agents, required seller certifications, surveys, points, and closing costs paid by the Agency, whether on behalf of the borrower in a voluntary liquidation, or as an Agency expense for an Real Estate Owned (REO) sale, must be included in the calculation.

- **Holding costs.** During the time that the Agency owns the property, the monthly interest accrued is multiplied by the number of months in the holding period.

- **Depreciation during the holding period.** The property may depreciate in value while it is being held by the Agency.

- **Administrative costs.** The administrative burden associated with holding a property includes the cost of liquidation, such as attorney, filing, recordation, advertising, and document service fees that are customarily incurred in a foreclosure action.

- **Management costs.** During the period the Agency holds the property it will accrue costs related to cleaning, securing, and maintaining the property such as utilities and real estate taxes. Management costs will also include any major repair costs not considered in the market value, such as lead-based paint (LBP) assessment and abatement, which the Government would be required to incur but not considered as a detriment to value by the typical buyer in establishing the market value. While an LBP assessment is not completed for the NRV calculation, a reasonable cost estimate may be included, based on age and condition of the property and known local costs to abate similar properties.

F. Additions to Market Value

Although most of the adjustments to market value involve deductions to reduce the recovery amount, there are a few factors that can increase the market value.

- **Appreciation during the holding period.** In markets that are strong, the property may appreciate while it is being held by the Agency.

- **Income during the holding period.** In general, the Agency does not lease properties. However, REO properties may be leased in limited circumstances, such as a property located in an area where keeping the property occupied could greatly reduce vandalism.

13.18 BASIC SECURITY LOSS

The basic security loss is the difference between the property's market value and the outstanding Agency debt on the property, including principal, subsidy subject to recapture, and other recoverable costs. Exhibit 13-3 provides the basic security loss formula.

Exhibit 13-3

Calculation of Basic Security Loss

Gross Investment

A. $_____ Principal
B. $_____ Subsidy Recapture
C. $_____ Recoverable Costs

Market Value (use current appraisal)

Basic Security Loss

It is important for the Agency to consider the basic security loss in determining how to work with the borrower. For example, the debt settlement arrangements the Agency agrees to might be more lenient in the case of a borrower with a property that lost value through no fault of the borrower. More important, this information can be used for portfolio analysis to help the Agency originate loans more effectively in the future.

13.19 DEED IN LIEU OF FORECLOSURE

A deed in lieu of foreclosure is a method of liquidation by which title to the security property is conveyed to the Agency by the borrower. The Agency must not consider a borrower's offer to convey the title to the security property until after the account is accelerated, and then only when it is in the best interest of the Government based upon the estimated net recovery value. After an account has been accelerated, a deed in lieu of foreclosure is processed and approved by Field Offices. In exceptional cases where a borrower offers to convey title to the property at a Field Office when the account has not been accelerated, the Field Office will immediately contact CSC to determine an appropriate course of action.

To process a deed in lieu of foreclosure, Field Offices will obtain the following items from the borrower: (1) a warranty deed; (2) *Form RD 1955-1, Offer to Convey Security;* (3) *Form RD 1944-3, Budget and/or Financial Statement;* and (4) copies of any leases or other documents affecting the title to the property. The borrower should be informed that the deed will not be recorded unless the conveyance is accepted.

Generally, borrowers will be required to satisfy liens and real estate taxes or assessments before conveyance is accepted. However, if the borrower is unwilling to do so, the Agency may elect to satisfy or settle these debts if it is in the best interest of the Government.

A deed in lieu of foreclosure does not automatically release the borrower from liability for any outstanding debt. The borrower's account will be credited with the actual net recovery value. If the actual net recovery value does not satisfy the debt, the remaining debt must be debt settled by CSC.

The borrower should be reminded that under a deed in lieu of foreclosure:

- Foreclosure action will not be suspended while the offer for a deed in lieu of foreclosure is considered;
- All costs related to the conveyance paid by the Agency will be added to the debt;
- A credit equal to the actual net recovery value will be applied to the debt;
- If the borrower does not satisfy the debt, the borrower will not automatically be released from liability; and
- The borrower will be required to provide a title insurance policy or a final title opinion from an Agency-approved title company or attorney.

13.20 FORECLOSURE

State laws pertaining to acceleration and foreclosure will affect the procedures the Agency is required to follow. CSC will consult with OGC to ensure that appropriate procedures are followed.

A. Making the Acceleration Decision

CSC must decide whether to accelerate the account and begin the foreclosure process. The decision to accelerate involves numerous considerations, many of which will vary case-by-case. The following issues should always be considered.

1. OGC Concurrence

CSC obtains OGC concurrence before beginning the foreclosure process if:

- The foreclosure is based on a nonmonetary default;
- The borrower obtained the loan while a civilian and entered military service after the loan was closed; or

- The property also serves as security for a loan under another United States Department of Agriculture (USDA) Agency program such as the Farm Service Agency (FSA), since this may trigger liquidation of the other loan.

2. Role of Other Lien Holders

Depending upon the status of other liens on the security property, the Agency may invite other lien holders to join in the foreclosure action or join in a foreclosure action initiated by another lien holder.

When the Field Office becomes aware of a prior lienholder foreclosure, a determination must be made if it is advantageous to pay the prior lienholder in full before the foreclosure sale. When making this determination the Field Office must consider if the government will obtain a greater recovery on the secured debt than it could by bidding at the foreclosure sale based on the net recovery value and whether the agency wishes to continue with the borrower. If the decision is made to pay off the prior lienholder a title opinion must be obtained. Field Offices will note the account and fax a copy of the foreclosure notice to CSC, Direct Loss Mitigation Section at 314-457-4553. The Field Office will need to track the progress of the prior lienholder's foreclosure manually until the time of the sale. Once the foreclosure template is established, the Field Office is responsible for updating the tasks on the template, using the date provided by the lender. If a third party purchases the property at the sale, the proceeds are shown in the sale amount field. Attachment 13-D provides guidance for obtaining funds to pay off the lienholder.

When CSC becomes aware that a prior lienholder has initiated foreclosure action, the State and Field Office will be notified by fax and telephone call. When the Agency becomes aware of a prior lienholder foreclosure, a determination must be made whether the Form RD 1927-8, "Agreement with Prior Lienholder" or similar state form was executed in connection with a leveraged loan. When the Prior Lienholder Agreement was executed, and the lender failed to give notice, the Agency will consult with the Office of General Counsel to protect the Government's interest. The Agency will also consult with the Lender about compliance with the Prior Lienholder Agreement and Lenders who fail to comply with the prior notice requirements will be counseled. Lenders who are unable to comply with the prior notice requirements should not be considered for future leveraged packages.

Assignment of promissory notes and security instruments is authorized where a junior lienholder is foreclosing its lien and is paying the Agency in full.

Recapture will be calculated if the junior lienholder provides the necessary information.

B. Acceleration

1. The Acceleration Notice

If CSC determines that the appropriate approach to liquidation is foreclosure, the process begins with an acceleration notice**.** The acceleration notice demands full payment of the account including unpaid principal and interest, advances, and subsidy subject to recapture. It notifies the borrower of: (1) the reason for the acceleration; (2) the amount due; (3) the method of payment; (4) the opportunity for an informal discussion with the decision maker; and (5) the process for requesting an administrative appeal hearing. The notice gives the borrower 30 days to pay in full or request a hearing.

The notice must be sent to the borrower and any cosigners simultaneously by both regular mail and certified mail. If the property address is different from the address of the borrower, the notice should be sent to the property address as well.

2. Treatment of Payment Subsidy

If a borrower is receiving payment subsidy, the payment subsidy agreement will not be canceled when the debt is accelerated, but the agreement will not be renewed when it expires unless the account is reinstated.

3. Special Servicing

After a borrower's account has been accelerated, the borrower is no longer eligible for any of the special servicing actions described in Chapter 5.

4. Assignment of Security Instruments

Assignment of promissory notes and security instruments is authorized when an account has been accelerated, all appeals have been exhausted, the case has been accepted by OGC for foreclosure, and the Agency is being paid at least the net recovery value of the security property.

5. Offers to Pay

Field Offices will refer offers to cure the default to CSC. The borrower is permitted to cure the default and retain the loan under the following conditions:

- The Agency is required by state law to reinstate the loan; or
- The agency is required by a decision from National Appeals Division (NAD) to reinstate the loan; or
- At the sole discretion of the Agency, when it is in the Government's best financial interest.

For borrowers whose accounts have been accelerated 45 days or less, the cure amount will be quoted by CSC (unless the account is noted as a no cure account). The borrower will be instructed to send certified funds to the retail lockbox or use Western Union Quick Collect or Money Gram 45 days from acceleration.

Borrowers whose accounts have been accelerated more than 45 days will be referred by CSC to the appropriate State/Field Office. If appropriate, the State/Field Office will interact with the Office of the General Counsel/U.S. Attorney's office to determine if a cure can be accepted and document the recommendation in global notes. State/Field Offices may calculate the cure amount or if assistance is needed, contact CSC, Field Assistance Desk. All funds to cure an account must be certified or remitted using electronic funds (Western Union Quick Collect or Money Gram). The use of Customer Initiated Payments (CIP) or "check by phone" will not be used to cure an account, as these funds are not guaranteed.

When an offer is made to pay less than the full amount to cure the default, Attachment 13-C must be completed. The attachment, including concurrence by the State Director will be sent to the Director, CSC, for approval along with any supporting documentation. A request to reamortize the account must also be submitted at this time if the borrower is unable to pay the shortage within 30 days from acceptance of the offer. The request for approval of the offer should be submitted to CSC, Field Assistance Desk. If approved, the State/Field Office will submit the certified funds agreed upon along with a payment assistance package (if payment assistance has expired). If the borrower can pay the shortage within 30 days and a reamortization is not necessary, this should be noted on the funds transmittal. The State/Field Office is responsible for ensuring the borrower pays the approved cure amount as agreed. If the account is reamortized, an escrow will be established, if not already in place.

When the State/Field Office determines it is not in the best interest of the Agency to accept a cure, Task #802 will be sent to CSC to have the account coded to prevent future cures. In mandatory cure states, offers to cure the default and associated charges will not be refused.

- *Submission of Funds* - For accounts accelerated more than 45 days, the State/Field Office will collect and forward the funds to the wholesale lockbox on a *Form RD 3550-17, Funds Transmittal Report*. The lockbox address is USDA/RHS, P.O. Box 790300, St. Louis, MO 63179. If the borrower wishes to cure the account using electronic funds (Western Union Quick Collect or Money Gram), the State/Field Office should make sure the account is thoroughly noted with the control number for tracking purposes.
- *Payment Assistance* - If the payment assistance has expired or the borrower's income has changed, at the time the borrower cures the account, the State/Field Office should assist the borrower in completing a new payment assistance package. The payment assistance certification with the supporting documentation should be forwarded with *Form RD 3550-17* and the cure funds to the wholesale lockbox. If the account was cured via Western Union Quick Collect or Money Gram, the payment assistance information should be sent to the Field Assistance Desk with a cover letter explaining that the account was cured via electronic funds. The payment assistance agreement will be made effective with the first due date following the cure date, if a complete package is received within 30 days from the date of the cure.

Funds submitted by a borrower to a Field Office should be sent to the lockbox on *Form RD 3550-17, "Funds Transmittal Report."*

C. Review of the Acceleration Decision

Several remedies are available to borrowers who believe their accounts should not have been accelerated. These include an informal administrative review at CSC, mediation or a formal appeal with the NAD. Paragraph 1.9 describes the appeal and review process in detail.

D. Initiating Legal Proceedings

Field Offices should continue the foreclosure process 30 days after the acceleration notice is sent if the borrower does not request an informal review or appeal the acceleration decision, or as soon as NAD upholds the Agency's decision to foreclose.

The Agency will only seek a deficiency judgment (in those States where available) when foreclosure is initiated and the Agency determines the borrower has or will have assets from which a deficiency judgment could be recovered. Deficiency judgments will never be sought in the following situations: (1) acceleration is due to an unpaid recapture amount; (2) the borrower was granted a moratorium at any time during the course of the loan and faithfully tried to meet the loan obligations; (3) State law does not permit a personal deficiency; (4) in nonjudicial foreclosure States, the United States Attorney will not accept a referral for the deficiency; or (5) the Agency has determined after consultation with OGC that it is not cost effective to seek a deficiency on a particular case.

If the security property is located on tribal allotted or trust land, liquidation may not proceed until after the State Director has offered, in writing, to transfer the account to an eligible tribal member, the tribe, or the Indian Housing Authority servicing the tribe or tribes. This offer is made after the account has been accelerated, the appeals process has been concluded and the case sent to the respective State Office.

E. The Foreclosure Sale

Once legal proceedings have concluded, the property will be sold at a foreclosure sale. To complete the foreclosure process, Field Offices must determine how much to bid and enter that bid at the sale.

1. Establishing a Bid Amount

The Agency's bid will be the lesser of the Agency's gross investment or the estimated net recovery value of the security property.

Gross investment is the sum of:

- ***The unpaid balance,*** defined as:
  - ◊ In states with judicial foreclosure, the judgment account established as a result of the foreclosure judgment.
  - ◊ In states with non-judicial foreclosure, the borrower's account balance reflecting secured loans and advances.
- ***All outstanding advances and fees charged to the borrower's account.***
- ***Total subsidy received.***

2. Bidding at the Foreclosure Sale

Procedures for bidding at a sale will vary by locality and a local presence may be required. If the Agency is the high bidder, the property will become REO property, which will be managed and disposed of by the Field Office. In order to acquire the property through the MortgageServ System, send Task #229 to CSC noting the Agency was the successful bidder at the sale. CSC will then create the foreclosure template to allow the field to acquire the property. The Field Office will be responsible for updating the tasks on the template.

If the amount received through the foreclosure sale is less than the borrower's outstanding debt, CSC will handle the debt settlement procedures.

REQUEST FOR PAYOFF STATEMENT

(This form to be used for Field/State Office functions only.)

Type of Payoff Statement

_____Statement of Loan Balance (includes total subsidy received)
_____Final Payoff w/recapture
____Sale ____Refinance ___ Other _____
_____Other (explain) _____

Account Information

Account Number(s): _____
Borrower Name: _____
Property Address: _____
_____

Payoff Information

$_____ Market Value/ (sales price, appraised value, or assessment)*
$_____ Value of Capital Improvements*
$_____ Closing Costs*
$_____ Amount of Original Equity
_____ Percent of Original Equity
$_____ Effective Date of Payoff

If payoff statement will be used for internal purposes only, documentation should be maintained in the Field/State Office. If payoff statement is to be provided to a third party, include documentation along with this request.

Foreclosure Accounts: unapplied/unprocessed vouchers to be added to the payoff quote.

Amount of Charge	Type of Charge
$_____	_____
$_____	_____
$_____	_____

[ ] Check here if additional fees have been confirmed through the State Office. If this box is checked, CSC will not send a Task 94 to the State Office for additional fees.

Field/State Office Information (all fields are required)

Person Making Request _____
Phone Number _____
Fax Number _____
Reviewed By _____

CSC Payoff Department FAX # (314) 457-4433

Centralized Servicing Center (CSC)
Field Support Services
Phone (314) 457-5200 fax (314) 457-4441

ACCOUNT ISSUE AND SUGGESTED RESOLUTION SHEET

State_____ County Code_____ Date Submitted_____

Contact Person_____

Phone Number_____ ext._____

Fax Number_____

Account Number	Account Name	Account Issue	Field Office Suggested Resolution	MOTI %

Cure and Financial Statement

Name of Borrower:

Name of Co-Borrower:

Address of Borrower:

Customer Account #:

Number of Times Customer Cured account in past 24 months and dates cured:

Part 1 Delinquency Information

1. Reason for Delinquency:

2. Documentation to Support proof of payments being made (home repairs, medical expenses, other obligations:

3. Recommendation to cure:

Part 2 Household Income

Borrower: (Wages, tips, overtime, etc.)	$
Co-Borrower: (Wages, tips, overtime, etc)	$
Other: (Social Security, retirement, alimony, child support, AFDC, other income, etc.)	$

RUSH FUNDS PROCESSING

Notice of Foreclosure Sale – At least two weeks prior to sale, the Field Office must contact Prior Lien Holder to determine the procedure for bidding at sale:

If the Agency is the successful bidder, how soon must funds be submitted?

Is a deposit required on day of sale? What is the minimum deposit amount?

Must the entire bid amount be paid the day of sale?

Securing of Funds – The State Office must assure that sufficient funds are available in the State's R/L funds bucket. If the State exceeds 90% of the entire State's allocation, authorization of the proposed voucher must be obtained. Procedures for acquiring additional funds can be found in RD Instruction 2024-A, Exhibit D.

Vouchering for Funds – When requesting emergency funds, the following information must be faxed to USDA St. Louis, Missouri at **(314) 457-4374, ATTN: Team 3**:

RD Instruction 2024-A, Exhibit K, "Request for Emergency Payment"

Form RD 2024-30, "Non-Contractual Program Loan Cost Expense (PLCE) Certification"

Form AD-838, "Purchase Order"

Form AD-838-B, "Invoice-Receipt Certification"

[COPIES OF ABOVE FORMS ATTACHED]

Determining Voucher Amount – Based on information received from Prior Lien Holder, the amount of voucher will be:

If a deposit is required – the voucher amount will be 10% of the Net Recovery Value amount as determined by a current appraisal and the NRV worksheet or the minimum amount required by Lender.

If the full amount is required – If the Agency is the successful bidder, the amount to be vouchered will be an amount that exceeds the Prior Lien Holder's bid but not to exceed the Net Recovery Value.

Delivery of Funds – It is imperative that vouchers for emergency funds are submitted to St. Louis, Missouri, as soon as possible. All efforts will be made to have funds available to Field Offices as required for Foreclosure Sale. Funds will primarily be sent via Electronic Funds Transfer (EFT) based on submission time to St. Louis, Missouri.

- If the funds request is made in accordance with RD Instructions 2024-A, Exhibit K, and received in St. Louis, Missouri, before 12:30 p.m. CST, funds will be sent the same day.

- If the funds request is received in St. Louis, Missouri, after 12:30 p.m. CST, funds will be sent the next business day.

- If there are no Electronic Funds Transfer facilities available, funds will be overnight expressed the next day.

Questions pertaining to emergency funds requests should be e-mailed to dcfo-fcb2@stl.usda.gov.

CHAPTER 14: [RESERVED]

(This chapter removed 06-09-04, PN 375)

CHAPTER 15: MANAGING CUSTODIAL AND REO PROPERTY

15.1 OVERVIEW

The Agency assumes management responsibility for 2 types of properties: custodial and real estate owned (REO). Custodial property is borrower-owned property which has been abandoned. REO is Agency-owned property to which the Agency has acquired title, either as a result of foreclosure or conveyance by deed in lieu of foreclosure. This chapter outlines the requirements for management of each type of property.

The Field Office is responsible for on-site management activities and should work closely with CSC during the liquidation process for custodial properties. CSC continues to be responsible for the financial management.

The goal of property management is to protect the Government's interest; consequently, efforts to secure property should begin as soon as the Agency has control.

SECTION 1: PROPERTY MANAGEMENT METHODS AND ACTIVITIES

15.2 MANAGEMENT METHODS AND CONTRACTS

The Agency may conduct the management activities discussed in this chapter using Agency staff or may contract with qualified entities to perform them. The method of management depends on such factors as the number of properties to be managed, their location, condition, the necessary maintenance, and the availability of qualified staff. In some cases, a simple maintenance contract is all that is needed; in others, the Agency may require a complete management contract where a contractor provides all property management services, including, but not necessarily limited to securing and cleaning up the structure, yard work, arranging for and inspecting repairs, paying utilities, and coordinating with contractors, potential buyers or brokers for access to the property.

A. Selecting a Management Contractor

Management contractors must be selected in accordance with Agency procurement procedures under RD Instruction 2024-A.

B. Management Contract Requirements

At a minimum, management contracts must:

- Allow for properties to be added or removed from the contractor's assignment, whenever necessary, such as when a property is taken into custody, acquired or sold during the period of a contract; and

- Prohibit the preparer or his/her associates from doing any of the repair work when a contract calls for specification writing services.

If a contract includes marketing or broker services and involves management of 5 or more single family homes in the same subdivision, the contractor must develop and obtain Agency approval of an Affirmative Fair Housing Marketing Plan, as described in RD Instruction 1901-E. The contracting official approves the plan, however, any questions that might arise with respect to an Affirmative Fair Housing Marketing Plan should be directed to the Civil Rights Coordinator in the State Office.

15.3 TAKING POSSESSION

A. Taking Custodial Possession

The Agency may need to take custody of security property when a borrower becomes incapacitated, dies or has abandoned a security property. When the CSC is unable to contact a borrower, the Field Office will be requested to inspect the property to determine its status and to attempt to contact the borrower. When the Field Office believes that a property may be abandoned, it will report to the CSC.

1. Determining Whether A Property Has Been Abandoned

The determination that a property has been abandoned requires significant investigation and documentation. In addition to the actions described in this paragraph, Field Staff must follow any procedures required by State or local law in order to confirm the determination of abandonment and to take custodial possession. A property is not considered abandoned if the borrower occupies the property, even if it is not being well maintained. Similarly, a property is not considered abandoned when the borrower does not occupy the dwelling but has made arrangements for its care. The Agency cannot act to obtain possession of a property as long as a lien holder has possession of the property, or the borrower or the lien holder has a right to lease proceeds. As a minimum, Field Staff must:

- Attempt to determine whether the security property is occupied, and if not by the borrower, what are the rights of the occupant; if any;

- Attempt to determine the location of and/or contact the borrower through sources such as neighbors, the postal service, utility companies, last-known employers, and relatives; and

- Determine whether there are other liens on the property and if liens exist, whether the lien holder(s) are willing to work with the Agency to secure the property.

2. Recommendation for Taking Custody

The Field Office will submit a report of its finding to CSC with a copy to the State Director advising that it appears the property has been abandoned and the Agency needs to assume responsibility for it in order to protect the security. Alternatively, if the Field Office reports that the property is occupied, the report will give details as to whether the occupant is under a lease or is unauthorized. The Field Office will provide any other relevant details and make the decision to take custodial possession of the property, as appropriate. The Field Office will notify CSC when the action has been taken.

3. Liquidation

The need to take custodial possession of a property may occur before or after a loan has been accelerated. If liquidation is not already in progress, taking custodial possession should initiate the process. The responsibility for conducting liquidation activities remains with CSC, supported by Field Office staff as required.

B. Acquisition of an REO Property

When the Field Office acquires a property, Field Staff must notify CSC. A new REO case file should be created from the original case file by removing and placing into the new file the title to the property, and recent inspection reports, appraisals, or other documentation related to the physical condition or value of the property. A list of all documents that have been removed should be placed in the original file. No information related to the borrower is needed in the REO file. Any documents relating to due diligence and response actions (clean-up activities) should also be placed in the REO file; however, these documents must be retained indefinitely to minimize Agency liability and should be so labeled.

15.4 INSPECTING AND SECURING CUSTODIAL AND REO PROPERTY

Inspection should be made of acquired property as soon as feasible after the foreclosure sale or other means of acquisition—usually within seven days. Field Staff must inspect the property to:

- Determine what steps need to be taken to further ensure its security and maintain its value.
- Identify whether the property is occupied and, if occupied, the intent of the occupants.
- Classify the property as program and nonprogram and evaluate the need for repairs.

A. Inspecting and Classifying the Property *[7 CFR 3550.251(c)(1)]*

Field Staff must designate REO property as program or nonprogram (NP) property after considering factors such as size, design, possible health and/or safety hazards, and obsolescence due to functional, economic, or locational conditions. A property that meets the requirements for program property, as described in Chapter 5, is classified as program property. Property that has been enlarged or improved, so that its value is clearly above program standards, or a property that would require major redesign or renovation to be brought to program standards, should be classified as NP property. REO property in an area no longer designated rural is treated as if it were still in a rural area.

For program property, a listing of needed repairs or improvements will be prepared. For NP properties, a listing should be prepared of any health and safety hazards which must be removed to release deed restriction. Repairs, if required, are typically a condition of sale and repair lists should be incorporated with the sale listing for all REO.

If the REO is occupied, preparation of the repair list may need to be delayed until the property is vacated, depending on the cooperation of the occupants. In this case, the status of the property should be monitored regularly.

The basis for classification as program or nonprogram must be thoroughly documented. Improper classification of the REO could result in an unsound loan if, for example, the remaining life of the property is less than the term of the loan. (A manufactured home with 15-20 years remaining life is not sound security for a subsidized loan with a minimum term of 25 years.) Classification as NP may significantly reduce the amount the Government could recover (especially if the REO is then leased) or could deprive a program-eligible family of an affordable home.

B. Securing Custodial and REO Property

When the Field Office assumes management responsibility and takes possession of either a custodial or REO property, immediate steps must be taken to inspect and secure the property whether by Field Office staff or management contractor.

1. Physical Security of Vacant Properties

If the property is vacant, it should be locked or otherwise secured and a no trespassing notice should be posted to prevent entry by unauthorized persons. For REO only, after an inspection determines utility systems are in safe operable condition, utility companies should be contacted to maintain or reinstate utility service. An inventory should be made of any nonsecurity personal property left on the premises and efforts made to identify any owners or lien holders.

2. Occupied REO Properties

REO property may be occupied by a tenant under a lease with the former borrower or by the borrower. The Agency may decide to honor an existing lease if it is in the Government's interest, or it may have to evict an unauthorized tenant.

When an REO property is under an existing lease and the Agency decides to continue the lease, the lessee must be notified, in writing, that the Agency has acquired the former lessor's rights under the lease and that all payments should be remitted to CSC. If a lease is to be terminated, the lessee must be notified, in writing, that their lease is being terminated in 30 days, and they must vacate.

Lease payments due, payable, and received before the date the Agency acquired the property are applied to the borrower's account. If there is a surplus, it is refunded to the former borrower. Lease payments due and payable after the date the Agency acquired the property are applied to a lease account established by CSC in the name of the lessee.

The Office of the General Counsel (OGC) should be contacted for advice and assistance when it is necessary to evict a tenant in order to obtain possession of REO property particularly if it is leased. A State Supplement will provide explicit instructions.

15.5 DISPOSITION OF NONSECURITY PROPERTY

The Agency has no legal claim on nonsecurity property. State or local law may affect procedures for disposing of property left on the premises

of a custodial or REO property. Field Staff must comply with any State or local requirements, as well as the procedures discussed in this paragraph. If the owner or lien holder of any personal property that remains in custodial or REO property can be identified and located, Field Staff must offer them a reasonable opportunity to remove the property. Any verbal conversations with the owner of the property should be confirmed in writing.

A. Custodial Property

The Agency cannot remove nonsecurity personal property from custodial properties, unless it cannot be safely stored, there are hazards that threaten the personal property (such as a leaking roof), or the personal property itself presents a hazard (such as flammables or explosives).

B. REO Property

1. Notice to Owners or Lien Holders of Personal Property

If the property is not retrieved after the initial notification, a certified letter should be sent, return receipt requested, notifying the owner or lien holder of the date on which the Agency will dispose of the property, that the property may be retrieved before the disposition upon payment of any expenses incurred by the Agency related to the personal property, such as advertisement or storage.

2. Disposal of Unclaimed Property

The Field Office will dispose of unclaimed property in accordance with its value and conforming with local practices. For example, if there are items of significant value, an advertisement may be placed in the local newspaper.

3. Income from Disposition

Proceeds from the sale of items under lien should be paid to any owner or lien holder after deducting Agency selling expenses. If there is no known owner or lien holder, proceeds are applied to the REO account.

15.6 TAXES AND INSURANCE

A. Taxes

REO property is subject to Real Estate taxation by State and local political jurisdictions in the same manner and to the same extent as other

properties, unless State law specifically exempts property owned by the Federal Government. If a jurisdiction changes the law to begin taxing Government-owned property, only taxes accruing after the effective date of the change will be paid. The Field Office will notify the taxing authority, in writing, when title to real estate is acquired and provide the Field Office address to which tax bills should be sent during Agency ownership.

If the value of the property is significantly less than the value at which it is being taxed, as soon as it is acquired, the Agency may request a new assessment by the local taxing authority.

If property is acquired subject to a prior lien, before the Agency pays taxes, the Field Office will contact the prior lien holder to determine if that lien holder will pay the taxes.Taxes on program property are paid when due. Taxes on nonprogram property may be deferred until the property is sold if the taxes that accrue before disposition may exceed the value of the property. If the taxing authority schedules a tax sale before the Agency can sell the property, Field Staff should calculate and compare the net recovery values that would result from paying the taxes and continuing sales efforts or letting the property be sold for delinquent taxes to determine which approach is in the Government's best interest. See Appendix 11 for a net recovery value worksheet.

B. Insurance

1. Custodial Property

Insurance on custodial property will not be canceled. The Agency will not pay additional premiums to continue coverage.

2. REO Property

Insurance will not be canceled when property is acquired. However, the Agency will not pay additional premiums to continue coverage. If it is necessary to file a claim, Field Staff should submit the claim and direct that insurance proceeds be forwarded to CSC.

15.7 ENVIRONMENTAL REQUIREMENTS

The Agency must complete the appropriate level of environmental review under the National Environmental Policy Act for proposed management activities involving custodial and REO properties in accordance with RD Instruction 1940-G.

Management activities subject to environmental review include repair and maintenance activities as well as leasing of custodial and REO property.

Repair and maintenance activities will normally qualify as categorical exclusions provided the proposed action will not alter the purpose, operation, location, or design of the project as originally approved. Leasing of custodial and REO property will normally qualify as a categorical exclusion provided the proposed action is not controversial for environmental reasons and will not result in a change in use of the property in the reasonably foreseeable future. Refer to RD Instruction 1940-G for further direction.

When certain environmental resources are present or when certain conditions exist, specific limitations or constraints are imposed by environmental law on the Agency's repair and maintenance activities and leasing activities. In such cases, an Environmental Assessment (EA) rather than a categorical exclusion, may be required to address the situation properly. Consultation with the State Environmental Coordinator is recommended before proceeding in the following circumstances.

A. Repair and Maintenance Activities

1. Coastal Barrier Resources System (CBRS)

Any action proposed to be taken on a custodial or REO property within a CBRS must be coordinated with the State Environmental Coordinator and the Regional Director of the U.S. Fish and Wildlife Service (USFWS). In emergency situations to prevent imminent loss of life, imminent substantial damage to the inventory property, or the disruption of utility services, minimum steps necessary to prevent such loss or damage may be taken without first consulting the USFWS as long as the Regional Director of the Service is immediately notified of the emergency action taken.

Maintenance or repair is prohibited for property located within a CBRS if:

- The action goes beyond maintenance, replacement-in-kind, reconstruction, or repair and would result in the expansion of any roads, structures or facilities;

- The action is inconsistent with the purposes of the Coastal Barrier Resources Act (CBRA) 16 U.S.C. 3501. et. seq.; or

- The property to be repaired or maintained was initially the subject of a financial transaction that violated the CBRA.

The Administrator should be asked to review any cases where the Agency and the USFWS disagree on the effect of a plan of action or where otherwise prohibited maintenance and repair must be undertaken. Approval for action will not be granted unless the Administrator determines, through consultation with the Department of Interior, that the proposed action does not violate the provisions of the CBRA.

2. Historic and Archaeological Resources

Properties that are listed or eligible for listing on the National Register of Historic Places, in whole or in part, will be repaired as necessary to protect their historic integrity after consultation with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation. If a property is listed or eligible for listing on the Register and also is located within the CBRS, the property cannot be repaired without the prior approval of the USFWS.

Field Staff will review the current Register to determine if the property is listed. If the property is not listed, the Field Staff will consult with the SHPO when the property is considered potentially eligible for the Register. A property is considered potentially eligible if it contains a structure more than 50 years of age or, regardless of age, if the property is known to be of historic or archeological importance, or has apparent significant architectural features.

3. Floodplains and Wetlands

If the Agency is considering a substantial improvement or repair to custodial or REO property located in a flood plain or wetland, the Agency must first consider whether there are practicable alternatives to such further investment in the floodplain or wetland area. For example:

- Could the property be sold “as is” with notice of floodplain/wetland hazard?

- Could the property be sold “as is” with a requirement that the structure be removed from the site?

- Could the Agency remove the structure first and sell the land with notice of hazard?

If there are no practical alternatives to the substantial improvements, then the Agency may proceed with the improvements, provided it includes any practical mitigation measures. On an existing structure, mitigation will generally involve some form of floodproofing, such as elevating hot water tanks, or heating and ventilation units.

A substantial improvement is defined as any improvement the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the repair is started, or (2) if the structure has been damaged, before the damage occurred. The cost of compliance with health, sanitary and safety codes is not included in the calculation of the substantial improvement cost, nor is the cost of repair to an historic structure included. If the repairs do not qualify as substantial, the Agency does not need to search for alternatives or mitigation measures.

4. Reportable Underground Storage Tanks

Properties that contain certain types of underground storage tanks must be reported to the State agency identified by the Environmental Protection Agency (EPA) within 30 days of Agency acquisition. Attachment 15-A provides a list of those underground storage tanks which must be reported and those which are exempt from reporting requirements. A State Supplement will provide the necessary EPA forms or acceptable State forms that may be used to accomplish the reporting, as well as detailing any additional State reporting requirements. A copy of the report must be maintained in the REO file, and any prospective buyers of the property must be furnished with a copy of the report.

B. Lease or Management Contract

1. Historic and Archaeological Resources

A property that is listed or eligible for listing on the National Register of Historic Places may be leased or operated by management contract only after the Agency and the SHPO determine that the lease or contract will adequately ensure the property's condition and historic character.

2. Floodplains and Wetlands

Before executing a lease for a property containing wetlands or located in a special flood or mudslide hazard area identified by the Federal Emergency Management Agency (FEMA), Field Staff must provide written notice of the hazard to the lessee. The notice

must be attached to the lease. Any management contract must require the contractor to fulfill this obligation.

The lease or management contract for custodial or REO property containing wetlands or located in a floodplain area will also specify any uses of the property by the lessee or tenant that are restricted under any Federal, State or local floodplain and wetland regulations, as well as other appropriate restrictions. Examples of use restrictions would include prohibition of draining or filling of floodplain or wetland areas, and prohibitions of new above-ground construction on that portion of the property located in the floodplain or wetland area.

3. Hazardous Substance Activity - Notification

All property considered for lease must be evaluated for possible hazardous substance contamination. To do this, the Loan Approval official completes the *Transaction Screen Questionnaire, ASTM Standard E-1528 (TSQ),* the initial level of inquiry in the due diligence process. (If a TSQ was completed prior to acquisition of the property, the Loan Approval Official must determine if the TSQ should be updated.) If the completed or updated TSQ indicates potential contamination, it will be sent promptly to the State Environmental Coordinator for further evaluation and guidance. All clean-up actions will be taken under the guidance of the State Environmental Coordinator. For further information or notification, refer to Paragraph 16.18.

15.8 MANAGEMENT OF HAZARDOUS SUBSTANCES

A reasonable and prudent attempt will be made to minimize the Agency's liability under hazardous substance and hazardous waste laws, and a diligent effort will be made to evaluate economic risks to real estate posed by the presence of contamination from hazardous substances, hazardous wastes, and petroleum products, including underground storage tanks. The elements of potential liability and economic risk are addressed by the Agency by performing due diligence.

Due diligence is the process of inquiring into the environmental condition of real estate in the context of a real estate transaction to determine the presence of contamination from hazardous substances, hazardous wastes, and petroleum products, and what impact such contamination may have on the market value of the property.

The Loan Approval Official initiates due diligence by completing the *Transaction Screen Questionnaire, ASTM Standard E-1528 (TSQ),* the initial level of inquiry in the due diligence process. If the completed TSQ indicates a potential for contamination, it will be sent promptly to the State Environmental Coordinator for further evaluation and guidance.

For all servicing actions that require a determination of market value, the appropriate level of due diligence will be performed in conjunction with the appraisal. Due diligence also must be performed in conjunction with any servicing action that may lead to acquisition of security property.

The Loan Approval Official should be aware of suspicious situations during security inspections of custodial and REO property. If unauthorized dumping of potentially hazardous material is noted, due diligence will be performed.

To minimize the Agency's liability, any response action taken by the Agency in responding to a release or threatened release of hazardous substances or petroleum products on inventory property will be taken in consultation with and at the recommendation of the appropriate environmental regulatory authority. In the case of custodial property, the State Environmental Coordinator may initiate, as necessary, limited emergency response actions to stabilize an emergency or imminent and substantial threat to human health and the environment.

If the Agency is notified or made aware of the presence of an underground storage tank on custodial or REO property, the Loan Approval Official will ensure that the tank complies with appropriate environmental regulatory authority requirements or is removed. When reinstalling a fuel storage system, aboveground storage tanks should be used where feasible.

15.9 PHYSICAL MAINTENANCE AND REPAIR

Custodial property will be maintained and repaired only as needed to protect the security of the property and to prevent deterioration. In the event of damage or theft, the procedures described under Paragraph 15.9 A. should be followed.

REO property will be broom swept, free of trash and debris outside and maintained and repaired as needed to ensure the safety of potential buyers or contractors. Other repairs, including but not limited to those that improve the property to decent, safe, and sanitary (DSS) standards, or are needed to mitigate a negative effect on neighboring property may be made if Field Staff determine them to be necessary to market the property expediently, and they increase the market value by approximately the cost of the repairs.

A. Vandalism and Theft

Field Staff will report willful damage or theft to the local law enforcement authorities and in whatever manner necessary, to attempt to resolve the incident, including signing complaints and testifying at hearings or trials.

Field staff should send a written report of the incident to the State Director and copies to CSC and the Regional Office of the Inspector General (OIG). The State Director, in consultation with the OGC as necessary, will advise and assist the Field Staff.

Damage to REO program property as a result of vandalism and theft may be repaired as necessary to continue marketing. Repairs may include cost-effective improvements to minimize the likelihood of future damage, such as increased lighting, security fencing and removal of shrubs that limit visibility. Nonprogram property should be broom swept but generally will not be repaired unless necessary to prevent deterioration. Custodial property should be repaired only to protect the security and to prevention deterioration.

B. Off-Site Repairs or Improvements

The Agency may require off-site repairs or improvements to protect property from damage, to protect the Government's interest, or to enhance the marketability of property. In the case of multiple REO units in a subdivision, such improvements may include construction or reconstruction of roads, sewers, utility lines, subdivision entries, street signs, or central mail receptacles.

Off-site improvements must be approved by the Deputy Administrator, Single Family Housing. To obtain approval, Field Staff must prepare a justification that demonstrates failure to make the improvements would likely result in a property net recovery value loss greater than the expenditure and that there are no other feasible means with State or local entities, to accomplish the same result.

To obtain off-site improvements, the Agency may enter into a contract with a private company or enter into a cooperative agreement with a State or local government or other entity to obtain repairs or improvements. Under a cooperative agreement, the entity will provide money, property, services, or other items of value to the entity to accomplish a public purpose. While cooperative agreements are not a contract action, the authority, responsibility, and administration of a cooperative agreement must be consistent with contract action. The OGC should be consulted when a cooperative agreement is considered.

C. Lead-Based Paint Disclosure

The Residential Lead Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4822 et seq., requires lessors of housing built before 1978 who receive Federal assistance to provide the lessees with information about the housing's lead history and general information on lead exposure prevention.

Specifically, before the lessee becomes obligated under any contract to lease the housing, Field Staff must:

- Complete the Lead-Based Compliance Key, which can be found at: http://teamrd.usda.gov/rd/rhs/PSS/Lead_Paint/lead_based_paint_key.htm .
- Provide the lessee with the lead hazard information pamphlet, *Protect Your Family from Lead in Your Home*, available from the National Lead Information Clearinghouse at 1-800-424-LEAD, or a similar EPA-approved pamphlet developed by the State; and
- Disclose the presence of known lead-based paint and/or lead-based hazards in such housing and provide the lessee with any lead hazard evaluation report available to the Agency.
- Make sure that the requirements of 24 CFR Part 35, Subparts A, B, and C have been met.

SECTION 2: SPECIAL USES

15.10 LEASING CUSTODIALS AND REO

Generally, neither REO nor custodial property is leased. However, in special cases, such as when custodial property is subject to lengthy liquidation proceedings or legal problems prohibit the immediate sale of an REO property, the property may be leased. Custodial property cannot be leased if extensive repairs are necessary in order for it to be inhabitable. Properties subject to redemption rights cannot be leased unless the State Director obtains prior approval from OGC. Property which does not meet decent, safe and sanitary standards will not be leased.

It is preferable to lease the property to an intended buyer. The Agency may require a prospective renter to make a purchase offer, and submit an application for credit and a credit report paid for by the applicant. The rent charged should be a market rent equivalent to rents of similar properties in the area. If the lessee is a program applicant, the monthly rent may be based on the estimated monthly loan payment taking into consideration any payment assistance, plus 1/12 the sum of the estimated real estate taxes, property insurance, and maintenance payable by a homeowner. In no case will a lease be for a token amount, even if the tenant is willing to barter for maintenance or repair services.

A lease form approved by OGC will be used. A copy of the lease should be sent to CSC, where a lease account will be established in the lessee's name.

When a lease is terminated, or when the property is sold before expiration of the term shown on the lease submitted to CSC, the Field Staff must notify CSC of the termination and the effective date of the termination.

A. Security Deposits

The Agency requires a security deposit of one month's rent, except from nonprofit organizations or public bodies. Security deposits are remitted to CSC. When a tenant vacates the property, Field Staff sends a memorandum to CSC asking for the return of the deposit to the Field Office for delivery to the lessee. If the deposit is to be retained by the Agency, it is applied to the borrower's account for custodial property or to the REO account, as appropriate.

B. Costs and Income

Expenditures on leased custodial properties are charged to the borrower's account. Expenditures on REO property are charged to the REO account. The Agency does not pay utilities or any other costs of operation of leased property. Lease proceeds for custodial properties are applied to the borrower's account. Proceeds for custodial properties are applied to the borrower's account.

15.11 SPECIAL USES OF REO

A. Transitional Housing for the Homeless

The Agency has entered into a Memorandum of Understanding with the U.S. Department of Health and Human Services (HHS) (see Attachment 15-B) that states that HHS will direct community groups to the Agency to identify specific REO properties that may be available as shelter projects. Nonprogram REO property may be leased for up to 10 years to nonprofit organizations as transitional housing for the homeless for $1.00 per year. The lessee assumes responsibility for real estate taxes on the leased property, any needed repairs to the property, and regular maintenance of the property.

Leases executed under this program must make the local nonprofit organization responsible for all liabilities and costs arising out of the habitation of the property. The Agency must inspect the property after the lease is executed to ensure that property is being maintained and used for its intended purposes. Inspections should be made at least yearly thereafter.

Attachment 15-C includes a fact sheet that can be used by both the Agency and entities interested in using REO property for the homeless and Attachment 15-D contains a sample lease.

B. Use by Federal Emergency Management Agency (FEMA)

By a Memorandum of Understanding between the Agency and FEMA (see Attachment 15-E), REO property which is not under lease or sales agreement is available to shelter disaster victims in an area designated as a major disaster area by the President. In such an event, FEMA assumes responsibility for all costs associated with inhabiting the dwelling.

FEMA and the Agency must sign a “Letter of Assignment,” (see Attachment 15-F) which includes a mutually agreed upon inspection report outlining the condition of the property being assigned to FEMA. Field Staff should retain the Letter of Assignment in the REO file. No rent is paid by FEMA for the first 12 months from the date of the letter of assignment of the housing. Beyond that, FEMA pays the monthly fair market rental value as determined by the Agency.

C. Mineral Leases

When it is in the best interest of the Government, the Agency may lease mineral rights. OGC should be contacted for assistance in preparing the lease agreement. The appropriate level of environmental review must be completed prior to any agreement to lease mineral rights. Since such actions may be controversial and may have the potential for significant impact on the environment, prior consultation with the State Environmental Coordinator is required.

ATTACHMENT 15-A

UNDERGROUND STORAGE TANKS THAT MUST BE REPORTED

A. Underground storage tanks that meet the following criteria must be reported in 2 types of situations.

1. **Situation 1**

- A tank, or combination of tanks (including pipes which are connected thereto), of which the volume is 10 percent or more beneath the surface of the ground, including the volume of the underground pipes; and

- The tank is not exempt from reporting requirements under Paragraph B. of this attachment, and

- The tank contains petroleum or substances defined as hazardous under section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601. The State Environmental Coordinator should be consulted whenever there is a question regarding the presence of a regulated substance.

2. **Situation 2.** It is known that the tank contained a regulated substance, was taken out of operation by the Agency since January 1, 1974, and remains in the ground.

B. Underground storage tanks that are exempt from the Environmental Protection Agency (EPA) reporting include:

- Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

- Tanks used for storing heating oil for consumptive use on the premises where stored;

- Septic tanks;

- Pipeline facilities (including gathering lines) regulated under: (1) the Natural Gas Pipeline Safety Act of 1968; (2) the Hazardous Liquid Pipeline Safety Act of 1979; or (3) for an intrastate pipeline facility, regulated under State laws comparable to the provisions of law referred to in (1) or (2);

- Surface impoundments, pits, ponds, or lagoons;
- Storm water or wastewater collection systems;
- Flow-through process tanks;
- Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or
- Storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the tank is situated upon or above the surface of the floor.

Even if a storage tank does not need to be reported according to these criteria, if the Agency has reason to believe there has been a release of petroleum or other regulated substance from an underground storage tank on a real estate owned (REO) property, this incident must be reported to the appropriate State Agency and the State Environmental Coordinator who will inform the State Office of the appropriate action to take.

ATTACHMENT 15-B

MEMORANDUM OF UNDERSTANDING
BETWEEN
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)
AND
DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

For the efficient and orderly implementation of this agreement it is mutually agreed:

1. HHS will request the support of the Farmers Home Administration (FmHA), an Agency of USDA to lease or otherwise make available vacant rural single family homes or like facilities to community nonprofit organizations interested in initiating shelter projects.

2. The FmHA will identify necessary actions to be taken to implement the program. Therefore, HHS will notify community groups of the program and of the required procedures.

3. FmHA and HHS have agreed on the following policy guidelines to properly structure the program:

   a. HHS will identify and respond to community interest and initiatives;

   b. HHS will request local government support;

   c. HHS will direct community groups to FmHA County Supervisors to identify specific facilities within the FmHA inventory; and

   d. FmHA County Supervisors will be given the authority, as deemed appropriate by FmHA, to process lease agreements and increase or decrease the number of facility units available for lease.

4. Leases executed under this program shall be with local nonprofit community organizations and shall make such organizations responsible for all liabilities arising out of the habitation of the particular facility and for all costs incident to and associated with the habitation of the particular facility (e.g., renovation, maintenance, security, etc.).

5. The FmHA will provide the criteria for leasing rural facilities in accordance with FmHA housing regulations.

6. Any documentation required to measure or assess the results of the program will be the responsibility of HHS. Such information will be made available to FmHA upon request.

/s/ Margaret M. Heckler	/s/ John R. Bluch
Department of Health and Human Services	United States Department of Agriculture

ATTACHMENT 15-C

FACT SHEET

THE FEDERAL INTERAGENCY TASK FORCE ON FOOD AND SHELTER FOR THE HOMELESS

In April 1984, a Task Force on Food and Shelter for the Homeless was established under the President's Council on Private Sector Initiatives. This Task Force, which includes representation from several Government Agencies including the Rural Housing Service (RHS) (formerly FmHA), is responsible for developing and examining Federal resources such as Government inventory properties which may be utilized by the homeless. A Memorandum of Understanding was established between the Department of Agriculture and the Department of Health and Human Services to make available vacant single family houses, by lease, to public bodies and nonprofit organizations for transitional housing for the homeless. In lieu of cash rent, the entity is required to maintain the property, pay real estate taxes and maintain property insurance.

RHS is committed to working with community based organizations in this regard to the extent practicable.

General Guidelines

1. Only nonprogram RHS real estate owned (REO) properties are available for lease. RHS classifies a property as nonprogram property when it does not meet the single family program standards, generally because it has been enlarged or improved so that its value is above program standards or because it would require major renovation or redesign to be brought to program standards.

2. Leases of nonprogram properties will be for a period of up to 10 years. A 10-year lease may be necessary for the public body or nonprofit organization to obtain transitional housing funds from the Department of Housing and Urban Development (HUD).

RHS Responsibilities

1. Upon request from a public body or nonprofit organization, RHS will provide a list of all REO properties available for sale. The list will clearly identify which properties are classified as "program" (and therefore ineligible for leasing) and "nonprogram." The list will be provided regardless of whether the properties are listed for sale with real estate brokers.

2. If a public body or nonprofit organization approaches RHS to lease a specific property, upon written notification of intent to lease, RHS will withdraw the property from sale for a period not to exceed 30 days to provide such entity with the opportunity to execute a formal lease. RHS will make a determination as to repairs and/or renovations necessary for the property to meet "decent, safe and sanitary" (DSS) standards. Repairs/renovations will be limited to those necessary to remove health and safety hazards and provide adequate, safe and operable heating, plumbing, electrical, water and waste disposal systems. Cosmetic repairs such as painting, landscaping, floor covering, etc., will not be considered unless they present health or safety hazard. If RHS determines the proposed repairs/renovations are reasonable in cost, RHS will contract to have said work performed upon after execution of a formal lease. If repairs/renovations costs are excessive the public body or nonprofit organization will be asked to select another property for lease. If no such properties are available, and none are expected in the foreseeable future, the State Office will obtain further guidance from the Single Family Housing Servicing and Property Management (SFHSPM) Division in the National Office.

3. RHS will inspect the property after the lease is executed to ensure the property is being maintained and used for its intended purposes. Inspections will be made at least yearly.

Public Body or Nonprofit Organization Responsibilities

1. Contact RHS when interested in leasing or purchasing RHS REO property to provide transitional housing for the homeless.

2. When leasing is contemplated, provide RHS with documentation of the need for this type housing in the community and planned use. Documentation should include verification of the need for the type housing, financial statements verifying the entity's ability to make cosmetic repairs, if needed, maintain the property, pay utilities, real estate taxes, insurance, etc., proposed use of the property, sample lease or occupancy agreement for potential occupants, nondiscrimination policy, etc. The public body or nonprofit organization should provide all necessary documentation to RHS to assure success of the project.

3. Use any property in a prudent manner for its intended purpose. Maintain the property in good condition, ensuring the exterior and lot are maintained consistent with other properties in the area. Comply with all State and local laws, ordinances, etc. regarding use of residential property. Maintain adequate records relating to the use of the property. Allow RHS to inspect the property annually at reasonable times and review records to ensure the property is being utilized for its intended use.

4. When the need for such property no longer exists, advise RHS of the intent to terminate the lease. Return the property in the same or better condition than when the lease was executed.

ATTACHMENT 15-D

LEASE OF SINGLE FAMILY DWELLING

THIS LEASE is made and entered into this _____ day of _____, 20____, by and between the United States of America acting through the Rural Housing Service (RHS) of the Rural Development mission area (hereinafter referred to as "LESSOR") and _____ (hereinafter referred to as "LESSEE").

RECITALS:

UNDER PROVISIONS OF the Housing Act of 1949, as amended, and in keeping with agreements with the Federal Interagency Task Force on Food and Shelter for the Homeless to provide transitional housing for the homeless in rural areas, AND, in consideration of the covenants and agreements herein contained to be done, kept and performed, the parties hereto agree as follows:

(1) Premises. LESSOR hereby leases the PREMISES, known as _____
_____
_____
City of _____, County of _____, State of _____, to LESSEE and LESSEE hereby leases the PREMISES from LESSOR for the term and upon the covenants and conditions set forth herein.

(2) Term. The term of this lease shall be for a period of _____ ( ) year(s) commencing on the _____ day of _____, 20____, and ending on the last calendar year of _____, 20____, unless sooner terminated under any applicable provisions of this Lease. This lease may be extended on a month-to-month basis after the termination date of this lease with prior written consent of the LESSOR and LESSEE.

(3) Payments. In consideration of ONE DOLLAR, in hand paid at the time of execution of the lease, and the following requirements to be performed by LESSEE, LESSOR agrees it will have received adequate compensation from LESSEE, and LESSEE agrees to the following:

a. LESSEE shall be responsible for all taxes and assessments levied on the PREMISES as of the date of this LEASE. The LESSEE shall reimburse the LESSOR for any taxes and assessments which have or will be prepaid by the LESSOR through a proration of such taxes and assessments. LESSEE shall pay taxes and assessments directly to the payee and provide documentation of such payment to the LESSOR, or may provide such funds directly to the LESSOR at least 30 days prior to the due date. LESSEE will pay all taxes and assessments in a timely manner.

b. Within forty-five (45) days after execution of this Lease, or other reasonable time period mutually agreed to in writing between the parties herein, the LESSEE, at the LESSEE's sole expense, shall make any further repairs, with prior approval of the LESSOR, as LESSEE determines necessary to make the property habitable.

c. LESSEE, at its sole expense, shall ensure the PREMISES are maintained, repaired, and kept in a clean sanitary condition during the term of this Lease.

d. LESSEE shall be responsible for all utility costs incurred on the PREMISES during the term of this Lease.

(4) Use. The LESSEE shall utilize the premises only for the purpose of providing transitional housing for homeless persons and will not charge such persons a rental or occupancy charge greater than the costs incurred by LESSEE in compliance with the provisions of paragraph 3, plus a reasonable amount for administrative costs.

(5) Hold Harmless. The LESSEE shall indemnify and save harmless the LESSOR, its officers, agents, servants and employees from all liability under the Federal Tort Claims Act (62 Stat. 869, 982; 28 U.S.C. Sec. 2071, 2680) or otherwise, for death or injury to all persons, or less or damage to the property of all persons resulting from use of the premises by the LESSEE, its sublessees or licensees. Further, LESSEE will save the LESSOR harmless from all fines, penalties, and costs for violation or noncompliance with any of said laws, requirements, or regulations, and from all liability arising out of any such violation or noncompliance.

(6) Damage or Destruction. In the event any damage or destruction to the property shall be caused by its acts or neglect of its sublessees or licensees, the LESSEE shall forthwith repair such damage at its own expense, and should the LESSEE fail or refuse to make such repairs within a reasonable time after the occurrence of such damage, the LESSOR may at Lessor's option terminate this lease, make such repairs and charge the cost thereof to the LESSEE, and the LESSEE, shall thereupon reimburse the LESSOR for the total cost of all damages so caused. In the event LESSEE insures the PREMISES against loss by fire and other hazards, LESSOR shall be named as a co-beneficiary. Further, in the event that the PREMISES are damaged or destroyed through no act nor neglect of LESSEE its sublessees and licensees and are reentered untenable, this Lease shall be terminated upon receipt of written notice of either party to the other.

(7) Delivery of Possession. At the end of the term of this Lease, LESSEE shall surrender said premises vacant to the LESSOR and in a habitable condition as defined in paragraph 3.b. except if the lessor so directs it will be boarded up and secured. No alteration, addition, or improvements shall be made in or to the premises without the consent of the LESSOR in writing, except for maintenance items, and all additions and improvements by the LESSEE shall belong to the LESSOR. All goods and chattels placed or stored in or about the premises are at the risk of the LESSEE.

(8) Lessor's Remedies. The LESSEE further agrees that if it should fail to comply with any other all provisions of this agreement, then in any of said cases, it shall be lawful for the LESSOR, at its election or option, to re-enter and take possession, the LESSEE hereby expressly waiving any and all notices to vacate said premises, and thereupon this lease shall absolutely terminate; however, the failure of the LESSOR to insist upon the strict performance of the terms, covenants, agreements and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of the Lessor's right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full Force and effect.

(9) No Member of Congress to Benefit. No member of, or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit that may arise therefrom.

(10) Warranty Against Use of Agents. The LESSEE warrants that it has not employed any person to solicit or secure this lease upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the LESSOR the right to annual this lease or in its discretion to recover from the LESSEE the amount of such commission, percentage, brokerage or contingent fee in addition to the condition herein set forth.

(11) Nondiscrimination. The LESSEE agrees not to discriminate against any employee or applicant for employment, or against any individual seeking housing, because of race, color, religion, national origin, sex, marital status, handicap, or age.

THIS LEASE contains the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as herein contained.

_____	USDA, RURAL DEVELOPMENT RURAL HOUSING SERVICE, LESSOR
By: _____	By: _____ State Director
(Typed Name) (Title)	(Typed Name)
_____	_____
_____	_____
_____	_____
(Address)	(Address)
Telephone: (_____)_____	Telephone: (_____)_____

ATTACHMENT 15-E

MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE FARMERS HOME ADMINISTRATION

Purpose

This Memorandum of Understanding establishes authorities and procedures whereby the Federal Emergency Management Agency (FEMA) may utilize both single family and multiple housing units which are habitable, and to which the Farmers Home Administration (FmHA), an Agency of the U.S. Department of Agriculture (USDA), has title and possession. The housing units assigned to FEMA by FmHA are to provide temporary housing to victims of major disasters or emergencies declared by the President, in accordance with sections 302(a) and 404(a) of Public law 93-288, the Disaster Relief Act of 1974.

Effective Date of this Memorandum

This memorandum shall be effective on the date of the last signature hereto.

Duration of Agreement

This memorandum shall continue to be in effect for a period coinciding with the authority under which it is entered.

Modifications

This Memorandum of Understanding and its attachments may be modified in writing by mutual consent of the parties.

Responsibilities

FmHA shall make available to FEMA on request habitable single family and multiple housing units in its inventory that are located in designated disaster areas and that are not under lease or under agreement of sale. FEMA will reimburse FmHA for authorized expenses, as set out herein, resulting from utilization of assigned housing units.

Implementation

This memorandum shall be implemented in accordance with the following general procedures. FEMA and/or FmHA may prepare other detailed operating procedures as necessary for internal use of the agencies. These latter procedures will be in compliance with the provisions of this Memorandum.

(a) Delegation of Authority. The signatories to this agreement will delegate authority to implement this agreement to their respective employees, in writing. When a disaster occurs, the persons to whom this authority has been delegated shall identify employees, contractors, and agents authorized to implement the appropriate provisions of this Memorandum of Understanding and other FEMA and/or FmHA detailed operating procedures. FEMA and FmHA will exchange a list containing names, addresses, and telephone numbers of such employees, contractors and agents, who will implement the agreement with respect to the specific major disaster. Other references to FEMA and FmHA in the following paragraphs will be interpreted to include contractors, agents, and employees designated to implement the provisions of this Memorandum of Understanding.

(b) Assignment of FmHA Housing Units to FEMA

(1) Upon declaration by the President of a major disaster or emergency, FEMA may request from the appropriate FmHA State Director a list of all habitable housing units available in designated disaster areas indicating the county or counties where housing is needed..

(2) At its discretion, FmHA may sell or lease until directly to displaced FmHA borrowers instead of providing them to FEMA. FmHA will provide FEMA a list of such sales or leases for information purposes and to prevent duplication of benefits.

(3) During the period of occupancy of a housing unit by a disaster victim, FEMA will inform the occupant that FmHA lending assistance may be available for purchase of the housing unit as permanent housing.

(4) Before assignment to FEMA and occupancy by a disaster victim, each housing unit under consideration will be inspected jointly by FmHA and FEMA. The agencies will then execute a Letter of Assignment for each habitable housing unit assigned to FEMA. A Preoccupancy and Termination Joint Inspection report (FEMA Form 90-11) will be prepared, signed by both agencies, and attached to the letter of assignment. The FmHA advice number will be noted prominently on this form.

(5) FmHA will remove all RHS signs, such as “no trespassing,” “for sale,” etc. from housing units assigned to FEMA.

Management of Housing Units

(a) Necessary maintenance on housing units assigned to FEMA shall be performed by FEMA at its expense, or FEMA shall reimburse FmHA for accomplishing such maintenance as agreed upon by local agency representatives.

(b) FEMA shall furnish to FmHA the names and mailing addresses of unit occupants, the property designation, the beginning occupancy date, and notice of changes in occupancy.

(c) During business hours FmHA authorized employees may inspect housing units. Advance notice of forty-eight (48) hours will be given to FEMA, who will, in turn, advise the occupant.

(d) FEMA shall not permit a disaster victim to occupy a housing unit beyond the period of eligibility in accordance with 44 CFR 205.52.

(e) There shall be no rental charge to FEMA by FmHA for assigned housing units for the first twelve (12) months from the date of the letter of assignment. If a housing unit is assigned to FEMA for more than one year after the date of the letter of assignment, FEMA shall pay FmHA the fair market rental value as determined by FmHA for each subsequent month.

(f) If an occupancy fails to vacate a housing unit after housing benefits are terminated, FEMA shall conduct the predetermination procedures in 44 CFR 205.52 and shall, if appropriate, undertake eviction action.

Return of Housing Units to FmHA

(a) When a housing unit is vacated and FEMA determines that it is no longer needed, FEMA shall notify FmHA.

(b) FEMA and FmHA authorized employees, contractors, or agents will jointly inspect the vacated housing unit to determine maintenance, cleanup, and repairs required to return the housing unit to a physical condition comparable to that existing at the time of the initial joint inspection. Necessary maintenance and repairs shall be performed by FEMA at its expense, or FEMA shall reimburse FmHA for accomplishing such repairs as agreed upon by local agency representatives. Repairs shall be in accordance with local, State, or Federal codes.

(c) FEMA shall return the keys to, custody of, and responsibility for units to FmHA when needed maintenance, cleanup and repairs are completed. FmHA shall prepare a receipt and provide a copy to FEMA.

Approvals

This agreement is executed by the Administrator, Farmers Home Administration, USDA and the Associate Director, State and Local Programs and Support, FEMA, by virtue of their general authorities to do so.

/s/ Charles W. Shuman

Administrator
Farmers Home Administration
U.S. Department of Agriculture

Date: 11/3/82

/s/ Lee M. Thomas

Associate Director
State and Local Programs and Support
Federal Emergency Management Agency

Date: 10/4/82

ATTACHMENT 15-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

and the

RURAL HOUSING SERVICE

FEMA-RHS LETTER OF ASSIGNMENT

STATE: _____

COUNTY: _____

Under the Memorandum of Understanding between the Federal Emergency Management Agency (FEMA) and the Farmers Home Administration (now the Rural Housing Service [RHS]) effective November 3, 1982, the habitable housing unit identified on the attached inspection report is made available by RHS for use by FEMA or its Agent as temporary housing for victim(s) located within the following described designated disaster area and who are eligible for such assistance under the provisions of the Disaster Relief Act of 1974:

This Letter of Assignment shall become effective on the date signed by the authorized employees, contractors, or agents. This assignment is for the housing unit identified by the attached inspection report and having the following advice number: _____.

	FEMA	RHS
NAME:	_____	_____
TITLE:	_____	_____
DATE:	_____	_____

_____

(01-23-03) SPECIAL PN

CHAPTER 16: DISPOSING OF REAL ESTATE OWNED PROPERTY

SECTION 1: PRICING AND LISTING PROPERTIES

16.1 OVERVIEW

The Agency will make every effort to sell real estate owned (REO) properties quickly and at the best possible price. Whenever possible, preference will be given to selling REO program property to buyers eligible for Direct or Guaranteed SFH programs.

A. Sale Methods and Pricing

Most REO properties are sold through real estate brokers. However, the Agency may sell properties through sealed bid, auction, negotiation, or agreements with other Federal agencies, such as the Department of Housing and Urban Development (HUD).

REO housing is initially priced for sale at its present market value. Administrative price reductions may be taken over time to facilitate sale of the property (see Paragraph 16.3 B. for a discussion of price reductions). A schedule is published that restricts sales of program property to program-eligible buyers for a period of time before any offering to the general public, and whenever there is a reduction in price.

An Affirmative Fair Housing Marketing Plan, as described in Paragraph 16.4 A., must be prepared when 5 or more REO properties are for sale in the same market area at the same time.

B. Financing

When funds are available, the Agency may offer financing to buyers of REO property. When program credit is offered, the loan is processed following the loan origination procedures described in this handbook. If an REO property is sold for less than the appraised value to a program borrower, the equity credited to the borrower in the *Form RD 3550-12, Subsidy Repayment Agreement* is the difference between the selling price and the loan amount.

Nonprogram credit terms are offered when the buyer is not eligible for Section 502 assistance or the property does not qualify as a program property. Chapter 11 provides instructions for processing loans on nonprogram terms. Buyers who receive financing on nonprogram terms must be advised that they are not eligible for payment subsidies or moratoriums.

C. Warranty

The Agency does not provide a warranty of either the title or the physical condition of any REO property except with regard to contamination from hazardous substances or petroleum products. Section 4 of this chapter provides additional guidance for managing hazardous substances when disposing of REO property.

D. MortgageServ Processing for REO Sales

MortgageServ tracks the progress of REO sales and activities. Field Staff will access MortgageServ and update activity on specific properties.

16.2 CONTRACTING FOR SALES SERVICES

Agency personnel may sell REO property when staffing and workload permit, but sales are normally handled through the services of real estate brokers. The preferred method for obtaining broker services is to enter into an exclusive contract with a single broker. However, the Field Office also may enter into open listing agreements that permit any licensed real estate broker to provide sales services. Once a broker has been employed, the Agency will refer all inquiries to that broker or to the list of participating brokers.

A. Selecting Exclusive Brokers

Exclusive broker contracts are awarded on a competitive basis. In order to do business with the Agency, brokers must be properly licensed in the State in which they do business. Attachment 16-A provides a sample solicitation package, sample broker qualifications, and criteria that may be used to evaluate offers from prospective brokers.

B. Announcing Open Listing

When an open listing method is used to obtain broker services, any licensed real estate broker can offer to provide the services. At least annually, the Field Office should announce that sales services are being requested by advertising in a newspaper of general circulation or sending notices to all real estate brokers in the counties served by the Field Office. Attachment 16-B provides a sample advertisement.

Brokers who respond in writing and are determined to be qualified will be designated as "participating brokers." Each participating broker must execute *Form 1955-42, Open Real Property Master Listing Agreement*, which provides the terms and conditions under which the sales services are to be provided.

C. Commissions

Broker's commissions will be negotiated as part of the selection process and are not paid until the sale has closed and title has passed to the purchaser. Commissions should not exceed the typical commissions paid for comparable services.

D. Broker Purchases of REO Properties

Participating brokers must notify the Agency whenever a participating real estate broker, the broker's salesperson, a member of the broker's or salesperson's household, or a legal entity in which the broker or salesperson has an interest, buys REO property.

If Agency credit is required, no commission will be paid to participating brokers who purchase an REO property, and only half of the standard commission will be paid to a non-participating broker who purchases an REO property.

16.3 PRICING AND SALES SCHEDULES

REO housing is priced and initially offered for sale at its present market value, based on a current appraisal. Administrative price reductions may reduce the offering price to facilitate the sale. Mineral, water, and similar rights are generally sold with the property and are not sold separately except when the Government's security interest will not be jeopardized. Lease or royalty interests that do not pass by deed are assigned to the buyer.

A. Appraisals

To determine the property's present market value, the Field Office must arrange for an appraisal using the procedures described in Section 5 of Chapter 5. If repair or improvement is planned, the appraisal must provide both as-is and as-improved values. Each as-improved appraisal must include a list of the planned repairs. Any special flood or mudslide hazard areas or wetlands and any flood plain or wetland use restrictions must be reflected in the appraisal. All REO property considered for disposal or lease must be evaluated for possible contamination from hazardous substances or petroleum products through the process of due diligence and completion of the *Transaction Screen Questionnaire ASTM Standard E-1528 (TSQ)* as described in Paragraph 16.18. This will normally be completed at the same time as the appraisal.

A property must be reappraised whenever its condition has deteriorated, it has been significantly damaged or vandalized, additional repairs and improvements have been made, or there has been a change in market conditions. Field Staff should be especially alert to potential contamination from unauthorized dumping while the property is owned by the Agency and, if necessary, update the TSQ and the appraisal prior to sale or lease. The need for reappraisal should be established as quickly as possible so that the property is offered at its true value. Appraised value is not affected by administrative price reductions.

B. Sales Schedules and Administrative Price Reductions *[7 CFR 3550.251(c)(4)]*

The sale of REO program property is restricted for Direct or Guaranteed SFH loans when a property is first offered for sale and any time an administrative price reduction is taken. Exhibit 16-1 provides the sales schedule for program property; Exhibit 16-2 provides the sales schedule for nonprogram properties. The sales price is fixed when a sales contract is executed and does not decrease further based upon scheduled price reductions.

Exhibit 16-1

Sales Schedule for Single Family Housing REO Property
Program Property

DATES	ACTION
Days 1-60	Available for sale exclusively to eligible Direct or Guaranteed SFH buyers for 100 percent of market value.
Days 61-90	Available for sale to anyone for 100 percent of market value.
Days 91-120	Available for sale exclusively to eligible Direct or Guaranteed SFH buyers for 90 percent of market value.
Days 121-150	Available for sale to anyone for 90 percent of market value.
Days 151-180	Available for sale exclusively to eligible Direct or Guaranteed SFH buyers for 80 percent of market value.
Days 181-210	Available for sale to anyone for 80 percent of market value.
Day 211	Submit REO file with documentation of marketing efforts to State Office for further advice on sales incentives or to authorize sealed bid/auction.

Exhibit 16-2
Sales Schedule for Nonprogram REO Property

DATES	ACTION
Days 1-60	Available for sale to anyone for 100 percent of market value.
Days 61-90	Available for sale to anyone for 90 percent of market value.
Days 91-120	Available for sale to anyone for 80 percent of market value.
Day 121	Submit REO file with documentation of marketing efforts to State Office for further advice on sales initiatives or to authorize sealed bid/auction.

Case files of program properties that do not sell after 7 months on the market and nonprogram properties that do not sell after 4 months on the market are referred to the State Director to determine whether additional marketing efforts or incentives are needed.

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SECTION 2: MARKETING

16.4 MARKETING AND ADVERTISEMENT

A good marketing plan is the key to reaching the maximum number of potential buyers and to ensuring that eligible Direct or Guaranteed SFH loan applicants have an opportunity to purchase REO properties. The Agency may advertise directly or contract for advertising services. Exclusive broker contracts may include advertising services. All advertisements must state occupancy or environmental restrictions.

Property on Tribal Allotted or Trust Land
[7 CFR 3550.251(c)(3)]

REO property located on tribal allotted or trust land will be sold or otherwise disposed of only to an eligible tribal member, the tribe, or to the Indian Housing Authority serving the tribe. Attachment 16-C may be used as a guide in notifying these entities of an available property.

A. Fair Housing and Affirmative Fair Housing Marketing Plan

All advertising must meet equal housing opportunity requirements and contain the equal housing opportunity statement and logo. An Affirmative Fair Housing Marketing Plan is required whenever there are 5 or more REO properties for sale in the market area at the same time. The plan remains in effect for 1 year or until all properties covered under the plan are sold, whichever is later. When an exclusive broker contract is used, the plan is prepared by the broker and approved by the State Director. When a sale is conducted by the Agency or under an open listing agreement, the plan is prepared by Field Staff and must be approved by the State Director. RD Instruction 1901-E provides more guidance on civil rights requirements.

B. Truth in Lending Requirements

If the availability of Agency financing will be advertised, marketing efforts must conform to the requirements of the Truth in Lending Act . Exhibit 16-3 highlights these requirements (see RD Instruction 1940-I, for additional information).

C. Advertising and Marketing Methods

Advertising efforts should be designed to reach a broad audience. Each Field Office should identify appropriate marketing efforts and tailor them for each market area. At a minimum, advertisements must be placed in newspapers of general circulation and posted on the Field Office bulletin board. Other marketing efforts that may be appropriate include:

- Posting advertisements in public locations accessible to prospective purchases, including community bulletin boards and major employment sites;

- Broadcasting announcements on radio or television; or

- Informing potential program applicants or investors of the availability of REO properties.

Exhibit 16-3

Truth in Lending Highlights

- Advertisements that state specific credit terms must state only terms that will actually be offered.
- Any finance charge listed must be stated as an annual percentage rate.
- Key terms related to financing used in the advertisement must be defined.

Sample advertisements are included in Attachment 16-D.

D. Review of Marketing for Unsold Properties

At least quarterly, the State Director must review the status of unsold REO property to ensure that acquired properties are being placed on the market promptly, properties on the market are selling within a reasonable time frame, and that properties under contract are closed promptly. Of particular concern are properties:

- Acquired more than 30 days ago that have not yet been made available for sale;

- That have been available for sale for 3 months or more and are not under contract; and

- That have been under contract for more than 30 days and have not closed.

16.5 SPECIAL MARKETING TECHNIQUES

A. Buyer Incentives

The State Director may authorize buyer incentives when Field Staff provide evidence that a specific market area is depressed and the incentives are required to stimulate buyer interest. To request approval for buyer incentives, the Field Office must describe past efforts to sell the property and explain why the proposed incentives are expected to produce improved results. Incentives, such as offering to provide 1 or more home appliances or to pay closing costs, may be appropriate for any property. Amortization schedules longer than the standard term may be offered for nonprogram properties.

B. Broker Incentives

When an additional broker incentive is needed, such as when a very low-value property offers an inadequate commission, the State Director may authorize a minimum commission or fixed-amount sale bonus. To request the incentive, the Field Office must describe the past efforts to sell the property and justify the amount and the purpose of the incentive. Upon the approval of the State Director, a written offer of the incentive that specifies the requirements and circumstances in which the incentive will be given must be provided to the broker.

C. Acquisition of Land, Easements, or Rights-of-Way to Effect Sale

When it will help the sale of REO property and it is in the best interest of the Government, the State Director may authorize the acquisition of adjacent land, easements, or rights-of-way in order to cure title defects or encroachments. Additional land may not be acquired at a cost in excess of its appraised market value.

16.6 REO PROPERTY NOT MEETING DSS STANDARDS *[7 CFR 3550.251(c) (2)]*

When REO property does not meet DSS standards and it is not economically feasible for the Government to repair it, the property is listed, advertised, and sold with specific occupancy restrictions.

DSS housing is defined as housing that meets the requirements described in RD Instruction 1924-A for existing construction. If the housing does not meeting the requirements, it still may be considered DSS if it:

- Is structurally sound and habitable;
- Has a potable water supply;
- Has functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal systems;
- Is energy efficient; and
- Is safe - that is, a hazard does not exist that would endanger the health or safety of occupants.

The deed by which such a property is conveyed will contain a covenant restricting it from residential use until it meets the Agency's dwelling standards, as discussed in Section 2 of Chapter 5. Property that is not DSS must still meet the Agency's environmental requirements, including the management of hazardous substance requirements discussed in Section 4 of this chapter.

In the event that the Agency has acquired property that is unsafe and cannot feasibly be made safe, for reasons that are environmental in nature or relate to contamination from hazardous substances or petroleum products, Field Staff will provide appropriate information to the State Director including the observations and recommendations of the State Environmental Coordinator. The State Director will submit the case file, along with complete documentation of the problem and a recommended course of action, to the Deputy Administrator, Single Family Housing, with a copy to the Director, Program Support Staff for their joint review and guidance.

A. Notice of Occupancy Restriction

The notice of sale and sale contract must describe the specific conditions that prohibit occupancy and the items necessary for the property to meet DSS standards, using *Form RD 1955-44, Notice of Residential Occupancy Restriction* or language similar to the following:

> "Pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. 1480(e), RHS has determined the dwelling on this property inadequate for residential occupancy. The quitclaim deed by which this property will be conveyed will contain a covenant restricting it from residential use until the dwelling is repaired or renovated as follows:" (insert those items necessary for the property to meet DSS standards.)

For purposes of advertising, the list of specifications may be replaced with a statement to contact the Agency, or the real estate broker under an exclusive listing contract or "any real estate broker" for open listing agreements, whichever is relevant, for a list of specific items necessary for the property to meet DSS standards.

B. Quitclaim Deed Restrictive Covenant

The quitclaim deed must contain a covenant restricting residential occupancy which describes the conditions which prohibit occupancy and the specific items necessary for the property to meet DSS standards, using *Form RD 1955-44* or language in a State Supplement, similar to the following:

"Pursuant to Section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. 1480(e), the purchaser ('Grantee' herein) of the above described property ('subject property' herein) covenants and agrees with the United States acting by and through the U.S. Department of Agriculture ('Grantor' herein) that the dwelling unit located on the subject property as of the date of this quitclaim deed will not be occupied or used for residential purposes until the item(s) listed at the end of this paragraph have been accomplished. This covenant shall be binding on Grantee and Grantee's heirs, assigns and successors and will be construed as both a covenant running with the subject property and as equitable servitude.

This covenant will be enforceable by the United States in any court of competent jurisdiction. When the existing dwelling unit on the subject property complies with the aforementioned standards of the U.S. Department of Agriculture in accordance with its regulations, the subject property may be released from the effect of this covenant and the covenant will thereafter be of no further force or effect. The property must be repaired as follows:_____." (Insert the items referenced in the notice of sale and sale contract, necessary for the property to meet DSS standards.)

C. Release of Restrictive Covenant

When the owner requests a release of the restrictive covenant, the Agency inspects the property. The Agency will provide to the owner a release of the covenant if the conditions which prohibited occupancy have been corrected, the specific items necessary for the property to meet DSS standards have been provided, or the structure necessitating the restrictive covenant has been removed from the site. The owner will be responsible to file such release and any related filing costs.

SECTION 3: SALE METHODS

16.7 REGULAR SALE METHOD

No offers to purchase an REO property will be accepted until the property is officially offered for sale. Any offers received before the property is offered for sale must be returned to the offeror.

A. Listing the Property

REO property is offered for regular sale using *Form RD 1955-43, Notice of Real Property for Sale (Single Family Housing).* The date indicated on *Form RD 1955-43* is the effective date of the offer. An offer may be submitted at any time after the effective date listed in the notice.

When an offer is accepted, the notice of sale is revised to indicate that only back-up offers will be taken. The notice is not withdrawn until the sale is closed, except when the offer is from a nonprofit organization or a public body for transitional housing for the homeless.

REO Property Subject to Redemption Rights

REO property subject to redemption rights may still be sold if Field Staff determines that there is no probability of its redemption and State law permits its sale. In States where such sales are permitted, a State Supplement will be issued with the specific State law requirements. The buyer must sign a statement acknowledging sale conditions under State law. The original signed statement will be filed in the REO file and transferred to the borrower's case file if it is Agency financed.

B. Submission Requirements

An offer to buy must be submitted on *Form 1955-45, Standard Sales Contract, Sale of Real Property by the United States.* Offers received in any other form must be returned to the offeror. Any offer that is made contingent upon Agency credit should be accompanied by a completed *Form RD 410-4, Application for Rural Assistance (Nonfarm Tract) Uniform Residential Loan Application*.

C. Receiving and Considering Offers

Each offer must be date stamped when it is received. When a property is first offered for sale, all offers received during the first 4 business days after the effective date will be considered as if they were received on the same day. Any offer on a program property from other than a program applicant during the 60-day reservation period will be held and considered received on the 61st day.

Offers received on the same business day are selected in the following order.

1. An offer from an eligible Direct or Guaranteed SFH loan-applicant with a request for credit on program terms. All program offers are evaluated as if they were submitted at the listed price, regardless of the offering price.

2. An offer from a nonprofit or public body for conversion to use as transitional housing, multifamily housing, or for other special purposes as specified in 7CFR Part 3550, Section 3550.251(d).

3. A cash offer, from the highest to the lowest.

4. A nonprogram credit offer, from the highest to the lowest. An offer with a request for credit in excess of the market value of the property is not acceptable. If an excessive amount of credit is requested, the offeror will be given the opportunity to reduce the credit request to an amount equivalent to or lower than the market value less any required down payment. However, no change is made in the offered price.

The acceptable offer from like offers of equal priority received on the same business day are selected by lot. When selection is by lot, offers drawn after the first are held as back-up and the offeror so notified.

The Agency selects the first minimum acceptable offer received and executes Form RD 1955-45. Form 1955-45 is sent to the bidder along with Handbook Letter 10(3550), ‘Status of Offer to Buy Single Family Housing REO Property,’ and Handbook Letter 10(3550) is sent to the bidder’s broker. Handbook Letter 10(3550) also is used to notify all unsuccessful bidders of the status of their offers.

D. Earnest Money

The notice of sale must specify any earnest money requirements. No earnest money will be collected when Agency staff conduct the sale. In broker assisted sales, an earnest money deposit in an amount that is customary for the market, is required when the sales contract is signed. Earnest money is held by real estate brokers and is applied to the purchaser’s closing costs.

E. Cancellation of Sales Contracts

If an offer contingent upon obtaining Agency financing on program terms is selected and the credit request is subsequently rejected, the next offer is considered. Property is not held off the market pending the outcome of an appeal. If there are no back-up offers, the notice of sale is revised to indicate the new status of the property.

When a sales contract is canceled due to offeror default, any earnest money collected is forwarded to the local Agency office where it will in turn be forwarded to CSC for application to the General Fund.

16.8 DISPOSITION BY SEALED BID OR AUCTION

Any use of the sealed bid or auction methods must be authorized by the State Director. Program properties are considered for sale using these methods only when a property has not sold through regular sales efforts after 7 months. Either method may be used as the initial sale effort for nonprogram properties when regular sale efforts are not likely to result in prompt sale (such as when structures have been substantially destroyed by fire).

A. Establishing the Minimum Acceptable Offer

Field Staff must develop and document the recommendation for the minimum acceptable bid or sales price using the Net Recovery Value worksheet provided in Appendix 11.

B. Publicizing the Sale

The Agency solicits sealed bids or publicizes an auction by public notice. The notice must include the date, time, and place of the bid opening or auction, describe how bids are to be made, the required percentage of bid deposit, the maximum credit terms, the cash preference percentage described in Paragraph 16.8 C.3., and other pertinent information, such as occupancy restrictions, or notice of special flood or mudslide hazard area or wetland.

C. Sealed Bid Procedures

1. Submission Requirements

Sealed bids must be made on *Form RD 1955-46, Invitation Bid and Acceptance-Sale of Real Property by the United States*, and be accompanied by a deposit provided in the form specified in the bidding instructions. No deposit is required from bidders who are eligible program purchasers. A minimum deposit of 10 percent is required for nonprogram loans.

Bidders must submit their bids in a sealed envelope marked: "SEALED BID OFFER *." (*Insert "PROPERTY IDENTIFICATION NUMBER.")

Bids may be submitted for individual properties or a group of properties.

2. Receiving and Opening Bids

All bids will be date and time stamped when they are received. Sealed bids will be held in a secured file before bid opening. The bid opening will be held publicly at the place and time specified in the notice with at least 2 Agency employees present. Each bid received will be recorded showing the name and address of the bidder, the amount of the bid, the amount and form of deposit, and any conditions of the bid. The record of bids will be signed by the staff person conducting the bid opening and retained in the REO file.

3. Reviewing and Accepting Bids

Only responsive bids will be considered. To be considered responsive, bids must be signed and dated by the offeror, include any required deposit, and be for an amount at least equal to the established minimum bid. Minor deviations or defects in the bid submission may be waived by the Approval Official so long as the bid meets these minimum requirements.

Generally, the highest bid will be selected. However, cash bids will be given preference over bids that are contingent upon the offeror obtaining financing if the cash offer is at least equal to a specified percentage of the highest offer. Exhibit B of RD Instruction 440.1 specifies the applicable percentage.

In the case of identical bids for a program property eligible Direct or Guaranteed SFH loan, purchasers will be selected by lot before bidders who are not eligible for a Direct or Guaranteed SFH loan.

4. No Acceptable Bid

If no acceptable bids are received, the Agency may negotiate a sale at the best price possible in accordance with Paragraph 16.9. All bidders must be informed, in writing, of any anticipated negotiations. Deposits must be returned to all bidders by certified mail, return receipt requested.

5. Notification to Bidders

Field Staff also must use *Handbook Letter 10 (3550)* to notify unsuccessful bidders that their bids were not accepted and who the successful bidder was. Deposits must be returned to all unsuccessful bidders by certified mail, return receipt requested.

When a bid is accepted, Field Staff must execute *Form RD 1955-46* and send *Handbook Letter 10 (3550), Status of Offer to Buy Single Family Housing REO Property*.

6. Failure to Close

If a successful bidder fails to perform under the terms of the offer for any reason other than denial of credit by the Agency, the bid deposit will be forfeited and forwarded to CSC for application to the General Fund.

Upon determination that the successful bidder will not close, the State Director may authorize direct negotiations with the next highest bidder, authorize another sealed bid sale, or authorize negotiations with other interested parties, as described in Paragraph 16.9.

D. Auction Procedures

The State Director will determine whether an Agency employee will conduct the auction or whether the complexity of the sale requires the services of a professional auctioneer. *Form 1955-46, Invitation Bid and Acceptance-Sale of Real Property by the United States*, is used for auction sales.

1. Selecting a Professional Auctioneer

Auctioneers are selected through a competitive process using the procedures described in RD Instruction 2024-A. The commission will be set as part of the auctioneer solicitation. If an auctioneer submits a bid with a commission rate that is significantly lower than other bids, detailed documentation will be provided attesting that they have successfully sold properties at the lower rate with no compromise in service.

2. Bid Deposits

Successful bidders will be required to make a bid deposit of 10 percent of the sales price, except this fee will be waived for eligible Direct or Guaranteed SFH bidders, pending final determination of eligibility. Deposits should be in the form of cashier's check, certified check, postal or bank money order, or bank draft payable to the Agency. Cash and/or personal check may be accepted only if deemed necessary for a successful auction to occur by the person conducting the auction.

Where program financing is authorized, all notices and publicity should provide for a method of prior approval of credit and the credit limit for potential eligible Direct or Guaranteed SFH purchasers. This may include submission of letters of credit or financial statements prior to the auction. The auctioneer should not accept bids which request program financing in excess of the market value.

3. Accepting Bids

When the highest bid is lower than the minimum amount acceptable to the Agency, negotiations should be conducted with the highest bidder or, in turn, the next highest bidder(s) or other persons known to be interested to obtain an executed bid at the predetermined minimum.

4. Purchaser's Default

Upon purchaser's default, the Field Staff will remit the bid deposit to CSC as a Miscellaneous Collection. The property may than be disposed of through a negotiated sale.

16.9 NEGOTIATED SALE

If no acceptable bid is received either from a sealed bid sale or at a public auction, the State Director may negotiate a sale at the best price possible without further public notice by negotiating with interested parties, including previous bidders.

A sale made through negotiation will be documented and accepted by the Approval Official on *Form RD 1955-46, Invitation Bid and Acceptance-Sale of Real Property by the United States* and must be accompanied by a bid deposit of 10 percent of the negotiated sales price, except that the deposit will be waived for program-eligible buyers.

16.10 DISPOSAL OF PROPERTY FOR SPECIAL PURPOSES *[7 CFR 3550.251(d)]*

REO properties may benefit people in need of housing who can be reached in cooperation with other programs or Federal agencies. Cooperative agreements with other Federal or State-assisted housing programs will be announced and updated with Administrative Notices.

A. Multifamily Housing

Multiple units of REO property may be sold as multifamily housing. In this case, the properties and the applicants must meet the requirements for the loan program under which the sale is proposed.

B. Transitional Housing for the Homeless

Upon request from a public body or nonprofit organization, the Agency provides a list of available REO property, designating whether each is a program or nonprogram property. Upon receipt of written notice from the entity of its intent to buy the property, the Agency withdraws the property from the market for a period not to exceed 30 days to provide the entity time to execute a sale contract. An earnest money deposit is not required.

1. Price

If the entity wants to buy a nonprogram property, the listed price is discounted by 10 percent of the appraised value. Program property is not discounted.

2. Repairs to Meet DSS Standard

If the entity wants to buy a nonprogram property that does not meet DSS standards, the Agency repairs it to remove health or safety hazards unless cost of the repairs is prohibitive. Cosmetic repairs such as painting, floor covering, landscaping, and repairs to improve thermal performance are the responsibility of the buyer. All repairs or renovations to make the property habitable and to meet DSS standards should be discussed, put in writing, and made part of the sale contract. However, the environmental requirements, including the requirements for management of hazardous substances and petroleum products, discussed in Section 4 of this chapter must be followed. The Agency shall abate all identified lead based paint hazards in all REO properties built before 1960.

C. Affordable Housing *[7 CFR 3550.251(c)(4)]*

REO property may be sold under special provisions to nonprofit organizations or public bodies for the purpose of providing affordable housing to very low and low-income families. Information about available programs will be distributed by the National Office as they are authorized.

16.11 DISPOSAL AS CHATTEL OR SALVAGE

If the Agency is unable to sell nonprogram property by regular sale, sealed bid, or public auction, the structure may be sold as chattel or salvage to be removed from the site. *Form 1955-47, Bill of Sale "A"* is used to transfer title of real property converted to chattel to the purchaser.

If no offer is received to remove the structure, the State Director may contract or arrange to have it demolished, in exchange for the salvaged materials or otherwise as determined appropriate. For example, the local fire fighting unit may be permitted to use a structure slated for demolition as a burn for fire fighting practice. Once the structure is disposed of, the lot will be offered for sale as nonprogram REO property.

If REO property is a vacant lot, the lot is offered for sale as nonprogram property.

SECTION 4: ENVIRONMENTAL REQUIREMENTS

16.12 OVERVIEW

The Agency must complete the appropriate level of environmental review under the National Environmental Policy Act for disposal of REO property in accordance with RD Instruction 1940-G. The proposed disposal of REO property will normally qualify as a categorical exclusion. However, an environmental assessment, and when necessary an EIS, is required for any proposed disposal of REO property that meets one of the following criteria:

- The Agency has reason to believe the transaction would result in a change in use of the REO property within the reasonably foreseeable future;
- The transaction is controversial for environmental reasons;
- The property is located within a special flood or mudslide hazard area or contains a wetland;
- The property is located within the Coastal Barrier Resources System;
- The property is listed or eligible for listing on the National Register of Historic Places;
- The property contains reportable underground storage tanks; or
- The property is contaminated with hazardous substances or petroleum products.

This section summarizes the basic environmental information that pertains to disposal of REO properties. For more detailed information and assistance, refer to RD Instruction 1940-G or consult the State Environmental Coordinator.

16.13 PROPERTY LOCATED WITHIN A SPECIAL FLOOD OR MUDSLIDE HAZARD AREA OR CONTAINS WETLANDS

REO property located in a special flood or mudslide hazard area will not be sold for residential purposes unless it is determined safe—that is, any danger that exists by virtue of the floodplain location is not likely to endanger the health or safety of the occupants—and prior written notice of the specific hazard is given.

Form 1955-46, Invitation Bid and Acceptance-Sale of Real Property by the United States, must include notice of special flood or mudslide hazard areas or wetlands and related use restrictions. Prospective purchasers, auctioneers, and brokers must be informed and acknowledge receipt of notice of these circumstances, and all advertisements need to reference them.

The conveyance instrument for disposal of REO property containing wetlands or located in a special flood or mudslide hazard area must specify those uses of the property that are restricted under any Federal, State or local floodplain and wetland regulations, as well as other appropriate restrictions. Use restrictions will relate to the use of the property by the purchaser and any successors as determined by the Agency. Examples of use restrictions include prohibition of draining or filling of floodplain or wetland areas, prohibition of new above-ground construction on that portion of the property located in the floodplain or wetland area, and prohibition against subdividing floodplain or wetland property into building lots.

16.14 COASTAL BARRIER RESOURCES SYSTEMS *[7 CFR 1955.137(a)]*

REO property located within a Coastal Barrier Resources System (CBRS) will not be sold until the State Environmental Coordinator has consulted with the appropriate Regional Director of the U.S. Fish and Wildlife Service, and the Regional Director concurs that the proposed sale does not violate the provisions of the Coastal Barrier Resources Act (CBRA).

No Federal financing is permitted for REO properties located within a CBRS, since flood insurance under the National Flood Insurance Program is not available for properties within the CBRS.

16.15 NATIONAL REGISTER OF HISTORIC PLACES

When REO property has been determined to be listed on (or eligible to be listed on) the National Historic Register, the Loan Approval Official responsible for conveyance must consult with the State Historic Preservation Officer (SHPO) in order to establish any necessary restrictions on the use of the property so that the future use will be compatible with preservation objectives as long as it does not result in an unreasonable economic burden to public or private interest. The Advisory Council on Historic Preservation must be consulted by the Loan Approval Official after the discussions with the SHPO are concluded.

Any restrictions that are developed on the use of the property as a result of the above consultations must be made known to potential bidders or purchasers through all advertisements and notices regarding the property, as well as in writing when the prospective purchaser signs the bid or offer to purchase. Acknowledgment of receipt of this notice will be obtained from the purchaser at that time and kept in the file.

16.16 PROTECTIVE COVENANTS AND EASEMENTS

The Agency has an affirmative responsibility to take actions to protect environmental resources located on REO property before that property is disposed of. "Affirmative responsibility" refers to the fact that there are certain protections that are required by Federal, State, or local environmental laws. Frequently, such protective actions or mitigation measures will take the form of a covenant or conservation easement. In addition to floodplains, wetlands, coastal barriers, and historic places, this affirmative responsibility also extends to the following resources:

- Listed or proposed endangered or threatened species;
- Listed or proposed critical habitat;
- Designated or proposed wilderness areas;
- Designated or proposed wild or scenic rivers;
- Natural landmarks listed in the National Register of Natural Landmarks;
- Sole source aquifer recharge areas designated by EPA;
- Designated national trails;
- Important farmland; or
- Areas of high water quality.

The State Environmental Coordinator should be consulted if it appears that the proposed disposal of REO property may involve any of these resources.

16.17 REPORTABLE UNDERGROUND STORAGE TANKS

When disposing of REO property containing reportable underground storage tanks as described in Paragraph 15.7 A.4., the Agency, if it has not already done so, must file the appropriate report with the State agency identified by the Environmental Protection Agency (EPA). The potential purchaser of the property will be informed by the Loan Approval Official of the reporting requirement and provided a copy of the filed report.

16.18 MANAGEMENT OF HAZARDOUS SUBSTANCES AND PETROLEUM PRODUCTS

All REO property considered for disposal must be evaluated for possible hazardous substance contamination. To do this, the Loan Approval official completes the *Transaction Screen Questionnaire, ASTM Standard E-1528 (TSQ)*, the initial level of inquiry in the due diligence process. (If a TSQ was completed prior to acquisition of the property, the Loan Approval Official must determine if the TSQ should be updated.) If the completed or updated TSQ indicates potential contamination, it will be sent promptly to the State Environmental Coordinator for further evaluation and guidance. All clean-up actions will be taken under the guidance of the State Environmental Coordinator.

When disposing of REO property, prospective purchasers, lessees, or tenants will be notified of any possible contamination of the property by releases of hazardous substances, hazardous wastes or petroleum products, as well as any information concerning any clean-up activities by attaching to the deed or lease:

A statement that a report of the Agency's investigation into potential contamination at the site (the due diligence report) and a description of any clean-up activities is available for public review or has been made available to the purchaser or lessee; and

A statement that the Agency does not provide warranty regarding the accuracy of the information in the due diligence report or the effectiveness of any clean-up activities.

16.19 LEAD-BASED PAINT

The Agency's Lead-Based Compliance Key must be utilized for all REO properties. The Agency has adopted the following subparts of the lead based paint regulation, 24 CFR part 35:

> Subpart A, "Disclosure of Known Lead Based Paint Hazards Upon Sale or Lease of Residential Property"
>
> Subpart B, "General Lead Based Paint Requirements and Definitions"
>
> Subpart C, "Disposition of Residential Property owned by a Federal Agency other than HUD"
>
> Subpart D, "Project-Based Assistance Provided by a Federal Agency Other than HUD"
>
> Subpart J, "Rehabilitation (applicable sections)"
>
> Subpart R, "Methods and Standards for Lead Based Paint Hazard Evaluation and Hazard Reduction Activities."

The requirements of these subparts are applicable to all housing constructed prior to 1978 that is financially assisted by the Agency or is being sold by the Agency.

SECTION 5: PROCESSING AND CLOSING

16.20 OVERVIEW

If the Agency is closing the sale with program financing, the sale is closed in accordance with program closing instructions provided in Chapter 8. If other financing is being used, the financing agent's closing procedures should be followed. Cash sales are closed by the Agency collecting the sale price and delivering the Quitclaim Deed to the buyer.

Title clearance and property insurance requirements for a program financed sale are the same as for a program loan.

16.21 SPECIAL NOTICES AT SALE

A. HUD Insured Financing

If necessary to effect a sale with HUD-insured financing, the Agency may execute a sales contract amendment containing the following language:

> "It is expressly agreed that, notwithstanding any other provisions of the contract, the purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the seller has delivered to the purchaser a written statement issued by the Federal Housing Commissioner setting forth the appraised value of the property (excluding closing costs) of not less than $ (insert sales price) which statement the seller hereby agrees to deliver to the purchaser promptly after such appraised value statement is made available to the seller. The purchaser shall, however, have the privilege and option of proceeding with the consummation of the contract without regard to the amount of the appraised valuation made by the Federal Housing Commissioner. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development (HUD) will insure. HUD does not warrant the value nor the condition of the property. The purchaser shall satisfy himself/herself that the price and condition of the property are acceptable."

B. Disclosure of Lead-Based Paint or Hazards

In accordance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, sellers of housing receiving Federal assistance built before 1978 must provide the purchasers of such housing with specific information about the housing's lead history and general information on lead exposure prevention. As seller the Agency must:

- Provide the buyer with the lead hazard information pamphlet, *Protect Your Family from Lead in Your Home*, available from the National Lead Information Clearinghouse at 1-800-424-LEAD, or a similar EPA-approved pamphlet developed by the State;

- Permit the buyer a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint hazard; and

- Include in the sales contract: (1) For a property constructed after 1959 and before 1978, a disclosure of any lead-based paint hazard; (2) a list of any information about the hazard available to the seller and passed on to the buyer; and (3) a Lead Warning Statement and acknowledgment, signed by the buyer. A sample disclosure format, including the required Lead Warning Statement, is provided in Appendix 12.

- For a property constructed before 1960, abate all identified lead based paint hazards in accordance with 40 CFR 745.227.

16.22 INSPECTION

An inspection of the property by the buyer should be scheduled immediately before closing to ensure the condition of the property and the resolution of any problems or discrepancies.

16.23 PRORATING REAL ESTATE TAXES AND/OR ASSESSMENTS

When REO property is subject to taxation and/or assessments, they are pro rated between the Agency and the buyer, as of the date the title is conveyed. The Agency is responsible for all taxes and assessments accrued as of the settlement date, and the buyer is responsible for all taxes and assessment which accrue after the closing date. The Agency's pro rata share is deducted from the proceeds of the sale at closing, if sufficient funds are available, or is paid under RD Instruction 2024-A.

16.24 DOWN PAYMENT

When a down payment is made, it is collected at closing, identified by property identification number, purchaser's name and case number, and remitted in accordance with program instructions.

16.25 PAYMENT OF POINTS

When a buyer is financing the purchase of property with another lender, the Agency may pay not more than 3 points if it is a customary requirement of the lender for payment by the seller and points are not paid (or increased) to reduce the interest rate. The specific number of points to be paid by the Agency must be in the sales contract, and fixed as of the date the Agency accepts the contract. Payment is deducted from the funds due the Agency at closing and is reflected in the settlement statement.

16.26 CLOSING EXPENSES

Agency expenses are deducted from sale proceeds when sufficient funds are available, and the sale is subject to the Real Estate Settlement Procedures Act (RESPA) requirements, that is, an Agency financed sale or a cash sale financed by another lender. Sales subject to RESPA requirements, whether by the Agency or another lender, are settled by a third-party closing agent who provides a settlement statement to the seller, buyer and lender to document the distribution of sale proceeds and closing costs. When sufficient funds are not available or when the transaction is a cash sale, which is not subject to RESPA requirements and therefore no settlement statement is required, expenses are paid under RD Instruction 2024-A.

In program-financed sales, bid deposit and earnest money is applied to the buyer's closing costs. Under a nonprogram credit sale, the buyer pays all closing costs.

16.27 COMMISSIONS

Commissions are paid at closing if there is sufficient cash from sale proceeds to cover the commission. If not, the Agency will pay the commission and charge it to the REO account as a recoverable cost.

16.28 TRANSFERRING TITLE

The Agency conveys the property to the buyer by *Form RD 1955-49, Quitclaim Deed* or other form of nonwarranty deed approved by OGC. The State Director signs the conveyance instrument, a copy of which is retained in the REO property case file. The buyer is responsible for recording the instrument.

16.29 REPORTING SALE

When the transaction is closed and the conveying instrument has been delivered, record disposition in the REO system. Real property which has been disposed of by means other than sale, including total loss or destruction, will also be reported in the REO System. Sale proceeds are forwarded to CSC to the General Fund.

ATTACHMENT 16-A

SAMPLE SOLICITATION PACKAGE

I. BROKER QUALIFICATIONS

- Financial capability.
- Licensing in the State in which broker will be doing business.

II. RANKING CRITERIA FOR SELECTING BROKERS

- Previous experience with REO properties.
- Membership in Multiple Listing Service (MLS).
- Advertising plans and proposed innovative promotion methods.
- Proximity to REO properties.
- Staffing commitment to sale of properties.
- Commission Rate. If a broker submits a bid with a commission rate that is significantly lower than other bids, detailed documentation will be provided attesting that they have successfully sold properties at the lower rates with no compromise in service.

ATTACHMENT 16-B

SAMPLE ADVERTISEMENT FOR BROKERS

Broker Solicitation: Advertisements for real estate broker services will be placed at least yearly in newspapers having general circulation in the area in which the property is located. The notice will usually be placed in both the residential property section and the public notice section, altered to describe whether the agreement is to be open or exclusive. An example follows.

Public Notice

Real Estate
Brokers

The Rural Housing Service (RHS) has from time to time various Real Estate Owned (REO) properties for sale through brokers having executed a listing agreement with the agency. Licensed real estate brokers may obtain additional information by writing or visiting the local RHS office located at 32 Penny Lane, Madison City, FL 32111 or telephoning (904) 323-0010.

EQUAL HOUSING
OPPORTUNITY

ATTACHMENT 16-C

NOTIFICATION OF AVAILABLE TRIBAL PROPERTY

Name of Tribe or Indian housing Authority
Name, Title of Contact Person
Address

RE:
Borrower Name: _____
Borrower Address: _____

Brief Legal Description of Security
Property:_____
_____

The above-named Rural Housing Service (RHS) single family housing borrower is in default on an Agency loan. The borrower may sell the property and RHS is authorized to transfer the account on program terms to an eligible member of the tribe who meets RHS program requirements, or on nonprogram terms to any eligible member of the tribe, the tribe, or the Indian housing authority servicing the tribe.

We are asking for your help on the borrower's behalf in locating a buyer for the property. If the borrower does not sell the property within a reasonable time, RHS may assign the promissory note and security instruments to the tribe or the Indian housing authority servicing the tribe.

Please let us know if you will be able to assist us in locating a buyer for the property or if you are interested in securing your interest in the property by buying the RHS promissory note and security instruments. Please contact me for further information.

CONTACT: _____

PHONE: _____

ATTACHMENT 16-D

SAMPLE ADVERTISEMENT OF AVAILABLE REO PROPERTIES

Regular Sale: Advertising is an essential marketing tool in sales by RHS personnel. Advertising will be accomplished by the appropriate servicing official in accordance with Section 1 of this chapter. Full and extensive use of advertising is recommended with Field Staff having the discretion to develop creative and eye-appealing advertisements consistent with the real estate market and this handbook. Examples of advertisements are attached.

Example 1.a

RHS

Investment Buy of the Month!

Price Slashed!

965 Della Street
Anytown, USA

Minimum Price: $25,000

This attractive frame house offers tremendous potential for the handyman who is looking for a great house at a great price.

Financing available on excellent terms.

5% down, 10 year, 10.5% APR to nonoccupant/investors

2% down, 30 year term, 10.5% APR to owner/occupants.

All rates and terms are subject to change without notice.

Contact RHS at 123-4567 or our Exclusive Broker "Ace Realty" at 123-9876.

EQUAL HOUSING OPPORTUNITY

Example 1 b

RHS

Home of the Week

Price Slashed!

82 Town Street
Anytown, USA

Minimum Price: ~~$30,600~~

This charming three bedroom, 1 ½ bath cape cod is located in an attractive neighborhood close to town. This home has been repainted throughout, is in excellent condition and has new carpeting and appliances.

Financing available

To qualified RHS direct and guaranteed SFH loan applicants: nothing down, 33/38 year financing, 10% APR with payment assistance available to qualified applicants

To nonprogram applicants: 5% down, 10-year term, 10.5% APR to nonoccupants/investors.

2% down, 30-year term, 10.5% APR to owner/occupants.

All rates and terms are subject to change without notice.

Contact your local RHS Office at 123-4567 or any real estate broker.

EQUAL HOUSING OPPORTUNITY

Example 1.c

RHS

Attractive RHS Homes for Sale

82 Town Street
Anytown, USA
Minimum Price: $32,000

Price Slashed!

46 Aim Street
Anytown, USA
Minimum Price: $29,000

22 Bee Street
Anytown, USA
Minimum Price: $35,000

Price Slashed!

35 Cat Street
Anytown, USA
Minimum Price: $33,500

See note below

Financing Available on Excellent Terms!

To qualified RHS eligible direct or guaranteed SFH applicants applicants:
Nothing down, 33/38 year financing, 10% APR with

Payment Assistance available to qualified applicants.

To nonprogram applicants:
5% down, 10 year term, 10.5% APR to

nonoccupant/investors.

2% down, 30 year term, 10.5% APR to

owner/occupants.

All rates and terms are subject to change without notice.

Contact your local RHS office at 123-4567 or any real

estate broker.

EQUAL HOUSING OPPORTUNITY

Example 1.d

RHS

Homes Priced to Sell

82 Town Street
Anytown, USA
Minimum Price: $32,000

Price Slashed!

46 Aim Street
Anytown, USA
Minimum Price: ~~$29,000~~ $26,500

22 Bee Street
Anytown, USA
Minimum Price: $35,000

Price Slashed!

35 Cat Street See note below
Anytown, USA
Minimum Price: ~~$33,500~~ $30,250

Financing Available on Excellent Terms!

To qualified RHS direct or guaranteed SFH loan applicants:
Nothing down, 33/38 year financing, 10% APR with Payment assistance available to qualified applicants.

To nonprogram applicants:
5% down, 10 year term, 10.5% APR to nonoccupant/investors.

2% down, 30 year term, 10.5% APR to owner/occupants.

All rates and terms are subject to change without notice.

Contact your local RHS office at 123-4567 or any real estate broker.

Note on 35 Cat Street: Available for cash or nonprogram terms only.

This property contains a dwelling unit which RHS has deemed inadequate for residential occupancy. The Quitclaim Deed by with the property will be conveyed will contain a covenant restricting the residential unit on the property from being used for residential occupancy until the dwelling is repaired, renovated, or razed. This restriction is imposed pursuant to section 510(e) of the Housing Act of 1949, as amended 42 U.S.C. 1480. Contact RHS or any Realtor for a list of items which must be repaired/renovated.

EQUAL HOUSING OPPORTUNITY

Sealed Bid and Auction Sales: Advertising of sealed bid and auction sales is critical for a successful sale. Advertising will be consistent with the portions of this handbook governing the sale of property by sealed bid or auction. Examples of sealed bid and auction sale advertisements are attached.

Example 2.A

RHS

Sealed Bid Sale

Property Address: 123 14th Street, Anytown USA

The subject property has been extensively damaged by fire and requires major renovation or demolition. The lot contains 10,000 square feet, hookups to public water and sewage, and is suitable for reconstruction. Sealed bids will be accepted until Friday April 1, 1996 at 2:30 p.m. at which time all bids will be opened. The property will be sold to the highest bidder. All bids must be accompanied by a 5% bid deposit in the form of a certified check. Financing is available on Nonprogram terms only -- 5% down, 10.5% APR, and 10 year repayment (all rates and terms are subject to change without notice), however preference will be given for cash. The government reserves the right to reject any or all offers.

The property has been determined by RHS to be inadequate for residential occupancy. The Quitclaim Deed by which the property will be conveyed will contain a covenant restricting the residential unit on the property from being used for residential occupancy until the dwelling is repaired, renovated, or razed. This restriction is imposed pursuant to section 510(e) of the Housing Act of 1949, as amended 42 U.S.C. 1480. The structure must be razed, or reconstructed and a Certificate of Occupancy issued before the deed restriction can be removed.

For a bid package or further information, contact RHS at 123-4567 or visit our office at 1955 Main Street, Anytown.

EQUAL HOUSING OPPORTUNITY

Example 2.b

RHS

Investment Properties for Sale

1955 Lois Lane
Anytown, USA
Minimum Price: $22,000

114 Maple Street
Anytown, USA
Minimum Price: $22,000

Financing Available

To Non program applicants:
5% down, 10 year term, 10.5% APR to nonoccupant/investors
2% down, 30 year term, 10.5% APR to owner/occupants.

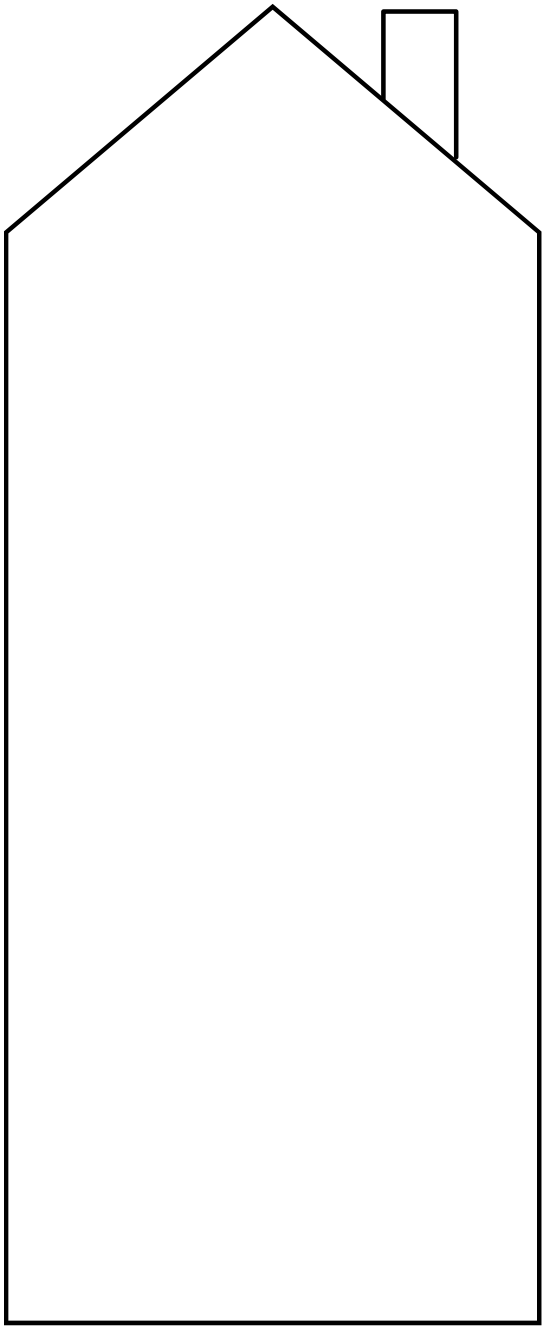
ALL RATES AND TERMS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

Note: The property located at 114 Maple Street contains a dwelling unit which RHS has deemed inadequate for residential occupancy. The Quitclaim Deed by which the property will be conveyed will contain a covenant restricting the residential unit on the property from being used for residential occupancy until the dwelling is repaired, renovated, or razed. This restriction is imposed pursuant to section 510(e) of the Housing Act of 1949, as amended 42 U.S.C. 1480(e). Contact RHS or any realtor for a list of items which must be repaired/renovated.

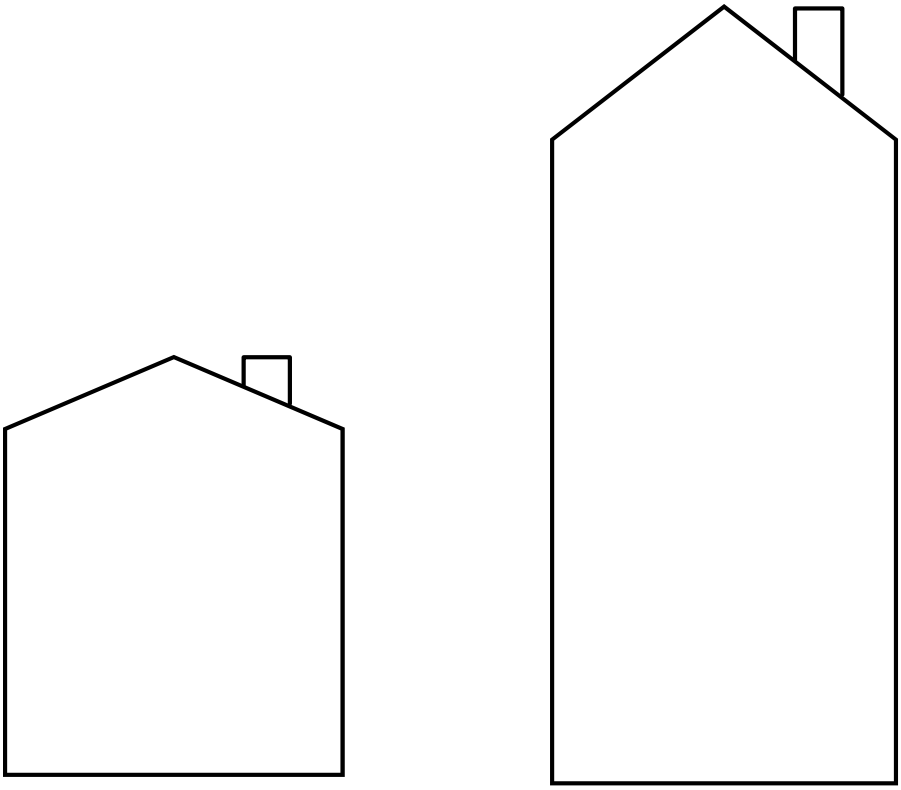
Contact your local RHS Office at 123-4567 or any real estate broker.

EQUAL HOUSING OPPORTUNITY

Templates for developing Advertisements



More Templates



Headings and logos for use with templates

EQUAL HOUSING OPPORTUNITY

EQUAL HOUSING OPPORTUNITY

EQUAL HOUSING OPPORTUNITY

EQUAL HOUSING OPPORTUNITY

EQUAL HOUSING OPPORTUNITY

EQUAL HOUSING OPPORTUNITY

Investment Properties for Sale

Financing Available

Investment Buy of the Month

Home of the Week

Sealed Bid Sale

Farm for Sale

Attractive RHS Homes for Sale

Homes Priced to Sell

Price Slashed!!!

Financing Available on Excellent Terms

Farm Property for Auction

All Rates and Terms Subject to Change without Notice

RHS Is An Equal Opportunity Lender

GLOSSARY

Acceleration. Demand for immediate repayment of the entire balance of a debt if the security instruments are breached.

Adjusted income. Used to determine whether an applicant is income-eligible. Adjusted income is based on annual income and provides for deductions to account for varying household circumstances and expenses.

Adjustment. An agreement to release a debtor from liability generally upon receipt of an initial lump sum representing the maximum amount the debtor can afford to pay and periodic additional payments over a period of up to 5 years.

Administrator. The official of the Rural Housing Service within the Rural Development mission area (or official of its successor agency) delegated authority by the Secretary of the U.S. Department of Agriculture to administer the Agency and its programs.

Adverse decision. An administrative decision made by an officer, employee or committee of the Agency that has a negative impact on the applicant or borrower.

Affordable Housing Product. Any form of participating funds which have limited restrictions and repayment terms. These can include subordinate liens, grants, silent mortgages, forgivable loans and community land trusts.

Agency. The Rural Housing Service within the Rural Development mission area of the U.S. Department of Agriculture or its successor agency, which administers Section 502 loans and Section 504 loans and grants.

Allowable excess costs. The cost of the appraisal fee, tax service fee and initial contribution to the escrow account. These costs can be financed even if they cause the total loan amount to exceed the area loan limit or the property's market value.

Amortized payment. Equal monthly payments under a fully amortized mortgage loan that provides for the scheduled payment of principal and interest over the term of the loan.

Annual Income. Used to determine an applicant's eligibility for assistance. All amounts, monetary or not, of the applicant's household not specifically excluded by regulations, and amounts derived from assets any members of the family have access to.

Applicant. An adult member of the household who will be responsible for repayment of the loan.

Assumption. The procedure whereby the transferee becomes liable for all or part of the debt of the transferor. An assumption may be at the same rates and terms or at new rates and terms, depending on the circumstances.

Borrower. A recipient who is indebted under the Section 502 or 504 programs.

Cancellation. A decision to cease collection activities and release the debtor from personal liability for any remaining amounts owed.

Case File. A file established for each application to contain all documents used for loan origination.

Centralized Servicing Center (CSC). The Agency branch located in St. Louis, Missouri that is responsible for servicing Section 502 and 504 loans.

Certificate of Eligibility. A document issued by the Agency to an applicant that confirms that the applicant is eligible for Agency assistance and shows the maximum loan amount for which the applicant qualifies.

Closing costs. Various fees required to conclude a real estate transaction.

Community land trust. A not-for-profit organization that acquires land and transfers it to eligible low- and moderate-income households, retaining for itself a pre-emptive option to purchase the land upon sale in order to transfer it to another low- or moderate-income household.

Compensating factors. Information that indicates that an applicant may be able to make larger regular loan payments than a ratio analysis indicates.

Compromise. An agreement to release a debtor from liability upon receipt of a specified lump sum that is less than the total amount due.

Conditional commitment. A determination that a proposed dwelling will qualify as a program-eligible property. The conditional commitment does not reserve funds, nor does it ensure that a program-eligible applicant will be available to buy the dwelling.

Cosigner. An individual or entity that joins in the execution of a promissory note to compensate for any deficiency in the applicant's repayment ability. The cosigner becomes jointly liable to comply with the terms of the promissory note in the event of the borrower's default, but is not entitled to any interest in the security or borrower rights.

Credit Alert Interactive Voice Response System (CAIVRS). HUD’s online system used to perform credit checks on applicants.

Cross-collateralized loan. A situation in which a single property secures both Agency and Farm ServiceAgency (FSA) loans.

Custodial property. Borrower-owned real property that serves as security for a loan that has been taken into possession by the Agency to protect Government's interest.

Daily simple interest. A method of establishing borrower payments based on daily interest charged on the outstanding principal balance of the loan. Principal is reduced by the amount of payment in excess of the accrued interest.

Dealer-contractor. A person, firm, partnership, or corporation in the business of selling and servicing manufactured homes and developing sites for manufactured homes. A person, firm, partnership, or corporation not capable of providing the complete service is not eligible to be a dealer-contractor.

Debarment. A determination that a party is ineligible to participate in, or receive assistance under, the Agency's programs. A person who is debarred by another Agency also is ineligible.

Debt instrument. A collective term encompassing obligating documents for a loan, including any applicable promissory note, assumption agreement, or a grant agreement.

Debt settlement. Actions undertaken to collect at least a portion of debt owed to the Agency in conjunction with a voluntary liquidation, forced liquidation, or after the debt is fully matured. Debt settlement, when complete, closes the account.

Declaration page. A short form provided by an insurance company outlining pertinent information about an insurance policy, such as the insured party's name and address, amount of coverage, terms, and additional provisions.

Dedicated Loan Origination and Servicing System (DLOS). The overall automated system used by the Agency for originating and servicing loans, which includes UniFi and MortgageServ. It is designed to expedite loan making, standardize information collection and record keeping, and facilitate communication between the Field Office and CSC.

Deed in lieu of foreclosure. A method of liquidation by which title to the security property is conveyed to the Agency by the borrower.

Deficient housing. A dwelling that lacks complete plumbing; lacks adequate heating; is dilapidated or structurally unsound; has an overcrowding situation that will be corrected with loan funds; or that is otherwise uninhabitable, unsafe, or poses a health or environmental threat to the occupant or others.

Deficiency judgment. A personal judgment against a debtor for the amount remaining due after foreclosure.

Delinquency workout agreement. An agreement establishing a new repayment plan for a borrower who has delinquent Agency debt.

Draw schedule. A schedule of payments agreed to by the borrower, Agency and contractor under which the contractor will receive payments for work completed.

Due Diligence. The process of inquiring into the environmental condition of real estate in the context of a real estate transaction to determine the presence of contamination from hazardous substances, hazardous wastes, and petroleum products, and what impact such contamination may have on the market value of the property.

Easement. The legal right to use land, or a portion of land, owned by another for a limited purpose.

Elderly family. An elderly family consists of one of the following:

A. A person who is the head, spouse, or sole member of a family and who is 62 years of age or older, or who is disabled, and is an applicant or borrower; or

B. Two or more persons who are living together, at least one of whom is age 62 or older, or disabled, and who is an applicant or borrower; or

C. In the case of a family where the deceased borrower or spouse was at least 62 years old or disabled, surviving household members shall continue to be classified as an elderly family for the purpose of determining adjusted income, even though the surviving members may not meet the definition of elderly family on their own, provided:

1. They occupied the dwelling with the deceased family member at the time of the death;

2. If one of the surviving family members is the spouse of the deceased family member, the family shall be classified as an elderly family only until the remarriage of the surviving spouse; and

3. At the time of the death of the deceased family member, the dwelling was financed under title V of the Housing Act of 1949.

Environmental review. An analysis of the potential for environmental impacts from a proposed action by the Agency and an examination of alternatives to avoid or minimize adverse impacts on the environment.

Equivalent interest rate (EIR). The interest rate charged by the Agency to program borrowers who receive payment assistance via method 1. The interest rate varies according to the borrower's income.

Escrow account. An account to which the borrower contributes monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs.

Existing dwelling or unit. A dwelling or unit that has either been previously owner-occupied or has been completed for more than 1-year as evidenced by an occupancy permit, certificate of occupancy or similar document issued by the local authority.

False information. Information that the recipient knew was incorrect or should have known was incorrect that was provided or omitted for the purposes of obtaining assistance for which the recipient was not eligible.

Fee simple ownership. A form of ownership under which the owner has absolute title to a piece of property.

Field Office. An Agency office that originates loans.

First-time homebuyer. Any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a Section 502 direct loan. A first-time homebuyer includes displaced homemakers and single parents even though they might have owned, or resided in a dwelling with a spouse.

Floor payment. A minimum amount that the borrower must pay for Principal, Interest, Taxes, and Insurance (PITI)when payment assistance method 1 is used. The payment amount is determined by the borrower's adjusted income, and its relation to the applicable adjusted median income in the area in which the security property is located.

Full-time student. A person who carries at least the minimum number of credit hours considered to be full-time by the college or vocational school in which the person is enrolled.

Hazard. A condition of the property that jeopardizes the health or safety of the occupants or members of the community, that does not make it unfit for habitation (see also the definition of major hazard).

Household. All persons expected to be living in the dwelling, except for live-in aids, foster children, and foster adults.

Housing Act of 1949, as amended. The Act which provides the authority for the direct single family housing programs. It is codified at 42 U.S.C. 1471, et seq.

HUD. The U.S. Department of Housing and Urban Development.

Inaccurate information. Incorrect information inadvertently provided, used, or omitted without intent to obtain benefits for which the applicant was not eligible.

Indian reservation. All land located within the limits of any Indian reservation under the jurisdiction of the United States notwithstanding the issuance of any patent and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments, the titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian tribe.

Interest credit. A payment subsidy available to certain eligible Section 502 borrowers that reduces the effective interest rate of the loan. Borrowers receiving interest credit will continue to receive it on all current and future loans for as long as they remain eligible for and continue to receive a subsidy. Borrowers who cease to be eligible for interest credit can never receive interest credit again, but may receive payment assistance method 2 if they again qualify for a payment subsidy.

Junior lien. A security instrument or a judgment against the security property to which the Agency debt instrument is superior.

Legal alien. For the purposes of these programs, legal alien refers to any person lawfully admitted to the country who meets the criteria in Section 214 of the Housing and Community Development Act of 1980, as amended, 42 U.S.C. 1436a.

Leveraged loan. An affordable housing product loan or grant to an Agency borrower property, closed simultaneously with an RHS loan. Affordable leveraged loans are characterized by long term (not less than 30 years), amortized payments with a note interest rate equal to or less than 3 percent.

Liquidation. A forced sale or voluntary disposition of the security property to obtain funds to repay outstanding debt. The proceeds from the sale are given to leinholders in order of priority, with any remaining funds returned to the borrower.

Live-in aide. A person who lives with an elderly person or disabled person and is essential to that person's care and well-being, not obligated for the person's support, and would not be living in the unit except to provide the support services.

Loan Approval Official. An Agency employee who has the authority to approve loans. Unless otherwise indicated, each State Director may determine which approval actions may be made by the Loan Approval Official, and which must come to the State Office for approval.

Loan docket. The legal documents and forms developed during loan origination that must be provided to CSC for servicing purposes.

Loan Originator. An Agency employee who works with the loan applicant, conducts the basic underwriting analysis, and makes the loan approval or credit denial recommendation to the Loan Approval Official.

Loan-to-Value (LTV) Ratio. LTV ratio is the relationship between the amount to be financed and the market value of the security property.

Lockbox. The service that receives and processes borrower payments.

Loss draft. A payment from an insurance company to a borrower to cover the borrower's adjusted losses due to damages covered under the insurance policy.

Low income. An adjusted income that is greater than the HUD established very low-income limit, but that does not exceed the HUD established low-income limit (generally 80 percent of median income adjusted for household size) for the county or Metropolitan Statistical Area where the property is or will be located.

Major hazard. A condition so severe that it makes the property unfit for habitation. (See also the definition of hazard.)

Manufactured home. A structure that is built to Federally Manufactured Home Construction and Safety Standard (FMHCSS) and Agency Thermal Performance Standards (TPS). It is transportable in one or more sections, which in the traveling mode is 10-body feet (3.048 meters) or more in width, and when erected on site is 400 or more square feet (37.16 square meters), and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. It is designed and constructed for permanent occupancy by a single family and contains permanent eating, cooking, sleeping, and sanitary facilities. The plumbing, heating, and electrical systems are contained in the structure. A permanent foundation is required.

Market value. The value of the property as determined by a current appraisal; the Agency may authorize the use of a Broker's Price Opinion (BPO) or similar instrument to determine market value in limited servicing situations.

Metropolitan Statistical Area (MSA). MSA is a county or group of counties of 50,000 people or more, or "twin cities" with a combined population of at least 50,000. In addition to the county containing such a city, contiguous counties are included in a metro area according to commuting patterns. In New England states, metro areas consist of towns and cities instead of counties, otherwise the rules are similar.

Mineral lease. A granting of rights to a third party to mine, drill or otherwise access oil, gas or other valuable natural resources on a property.

Mobile home. A manufactured unit often referred to as a "trailer," designed to be used as a dwelling, but built prior to the enactment of Pub. L. 96-399 (October 8, 1980).

Moderate income. An adjusted income that is greater than the low-income limit, but that does not exceed the low-income limit by more than $5,500.

Modest housing. A property that is considered modest for the area, with a market value that does not exceed the applicable area loan limit as established by RHS in accordance with §3550.63. In addition, the property must not be designed for income producing activities nor have an in ground swimming pool.

Modular or panelized home. Housing, constructed of one or more factory-built sections or panels which, when completed, meets or exceed the requirements of the recognized development standards (model building codes) for site-built housing, and which is designed to be permanently connected to a site-built foundation.

Moratorium. A period of up to two years during which scheduled payments for principal, interest and deposits to the escrow account are not required, but are subject to repayment at a later date.

Mortgage. A form of security instrument or consensual lien on real property including a real estate mortgage or deed of trust.

MortgageServ. The mainframe-based computer application that is used by the Field Office to electronically communicate with, and transmit information to CSC, and by CSC to service and track a borrower's loan.

National Appeals Division (NAD). The organization within the United States Department of Agriculture that is responsible for the Department's administrative appeals procedures which must be followed by participants who desire to appeal an adverse decision made by the Agency.

National Office. The headquarters of the Agency located in Washington, DC where the Administrator's office and the national policy-making staff are located.

Net family assets. The value of assets are available to a household that could be used towards housing costs. Net family assets are considered in the calculation of annual income and are used to determine whether the household must make additional cash contributions to improve or purchase the property.

Net recovery value.. The market value of the security property minus anticipated expenses of liquidation, acquisition, and sale as determined by the Agency.

New dwelling or unit. A dwelling that is to be constructed, or a dwelling that is less than one year old as evidenced by an occupancy permit, certificate of occupancy or similar document issued by the local authority and has never been owner-occupied.

New rates and terms assumption. A transfer of Agency debt whereby a new borrower agrees to take responsibility for repaying the debt of an existing Agency borrower according to a new amortization schedule.

Nonprogram interest rate. The interest rate offered by the Agency for loans made on nonprogram terms.

Nonprogram property. Property that does not meet the program's requirements.

Nonprogram terms. Credit terms available from the Agency when the applicant or property is not program-eligible.

Note only loan. See "unsecured loan."

Note rate. See "promissory note rate."

Offset. Deductions to pay a debt owed to the Agency from a borrower's retirement benefits, salary, income tax refund, or payments from other Federal agencies to the borrower. Deductions from retirement benefits and salary generally apply only to current and former Federal employees.

Overcrowding. An occupancy situation in which a household has more than 2 people per bedroom.

Packager. An individual or organization that assembles and prescreens application packages.

Partial release of security. An action by the Agency under which it releases a portion of the security property from the security instrument.

Participant. For the purpose of reviews and appeals, a participant is any individual or entity who has applied for or whose right to participate in or receive a payment, loan, or other benefit is affected by an Agency decision.

Payment assistance. A payment subsidy available to eligible Section 502 borrowers that reduces the effective interest rate of a loan.

Payment shock. A term representing the applicant's projected increase in housing expenses.

Payment subsidy. A general term for subsidies which reduce the borrower's scheduled payment. It refers to either payment assistance method 1 or 2, or interest credit.

Person with a disability. Any person who has a physical or mental impairment that substantially limits on or more major life activities, including functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working; has a record of such an impairment; or is regarded as having such an impairment.

PITI ratio. The amount paid by the borrower for principal, interest, taxes, and insurance, divided by repayment income.

Preliminary Application (Pre-Ap). A general term which includes the required information to complete the pre-qualification process.

Principal reduction attributable to subsidy (PRAS). Accelerated principal reduction that may occur when a borrower receives a reduced interest rate through interest credit assistance.

Prior lien. A security instrument or a judgment against the security property that is superior to the Agency's debt instrument.

Program-eligible applicant. Any applicant meeting the eligibility requirements of the Section 502 or Section 504 programs.

Program-eligible property. A property eligible to be financed under the Section 502 or Section 504 programs.

Program terms. Credit terms that are available only to program-eligible applicants for program-eligible properties.

Promissory note rate. The unsubsidized interest rate offered by the Agency for loans made on program terms.

Property. The land, dwelling, and related facilities for which the applicant will use Agency assistance.

Protective advances. Costs incurred by the Agency to protect the security interest of the Government that are charged to the borrower's account.

Real Estate Owned (REO). Property for which the Agency holds title (formerly known by the Agency as "inventory property").

Real estate taxes. Taxes and the annual portion of assessments estimated to be due and payable on the property, reduced by any available tax exemption.

Reamortization. The establishment of a new, revised schedule of equal monthly payments of principal and interest over the remaining term of a mortgage loan.

Recapture amount. An amount of subsidy to be repaid by the borrower upon disposition or nonoccupancy of the property.

Recipient. An individual who has received an Agency loan or grant.

Refinancing with private credit. An Agency requirement under which program borrowers who appear to qualify for private credit must seek such credit (formerly known by the Agency as "graduation").

Repayment income. Used to determine whether an applicant has the ability to make monthly loan payments. Repayment income is based only on the income attributable to parties to the note and includes some income sources excluded for the purpose of adjusted income.

Rural area. A rural areas is:

A. Open country which is not part of or associated with an urban area.

B. Any town, village, city, or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

- Has a population not in excess of 10,000 if it is rural in character, or
- Has a population in excess of 10,000 but not in excess of 20,000 is not contained within a Metropolitan Statistical Area, and has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of HUD.

An area classified as a rural area prior to October 1, 1990, (even if within a Metropolitan Statistical Area), with a population exceeding 10,000, but not in excess of 25,000, which is rural in character, and has a serious lack of mortgage credit for low- and moderate-income families. This is effective through receipt of census data for the year 2010.

Same rates and terms assumption. A transfer of Agency debt whereby a new party agrees to continue to repay the debt of the initial borrower according to the same amortization schedule.

Scheduled payment. The monthly or annual installment on a promissory note plus escrow (if required), as modified by any payment subsidy agreement, delinquency workout agreement. other documented agreements between the Agency and the borrower, or protective advances.

Secured loan. A loan that is collateralized by property so that in the event of a default on the loan, the property may be sold to satisfy the debt (see also “unsecured loan”).

Security instrument. The written instrument that legally records the Agency’s security interest in the property.

Security property. All the property that serves as collateral for an Agency loan.

Special Flood Hazard Area (SFHA). An area having special flood, mudslide and/or flood related erosion hazards as shown on Federal Emergency Management Agency (FEMA) floodplain maps.

State Director. The highest Agency decision making official at the State level.

State Supplement. Additional guidance provided by the State Director when State, local or tribal laws affect how Agency requirements are implemented in a particular State.

Subordination. Moving a lien position to a lower priority.

Subsequent loans. Additional Agency credit that is extended to an existing program borrower.

Subsidy. Interest credit, payment assistance method 1, payment assistance method 2, or deferred mortgage assistance received by a borrower under the Section 502 program.

Subsidy repayment agreement. An agreement under which a borrower agrees to repay to the Agency any subsidy received under the Section 502 program upon disposition or nonoccupancy of the security property.

Supervised funds. Funds deposited in an Agency supervised bank account on behalf of a borrower.

Tax service. A contractor hired by the Agency to secure tax information about borrower properties.

Total debt ratio. The amount paid by the borrower for principal, interest, taxes, and insurance and any recurring monthly debt, divided by repayment income.

Tribal allotted land. Tribal land allotted to individual tribal members which is held in trust.

Tribe. Any Federally-recognized tribe, band, pueblo, group, community, or nation of Indians or Alaska natives.

Trust land. Land held in trust by the United States on behalf of an Indian tribe.

Unauthorized assistance. Any loan, payment subsidy, deferred mortgage payment, or grant for which there was no regulatory authorization or for which the recipient was not eligible.

UniFi. A personal computer-based application located in each Field Office that is used by Loan Originators. It retains applicant information, calculates maximum loan amounts, and generates loan approval and closing forms.

United States (U.S.) citizen. An individual who resides as a U.S. citizen in any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marinas, the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands.

Unsecured loan. A loan, also known as a "note only loan," evidenced only by the borrower's promissory note (see also "secured loan").

Very low income. An adjusted income that does not exceed the HUD-established very low income limit (generally 50 percent of the median income adjusted for household size) for the county or Metropolitan Statistical Area where the property will be located.

Veterans preference. A preference extended to any person applying for a loan or grant under the Section 502 or Section 504 programs who was honorably discharged or released on conditions other than dishonorable conduct from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard and who served in active duty during one of the following periods:

A. April 6, 1917 through March 31, 1921;

B. December 7, 1941 through December 31, 1946;

C. June 27, 1950 through January 31, 1955;

D. A period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975; or

E. During the period beginning August 2, 1990, and ending the date prescribed by Presidential Proclamation or law.

The family of a service person who died in service during any of the periods listed above is also extended the preference.

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ACRONYMS USED IN THIS HANDBOOK

ACE	Active Corps of Executives
ADR	Alternative Dispute Resolution
AFDC	Aid to Families with Dependent Children
ARM	Adjusted Rate Mortgage
BPA	Blank Purchase Agreement
BOCA	Building Officials and Code Administrators
CO	Contracting Officer
CABO	Council of American Building Officials
CAIVRS	Credit Alert Interactive Voice Response System
CBMC	Community-Based Mediation Center
CBRA	Coastal Barrier Resources Act
CBRS	Coastal Barrier Resources System
CFR	Code of Federal Regulations
COLA	Cost of Living Adjustment
COR	Contracting Officer Representative
CRA	Community Reinvestment Act
CSC	Centralized Servicing Center
DLOS	Dedicated Loan Origination and Servicing System
DSS	Decent, Safe, and Sanitary

EA	Environmental Assessment
ECOA	Equal Credit Opportunity Act
EIR	Equivalent Interest Rate
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FHA	Federal Housing Administration
FMHCSS	Federal Manufactured Home Construction and Safety Standards
GRH	Guaranteed Rural Housing
HHS	Health and Human Services
HUD	Department of Housing and Urban Development
ICBO	International Congress of Building Officials
INA	Immigration and Nationality Act
INS	The US Immigration and Naturalization Service
IRA	Individual Retirement Account
IRS	Internal Revenue Service
LTV	Loan-to-Value Ratio
MCC	Mortgage Credit Certificates
MLS	Multiple Listing Service
MSA	Metropolitan Statistical Area
NAD	National Appeals Division
NEPA	National Environmental Policy Act

NFIP	National Flood Insurance Program
NRCS	Natural Resources Conservation Service
NWA	NeighborWorks America
NFHC	National Federation of Housing Counselors
NAIHC	National American Indian Housing Council
NOFA	Notice of Funding Availability
OGC	Office of General Counsel
OIG	Office of Inspector General
PI	Principal and Interest
PITI	Principal, Interest, Taxes, and Insurance
PUD	Planned Unit Development
RD	Rural Development
REO	Real Estate Owned
RESPA	Real Estate and Settlement Procedures Act
RH	Rural Housing
RHS	Rural Housing Service
RMCR	Residential Mortgage Credit Report
SBA	Small Business Administration
SBCCI	Southern Building Code Congress International, Inc.
SCORE	Service Corps of Retired Executives
SF	Standard Form
SFH	Single Family Housing

SFHA	Special Flood Hazard Area
SHFA	State Housing Finance Agency
SHPO	State Historic Preservation Officer
SPM	Servicing and Property Management
SOW	Statement of Work
TD	Total Debt
TDD	Telecommunication Device for the Deaf
TSQ	Transaction Screen Questionnaire
U.S.C.	United States Code
USPAP	Uniform Standards of Professional Appraisal Practice
USDA	The United States Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
VA	Department of Veterans Affairs
VISTA	Volunteers in Service to America
WWD	Water and Waste Disposal

Appendix 1
7 CFR PART 3550 - DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

Subpart A - General

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7 CFR PART 3550 - DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

Subpart A - General

§ 3550.1 Applicability.

This part sets forth policies for the direct single family housing loan programs operated by the Rural Housing Service (RHS) of the U.S. Department of Agriculture (USDA). It addresses the requirements of sections 502 and 504 of the Housing Act of 1949, as amended, and includes policies regarding both loan and grant origination and servicing. Procedures for implementing these regulations can be found in program handbooks, available in any Rural Development office. Any provision on the expenditure of funds under this part is contingent upon the availability of funds.

§ 3550.2 Purpose.

The purpose of the direct RHS single family housing loan programs is to provide low- and very low-income people who will live in rural areas with an opportunity to own adequate but modest, decent, safe, and sanitary dwellings and related facilities. The section 502 program offers persons who do not currently own adequate housing, and who cannot obtain other credit, the opportunity to acquire, build, rehabilitate, improve, or relocate dwellings in rural areas. The section 504 program offers loans to very low-income homeowners who cannot obtain other credit to repair or rehabilitate their properties. The section 504 program also offers grants to homeowners age 62 or older who cannot obtain a loan to correct health and safety hazards or to make the unit accessible to household members with disabilities.

§ 3550.3 Civil rights.

RHS will administer its programs fairly, and in accordance with both the letter and the spirit of all equal opportunity and fair housing legislation and applicable executive orders. Loans, grants, services, and benefits provided under this part shall not be denied to any person based on race, color, national origin, sex, religion, marital status, familial status, age, physical or mental disability, receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.). All activities under this part shall be accomplished in accordance with the Fair Housing Act (42 U.S.C. 3601-3620), Executive Order 11246, and Executive Order 11063, as amended by Executive Order 12259, as applicable. The civil rights compliance requirements for RHS are in 7 CFR part 1901, subpart E. The nondicrimination requirements also originate from the Equal Credit Opportunity Act (ECOA), 15 USC 1601 as amended and its Regulation B, 12 CFR 202, as amended.

§ 3550.4 Reviews and appeals.

Whenever RHS makes a decision that is adverse to a participant, RHS will provide the participant with written notice of such adverse decision and the participant's rights to a USDA National Appeals Division hearing in accordance with 7 CFR part 11. Any adverse decision, whether appealable or non-appealable may be reviewed by the next-level RHS supervisor.

§ 3550.5 Environmental requirements.

(a) Policy. RHS will consider environmental quality as equal with economic, social, and other relevant factors in program development and decision-making processes. RHS will take into account potential environmental impacts of proposed projects by working with RHS applicants, other federal agencies, Indian tribes, State and local governments, and interested citizens and organizations in order to formulate actions that advance the program's goals in a manner that will protect, enhance, and restore environmental quality.

(b) Regulatory references. Processing and servicing actions under this part will be done in accordance with the requirements provided in 7 CFR part 1940, subpart G which addresses environmental requirements and 7 CFR part 1924, subpart A, which addresses lead-based paint.

§ 3550.6 State law or state supplement.

State and local laws and regulations, and the laws of federally recognized Indian tribes, may affect RHS implementation of certain provisions of this regulation, for example, with respect to the treatment of liens, construction, or environmental policies. Supplemental guidance may be issued in the case of any conflict or significant differences.

§ 3550.7 Demonstration programs.

From time to time, RHS may authorize limited demonstration programs. The purpose of these demonstration programs is to test new approaches to offering housing under the statutory authority granted to the Secretary. Therefore, such demonstration programs may not be consistent with some of the provisions contained in this part. However, any program requirements that are statutory will remain in effect. Demonstration programs will be clearly identified as such.

§ 3550.8 Exception authority.

An RHS official may request, and the Administrator or designee may make, an exception to any requirement or provision of this part or address any omission of this part that is consistent with the applicable statute if the Administrator determines that application of the requirement or provision, or failure to take action in the case of an omission, would adversely affect the Government's interest.

§ 3550.9 Conflict of interest.

(a) Objective. It is the objective of RHS to maintain the highest standards of honesty, integrity, and impartiality by employees. To reduce the potential for employee conflict of interest, all processing, approval, servicing, or review activity will be conducted in accordance with 7 CFR part 1900, subpart D by RHS employees who:

(1) Are not themselves the applicant or borrower;

(2) Are not members of the family or close known relatives of the applicant or borrower;

(3) Do not have an immediate working relationship with the applicant or borrower, the employee related to the applicant or borrower, or the employee who would normally conduct the activity; or

(4) Do not have a business or close personal association with the applicant or borrower.

(b) Applicant or borrower responsibility. The applicant or borrower must disclose any known relationship or association with an RHS employee when such information is requested.

(c) RHS employee responsibility. An RHS employee must disclose any known relationship or association with a recipient, regardless of whether the relationship or association is known to others. RHS employees or members of their families may not purchase a Real Estate Owned (REO) property, security property from a borrower, or security property at a foreclosure sale. Loan closing agents who have been involved with a particular property, as well as members of their families, are also precluded from purchasing such properties.

§ 3550.10 Definitions.

Acceleration. Demand for immediate repayment of the entire balance of a debt if the security instruments are breached.

Adjusted income. Used to determine whether an applicant is income-eligible. Adjusted income provides for deductions to account for varying household circumstances and expenses. See § 3550.54 for a complete description of adjusted income.

Adjustment. An agreement to release a debtor from liability generally upon receipt of an initial lump sum representing the maximum amount the debtor can afford to pay and periodic additional payments over a period of up to 5 years.

Amortized payment. Equal monthly payments under a fully amortized mortgage loan that provides for the scheduled payment of interest and principal over the term of the loan.

Applicant. An adult member of the household who will be responsible for repayment of the loan.

Assumption. The procedure whereby the transferee becomes liable for all or part of the debt of the transferor.

Borrower. A recipient who is indebted under the section 502 or 504 programs.

Cancellation. A decision to cease collection activities and release the debtor from personal liability for any remaining amounts owed.

Compromise. An agreement to release a debtor from liability upon receipt of a specified lump sum that is less than the total amount due.

Conditional commitment. A determination that a proposed dwelling will qualify as a program-eligible property. The conditional commitment does not reserve funds, nor does it ensure that a program-eligible applicant will be available to buy the dwelling.

Cosigner. An individual or an entity that joins in the execution of a promissory note to compensate for any deficiency in the applicant's repayment ability. The cosigner becomes jointly liable to comply with the terms of the promissory note in the event of the borrower's default, but is not entitled to any interest in the security or borrower rights.

Cross-collateralized loan. A situation in which a single property secures both RHS and Farm Service Agency loans.

Custodial property. Borrower-owned real property that serves as security for a loan that has been taken into possession by the Agency to protect the Government’s interest.

Daily simple interest. A method of establishing borrower payments based on daily interest charged on the outstanding principal balance of the loan. Principal is reduced by the amount of payment in excess of the accrued interest.

Dealer-contractor. A person, firm, partnership, or corporation in the business of selling and servicing manufactured homes and developing sites for manufactured homes. A person, firm, partnership, or corporation not capable of providing the complete service is not eligible to be a dealer-contractor.

Debt instrument. A collective term encompassing obligating documents for a loan, including any applicable promissory note, assumption agreement, or grant agreement.

Deferred mortgage payments. A subsidy available to eligible, very low-income borrowers of up to 25 percent of their principal and interest payments at 1 percent for up to 15 years. The deferred amounts are subject to recapture on sale or nonoccupancy.

Deficient housing. A dwelling that lacks complete plumbing; lacks adequate heating; is dilapidated or structurally unsound; has an overcrowding situation that will be corrected with loan funds; or that is otherwise uninhabitable, unsafe, or poses a health or environmental threat to the occupant or others.

Elderly family. An elderly family consists of one of the following:

(1) A person who is the head, spouse, or sole member of a family and who is 62 years of age or older, or who is disabled, and is an applicant or borrower;

(2) Two or more persons who are living together, at least 1 of whom is age 62 or older, or disabled, and who is an applicant or borrower; or

(3) In the case of a family where the deceased borrower or spouse was at least 62 years old or disabled, the surviving household member shall continue to be classified as an elderly family for the purpose of determining adjusted income, even though the surviving members may not meet the definition of elderly family on their own, *provided*:

(i) They occupied the dwelling with the deceased family member at the time of the death;

(ii) If one of the surviving family members is the spouse of the deceased family member, the family shall be classified as an elderly family only until the remarriage of the surviving spouse; and

(iii) At the time of the death of the deceased family member, the dwelling was financed under title V of the Housing Act of 1949, as amended.

Escrow account. An account to which the borrower contributes monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs.

Existing dwelling or unit. A dwelling that has either been previously owner-occupied or has been completed for more than 1 year as evidenced by an occupancy permit, certificate of occupancy or similar document issued by the local authority.

False information. Information that the recipient knew was incorrect or should have known was incorrect that was provided or omitted for the purposes of obtaining assistance for which the recipient was not eligible.

Full-time student. A person who carries at least the minimum number of credit hours considered to be full-time by college or vocational school in which the person is enrolled.

Hazard. A condition of the property that jeopardizes the health or safety of the occupants or members of the community, that does not make it unfit for habitation. (See also the definition of major hazard in this section.)

Household. All persons expected to be living in the dwelling, except for live-in aids, foster children, and foster adults.

Housing Act of 1949, as amended. The Act which provides the authority for the direct single family housing programs. It is codified at 42 U.S.C. 1471, et seq.

HUD. The U.S. Department of Housing and Urban Development.

Inaccurate information. Incorrect information inadvertently provided, used, or omitted without the intent to obtain benefits for which the recipient was not eligible.

Indian reservation. All land located within the limits of any Indian reservation under the jurisdiction of the United States notwithstanding the issuance of any patent and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments, the titles to which have not been extinguished, if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

Interest credit. A payment subsidy available to certain eligible section 502 borrowers that reduces the effective interest rate of a loan (see § 3550.68(d)). Borrowers receiving interest credit will continue to receive it on all current and future loans for as long as they remain eligible for and continue to receive a subsidy. Borrowers who cease to be eligible for interest credit can never receive interest credit again, but may receive payment assistance if they again qualify for a payment subsidy.

Junior lien. A security instrument or a judgment against the security property to which the RHS debt instrument is superior.

Legal alien. For the purposes of this part, legal alien refers to any person lawfully admitted to the country who meets the criteria in section 214 of the Housing and Community Development Act of 1980, 42 U.S.C. 1436a.

Leveraged loan. An affordable housing product loan or grant to an Agency borrower property, closed simultaneously with an RHS loan. Affordable leveraged loans are characterized by long term (not less than 30 years), amortized payments with a note interest rate equal to or less than 3 percent.

Live-in aide. A person who lives with an elderly or disabled person and is essential to that person's care and well-being, not obligated for the person's support, and would not be living in the unit except to provide the support services.

Low income. An adjusted income that is greater than the HUD established very low-income limit, but that does not exceed the HUD established low-income limit (generally 80 percent of median income adjusted for household size) for the county or Metropolitan Statistical Area where the property is or will be located.

Major hazard. A condition so severe that it makes the property unfit for habitation. (See also the definition of hazard in this section.)

Manufactured home. A structure that is built to Federally Manufactured Home Construction and Safety Standards and RHS Thermal Performance Standards. It is transportable in 1 or more sections, which in the traveling mode is 10-body feet (3.048 meters) or more in width, and when erected on site is 400 or more square feet (37.16 square meters), and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. It is designed and constructed for permanent occupancy by a single family and contains permanent eating, cooking, sleeping, and sanitary facilities. The plumbing, heating, and electrical systems are contained in the structure. A permanent foundation is required.

Market value. The value of the property as determined by a current appraisal, RHS may authorize the use of a Broker's Price Opinion or similar instrument to determine market value in limited servicing situations.

Mobile home. A manufactured unit often referred to as a "trailer," designed to be used as a dwelling, but built prior to the enactment of the Housing and Community Development Act of 1980 (Pub. L. 96-399) enacted October 8, 1980.

Moderate income. An adjusted income that is greater than the low-income limit, but that does not exceed the HUD established low-income limit by more than $5,500.

Modest housing. A property that is considered modest for the area, with a market value that does not exceed the applicable maximum loan limit as established by RHS in accordance with §3550.63. In addition, the property must not be designed for income producing activities nor have an in-ground swimming pool.

Modular or panelized home. Housing, constructed of one or more factory-built sections or panels, which, when completed, meets or exceed the requirements of the recognized development standards (model building codes) for site built housing, and which is designed to be permanently connected to a site-built foundation.

Moratorium. A period of up to 2 years during which scheduled payments are not required, but are subject to repayment at a later date.

Mortgage. A form of security instrument or consensual lien on real property including a real estate mortgage or a deed of trust.

Net family assets. The value of assets available to a household that could be used towards housing costs. Net family assets are considered in the calculation of annual income and are used to determine whether the household must make additional cash contributions to improve or purchase the property.

Net recovery value. The market value of the security property minus anticipated expenses of liquidation, acquisition, and sale as determined by RHS.

New dwelling or unit. A dwelling that is to be constructed, or a dwelling that is less than 1 year old as evidenced by an occupancy permit, certificate of occupancy or similar document issued by the local authority and has never been occupied.

Nonprogram (NP) interest rate. The interest rate offered by RHS for loans made on NP terms.

NP property. Property that does not meet the program eligibility requirements outlined in §§ 3550.56 and 3550.57.

NP terms. Credit terms available from RHS when the applicant or property is not program-eligible.

Offset. Deductions to pay a debt owed to RHS from a borrower's retirement benefits, salary, income tax refund, or payments from other federal agencies to the borrower. Deductions from retirement benefits and salary generally apply only to current and former federal employees.

Participant. For the purpose of reviews and appeals, a participant is any individual or entity who has applied for, or whose right to participate in or receive a payment, loan, or other benefit is affected by an RHS decision.

Payment assistance. A payment subsidy available to eligible section 502 borrowers that reduces the effective interest rate of a loan (see § 3550.68(c)). Borrowers eligible for a payment subsidy receive payment assistance unless they are currently eligible for and receive interest credit. There are two methods of payment assistance. Payment Assistance Method 1 is found at §3550.68(c)(2). Payment Assistance Method 2 is found at §3550.68(c)(1).

Payment subsidy. A general term for subsidies which reduce the borrower's scheduled payment. It refers to either payment assistance or interest credit.

Person with disability. Any person who has a physical or mental impairment that substantially limits one or more major life activities, including functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, has a record of such an impairment, or is regarded as having such an impairment.

PITI ratio. The amount paid by the borrower for principal, interest, taxes, and insurance (PITI), divided by repayment income.

Principal reduction attributed to subsidy (PRAS). Accelerated principal reduction that can occur when a borrower receives a reduced interest rate through a payment subsidy.

Prior lien. A security instrument or a judgment against the security property that is superior to the RHS debt instrument.

Program-eligible applicant. Any applicant meeting the eligibility requirements described in §3550.53.

Program-eligible property. A property eligible to be financed under this part, as determined by the criteria listed in §§3550.56 through 3550.59.

Program terms. Credit terms that are available only to program-eligible applicants for program-eligible properties.

Property. The land, dwelling, and related facilities for which the applicant will use RHS assistance.

Protective advances. Costs incurred by the Agency to protect the security interest of the Government that are charged to the borrower's account.

Real estate taxes. Taxes and the annual portion of assessments estimated to be due and payable on the property, reduced by any available tax exemption.

Recapture amount. An amount of subsidy to be repaid by the borrower upon disposition or nonoccupancy of the property.

Recipient. Any applicant, borrower, or grant recipient who applies for or receives assistance under the section 502 or 504 programs.

REO. The acronym for "Real Estate Owned." It refers to property for which RHS holds title.

Repayment income. Used to determine whether an applicant has the ability to make monthly loan payments. Repayment income includes amounts excluded for the purpose of determining adjusted income. See § 3550.54 for a complete description.

RHS. The Rural Housing Service of the U.S. Department of Agriculture, or its successor agency, formerly the Rural Housing and Community Development Service (RHCDS), a successor agency to the Farmers Home Administration (FmHA).

RHS employee. Any employee of RHS, or any employee of the Rural Development mission area who carries out grant or loan origination or servicing functions for the section 502 or 504 programs.

RHS interest rate. The unsubsidized interest rate offered by RHS for loans made on program terms.

Rural area: A rural area is:

(1) Open country which is not part of or associated with an urban area.

(2) Any town, village, city, or place, including the immediate adjacent densely settled area, which is not part of or associated with an urban area and which:

(i) Has a population not in excess of 10,000 if it is rural in character, or

(ii) Has a population in excess of 10,000 but not in excess of 20,000, is not contained within a Metropolitan Statistical Area, and has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of HUD.

(3) An area classified as a rural area prior to October 1, 1990, (even if within a Metropolitan Statistical Area), with a population exceeding 10,000, but not in excess of 25,000, which is rural in character, and has a serious lack of mortgage credit for low- and moderate-income families. This is effective through receipt of census data for the year 2010.

Rural Development. A mission area within USDA which includes RHS, Rural Utilities Service (RUS), and Rural Business-Cooperative Service (RBS).

Scheduled payment. The monthly or annual installment on a promissory note plus escrow (if required), as modified by any payment subsidy agreement, delinquency workout agreement, other documented agreements between RHS and the borrower, or protective advances.

Secured loan. A loan that is collateralized by property so that in the event of a default on the loan, the property may be sold to satisfy the debt.

Security property. All the property that serves as collateral for an RHS loan.

Subsidy. Interest credit, payment assistance, or deferred mortgage assistance received by a borrower under the section 502 or 504 programs.

Total debt ratio. The amount paid by the borrower for PITI and any recurring monthly debt, divided by repayment income.

Unauthorized assistance. Any loan, payment subsidy, deferred mortgage payment, or grant for which there was no regulatory authorization or for which the recipient was not eligible.

U.S. citizen. An individual who resides as a citizen in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands.

USDA. The United States Department of Agriculture.

Unsecured loan. A loan evidenced only by the borrower's promissory note.

Value appreciation. The current market value of the property minus: the balance due prior lienholders, the unpaid balance of the RHS debt, unreimbursed closing costs (if any), principal reduction, the original equity (if any) of the borrower, and the value added by capital improvements.

Very low income. An adjusted income that does not exceed the HUD-established very low-income limit (generally 50 percent of median income adjusted for household size) for the county or the Metropolitan Statistical Area where the property is or will be located.

Veterans preference. A preference extended to any person applying for a loan or grant under this part who served on active duty and has been discharged or released from the active forces on conditions other than dishonorable from the United States Army, Navy, Air Force, Marine Corps, or Coast Guard. The preference applies to the serviceperson, or the family of a deceased serviceperson who died in service before the termination of such war or such period or era. The applicable timeframes are:

(1) During the period of April 6, 1917, through March 31, 1921;

(2) During the period of December 7, 1941, through December 31, 1946;

(3) During the period of June 27, 1950, through January 31, 1955;

(4) For a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975; or

(5) During the period beginning August 2, 1990, and ending the date prescribed by Presidential Proclamation or law.

§ 3550.11 State Director Assessment of Homeowner Education.

(a) State Director's will make an assessment of the availability of certified homeowner education in their respective states and maintain an annually updated listing of providers and their reasonable costs.

(b)The order of preference for homeowner education formats is as follows:

(1) Classroom; one-on-one counseling; or interactive video conference.

(2) If none of the formats in paragraph (b)(1) of this section is reasonably available; as determined under §3550.53, then the applicant may use interactive home-study or interactive telephone counseling of at least four hours duration.

(3) If none of the formats in paragraphs (b)(1) and (b)(2) of this section is reasonably available as determined under § 3550.53, then the applicant may use on-line counseling to meet the homeownership education requirement.

(c) Homeownership education must include a letter or certificate of completion and be provided by homeownership education counselors that are certified by any of the following:

(1) The Department of Housing and Urban Development (HUD);

(2) NeighborWorks America (NWA);

(3) The National Federation of Housing Counselors (NFHC) ;

(4) National American Indian Housing Council (NAIHC); or

(5) The State Housing Finance Agency or other qualified organization approved by the State Director.

(d) The provider will issue a letter or certificate of completion to document that the borrower has satisfactory knowledge of these minimum topics:

(1) Preparing for homeownership (evaluate readiness to go from rental to homeownership),

(2) Budgeting (pre and post-purchase),

(3) Credit counseling,

(4) Shopping for a home,

(5) Lender differences (predatory lending),

(6) Obtaining a mortgage (mortgage process, different types of mortgages),

(7) Loan closing (closing process, documentation, closing costs),

(8) Post-occupancy counseling (delinquency and foreclosure prevention),

(9) Life as a homeowner (homeowner warranties, maintenance and repairs).

(e) The provider may tailor the homeownership education training to the needs of the borrower to ensure satisfactory knowledge of the topics listed in paragraph (d) of this section.

§§ 3550.12 - 3550.49 [Reserved]

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§ 3550.50 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1 1/2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Subpart B - Section 502 Origination

§ 3550.51 Program objectives.

Section 502 of the Housing Act of 1949, as amended authorizes the Rural Housing Service (RHS) to provide financing to help low- and very low-income persons who cannot obtain credit from other sources obtain adequate housing in rural areas. Resources for the section 502 program are limited, and therefore, applicants are required to use section 502 funds in conjunction with funding or financing from other sources, if feasible. Sections 3550.52 through 3550.73 set forth the requirements for originating loans on program terms. Section 3550.74 describes the differences for originating loans on nonprogram (NP) terms.

§ 3550.52 Loan purposes.

Section 502 funds may be used to buy, build, rehabilitate, improve, or relocate an eligible dwelling and provide related facilities for use by the borrower as a permanent residence. In limited circumstances section 502 funds may be used to refinance existing debt.

(a) Purchases from existing RHS borrowers. To purchase a property currently financed by an RHS loan, the new borrower must assume the existing RHS indebtedness. Section 502 funds may be used to provide additional financing or make repairs. Loan funds also may be used to permit a remaining borrower to purchase the equity of a departing co-borrower.

(b) Refinancing non-RHS loans. Debt from an existing non-RHS loan may be refinanced if the existing debt is secured by a lien against the property, RHS will have a first lien position on the security property after refinancing, and:

(1) In the case of loans for existing dwellings, if:

(i) Due to circumstances beyond the applicant's control, the applicant is in danger of losing the property, the debt is over $5,000 and the debt was incurred for eligible program purposes prior to loan application or was a

protective advance made by the mortgagee for items covered by the loan to be refinanced, including accrued interest, insurance premiums, real estate tax advances, or preliminary foreclosure costs; or

(ii) If a loan of $5,000 or more is necessary for repairs to correct major deficiencies and make the dwelling decent, safe and sanitary and refinancing is necessary for the borrower to show repayment ability, regardless of the delinquency.

(2) In the case of loans for a building site without a dwelling, if:

(i) The debt to be refinanced was incurred for the sole purpose of purchasing the site,

(ii) The applicant is unable to acquire adequate housing without refinancing, and

(iii)The RHS loan will include funds to construct an appropriate dwelling on the site for the applicant's use.

(3) Debts incurred after the date of RHS loan application but before closing may be refinanced if the costs are incurred for eligible loan purposes and any construction work conforms to the standards specified in this part.

(c) Refinancing RHS debt. Under limited circumstances, an existing RHS loan may be refinanced in accordance with § 3550.204 to allow the borrower to receive payment assistance.

(d) Eligible costs. Improvements financed with loan funds must be on land which, after closing, is part of the security property. In addition to acquisition, construction, repairs, or the cost of relocating a dwelling, loan funds may be used to pay for:

(1) Reasonable expenses related to obtaining the loan, including legal, architectural and engineering, technical, title clearance, and loan closing fees; and appraisal, surveying, environmental, tax monitoring, and other technical services; and personal liability insurance fees for Mutual Self-Help borrowers.

(2) The cost of providing special design features or equipment when necessary because of a physical disability of the applicant or a member of the household.

(3) Reasonable connection fees, assessments, or the pro rata installment costs for utilities such as water, sewer, electricity, and gas for which the borrower is liable and which are not paid from other funds.

(4) Reasonable and customary lender charges and fees if the RHS loan is being made in combination with a leveraged loan.

(5) Real estate taxes that are due and payable on the property at the time of closing and for the establishment of escrow accounts for real estate taxes, hazard and flood insurance premiums, and related costs.

(6) Fees to public and private nonprofit organizations that are tax exempt under the Internal Revenue Code for the development and packaging of loan applications, except for loans related to the purchase of an RHS Real Estate Owned (REO) property.

(7) Purchasing and installing essential equipment in the dwelling, including ranges, refrigerators, washers or dryers, if these items are normally sold with dwellings in the area and if the purchase of these items is not the primary purpose of the loans.

(8) Purchasing and installing approved energy savings measures and approved furnaces and space heaters that use fuel that is commonly used, economical, and dependably available.

(9) Providing site preparation, including grading, foundation plantings, seeding or sodding, trees, walks, yard fences, and driveways to a building site.

(10) Reasonable fees for homeownership education as determined by the State Director under §3550.11 of this subpart. Such fees may be added to the loan amount in excess of the area loan limit and appraised value of the house.

(e) Loan restrictions. Loan funds may not be used to:

(1) Purchase an existing manufactured home, or for any other purposes prohibited in § 3550.73(b).

(2) Purchase or improve income-producing land or buildings to be used principally for income-producing purposes.

(3) Pay fees, commissions, or charges to for-profit entities related to loan packaging or referral of prospective applicants to RHS.

§ 3550.53 Eligibility requirements.

(a) Income eligibility. At the time of loan approval, the household's adjusted income must not exceed the applicable low-income limit for the area, and at closing, must not exceed the applicable moderate-income limit for the area (see § 3550.54).

(b) Citizenship status. The applicant must be a United States citizen or a noncitizen who qualifies as a legal alien as defined in § 3550.10.

(c) Primary residence. Applicants must agree to and have the ability to occupy the dwelling on a permanent basis.

(1) Because of the probability of transfer, loans will not be approved for military personnel on active duty unless the applicant will be discharged within a reasonable period of time.

(2) Because of the probability of moves after graduation, loans will not be approved for a full-time student unless the applicant intends to make the home a permanent residence and there are reasonable prospects that employment will be available in the area after graduation.

(3) If the home is being constructed or renovated an adult member of the household must be available to make inspections and authorize progress payments as the dwelling is being constructed.

(d) Eligibility of current homeowners. Current homeowners are not eligible for initial loans except as follows:

(1) Current homeowners may receive RHS loan funds to:

(i) refinance an existing loan under the conditions outlined in § 3550.52(b);

(ii) purchase a new dwelling if the current dwelling is deficient housing as defined in § 3550.10; or

(iii) make necessary repairs to the property which is financed with an affordable non-RHS loan.

(2) Current homeowners with an RHS loan may receive a subsequent loan.

(e) Legal capacity. Applicants must have the legal capacity to incur the loan obligation, or have a court appointed guardian or conservator who is empowered to obligate the applicant in real estate matters.

(f) Suspension or debarment. Applications from applicants who have been suspended or debarred from participation in federal programs will be handled in accordance with 7 CFR part 3017.

(g) Repayment ability. Repayment ability means applicants must demonstrate adequate and dependably available income. The determination of income dependability will include consideration of the applicant's past history of annual income.

(1) A very low-income applicant is considered to have repayment ability when the monthly amount required for payment of principal, interest, taxes, and insurance (PITI) does not exceed 29 percent of the applicant's repayment income, and the monthly amount required to pay PITI plus recurring monthly debts does not exceed 41 percent of the applicant's repayment income.

(2) A low-income applicant is considered to have repayment ability when the monthly amount required for payment of PITI does not exceed 33 percent of the applicant's repayment income, and the monthly amount required to pay PITI plus recurring monthly debts does not exceed 41 percent of repayment income.

(3) Repayment ratios may exceed the percentages specified in paragraphs (h)(1) and (h)(2) of this section if the applicant has demonstrated an ability to meet higher debt obligations, or if RHS determines, based on other compensating factors, that the household has a higher repayment ability.

(4) If an applicant does not meet the repayment ability requirements, the applicant can have another party join the application as a cosigner.

(5) If an applicant does not meet the repayment ability requirements, the applicant can have other household members join the application.

(h) Credit qualifications. Applicants must be unable to secure the necessary credit from other sources on terms and conditions that the applicant could reasonably be expected to fulfill. Applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. An applicant with an outstanding judgment obtained by the United States in a federal court, other than the United States Tax Court, is not eligible for a loan or grant from RHS.

(1) Indicators of unacceptable credit include:

(i) Payments on any account where the amount of the delinquency exceeded one installment for more than 30 days within the last 12 months.

(ii) Payments on any account which was delinquent for more than 30 days on two or more occasions within a 12-month period.

(iii) A foreclosure which has been completed within the last 36 months.

(iv) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.

(v) A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding or has been outstanding within the last 12 months, except for those excluded in paragraph (h)(2) of this section.

(vi) Two or more rent payments paid 30 or more days late within the last 2 years. If the applicant has experienced no other credit problems in the past 2 years, only 1 year of rent history will be evaluated. Rent payment history requirements may be waived if the RHS loan will reduce shelter costs significantly and contribute to an improved repayment ability.

(vii) Outstanding collection accounts with a record of irregular payment with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last 6 months.

(viii) Non-agency debts written off within the last 36 months unless paid in full at least 12 months ago.

(ix) Agency debts that were debt settled within the last 36 months or are being considered for debt settlement.

(x) Delinquency on a federal debt.

(2) The following will not be considered indicators of unacceptable credit:

(i) A bankruptcy in which debts were discharged more than 36 months prior to the date of application or where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application.

(ii) A judgment satisfied more than 12 months before the date of application.

(3) When an application is rejected because of unacceptable credit, the applicant will be informed of the reason and source of information.

(i) Homeownership education. Applicants who are first-time homebuyers must agree to provide documentation, in the form of a completion certificate or letter from the provider, that a homeownership education course from a certified provider under § 3550.11 has been successfully completed as defined by the provider prior to loan closing. Requests for exceptions to the homeowner education requirement will be reviewed and granted on an individual case-by-case basis. The State Director may grant an exception the homeownership education requirement for individuals in geographic areas within the State where the State Director verifies that certified homeownership education is not reasonably available in the local area in any of the formats listed in § 3550.11(b). Whether such homeownership education is reasonably available will be determined based on factors including, but not limited to: distance, travel time, geographic obstacles, and cost. On a case-by-case basis, the State Director also may grant an exception, provided the applicant borrower documents a special need, such as a disability, that would unduly impede completing a homeownership course in a reasonably available format.

7 CFR Part 3550

§ 3550.54 Calculation of income and assets.

(a) Repayment income. Repayment income is the annual amount of income from all sources that are expected to be received by those household members who are parties to the promissory note, except for any student financial aid received by these household members for tuition, fees, books, equipment, materials, and transportation. Repayment income is used to determine the household's ability to repay a loan.

(b) Annual income. Annual income is the income of all household members from all sources except those listed in (b)(1) through (b)(12) of this section:

(1) earned income of persons under the age of 18 unless they are a borrower or a spouse of a member of the household,

(2) payments received for the care of foster children or foster adults,

(3) amounts granted for or in reimbursement of the cost of medical expenses,

(4) earnings of each full-time student 18 years of age or older, except the head of household or spouse, that are in excess of any amount determined pursuant to section 501(b)(5) of the Housing Act of 1949, as amended,

(5) temporary, nonrecurring, or sporadic income (including gifts),

(6) lump sum additions to family assets such as inheritances; capital gains; insurance payments under health, accident, or worker's compensation policies; settlements for personal or property losses; and deferred periodic payments of supplemental security income and Social Security benefits received in a lump sum,

(7) any earned income tax credit,

(8) adoption assistance in excess of any amount determined pursuant to section 501(b)(5) of the Housing Act of 1949, as amended,

(9) amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling,

(10) amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home,

(11) the full amount of any student financial aid, and

(12) any other revenue exempted by a Federal statue; a list of which is available from any Rural Development office.

(c) Adjusted income. Adjusted income is used to determine program eligibility for section 502 and 504 and the amount of payment subsidy for which the household qualifies under

section 502. Adjusted income is annual income as defined in paragraph (b) of this section less any of the following deductions for which the household is eligible.

(1) For each household member, except the head of household or spouse, who is under 18 years of age, 18 years of age or older with a disability, or a full-time student, the amount determined pursuant to section 501(b)(5) of the Housing Act of 1949, as amended.

(2) A deduction of reasonable expenses for the care of minor 12 years of age or under that:

(i) enable a family member to work or to further a member's education,

(ii) are not reimbursed or paid by another source, and

(iii) in the case of expenses to enable a family member to work do not exceed the amount of income earned by the family member enabled to work.

(3) Expenses related to the care of household members with disabilities that:

(i) enable a family member to work,

(ii) are not reimbursed from insurance or another source, and

(iii) are in excess of three percent of the household's annual income.

(4) For any elderly family, a deduction in the amount determined pursuant to section 501(b)(5) of the Housing Act of 1949, as amended.

(5) For elderly households only, a deduction for household medical expenses that are not reimbursed from insurance or another source and which in combination with any expenses related to the care of household members with disabilities described in paragraph (c)(3) of this section, are in excess of three percent of the household's annual income.

(d) Net family assets. Income from net family assets must be included in the calculation of annual and repayment income. Net family assets also are considered in determining whether a down payment is required.

(1) Net family assets include the cash value of:

(i) equity in real property, other than the dwelling or site,

(ii) cash on hand and funds in savings or checking accounts,

(iii) amounts in trust accounts that are available to the household,

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(iv) stocks, bonds, and other forms of capital investments including life insurance policies and retirement plans that are accessible to the applicant without retiring or terminating employment,

(v) lump sum receipts such as lottery winnings, capital gains, inheritances,

(vi) personal property held as an investment, and

(vii) any value, in excess of the consideration received, for any business or household assets disposed for less than fair market value during the 2 years preceding the income determination. The value of assets disposed of for less than fair market value shall not be considered if they were disposed of as a result of foreclosure or bankruptcy or a divorce or separation settlement.

(2) Net family assets do not include:

(i) interest in American Indian trust land,

(ii) cash on hand which will be used to reduce the amount of the loan,

(iii) the value of necessary items of personal property,

(iv) assets that are part of the business, trade, or farming operation of any member of the household who is actively engaged in such operation,

(v) the value of an irrevocable trust fund or any other trust over which no member of the household has control.

§ 3550.55 Applications.

(a) Application submissions. All persons applying for RHS loans must file a complete written application in a format specified by RHS. Applications will be accepted even when funds are not available.

(b) Application processing.

(1) Incomplete applications will be returned to the applicant specifying in writing the additional information that is needed to make the application complete.

(2) An applicant may voluntarily withdraw an application at any time.

(3) RHS may periodically request in writing that applicants reconfirm their interest in obtaining a loan. RHS may withdraw the application of any applicant who does not respond within the specified timeframe.

(4) Applicants who are eligible will be notified in writing. If additional information becomes available that indicates that the original eligibility determination may have

been incorrect, or that circumstances have changed, RHS may reconsider the application and the applicant may be required to submit additional information.

(5) Applicants who are ineligible will be notified in writing and provided with the specific reasons for the rejection.

(c) Selection for processing. When funding is not sufficient to serve all program-eligible applicants, applications will be selected for processing using the funding priorities specified in this paragraph. Within priority categories, applications will be processed in the order that the completed applications are received. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veterans preference. After selection for processing, loans are funded on a first-come, first-served basis.

(1) First priority will be given to existing customers who request subsequent loans to correct health and safety hazards.

(2) Second priority will be given to loans related to the sale of an REO property or the transfer of an existing RHS financed property.

(3) Third priority will be given to applicants facing housing related hardships including applicants who have been living in deficient housing for more than 6 months, current homeowners in danger of losing a property through foreclosure, and other circumstances determined by RHS on a case-by-case basis to constitute a hardship.

(4) Fourth priority will be given to applicants seeking, loans for the construction of dwellings in an RHS-approved Mutual Self-Help project or loans that will leverage funding or financing from other sources.

(5) Applications from applicants who do not qualify for priority consideration in paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section will be selected for processing after all applications with priority status have been processed.

(d) Applicant timeframe. RHS will specify a reasonable timeframe within which eligible applicants selected for processing must provide the information needed to underwrite the loan.

§ 3550.56 Site requirements.

(a) Rural areas. Loans may be made only in rural areas designated by RHS. If an area designation is changed to non-rural:

(1) New conditional commitments will be made and existing conditional commitments will be honored only in conjunction with an applicant for a section 502 loan who applied for assistance before the area designation changed.

(2) REO property sales and transfers with assumption may be processed.

(3) Subsequent loans may be made either in conjunction with a transfer with assumption of an RHS loan or to repair properties that have RHS loans.

(b) Site standards. Sites must be developed in accordance with 7 CFR part 1924, subpart C and any applicable standards imposed by a State or local government.

(1) The site must not be large enough to subdivide into more than one site under existing local zoning ordinances,

(2) The site must not include farm service buildings, though small outbuildings such as a storage shed may be included, and

(3) The value of the site must not exceed 30 percent of the "as improved" market value of the property. The State Director may waive the 30 percent requirement in high cost areas where other lenders permit a higher percentage.

§ 3550.57 Dwelling requirements.

(a) Modest dwelling. The property must be one that is considered modest for the area, must not be designed for income providing purposes, must not have an in-ground swimming pool or have a market value in excess of the applicable maximum loan limit, in accordance with §3550.63, unless RHS authorizes an exception under this paragraph. An exception may be granted on a case-by-case basis to accommodate the specific needs of an applicant, such as to serve exceptionally large households or to provide reasonable accommodation for a household member with a disability. Any additional loan amount approved must not exceed the amount required to address the specific need.

(b) New dwellings. Construction must meet the requirements in 7 CFR part 1924, subpart A.

(c) Existing dwellings. Existing dwellings must be structurally sound; functionally adequate; in good repair, or to be placed in good repair with loan funds; have adequate electrical, heating, plumbing, water, and wastewater disposal systems; and be free of termites and other wood damaging pests and organisms.

§ 3550.58 Ownership requirements.

After the loan is closed, the borrower must have an acceptable interest in the property as evidenced by one of the following.

(a) Fee-simple ownership. Acceptable fee-simple ownership is evidenced by a fully marketable title with a deed vesting a fee-simple interest in the property to the borrower.

(b) Secure leasehold interest. A written lease is required. To be acceptable, a leasehold interest must have an unexpired term that is at least 150 percent of the term of the mortgage, unless the loan is guaranteed, in which case the unexpired term of the lease must be at least 2 years longer than the loan term. In no case may the unexpired term be less than 25 years.

(c) Life estate interest. To be acceptable a life estate interest must provide the borrower with rights of present possession, control, and beneficial use of the property. Generally, persons with any remainder interests must be signatories to the mortgage. All of the remainder interests need not be included in the mortgage to the extent that one or more of the persons holding remainder interests are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or if the remainder interests are divided among such a large number of people that it is not practical to obtain the signatures of all of the remainder interests. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(d) Undivided interest. All legally competent co-owners will be required to sign the mortgage. When one or more of the co-owners are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or the ownership interests are divided among so large a number of co-owners that it is not practical for all of their interests to be mortgaged, their interests not exceeding 50 percent may be excluded from the security requirements. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(e) Possessory rights. Acceptable forms of ownership include possessory rights on an American Indian reservation or State-owned land and the interest of an American Indian in land held in severalty under trust patents or deeds containing restrictions against alienation, provided that land in trust or restricted status will remain in trust or restricted status.

§ 3550.59 Security requirements.

Before approving any loan, RHS will impose requirements to secure its interests.

(a) Adequate security. A loan will be considered adequately secured only when all of the following requirements are met:

(1) RHS obtains at closing a mortgage on all ownership interests in the security property or the requirements of § 3550.58 are satisfied.

(2) No liens prior to the RHS mortgage exist at the time of closing and no junior liens are likely to be taken immediately subsequent to or at the time of closing, unless the other liens are taken as part of a leveraging strategy or the RHS loan is essential for repairs and the senior lien secures an affordable non-RHS loan. Liens junior to the RHS lien may be allowed at loan closing if the junior lien will not interfere with the purpose or repayment of the RHS loan. When the junior lien involves a grant or a forgivable affordable housing product, the total debt may exceed the market value by the amount of the forgivable loan or grant up to 5 percent.

(3) The provisions of 7 CFR part 1927, subpart B regarding title clearance and the use of legal services have been followed.

(4) Existing and proposed property improvements are totally on the site and do not encroach on adjoining property.

(b) Guaranteed payment. Mortgage insurance guaranteeing payment from a Government agency or Indian tribe is adequate security.

§ 3550.60 Escrow account.

RHS may require that customers deposit into an escrow account amounts necessary to ensure that the account will contain sufficient funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs when they are due in accordance with the Real Estate Settlement and Procedures Act (RESPA) of 1974 (12 U.S.C. 2601, et seq.) and section 501(e) of the Housing Act of 1949, as amended.

§ 3550.61 Insurance.

(a) Borrower responsibility. Any borrower with a secured indebtedness in excess of $15,000 at the time of loan approval must furnish and continually maintain hazard insurance on the security property, with companies, in amounts, and on terms and conditions acceptable to RHS including a “loss payable clause” payable to RHS to protect the Government’s interest.

(b) Amount. The borrower is required to insure the dwelling and any other essential buildings in an amount equal to the insurable value of the dwelling and other essential buildings. However, in cases where the borrower’s outstanding secured indebtedness is less than the insurable value of the dwelling and other essential buildings, the borrower may elect a lower coverage provided it is not less than the outstanding secured indebtedness. If the borrower fails, or is unable, to insure the secured property, RHS will force place insurance and charge the cost to the borrower’s account. Force place insurance only provides insurance coverage to the Agency and does not provide any direct coverage or benefit to the borrower. The amount of the lender-placed coverage generally will be the property’s last known insured value.

(c) Flood insurance. Flood insurance must be obtained and maintained for the life of the loan for all property located in a Special Flood Hazard Area (SFHA) as determined by the Federal Emergency Management Agency (FEMA). RHS actions will be consistent with 7 CFR part 1806, subpart B which addressed flood insurance requirements. If flood insurance through FEMA’s National Flood Insurance Program is not available in an SFHA, the property is not eligible for federal financial assistance.

(d) Losses.

(1) Loss deductible clauses for required insurance coverage may not exceed the generally accepted minimums based on current industry standards and local market conditions.

(2) Customers must immediately notify RHS of any loss or damage to insured property and collect the amount of the loss from the insurance company.

(3) Depending on the amount of the loss, RHS may require that loss payments be supervised. All repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in accordance with 7 CFR part 1924, subpart A.

(4) When insurance funds remain after all repairs, replacements, and other authorized disbursements have been made, the funds will be applied in the following order:

(i) Prior liens, including delinquent property taxes.

(ii) Past-due amounts.

(iii) Protective advances due.

(iv) Released to the customer if the RHS debt is adequately secured.

(5) If a loss occurs when insurance is not in force, the borrower is responsible for making the needed repairs or replacements and ensuring that the insurance is reinstated on the property.

(6) If the borrower is not financially able to make the repairs, RHS may take one of the following actions:

(i) Make a subsequent loan for repairs.

(ii) Subordinate the RHS lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) Permit the borrower to obtain funds secured by a junior lien from another source.

(iv) Make a protective advance to protect the Government's interest.

(v) Accelerate the account.

§ 3550.62 Appraisals.

(a) Requirement. An appraisal is required when the debt to be secured exceeds $15,000 or whenever RHS determines that it is necessary to establish the adequacy of the security. Appraisals must be made in accordance with the Uniform Standards of Professional Appraisal Practices. When other real estate is taken as additional security, it will be appraised if it represents a substantial portion of the security for the loan.

(b) Fees. RHS will charge a fee for each loan application that requires an appraisal, except the appraisal fee is not required on appraisals done for subsequent loans needed to make minimal, essential repairs or in cases where another party provides an appraisal which is acceptable to RHS. Fees collected in connection with a dwelling constructed under an approved conditional commitment will be paid to the contractor at closing to offset the cost of the real estate appraisal that is included in the conditional commitment fee.

§ 3550.63 Maximum loan limit.

Total secured indebtedness must not exceed the area loan limit or market value limitations specified in paragraphs (a) or (b) of this section, whichever is lower. Any loan amount for the RHS appraisal, tax monitoring fee, and the charge to establish an escrow account for taxes and insurance will not be subject to the limitations specified below. This section does not apply to loans on NP terms.

(a) Area loan limit. (1) The area loan limit is the maximum value of the property RHS will finance in a given locality. Subject to the following, this limit is based on cost data plus the market value of an improved lot, or the State Housing Authority limits, whichever the State Director determines most appropriately reflects the value of modest housing for the area:

(i) The cost of the structure is based upon the cost to construct a modest home and is obtained by RHS from a nationally recognized residential cost provider.

(ii) The market value of an improved site (without the dwelling) is based upon current sales data for typical housing sites and reasonable and typical costs of site improvements.

(iii) The applicable State Housing Authority limit will only be considered if it is within 10 percent of the cost data plus the market value of an improved lot.

(iv) The area loan limit may not exceed the applicable local HUD section 203(b) limit.

(v) All area loan limit data will be updated at least annually and is available in any Rural Development office.

(2) The maximum loan limit calculated under paragraph (a)(1) will be reduced in the following situations:

(i) When the applicant owns the site or is purchasing the site at a sales price below market value, the market value of the lot will be deducted from the maximum loan limit, and

(ii) When an applicant is receiving a housing grant or other form of affordable housing assistance for purposes other than closing costs, the amount(s) of such grants and affordable housing assistance will be deducted from the maximum loan limit.

(3) The maximum loan limit for self-help housing will be calculated by adding the total of the market value of the lot (including reasonable and typical costs of site development), the cost of construction, and the value of sweat equity. The total of these three factors cannot exceed the limit established in paragraph (a)(1) of this section.

(b) Market value limitation.

(1) The market value limitation is 100 percent of market value for existing housing and for new dwellings for which RHS will receive adequate documentation of construction quality and the source of such documentation is acceptable to RHS.

(2) The market value limitation is 90 percent of market value for new dwellings for which adequate documentation of construction quality is not available.

(3) The market value limitation can be increased by:

(i) Up to one percent, if RHS makes a subsequent loan for closing costs only, in conjunction with the sale of an REO property or an assumption.

(ii) The amount necessary to make a subsequent loan for repairs necessary to protect the Government's interest, and reasonable closing costs.

(iii) The amount necessary to refinance an existing borrower's RHS loans, plus closing costs associated with the new loan.

§ 3550.64 Down payment.

Elderly families must use any net family assets in excess of $20,000 towards a down payment on the property. Non-elderly families must use net family assets in excess of $15,000 towards a down payment on the property. Applicants may contribute assets in addition to the required down payment to further reduce the amount to be financed.

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§ 3550.66 Interest rate.

Loans will be written using the applicable RHS interest rate in effect at loan approval or loan closing, whichever is lower. Information about current interest rates is available in any Rural Development office.

§ 3550.67 Repayment period.

Loans will be scheduled for repayment over a period that does not exceed the expected useful life of the property as a dwelling. The loan repayment period will not exceed:

(a) Thirty-three years in all cases except as noted in paragraphs (b), (c), and (d) of this section.

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(b) Thirty-eight years:

(1) For initial loans, or subsequent loans made in conjunction with an assumption, if the applicant's adjusted income does not exceed 60 percent of the area adjusted median income and the longer term is necessary to show repayment ability.

(2) For subsequent loans not made in conjunction with an assumption if the applicant's initial loan was for a period of 38 years, the applicant's adjusted income at the time the subsequent loan is approved does not exceed 60 percent of area adjusted median income, and the longer terms is necessary to show repayment ability.

(c) Ten years for loans not exceeding $2,500.

(d) Thirty years for manufactured homes.

§ 3550.68 Payment subsidies.

RHS administers three types of payment subsidies: interest credit, payment assistance method 1 and payment assistance method 2. Payment subsidies are subject to recapture when the borrower transfers title or ceases to occupy the property.

(a) Eligibility for payment subsidy.

(1) Applicants or borrowers who receive loans on program terms are eligible to receive payment subsidy if they personally occupy the property and have adjusted income at or below the applicable moderate-income limit.

(2) Payment subsidy may be granted for initial loans or subsequent loans made in conjunction with an assumption only if the term of the loan is at least 25 years or more.

(3) Payment subsidy may be granted for subsequent loans not made in conjunction with an assumption if the initial loan was for a term of 25 years or more.

(b) Determining type of payment subsidy.

(1) A borrower currently receiving interest credit will continue to receive it for the initial loan and for any subsequent loan for as long as the borrower is eligible for and remains on interest credit.

(2) A borrower currently receiving payment assistance using payment assistance method 1 will continue to receive it for the initial loan and for any subsequent loan for as long as the borrower is eligible for and remains on payment assistance method 1.

(3) A borrower who has never received payment subsidy, or who has stopped receiving interest credit or payment assistance method 1, and at a later date again qualifies for a payment subsidy, will receive payment assistance method 2.

(4) A borrower may not opt to change payment assistance methods.

(c) Calculation of payment assistance. Regardless of the method used, payment assistance may not exceed the amount necessary if the loan were amortized at an interest rate of 1 percent.

(1) Payment Assistance Method 2. The amount of payment assistance granted is the lesser of the difference between:

(i) The annualized promissory note installments for the combined RHS loan and eligible leveraged loans plus the cost of taxes and insurance less 24 percent of the borrower's adjusted income, or

(ii) The annualized promissory note installments for the RHS loan less the amount the borrower would pay if the loan were amortized at an interest rate of 1 percent.

(2) Payment Assistance Method 1. The amount of payment assistance granted is the difference between the annualized note rate installment as prescribed on the promissory note and the lesser of:

(i) The floor payment, which is defined as a minimum percentage of adjusted income that the borrower must pay for PITI: 22 percent for very low-income borrowers, 24 percent for low-income borrowers with adjusted income below 65 percent of area adjusted median, and 26 percent for low-income borrowers with adjusted incomes between 65 and 80 percent of area adjusted median; or

(ii) The annualized note rate installment and the payment at the equivalent interest rate, which is determined by a comparison of the borrower's adjusted income to the adjusted median income for the area in which the security property is located. The following chart is used to determine the equivalent interest rate.

PERCENTAGE OF MEDIAN INCOME AND THE EQUIVALENT INTEREST RATE

When the applicant's adjusted income is:

Equal to or more than:	BUT less than:	THEN the equivalent interest rate is*
00 %	50.01 of adjusted median income	1 %
50.01 %	55 of adjusted median income	2 %
55 %	60 of adjusted median income	3 %
60 %	65 of adjusted median income	4 %
65 %	70 of adjusted median income	5 %
70 %	75 of adjusted median income	6 %
75 %	80.01 of adjusted median income	6.5%
80.01 %	90 of adjusted median income	7.5 %
90 %	100 of adjusted median income	8.5 %
100 %	110 % of adjusted median income	9 %
110 %	or more than adjusted median income	9.5 %

* Or note rate, whichever is less; in no case will the equivalent interest rate be less than one percent.

(d) Calculation of interest credit. The amount of interest credit granted is the difference between the sum of the annual installments due at the promissory note interest rate and the greater of:

(1) Twenty percent of the borrower's adjusted income less the cost of real estate taxes and insurance, or

(2) The amount the borrower would pay if the loan were amortized at an interest rate of one percent.

(e) Annual review. The borrower's income will be reviewed annually to determine whether the borrower is eligible for continued payment subsidy. The borrower must notify RHS whenever an adult member of the household changes or obtains employment, there is a change in household composition, or if income increases by at least 10 percent so that RHS can determine whether a review of the borrower's circumstances is required.

§ 3550.69 Deferred mortgage payments.

For qualified borrowers, RHS may defer up to 25 percent of the monthly principal and interest payment at 1 percent for up to 15 years. This assistance may be granted only at initial loan closing and is reviewed annually. Deferred mortgage payments are subject to recapture when the borrower transfers title or ceases to occupy the property.

(a) Eligibility. In order to qualify for deferred mortgage payments, all of the following must be true:

(1) The applicant's adjusted income at the time of initial loan approval does not exceed the applicable very low-income limits.

(2) The loan term is 38 years, or 30 years for a manufactured home.

(3) The applicant's payments for principal and interest, calculated at a one percent interest rate for the maximum allowable term, plus estimated costs for taxes and insurance exceeds:

(i) For applicants receiving payment assistance, 29 percent of the applicant's repayment income by more than $10 per month, or

(ii) For applicants receiving interest credit, 20 percent of adjusted income by more than $10 per month.

(b) Amount and terms.

(1) The amount of the mortgage payment to be deferred will be the difference between the applicant's payment for principal and interest, calculated at one percent interest for the maximum allowable term, plus estimated costs for taxes and insurance and:

(i) For applicants receiving payment assistance, 29 percent of the applicant's repayment income.

(ii) For applicants receiving interest credit, 20 percent of adjusted income.

(2) Deferred mortgage payment agreements will be effective for a 12-month period.

(3) Deferred mortgage assistance may be continued for up to 15 years after loan closing. Once a borrower becomes ineligible for deferred mortgage assistance, the borrower can never again receive deferred mortgage assistance.

(c) Annual review. The borrower's income, taxes, and insurance will be reviewed annually to determine eligibility for continued deferred mortgage assistance. The borrower must notify RHS whenever an adult member of the household changes or obtains employment or if income increases by at least 10 percent so that RHS can determine whether a review of the borrower's circumstances is required.

§ 3550.70 Conditional commitments.

A conditional commitment is a determination by RHS that a dwelling offered for sale will be acceptable for purchase by a qualified RHS loan applicant if it is built or rehabilitated in accordance with RHS-approved plans, specifications, and regulations and priced within the lesser of the property's appraised value or the applicable maximum loan limit. The conditional commitment does not reserve funds, does not guarantee funding, and does not ensure that an eligible loan applicant will be available to buy the dwelling.

(a) Eligibility. To be eligible to request a conditional commitment, the builder, dealer-contractor, or seller must:

(1) Have an adequate ownership interest in the property, as defined in § 3550.58, prior to the beginning of any planned construction;

(2) Have the experience and ability to complete any proposed work in a competent and professional manner;

(3) Have the legal capacity to enter into the required agreements;

(4) Be financially responsible and have the ability to finance or obtain financing for any proposed construction or rehabilitation; and

(5) Comply with the requirements of 7 CFR part 1901, subpart E and all applicable laws, regulations, and Executive Orders relating to equal opportunity. Anyone who receives 5 or more conditional commitments during a 12-month period must obtain RHS approval of an affirmative marketing plan.

(b) Limitations. Conditional commitments for new or substantially rehabilitated dwellings will not be issued after construction has started. RHS may limit the total number of conditional commitments issued in any locality based on market demand.

(c) Commitment period. A conditional commitment will be valid for 12 months from the date of issuance. The commitment may be extended for up to an additional 6 months if there are unexpected delays in construction caused by such factors as bad weather, materials shortages, or marketing difficulties. Conditional commitments may be canceled if construction does not begin within 60 days after the commitment is issued.

(d) Conditional commitments involving packaging of applications. A conditional commitment may be made to a seller, builder, or dealer-contractor who packages an RHS loan application for a prospective purchaser. In cases where the dwelling is to be constructed for sale to a specific eligible applicant, all of the following conditions must be met:

(1) The conditional commitment will not be approved until the applicant's loan has been approved;

(2) Construction will not begin until loan funds are obligated for the loan. Exceptions may be made when it appears likely that funding will be forth comining and as loan as the RHS lien priority is not jeopardized. The sales agreement must indicate that the loan has been approved but not funded and must provide that if the loan is not closed within 90 days of the date of approval, the contractor may terminate the sales agreement and sell the property to another party. If the sales agreement is terminated, the conditional commitment will be honored for another eligible loan applicant for the remaining period of the commitment; and

(3) The RHS loan will be closed only after the dwelling is constructed or the required rehabilitation completed and final inspection has been made.

(e) Fees. An application for a conditional commitment must include payment of the conditional commitment fee. The fee will be refunded if for any reason preliminary inspection of the property or investigation of the conditional commitment applicant indicates that a conditional commitment will not be issued. Application fees will not be refunded for any property on which the required appraisal has been made.

(f) Failure of conditional commitment applicant or dwelling to qualify. The conditional commitment applicant will be informed if the conditional commitment is denied. Conditional commitments will be canceled if the property does not meet program requirements.

(g) Changes in plans, specifications, or commitment price. The holder of the conditional commitment must request approval for changes in plans, specifications, and commitment price. RHS may approve the changes if the following requirements are met:

(1) The property price does not exceed the maximum loan limit and increases in costs are due to factors beyond the control of the commitment holder, and

(2) The requested changes are justifiable and appropriate.

(h) Builder's warranty. The builder or seller, as appropriate, must execute either an RHS-approved "Builder's Warranty," or provide a 10-year insured warranty when construction is completed or the loan is closed.

§ 3550.71 Special requirements for condominiums.

RHS loans may be made for condominium units under the following conditions:

(a) The unit is in a project approved or accepted by U.S. Department of Housing and Urban Development (HUD), the Federal National Mortgage Association (Fannie Mae), or the Federal Home Loan Mortgage Corporation (Freddie Mac).

(b) The condominium project complies with the requirements of the condominium enabling statute and all other applicable laws. Any right of first refusal in the condominium documents will not impair the rights of RHS to:

(1) Foreclose or take title to a condominium unit pursuant to the remedies in the mortgage;

(2) Accept a deed in lieu of foreclosure in the event of default by a mortgagor; and

(3) Sell or lease a unit acquired by RHS.

(c) If RHS obtains title to a condominium unit pursuant to the remedies in its mortgage or through foreclosure, RHS will not be liable for more than 6 months of the unit's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the unit by RHS. The homeowners association's lien priority may include costs of collecting unpaid dues.

(d) In case of condemnation or substantial loss to the units or common elements of the condominium project, unless at least two-thirds of the first mortgagees or unit owners of the individual condominium units have given their consent, the homeowners association may not:

(1) By act or omission seek to abandon or terminate the condominium project;

(2) Change the pro rata interest or obligations of any condominium unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each condominium unit in the common elements;

(3) Partition or subdivide any condominium unit;

(4) Seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements by act or omission (the granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the condominium project is not a transfer within the meaning of this clause); or

(5) Use hazard insurance proceeds for losses to any condominium property (whether units or common elements) for other than the repair, replacement, or reconstruction of the condominium property.

(e) All taxes, assessments, and charges that may become liens prior to the first mortgage under local law relate only to the individual condominium units and not to the condominium project as a whole.

(f) No provision of the condominium documents gives a condominium unit owner or any other party priority over any rights of RHS as first or second mortgagee of the condominium unit pursuant to its mortgage in the case of a payment to the unit owner of insurance proceeds or condemnation awards for losses to or taking of condominium units or common elements.

(g) If the condominium project is on a leasehold the underlying lease provides adequate security of tenure as described in § 3550.58(b).

(h) At least 70 percent of the units have been sold. Multiple purchases of condominium units by one owner are counted as one sale when determining if the sales requirement has been met.

(i) No more than 15 percent of the unit owners are more than 1 month delinquent in payment of homeowners association dues or assessments at the time the RHS loan is closed.

§ 3550.72 Community land trusts.

Eligible dwellings located on land owned by a community land trust may be financed if:

(a) The loan meets all the requirements of this subpart, and

(b) Any restrictions, imposed by the community land trust on the property or applicant are:

(1) Reviewed and accepted by RHS before loan closing, and

(2) Automatically and permanently terminated upon foreclosure or acceptance by RHS of a deed in lieu of foreclosure.

§ 3550.73 Manufactured homes.

With the exception of the restrictions and additional requirements contained in this section, section 502 loans on manufactured homes are subject to the same conditions as all other section 502 loans.

(a) Eligible costs. In addition to the eligible costs described in § 3550.52(d), RHS may finance the following activities related to manufactured homes when a real estate mortgage covers both the unit and the site:

(1) Purchase of an eligible unit, transportation, and set-up costs, and purchase of an eligible site if not already owned by the applicant.

(2) Site development work in accordance with 7 CFR part 1924, subpart A.

(3) Subsequent loans in conjunction with an assumption or sale of an REO property, or

(4) Subsequent loans for repairs of units financed under section 502.

(b) Loan restrictions. In addition to the loan restrictions described in § 3550.52(e), RHS may not use loan funds to finance:

(1) An existing unit and site unless it is already financed with a section 502 loan or is an RHS REO property.

(2) The purchase of a site without also financing the unit.

(3) Alteration or remodeling of the unit when the initial loan is made.

(4) Furniture, including movable articles of personal property such as drapes, beds, bedding, chairs, sofas, divans, lamps, tables, televisions, radios, stereo sets, and other similar items of personal property. Furniture does not include wall-to-wall carpeting, refrigerators, ovens, ranges, washing machines, clothes dryers, heating or cooling equipment, or other similar items.

(c) Dealer-contractors. No loans will be made on a manufactured home sold by any entity that is not an approved dealer-contractor that will provide complete sales, service, and site development services.

(d) Loan term. The maximum term of a loan on a manufactured home is 30 years.

(e) Construction and development. Unit construction, site development and set-up must conform to the Federal Manufactured Home Construction and Safety Standards (FMHCSS) and 7 CFR part 1924, subpart A. Development under the Mutual Self-Help and borrower construction methods is not permitted for manufactured homes.

(f) Contract requirements. The dealer-contractor must sign a construction contract, as specified in 7 CFR § 1924.6 which will cover both the unit and site development work. The use of multi-contracts is prohibited. A dealer-contractor may use subcontractors if the dealer-contractor is solely responsible for all work under the contract. Payment for all work will be in accordance with 7 CFR part 1924, subpart A, except no payment will be made for materials or property stored on site (e.g., payment for a unit will be made only after it is permanently attached to the foundation).

(g) Lien release requirements. All persons furnishing materials or labor in connection with the contract except the manufacturer of the unit must sign a Release by Claimants document, as specified in 7 CFR part 1924, subpart A. The manufacturer of the unit must furnish an executed manufacturer's certificate of origin to verify that the unit is free and clear of all legal encumbrances.

(h) Warranty requirements. The dealer-contractor must provide a warranty in accordance with the provisions of 7 CFR § 1924.12. The warranty must identify the unit by serial number. The dealer-contractor must certify that the unit substantially complies with the plans and specifications and the manufactured home has sustained no hidden damage during transportation and, if manufactured in separate sections, that the sections were properly joined and sealed according to the manufacturer's specifications. The dealer-contractor will also furnish the applicant with a copy of all manufacturer's warranties.

§ 3550.74 Nonprogram loans.

NP terms may be extended to applicants who do not qualify for program credit, or for properties that do not qualify as program properties, when it is in the best interest of the Government. NP loans are originated and serviced according to the requirements for program loans except as indicated in this section.

(a) Purpose. NP terms may be offered to expedite:

(1) Sale of an REO property.

(2) Assumption of an existing program loan on new rates and terms. If additional funds are required to purchase the property, the applicant must obtain them from another source.

(3) Conversion of a program loan that has received unauthorized assistance.

(4) Continuation of a loan on a portion of a security property when the remainder is being transferred and the RHS debt is not paid in full.

(b) Terms.

(1) Rate and term:

(i) For an applicant who intends to occupy the property, the term will not exceed 30 years.

(ii) For other applicants, the term will not exceed 10 years. If more favorable terms are necessary to facilitate the sale, the loan may be amortized over a period of up to 20 years with payment in full due not later than 10 years from the date of closing.

(iii) An applicant with a NP loan under paragraph (b)(1)(i) of this section who wishes to retain the property and purchase a new property with RHS credit must purchase the second property according to the terms of paragraph (b)(1)(ii) of this section, even if the new property will serve as the applicant's principal residence.

(2) NP loans are written at the NP interest rate in effect at the time of loan approval.

(3) NP borrowers are not eligible for payment assistance or a moratorium.

(c) Additional requirements.

(1) NP applicants other than public bodies and nonprofit organizations must pay a nonrefundable application fee.

(2) NP applicants must make a down payment based upon the purchase price and whether the applicant intends to personally occupy the property or use it for other purposes.

(3) NP applicants cannot finance loan closing costs or escrow, tax service, or appraisal fees.

(d) Reduced restrictions.

(1) NP applicants need not be unable to obtain other credit in order to receive a NP loan and are not required to refinance with private credit when they are able to do so.

(2) NP applicants are not required to occupy the property.

(3) NP applicants are not subject to leasing restrictions.

(e) Waiver of costs. When the purpose of the loan is the conversion of a program loan that has received unauthorized assistance or continuation of a loan on a portion of a security property when the remainder is being transferred, the application fee, appraisal fee, and down payment may be waived.

§§ 3550.75 - 3550.99 [Reserved]

§ 3550.100 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1 1/2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Subpart C - Section 504 Origination and Section 306C Water and Waste Disposal Grants

§ 3550.101 Program objectives.

This subpart sets forth policies for administering loans and grants under section 504(a) of title V of the Housing Act of 1949, as amended. Section 504 loans and grants are intended to help very low-income owner-occupants in rural areas repair their properties. This subpart also covers Water and Waste Disposal grants to individuals authorized by Section 306C(b) of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926c).

§ 3550.102 Grant and loan purposes.

(a) Grant funds. Grant funds may be used only to pay costs for repairs and improvements that will remove identified health and safety hazards or to repair or remodel dwellings to make them accessible and useable for household members with disabilities. Unused grant funds must be returned to the Rural Housing Service (RHS).

(b) Loan funds. Loan funds may be used to make general repairs and improvements to properties or to remove health and safety hazards, as long as the dwelling remains modest in size and design.

(c) Eligibility of mobile and manufactured homes. Repairs necessary to remove health and safety hazards may be made to mobile or manufactured homes provided:

(1) The applicant owns the home and site and has occupied the home prior to filing an application with RHS, and

(2) The mobile or manufactured home is on a permanent foundation or will be put on a permanent foundation with section 504 funds.

(d) Eligible costs. In addition to construction costs to make necessary repairs and improvements, loan and grant funds may be used for:

(1) Reasonable expenses related to obtaining the loan or grant, including legal, architectural and engineering, title clearance, and loan closing fees; and appraisal, surveying, environmental, tax monitoring, and other technical services.

(2) The cost of providing special design features or equipment when necessary because of a physical disability of the applicant or a member of the household.

(3) Reasonable connection fees, assessments, or the pro rata installation costs for utilities such as water, sewer, electricity, and gas for which the borrower is liable and which are not paid from other funds.

(4) Real estate taxes that are due and payable on the property at the time of closing and for the establishment of escrow accounts for real estate taxes, hazard and flood insurance premiums, and related costs.

(5) Fees to public and private nonprofit organizations that are tax exempt under the Internal Revenue Code for the development and packaging of applications.

(e) Restrictions on uses of loan or grant funds. Section 504 funds may not be used to:

(1) Assist in the construction of a new dwelling.

(2) Make repairs to a dwelling in such poor condition that when the repairs are completed, the dwelling will continue to have major hazards.

(3) Move a mobile home or manufactured home from one site to another.

(4) Pay for off-site improvements except for the necessary installation and assessment costs for utilities.

(5) Refinance any debt or obligation of the applicant incurred before the date of application, except for the installation and assessment costs of utilities.

(6) Pay fees, commission, or charges to for-profit entities related to loan packaging or referral of prospective applicants to RHS.

§ 3550.103 Eligibility requirements.

To be eligible, applicants must meet the following requirements:

(a) Owner-occupant. Applicants must own, as described in § 3550.107, and occupy the dwelling.

(b) Age (grant only). To be eligible for grant assistance, an applicant must be 62 years of age or older at the time of application.

(c) Income eligibility. At the time of loan or grant approval, the household's adjusted income must not exceed the applicable very low-income limit. Section 3550.54 provides a detailed discussion of the calculation of adjusted income.

(d) Citizenship status. The applicant must be a U.S. citizen or a non-citizen who qualifies as a legal alien, as defined in § 3550.10.

(e) Need and use of personal resources. Applicants must be unable to obtain financial assistance at reasonable terms and conditions from non-RHS credit or grant sources and lack the personal resources to meet their needs. In cases where the household is experiencing medical expenses in excess of three percent of the household's income, this requirement may be waived or modified. Elderly families must use any net family assets in excess of $20,000 to reduce their section 504 request. Non-elderly families must use any net family assets in excess of $15,000 to reduce their section 504 request. Applicants may contribute assets in excess of the aforementioned amounts to further reduce their request for assistance. The definition of assets for this purpose is net family assets as described in § 3550.54 of subpart B of this part, less the value of the dwelling and a minimum adequate site.

(f) Legal capacity. The applicant must have the legal capacity to incur the loan obligation or have a court appointed guardian or conservator who is empowered to obligate the applicant in real estate matters.

(g) Suspension or debarment. Applications from applicants who have been suspended or debarred from participation in federal programs will be handled in accordance with FmHA Instruction 1940-M (available in any Rural Development office).

(h) Repayment ability (loans only). Applicants must demonstrate adequate repayment ability as supported by a budget.

(1) If an applicant does not meet the repayment ability requirements, the applicant can have another party join the application as a cosigner.

(2) If an applicant does not meet the repayment ability requirements, the applicant can have other household members join the application.

(i) Credit qualifications. Applicants must be unable to secure the necessary credit from other sources under terms and conditions that the applicant could reasonably be expected to fulfill. Loan applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. An applicant with an outstanding judgment obtained by the United States in a federal court, other than the United States Tax Court is not eligible for a loan or grant from RHS.

(1) Indicators of unacceptable credit include:

(i) Payments on any account where the amount of the delinquency exceeded one installment for more than 30 days within the last 12 months.

(ii) Payments on any account which was delinquent for more than 30 days on two or more occasions within a 12-month period.

(iii) Loss of security due to a foreclosure if the foreclosure has been completed within the last 36 months.

(iv) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.

(v) A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding or has been outstanding within the last 12 months, except for those excluded by paragraphs (i)(2)(i) and (i)(2)(ii) of this section.

(vi) Outstanding collection accounts with a record of irregular payment with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last 6 months.

(vii) Non-agency debts written off within the last 36 months or paid in full at least 12 months ago.

(viii) Agency debts that were debt settled within the last 36 months or are being considered for debt settlement.

(ix) Delinquency on a federal debt.

(2) The following will not be considered indicators of unacceptable credit:

(i) A bankruptcy in which debts were discharged more than 36 months prior to the date of application or where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application.

(ii) A non-foreclosure judgment satisfied more than 12 months before the date of application.

(3) When an application is rejected because of unacceptable credit, the applicant will be informed of the reason and source of information.

§ 3550.104 Applications.

(a) Application submissions. All persons applying for section 504 loans or grants must file a complete written application in a format specified by RHS. Applications will be accepted even when funds are not available.

(b) Application processing.

(1) Incomplete applications will be returned to the applicant specifying in writing the additional information that is needed to make the application complete.

(2) An applicant may voluntarily withdraw an application at any time.

(3) RHS may periodically request in writing that applicants reconfirm their interest in obtaining a loan or grant. RHS may withdraw the application of any applicant who does not respond within the specified timeframe.

(4) Applicants who are eligible will be notified in writing. If additional information becomes available that indicates that the original eligibility determination may have been in error or that circumstances have changed, RHS may reconsider the application and the applicant may be required to submit additional information.

(5) Applicants who are ineligible will be notified in writing and provided with the specific reasons for the rejection.

(c) Processing priorities. When funding is not sufficient to serve all eligible applicants, applications for assistance to remove health and safety hazards will receive priority for funding. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veterans preference. After selection for processing, requests for assistance are funded on a first-come, first-served basis.

§ 3550.105 Site requirements.

(a) Rural areas. Loans may be made only in rural areas designated by RHS. If an area designation is changed to nonrural an existing RHS borrower may receive 504 assistance.

(b) Not subdividable. The site must not be large enough to subdivide into more than one site under existing local zoning ordinances.

§ 3550.106 Dwelling requirements.

(a) Modest dwelling. The property must be one that is considered modest for the area, must not be designed for income producing purposes, have an in-ground swimming pool, or have a market value in excess of the applicable maximum loan limit, in accordance with § 3550.63.

(b) Post-repair condition. Dwellings repaired with section 504 funds need not be brought to the agency development standards of 7 CFR part 1924, subpart A, nor must all existing hazards be removed. However, the dwelling may not continue to have major health or safety hazards.

(c) Construction standards. All work must be completed in accordance with local construction codes and standards. When potentially hazardous equipment or materials are being installed, all materials and installations must be in accordance with the applicable standards in 7 CFR part 1924, subpart A.

§ 3550.107 Ownership requirements.

The applicant must have an acceptable ownership interest in the property as evidenced by one of the following:

(a) Full fee ownership. Acceptable full fee ownership is evidenced by a fully marketable title with a deed vesting a fee interest in the property to the applicant.

(b) Secure leasehold interest. A written lease is required. For loans, the unexpired portion of the lease must not be less than 2 years beyond the term of the promissory note. For grants, the remaining lease period must be at least 5 years. A leasehold for mutual help housing financed by U.S. Department of Housing and Urban Development (HUD) on Indian lands requires no minimum lease period and constitutes acceptable ownership.

(c) Life estate interest. To be acceptable, a life estate interest must provide the applicant with rights of present possession, control, and beneficial use of the property. For secured loans, generally persons with any remainder interests must be signatories to the mortgage. All of the remainder interests need not be included in the mortgage to the extent that one or more of the persons holding remainder interests are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or if the remainder interests are divided among such a large number of people that it is not practical to obtain the signatures of all of the remainder interests. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(d) Undivided interest. An undivided interest is acceptable if there is no reason to believe that the applicant's position as an owner-occupant will be jeopardized as a result of the improvements to be made, and:

(1) In the case of unsecured loans or grants, if any co-owners living or planning to live in the dwelling sign the repayment agreement.

(2) In the case of a secured loan, when one or more of the co-owners are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or the ownership interests are divided among so large a number of co-owners that it is not practical for all of their interests to be mortgaged, their interests not exceeding 50 percent may be excluded from the security requirements. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(e) Possessory rights. Acceptable forms of ownership include possessory right on an American Indian reservation or State-owned land and the interest of an American Indian in land held severalty under trust patents or deeds containing restrictions against alienation, provided that land in trust or restricted status will remain in trust or restricted status.

(f) Land purchase contract. A land purchase contract is acceptable if the applicant is current on all payments, and there is a reasonable likelihood that the applicant will be able to continue meeting the financial obligations of the contract.

(g) Alternative evidence of ownership. If evidence, as described in paragraphs (a) through (e) of this section, is not available, RHS may accept any of the following as evidence of ownership:

(1) Records of the local taxing authority that show the applicant as owner and that demonstrate that real estate taxes for the property are paid by the applicant.

(2) Affidavits by others in the community stating that the applicant has occupied the property as the apparent owner for a period of not less than 10 years, and is generally believed to be the owner.

(3) Any instrument, whether or not recorded, which is commonly accepted as evidence of ownership.

§ 3550.108 Security requirements (loans only).

When the total section 504 indebtedness is $7,500 or more, the property will be secured by a mortgage on the property, leasehold interest, or land purchase contract.

(a) RHS does not require a first lien position, but the total of all debts on the secured property may not exceed the value of the security, except by the amount of any required contributions to an escrow account for taxes and insurance and any required appraisal fee.

(b) Title clearance and the use of legal services generally must be conducted in accordance with 7 CFR part 1927, subpart B. These requirements need not be followed for:

(1) Loans where the total RHS indebtedness is less than $7,500; or

(2) Subsequent loans made for minimal essential repairs necessary to protect the Government's interest.

§ 3550.109 Escrow account (loans only).

RHS may require that borrowers deposit into an escrow account amounts necessary to ensure that the account will contain sufficient funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs when they are due in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) and section 501(e) of the Housing Act of 1949, as amended.

§ 3550.110 Insurance (loans only).

(a) Borrower responsibility. Any borrower with a secured indebtedness in excess of $15,000 at the time of loan approval must furnish and continually maintain hazard insurance on the security property, with companies, in amounts, and on terms and conditions acceptable to RHS including a “loss payable clause” payable to RHS to protect the Government’s interest.

(b) Amount. The borrower is required to insure the dwelling and any other essential buildings in an amount equal to the insurable value of the dwelling and other essential buildings. However, in cases where the borrower’s outstanding secured indebtedness is less than the insurable value of the dwelling and other essential buildings, the borrower may elect a lower coverage provided it is not less than the outstanding secured

indebtedness. If the borrower fails, or is unable, to insure the secured property, RHS will force place insurance and charge the cost to the borrower's account. Force place insurance only provides insurance coverage to the Agency and does not provide any direct coverage or benefit to the borrower. The amount of the lender-placed coverage generally will be the property's last known insured value.

(c) Flood insurance. Flood insurance must be obtained and maintained for the life of the loan for all property located in Special Flood Hazard Areas (SFHA) as determined by the Federal Emergency Management Agency (FEMA). RHS actions will be consistent with 7 CFR part 1806, subpart B which addresses flood insurance requirements. If flood insurance through FEMA's National Flood Insurance Program is not available in a SFHA, the property is not eligible for federal financial assistance.

(d) Losses.

(1) Loss deductible clauses for required insurance coverage may not exceed the generally accepted minimums based on current industry standards and local market conditions.

(2) Borrowers must immediately notify RHS of any loss or damage to insured property and collect the amount of the loss from the insurance company.

(3) RHS may require that loss payments be supervised. All repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in accordance with 7 CFR part 1924, subpart A.

(4) When insurance funds remain after all repairs, replacements, and other authorized disbursements have been made, the funds will be applied in the following order:

(i) Prior liens, including delinquent property taxes.

(ii) Delinquency on the account.

(iii) Advances due for recoverable cost items.

(iv) Released to the borrower if the RHS debt is adequately secured.

(5) If a loss occurs when insurance is not in force, the borrower is responsible for making the needed repairs or replacements and ensuring that the insurance is reinstated on the property.

(6) If the borrower is not financially able to make the repairs, RHS may take one of the following actions:

(i) Make a subsequent loan for repairs.

(ii) Subordinate the RHS lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) Permit the borrower to obtain funds secured by a junior lien from another source.

(iv) Make a protective advance to protect the Government's interest.

(v) Accelerate the account and demand payment in full.

§ 3550.111 Appraisals (loans only).

An appraisal is required when the section 504 debt to be secured exceeds $15,000 or whenever RHS determines that it is necessary to establish the adequacy of the security. RHS may charge an appraisal fee. Appraisals must be made in accordance with the Uniform Standards of Professional Appraisal Practices. When other real estate is taken as additional security it will be appraised if it represents a substantial portion of the security for the loan.

§ 3550.112 Maximum loan and grant.

(a) Maximum loan permitted. The sum of all outstanding section 504 loans to 1 borrower or on 1 dwelling may not exceed $20,000.

(1) Transferees who have assumed a section 504 loan and wish to obtain a subsequent section 504 loan are limited to the difference between the unpaid principal balance of the debt assumed and $20,000.

(2) For a secured loan, the total of all debts on the secured property may not exceed the value of the security, except by the amount of any required appraisal and tax monitoring fees, and the contributions to an escrow account for taxes and insurance.

(b) Maximum loan based upon ability to pay. The maximum loan is limited to the principal balance that can be supported given the amount the applicant has available, as determined by RHS, to repay a loan at 1 percent interest with a 20-year term.

(c) Maximum grant. The lifetime total of the grant assistance to any recipient is $7,500. No grant can be awarded unless the maximum level of loans, as supported by a budget, have been obtained.

§ 3550.113 Rates and terms (loans only).

(a) Interest rate. The interest rate for all section 504 loans will be 1 percent.

(b) Loan term. The repayment period for the loan should generally be as short as possible based on the applicant's repayment ability, and may never exceed 20 years; however loans made in combination with grants must have a term of 20 years.

§ 3550.114 Repayment agreement (grants only).

Grant recipients are required to sign a repayment agreement which specifies that the full amount of the grant must be repaid if the property is sold in less than 3 years from the date the grant agreement was signed.

§ 3550.115 WWD grant program objectives.

The objective of the WWD individual grant program is to facilitate the use of community water and waste disposal systems by the residents of colonias along the border between the U.S. and Mexico. WWD grants are processed the same as Section 504 grants, except as specified in this subpart.

§ 3550.116 Definitions applicable to WWD grants only.

(a) Colonia. Any identifiable community designated in writing by the State or county in which it is located; determined to be a colonia on the basis of objective criteria including lack of a potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing, inadequate roads, and drainage; and existed and was generally recognized as a colonia before October 1, 1989.

(b) Individual. Resident of a colonia located in a rural area.

(c) Rural areas. Includes unincorporated areas and any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States.

(d) System. A community or central water supply or waste disposal system.

(e) WWD. Water and Waste Disposal grants to individuals.

§ 3550.117 WWD grant purposes.

Grant funds may be used to pay the reasonable costs for individuals to:

(a) Extend service lines from the system to their residence.

(b) Connect service lines to residence's plumbing.

(c) Pay reasonable charges or fees for connecting to a system.

(d) Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities. This is limited to one bath tub, sink, commode, kitchen sink, water heater, and outside spigot.

(e) Construction and/or partiting off a portion of the dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.

(f) Pay reasonable costs for closing abandoned septic tanks and water wells when necessary to protect the health and safety of recipients of a grant for a purpose provided in paragraph (a) or (b) of this section and is required by local or State law.

(g) Make improvements to individual's residence when needed to allow the use of the water and/or waste disposal system.

§ 3550.118 Grant restrictions.

(a) Maximum grant. Lifetime assistance to any individual for initial or subsequent Section 306C WWD grants may not exceed a cumulative total of $5,000.

(b) Limitation on use of grant funds. WWD grant funds may not be used to:

(1) Pay any debt or obligation of the grantees other than obligations incurred for purposes listed in § 3550.117.

(2) Pay individuals for their own labor.

§ 3550.119 WWD eligibility requirements.

In addition to the eligibility requirements of § 3550.103, WWD applicants must meet the following requirements:

(a) An applicant need not be 62 years of age or older.

§ 3550.119 (Con.)

(b) Own and occupy a dwelling located in a colonia. Evidence of ownership will be presented as outlined in § 3550.107.

(c) Have a total taxable income from all individuals residing in the household that is below the most recent poverty income guidelines established by the Department of Health and Human Services.

(d) Must not be delinquent on any Federal debt.

(e) The household income must be verified at the time they apply for assistance through verification of employment and benefits. Federal tax returns are used as further verification of household income.

§§ 3550.120 - 3550.149 [Reserved]

§ 3550.150 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1 1/2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Subpart D - Regular Servicing

§ 3550.151 Servicing goals.

This subpart sets forth the Rural Housing Service (RHS) policies for managing the repayment of loans made under sections 502 and 504 of the Housing Act of 1949, as amended.

§ 3550.152 Loan payments.

(a) Payment terms. Unless the loan documents specify other loan repayment terms, borrowers are required to make monthly payments. Borrowers with existing loans specifying annual payments may request conversion to monthly payments, and must convert to a monthly payment schedule before any subsequent loan or new payment assistance is approved. Suitable forms of payment are: check, money order, or bank draft. Borrowers who make cash payments will be assessed a fee to cover the cost of conversion to a money order.

(b) Application of payments. If a borrower makes less than the scheduled payment, the payment is held in suspense and is not applied to the borrower's account. When subsequent payments are received in an amount sufficient to equal a scheduled payment, the amount will be applied in the following order:

(1) Protective advances charged to the account.

(2) Accrued interest due.

(3) Principal due.

(4) Escrow for taxes and insurance.

(c) Multiple loans. When a borrower with multiple loans for the same property makes less than the scheduled payment on all loans, the payment will be applied to the oldest loan and then in declining order of age. Future remittances will be applied beginning with the oldest unpaid installment.

(d) Application of excess payments. Borrowers can elect to make payments in excess of the scheduled amount to be applied to principal, provided there are no outstanding fees.

§ 3550.153 Fees.

RHS may assess reasonable fees including a tax service fee, fees for late payments, and fees for checks returned for insufficient funds.

§ 3550.154 Inspections.

RHS or its agent may make reasonable entries upon and inspections of any property used as security for an RHS loan as necessary to protect the interest of the Government. RHS will give the borrower notice at the time of or prior to an inspection.

§ 3550.155 Escrow account.

Escrow accounts will be administered in accordance with RESPA and section 501(e) of the Housing Act of 1949, as amended.

(a) Upon creation of the escrow account, RHS may require borrowers to deposit funds sufficient to pay taxes and insurance premiums applicable to the mortgage for the period since the last payments were made and to fund a cushion as permitted by RESPA.

(b) Borrowers may elect to escrow at any time during the terms of the loan if the outstanding RHS loan balance is over $2,500.

(c) RHS may require borrowers to escrow in conjunction with any special servicing action.

§ 3550.156 Borrower obligations.

(a) After receiving a loan from RHS, borrowers are expected to meet a variety of obligations outlined in the loan documents. In addition to making timely payments, these obligations include:

(1) Maintaining the security property, and

(2) Maintaining an adequately funded escrow account, or paying real estate taxes, hazard and flood insurance, and other related costs when due.

(b) If a borrower fails to fulfill these obligations, RHS may obtain the needed service and charge the cost to the borrower’s account.

§ 3550.157 Payment subsidy.

(a) Borrowers currently receiving payment subsidy.

(1) RHS will review annually each borrower's eligibility for continued payment subsidy and determine the appropriate level of assistance. To be eligible for payment subsidy renewal, the borrower must also occupy the property.

(2) If the renewal is not completed before the expiration date of the existing agreement, the effective date of the renewal will be either the expiration date of the previous agreement if RHS error caused the delay, or the next due date after the renewal is approved in all other cases.

(3) The borrower must notify RHS whenever an adult member of the household becomes employed or changes employment, there is a change in household composition, or if income increases by at least 10 percent. The household may also report decreases in income. If the change in the household's income will cause the payment for principal and interest to change by at least 10 percent, the household's payment subsidy may be adjusted for a new 12-month period. The new agreement will be effective the due date following the date the borrower's information is verified by RHS.

(b) Borrowers not currently receiving payment subsidy. Payment assistance may be granted to borrowers not currently receiving payment subsidy whose loans were approved on or after August 1, 1968, whose income does not exceed the applicable low-income limit for the area, are personally occupying the RHS financed property, and meet the requirements of § 3550.53 (b), (e), and (f). In general, to receive payment assistance the term of the loan at closing must have been at least 25 years. If an account has been reamortized and the initial term of the loan was at least 25 years, payment assistance may be granted even though the term of the reamortized loan is less than 25 years. Payment assistance may be granted on a subsequent loan for repairs with a term of less than 25 years.

(c) Cancellation of payment subsidy. RHS will cancel a payment subsidy if the borrower does not occupy the property, has sold or transferred title to the property, or is no longer eligible for payment subsidy.

§ 3550.158 Active military duty.

The Soldiers and Sailors Relief Act requires that the interest rate charged a borrower who enters full-time active military duty after a loan is closed not exceed six percent. Active military duty does not include participation in a military reserve or the National Guard unless the borrower is called to active duty.

(a) Amount of assistance. If a borrower qualifies for payment subsidy after reduction of the interest rate to six percent, the amount of payment subsidy received during the period of active military duty will be the difference between the amount due at the subsidized rate for principal and interest and the amount due at a six percent interest rate. The six percent interest rate will be effective with the first payment due after RHS confirms the active military status of the borrower.

(b) Change of active military status. The borrower must notify RHS when he or she is no longer on active military duty. RHS will cancel the six percent interest rate and resume use of the promissory note interest rate. A new payment subsidy agreement may be processed if the borrower is eligible.

§ 3550.159 Borrower actions requiring RHS approval.

(a) Mineral leases. Borrowers who wish to lease mineral rights to a security property must request authorization from RHS. RHS may consent to the lease of mineral rights and subordinate its liens to the lessee's rights and interests in the mineral activity if the security property will remain suitable as a residence and the Government's security interest will not be adversely affected. Subordination of RHS loans to a mineral lease does not entitle the leaseholder to any proceeds from the sale of the security property.

(1) If the proposed activity is likely to decrease the value of the security property, RHS may consent to the lease only if the borrower assigns 100 percent of the income from the lease to RHS to be applied to reduce principal and the rent to be paid is at least equal to the estimated decrease in the market value of the security.

(2) If the proposed activity is not likely to decrease the value of the security property, RHS may consent to the lease if the borrower agrees to use any damage compensation received from the lessee to repair damage to the site or dwelling, or to assign it to RHS to be applied to reduce principal.

(b) Subordination. RHS may subordinate its interests to permit a borrower to defer recapture amounts and refinance the loan, or to obtain a subsequent loan with private credit.

(1) When it is in the best interest of the Government, subordination will be permitted if:

(i) The other lender will verify that the funds will be used for purposes for which an RHS loan could be made,

(ii) The prior lien debt will be on terms and conditions that the borrower can reasonably be expected to meet without jeopardizing repayment of the RHS indebtedness,

(iii) Any proposed development will be planned and performed in accordance with 7 CFR part 1924, subpart A or directed by the other lender in a manner which is consistent with that subpart, and

(iv) An agreement is obtained in writing from the prior lienholder providing that at least 30 days prior written notice will be given to RHS before action to foreclose on the prior lien is initiated.

(2) The total amount of debt permitted when RHS subordinates its interests depends on whether the borrower pays off the RHS loan.

(i) For situations in which the borrower is obtaining a subsequent loan from another source and will not pay off the RHS debt, the prior lien debt plus the unpaid balance of all RHS loans, exclusive of recapture, will not exceed the market value of the security.

(ii) For situations in which RHS is subordinating only a deferred recapture amount, the prior lien debt plus the deferred recapture amount will not exceed the market value of the security.

(c) Partial release of security. RHS may consent to transactions affecting the security, such as sale or exchange of security property or granting of a right-of-way across the security property, and grant a partial release provided:

(1) The compensation is:

(i) For sale of the security property, cash in an amount equal to the value of the security being disposed of or rights granted.

(ii) For exchange of security property, another parcel of property acquired in exchange with value equal to or greater than that being disposed of.

(iii) For granting an easement or right-of-way, benefits derived that are equal to or greater than the value of the security property being disposed of.

(2) An appraisal must be conducted if the latest appraisal is more than 1 year old or if it does not reflect market value and the amount of consideration exceeds $5,000. The appraisal fee will be charged to the borrower.

(3) The security property, after the transaction is completed, will be an adequate but modest, decent, safe, and sanitary dwelling and related facilities.

(4) Repayment of the RHS debt will not be jeopardized.

(5) If applicable, the environmental requirements of 7 CFR part 1940, subpart G are met.

(6) When exchange of all or part of the security is involved, title clearance are obtained before release of the existing security.

(7) Proceeds from the sale of a portion of the security property, granting an easement or right-of-way, damage compensation, and all similar transactions requiring RHS consent, will be used in the following order:

(i) To pay customary and reasonable costs related to the transaction that must be paid by the borrower.

(ii) To be applied on a prior lien debt, if any.

(iii) To be applied to RHS indebtedness or used for improvements to the security property in keeping with purposes and limitations applicable for use of RHS loan funds. Proposed development will be planned and performed in accordance with 7 CFR part 1924, subpart A and supervised to ensure that the proceeds are used as planned.

(d) Lease of security property. A borrower must notify RHS if they lease the property. If the lease is for a term of more than 3 years or contains an option to purchase, RHS may liquidate the loan. During the period of any lease, the borrower is not eligible for a payment subsidy or special servicing benefits.

§ 3550.160 Refinancing with private credit.

(a) Objective. RHS direct loan programs are not intended to supplant or compete with private credit sources. Therefore, borrowers are required to refinance RHS loans with private credit sources when RHS determines that the borrower meets RHS criteria.

(b) Criteria for refinancing with private credit. Borrowers must refinance with private credit when RHS determines that the borrower has the ability to obtain other credit at reasonable rates and terms based on their income, assets, and credit history. Reasonable rates and terms are those commercial rates and terms that borrowers are expected to meet when borrowing for similar purposes. Differences in interest rates and terms between RHS and other lenders will not be an acceptable reason for a borrower to fail to refinance with private credit if the available rates and terms are within the borrower's ability to pay.

(c) Notice of requirement to refinance with private credit. The financial status of all borrowers may be reviewed periodically to determine their ability to refinance with private credit. A borrower's financial status may be reviewed at any time if information becomes available to RHS that indicates that the borrower's circumstances have changed.

(1) A borrower undergoing review is required to supply, within 30 days of a request from RHS, sufficient financial information to enable RHS to determine the borrower's ability to refinance with private credit. Foreclosure action may be initiated against any borrower who fails to respond.

(2) When RHS determines that a borrower has the ability to refinance with private credit, the borrower will be required to refinance within 90 days.

(3) Within 30 days after being notified of the requirement to refinance with private credit, a borrower may contest the RHS decision and provide additional financial information to document an inability to refinance with private credit.

(d) Failure to refinance with private credit.

(1) If the borrower is unable to secure private credit, the borrower must submit written statements and documentation to RHS showing:

(i) The lenders contacted.

(ii) The amount of the loan requested by the borrower and the amount, if any, offered by the lenders.

(iii) The rates and terms offered by the lenders or the specific reasons why other credit is not available.

(iv) The information provided by the borrower to the lenders regarding the purpose of the loan.

(2) If RHS determines that the borrower's submission does not demonstrate the borrower's inability to refinance with private credit, or if the borrower fails to submit the required information, foreclosure may be initiated.

(e) Subordination of recapture amount. RHS may subordinate its interest in any deferred recapture amount to permit a borrower to refinance with private credit. The amount to which the RHS debt will be subordinated may include:

(1) The amount required to repay the RHS debt, exclusive of recapture,

(2) Reasonable closing costs,

(3) Up to one percent of the loan amount for loan servicing costs, if required by the lender, and

(4) The cost of any necessary repairs or improvements to the security property.

(f) Application for additional credit. A borrower who has been asked to refinance with private credit will not be considered for additional credit until the refinancing issue is resolved unless such additional credit is necessary to protect the Government's interest.

§ 3550.161 Final payment.

(a) Payment in full. Full payment of a borrower's account includes repayment of principal and outstanding interest, unauthorized assistance, recapture amounts, and charges made to the borrower's account. Any supervised funds or funds remaining in a borrower's escrow account will be applied to the borrower's account or returned to the borrower.

(b) Release of security instruments. RHS may release security instruments when full payment of all amounts owed has been received and verified. If RHS and the borrower agree to settle the account for less than the full amount owed, the security instruments may be released when all agreed-upon amounts are received and verified. Security instruments will not be released until any deferred recapture amount has been paid in full.

(c) Payoff statements. At the borrower's request, RHS will provide a written statement indicating the amount required to pay the account in full. RHS may charge a fee for statements for the same account if more than 2 statements are requested in any 30 day period.

(d) Suitable forms of payment. Suitable forms of payment are: check, money order, or bank draft. Borrowers who make cash payments will be assessed a fee to cover conversion to a money order.

(e) Recording costs. Recording costs for the release of the mortgage will be the responsibility of the borrower, except where State law requires the mortgagee to record or file the satisfaction.

§ 3550.162 Recapture.

(a) Recapture policy. Borrowers with loans approved or assumed on or after October 1, 1979, will be required to repay subsidy amounts received through payment subsidy or deferred mortgage assistance. Amounts to be recaptured are due and payable when the borrower transfers title or ceases to occupy the property.

(b) Amount to be recaptured.

(1) The maximum amount to be recaptured is the amount of principal reduction attributed to subsidy and the lesser of:

(i) the amount of subsidy received, or

(ii) 50 percent of the value appreciation.

(2) The value appreciation of a property with a cross-collateralized loan is based on the market value of the dwelling and lot. If located on a farm, the lot size would be a typical lot for a single family housing property.

(3) Interest reduced from the promissory note rate to six percent under the Soldiers and Sailors Relief Act is not subject to recapture.

(c) Option to defer payment of recapture amounts.

(1) Borrowers may defer payment of recapture amounts if the loan is repaid, the title does not transfer, and the borrower continues to occupy the property.

(2) The RHS mortgage securing the deferred recapture amount may be subordinated to permit refinancing if the RHS mortgage will be adequately secured.

(3) Borrowers eligible to defer recapture may receive a discount on the recapture amount due if the recapture amount is paid along with the final payment, or in the case of a final installment, within 60 days of the date RHS notifies the borrower that recapture may be due.

(d) Borrower ceases to occupy the property. When a borrower ceases to occupy a property:

(1) The borrower may pay the recapture amount in full or reamortize the existing loan to include the recapture amount.

(2) If the borrower does not pay the recapture amount or consent to reamortization within 30 days, RHS may proceed with foreclosure.

(e) Assumed loans.

(1) When a loan subject to recapture is assumed under new rates and terms, the recapture amount may be paid in full by the seller or included in the principal amount assumed by the buyer.

(2) When a loan is assumed under the terms of the promissory note, recapture amounts will not be due. When the new borrower transfers title or ceases to occupy the property, all subsidy subject to recapture before and after the assumption is due.

(3) When a borrower has deferred payment of recapture amounts, the deferred recapture amount may be included in the principal amount of the new loan.

§ 3550.163 Transfer of security and assumption of indebtedness.

(a) General policy. RHS mortgages contain due-on-sale clauses that generally require RHS consent before title to a security property can be transferred with an assumption of the indebtedness. If it is in the best interest of the Government, RHS will approve the transfer of title and assumption of indebtedness on program or nonprogram (NP) terms, depending on the transferee's eligibility and the property's characteristics.

(b) RHS approval of assumptions.

(1) A borrower with a loan on program terms who wishes to transfer a security property restricted by a due-on-sale clause to a purchaser who wishes to assume the debt must receive prior authorization from RHS. If RHS authorizes the transfer and assumption, the account will be serviced in the purchaser's name and the purchaser will be liable for the loan under the terms of the security instrument.

(2) If a borrower transfers title to the security property with a due-on-sale clause without obtaining RHS authorization, RHS will not approve assumption of the indebtedness, and the loan will be liquidated unless RHS determines that it is in the Government's best interest to continue the loan. If RHS decides to continue the loan, the account will be serviced in the original borrower's name and the original borrower will remain liable for the loan under the terms of the security instrument.

(c) Exceptions to due-on-sale clauses.

(1) Due-on-sale clauses are not triggered by the following types of transfers:

(i) A transfer from the borrower to a spouse or children not resulting from the death of the borrower.

(ii) A transfer to a relative, joint tenant, or tenant by the entirety resulting from the death of the borrower.

(iii) A transfer to a spouse or ex-spouse resulting from a divorce decree, legal separation agreement, or property settlement agreement.

(iv) A transfer to a person other than a deceased borrower's spouse who wishes to assume the loan for the benefit of persons who were dependent on the deceased borrower at the time of death, if the dwelling will be occupied by one or more persons who were dependent on the borrower at the time of death, and there is a reasonable prospect of repayment.

(v) A transfer into an inter vivos trust in which the borrower does not transfer rights of occupancy in the property.

(2) A transferee who obtains property through one of the types of transfer listed in paragraph (c)(1) of this section:

(i) Is not required to assume the loan, and RHS is not permitted to liquidate the loan, if the transferee continues to make scheduled payments and meet all other obligations of the loan. A transferee who does not assume the loan is not eligible for payment assistance or a moratorium.

(ii) May assume the loan on the rates and terms contained in the promissory note, with no down payment. If the account is past due at the time an assumption is executed, the account may be brought current by using any of the servicing methods discussed in subpart E of this part.

(iii) May assume the loan under new rates and terms if the transferee applies and is program-eligible.

(3) Any subsequent transfer of title, except upon death of the inheritor or between inheritors to consolidate title, will be treated as a sale.

(d) Requirements for an assumption.

(1) Loans secured by program-eligible properties to be assumed by program-eligible purchasers may be assumed on program terms. Loans secured by nonprogram properties and loans to be assumed by purchasers who are not eligible for program terms may be assumed on NP terms.

(2) The amount the transferee will assume will be either the current market value less any prior liens and any required down payment, or the indebtedness, whichever is less.

(3) For loans assumed on program terms, the interest rate charged by RHS will be the rate in effect at loan approval or loan closing, whichever is lower. For loans assumed on nonprogram terms, the interest rate charged by RS will be the rate in effect at the time of loan approval.

(4) If additional financing is required to purchase the property or to make repairs, RHS may approve a subsequent loan under subparts B or C of this part.

(5) If an appraisal is required for an assumption on new terms, the purchaser is responsible for the appraisal fee.

(6) If all or a portion of the borrower's account balance is assumed, the borrower and cosigner, if any, will be released from liability on the amount of the indebtedness assumed. If an account balance remains after the assumption, RHS may pursue debt settlement in accordance with subpart F of this part.

(7) Unless it is in the Government's best interest, RHS will not approve an assumption of a secured loan if the seller fails to repay any unsecured RHS loan.

(8) If a loan is secured by a property with a dwelling situated on more than a minimum adequate site and the excess property cannot be sold separately as a minimum adequate site for another dwelling, RHS may approve a transfer of the entire property. If the excess property can be sold separately as a minimum adequate site, RHS will approve assumption of only the dwelling and the minimum adequate site. If the value of the dwelling on the minimum adequate site is less than the amount of the outstanding RHS debt, the remaining debt will be secured by the excess property. The outstanding debt will be converted to an NP loan and reamortized over a period not to exceed 10 years or the final due date of the original promissory note, whichever is sooner.

§ 3550.164 Unauthorized assistance.

(a) Definition. Unauthorized assistance includes any loan, payment subsidy, deferred mortgage payment, or grant for which the recipient was not eligible.

(b) Unauthorized assistance due to false information.

(1) False information includes information that the recipient knew was incorrect or should have know was incorrect that was provided or omitted for the purposes of obtaining assistance for which the recipient was not eligible.

(2) If the recipient receives an unauthorized loan due to false information, RHS will adjust the account using the NP interest rate that was in effect when the loan was approved. The recipient must pay the account in full within 30 days.

(3) If the recipient receives unauthorized subsidy due to false information, RHS will require the recipient to repay it within 30 days. The account cannot be reamortized to include the unauthorized subsidy. If the recipient repays the unauthorized subsidy, the loan may be continued.

(c) Unauthorized assistance due to inaccurate information.

(1) Inaccurate information includes incorrect information inadvertently provided, used, or omitted without the intent to obtain benefits for which the recipient was not eligible.

(2) RHS will permit a recipient who receives an unauthorized loan due to inaccurate information to retain the loan under the following conditions.

(i) If the inaccurate information was related to the purpose of the loan or the recipient's eligibility, with the exception of income, or the income used was incorrect, but the recipient still qualified as income-eligible, RHS will allow the recipient to continue the loan on existing terms.

(ii) If a section 502 recipient's income was above the moderate-income level, RHS will convert the loan to an NP loan, using the nonprogram interest rate in effect on the date the loan was approved.

(iii) If a section 504 recipient's income was above the very low-income level, RHS will apply the applicable 502 or nonprogram interest rate in effect on the date the loan was approved.

(iv) If an incorrect interest rate was used, RHS will adjust the account using the correct interest rate.

(3) If the recipient receives unauthorized subsidy due to inaccurate information, RHS will require the recipient to repay it within 30 days. If the recipient cannot repay it within 30 days, the account may be reamortized. If the recipient repays the unauthorized subsidy or reamortizes the loan, the loan may be continued.

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(d) Unauthorized grants. Recipients may either repay the unauthorized assistance in a lump sum or execute a promissory note, regardless of whether the unauthorized assistance was due to false or inaccurate information. RHS may seek a judgment if the recipient refuses to repay the unauthorized assistance.

(e) Account servicing. RHS will adjust all accounts retroactively to establish the amount of unauthorized assistance. If the recipient does not repay the unauthorized assistance within 30 days, RHS may accelerate the loan. If the unauthorized assistance is due to inaccurate information and the recipient is unable to repay within 30 days, RHS may reamortize the loan.

(f) Accounts with no security. If an unauthorized loan or grant is unsecured, RHS may seek the best mortgage obtainable.

§§ 3550.165 - 3550.199 [Reserved]

§ 3550.200 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1 1/2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Subpart E - Special Servicing

§ 3550.201 Purpose of special servicing actions.

The Rural Housing Service (RHS) may approve special servicing actions to reduce the number of borrower failures that result in liquidation. Borrowers who have difficulty keeping their accounts current may be eligible for one or more available servicing options including: payment assistance; delinquency workout agreements that temporarily modify payment terms; protective advances of funds for taxes, insurance, and other approved costs; and payment moratoriums.

§ 3550.202 Past due accounts.

An account is past due if the scheduled payment is not received by the due date.

(a) Late fee. A late fee will be assessed if the full scheduled payment is not received by the 15th day after the due date, or as authorized by State law.

(b) Liquidation.

(1) For borrowers with monthly payments. The account may be accelerated without further servicing when at least 3 scheduled payments are past due or an amount equal to at least 2 scheduled payments is past due for at least 3 consecutive months. In such cases RHS may pursue voluntary liquidation and foreclosure.

(2) For borrowers with annual payments. The account may be accelerated without further servicing when at least 3/12ths of 1 scheduled payment has not been received by its due date. In such cases, RHS may pursue voluntary liquidation and foreclosure.

§ 3550.203 General servicing actions.

Whenever any of the servicing actions described in this subpart result in reamortization of the account RHS may:

(a) Require a borrower who currently makes annual payments, but receives a monthly income, to convert to monthly payments.

(b) Require the creation and funding of an escrow account for real estate taxes and insurance, if one does not already exist for any borrower with monthly payments.

(c) Convert the method of calculating interest for any account being charged daily simple interest to an amortized payment schedule.

§ 3550.204 Payment assistance.

Borrowers who are eligible may be offered payment assistance in accordance with subpart B of this part. Borrowers who are not eligible for payment assistance because the loan was approved before August 1, 1968, or the loan was made on above-moderate or nonprogram (NP) terms, may refinance the loan in order to obtain payment assistance if:

(a) The borrower is eligible to receive a loan with payment assistance,

(b) Due to circumstances beyond the borrower's control, the borrower is in danger of losing the property, and

(c) The property is program-eligible.

§ 3550.205 Delinquency workout agreements.

Borrowers with past due accounts may be offered the opportunity to avoid liquidation by entering into a delinquency workout agreement that specifies a plan for bringing the account current. To receive a delinquency workout agreement, the following requirements apply:

(a) A borrower who is able to do so will be required to pay the past-due amount in a single payment.

(b) A borrower who is unable to pay the past-due amount in a single payment must pay monthly all scheduled payments plus an agreed upon additional amount that brings the account current within 2 years or the remaining term of the loan, whichever is shorter.

(c) If a borrower becomes more than 30 days past due under the terms of a delinquency workout agreement, RHS may cancel the agreement.

§ 3550.206 Protective advances.

RHS may pay for fees or services and charge the cost against the borrower’s account to protect the Government’s interest.

(a) Advances for taxes and insurance. RHS may advance funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs, as well as amounts needed to fund the current escrow cycle.

(b) Advances for costs other than taxes and insurance. Protective advances for costs other than taxes and insurance, such as emergency repairs, will be made only if the borrower cannot obtain a subsequent loan.

(c) Repayment arrangements.

(1) Advances for borrowers with multiple loans will be charged against the largest loan.

(2) Amounts advanced will be due with the next scheduled payment. RHS may schedule repayment consistent with the borrower’s ability to repay or reamortize the loan.

(3) Advances will bear interest at the promissory note rate of the loan to which the advance was charged.

§ 3550.207 Payment moratorium.

RHS may defer a borrower's scheduled payments for up to 2 years. NP borrowers are not eligible for a payment moratorium.

(a) Borrower eligibility. For a borrower to be eligible for a moratorium, all of the following conditions must be met:

(1) Due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making scheduled payments because:

(i) The borrower's repayment income fell by at least 20 percent within the past 12 months,

(ii) The borrower must pay unexpected and unreimbursed expenses resulting from the illness, injury, or death of the borrower or a family member, or

(iii) The borrower must pay unexpected and unreimbursed expenses resulting from damage to the security property in cases where adequate hazard insurance was not available or was prohibitively expensive.

(2) The borrower occupies the dwelling, unless RHS determines that it is uninhabitable.

(3) The borrower's account is not currently accelerated.

(b) Reviews of borrower eligibility.

(1) Periodically RHS may require the borrower to submit financial information to demonstrate that the moratorium should be continued. The moratorium may be canceled if:

(i) The borrower does not respond to a request for financial information,

(ii) RHS receives information indicating that the moratorium is no longer required, or

(iii) In the case of a moratorium granted to pay unexpected or unreimbursed expenses, the borrower cannot show that an amount at least equal to the deferred payments has been applied toward the expenses.

(2) At least 30 days before the moratorium is scheduled to expire, RHS will require the borrower to provide financial information needed to determine whether the borrower is able to resume making scheduled payments.

(c) Resumption of scheduled payments. When the borrower is able to resume scheduled payments, the loan will be reamortized to include the amount deferred during the moratorium and the borrower will be required to escrow. If the new monthly payment, after consideration of the maximum amount of payment subsidy available to the borrower, exceeds the borrower's repayment ability, all or part of the interest that has accrued during the moratorium may be forgiven.

(d) Borrowers unable to resume scheduled payments. If even after all appropriate servicing actions have been taken the borrower is unable to resume making scheduled payments after 2 consecutive years of being on a moratorium, the account will be liquidated.

§ 3550.208 Reamortization using promissory note interest rate.

Reamortization using the promissory note interest rate may be authorized when RHS determines that reamortization is required to enable the borrower to meet scheduled obligations, and only if the Government's lien priority is not adversely affected.

(a) Permitted uses. Reamortization at the promissory note interest rate may be used to accomplish a variety of servicing actions, including to:

(1) Repay unauthorized assistance due to inaccurate information.

(2) Repay principal and interest accrued and advances made during a moratorium.

(3) Bring current an account under a delinquency workout agreement after the borrower has demonstrated the willingness and ability to meet the terms of the loan and delinquency workout agreement and reamortization is in the borrower's and Government's best interests.

(4) Bring a delinquent account current in the case of an assumption where the due on sale clause is not triggered as described in § 3550.163(c).

(5) Cover the remaining debt when a portion of the security property is being transferred but the acquisition price does not cover the outstanding debt. The remaining balance will be reamortized for a period not to exceed 10 years or the final due date of the note being reamortized, whichever is sooner.

(6) Bring an account current where the National Appeals Division (NAD) reverses an adverse action, the borrower has adequate repayment ability, and RHS determines the reamortization is in the best interests of the Government and the borrower.

(b) Payment term of reamortized loan. Except as noted in paragraph (a)(5) of this section, the term of the reamortized loan may be extended to the maximum term for which the borrower was eligible at the time the loan was originally made, less the number of years the loan has been outstanding. In all cases, the term must not exceed the remaining security life of the property.

§ 3550.209 [Reserved]

§ 3550.210 Offsets.

Any money that is or may become payable from the United States to an RHS borrower may be subject to administrative, salary, or Internal Revenue Service (IRS) offsets for the collection of a debt owed to RHS.

(a) IRS offset. RHS may take action to effect offset of claims due RHS against tax refunds due to RHS debtors under 31 U.S.C. 3720a and 31 CFR 285.2.

(b) Salary offset. Offset of claims due to RHS may be collected pursuant to the salary offset provisions in 7 CFR part 3, subpart C for a federal employee or other persons covered in that subpart.

(c) Administrative offset. RHS may take action to effect administrative offset to recover delinquent claims due to it in accordance with the procedures in 7 CFR part 3, subpart B.

(d) Offset by other federal agencies. Escrow funds and loan and grant funds held or payable by RHS are not subject to offset by other federal agencies.

§ 3550.211 Liquidation.

(a) Policy. When RHS determines that a borrower is unable or unwilling to meet loan obligations, RHS may accelerate the loan and, if necessary, acquire the security property. The borrower is responsible for all expenses associated with liquidation and acquisition. If the account is satisfied in full, the borrower will be released from liability. RHS may pursue any deficiency unless the borrower received a moratorium at any time during the life of the loan and faithfully tried to repay the loan.

(b) Tribal allotted or trust land. Liquidations involving a security interest in tribal allotted or trust land shall only be pursued after offering to transfer the account to an eligible tribal member, the tribe, or the Indian Housing Authority. Forced liquidation of RHS security interests in Indian trust lands or on tribal allotted land will be recommended only after the State Director has determined it is in the best interest of the Government.

(c) Acceleration and foreclosure. If RHS determines that foreclosure is in the best interest of the Government, RHS will send an acceleration notice to each borrower and any cosigner.

(d) Voluntary liquidation. After acceleration, borrowers may voluntarily liquidate through:

(1) Refinancing or sale. The borrower may refinance or sell the security property for at least net recovery value and apply the proceeds to the account.

(2) Deed in lieu of foreclosure. RHS may accept a deed in lieu of foreclosure to convey title to the security property only after the debt has been accelerated and when it is in the Government's best interest.

(3) Offer by third party. If a junior lienholder or cosigner makes an offer in the amount of at least the net recovery value, RHS may assign the note and mortgage.

(e) Bankruptcy.

(1) When a petition in bankruptcy is filed by a borrower after acceleration, collection actions and foreclosure actions are suspended in accordance with the provisions of the Bankruptcy Code.

(2) RHS may accept conveyance of security property by the trustee in bankruptcy if the Bankruptcy Court has approved the transaction, RHS determines the conveyance is in the best interest of the Government, and RHS will acquire title free of all liens and encumbrances except RHS liens.

(3) Whenever possible in a Chapter 7 Bankruptcy, a reaffirmation agreement will be signed by the borrower and approved by the court prior to discharge, if RHS decides to continue with the borrower.

(f) Junior lienholder foreclosure. When a junior lienholder foreclosure does not result in payment in full of the RHS debt but the property is sold subject to the RHS lien, RHS may liquidate the account unless the new owner is eligible to assume the RHS debt and actually assumes the RHS debt.

(g) Payment subsidy. If the borrower is receiving payment subsidy, the payment subsidy agreement will not be canceled when the debt is accelerated, but will not be renewed unless the account is reinstated.

(h) Eligibility for special servicing actions. A borrower is not eligible for special servicing actions once the account has been accelerated.

(i) Reporting. RHS may report to IRS and credit reporting agencies any debt settled through liquidation.

§§ 3550.212 - 3550.249 [Reserved]

§ 3550.250 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1 1/2 hours per response, including time for reviewing insurrections, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Subpart F - Post-Servicing Actions

§ 3550.251 Property management and disposition.

(a) Policy. Rural Housing Service (RHS) will manage custodial property and Real Estate Owned (REO) property to protect the Government's interest, and may dispose of REO property through direct sales, sealed bid, or auction. RHS will follow affirmative fair housing marketing policies.

(b) Custodial property. RHS may take custodial possession of security property that has been abandoned, or for other reasons necessary to protect the Government's security. After taking custodial possession of a security property, RHS may maintain and repair the security property as needed to protect the Government's interest, pay required real estate taxes and assessments, and secure personal property left on the premises. Expenses will be charged to the borrower's account. Custodial property may be leased when it is in the Government's best interest and in such cases the borrower's account will be credited for income from the security property.

(c) REO property.

(1) Classification. When RHS takes title to a security property, it is classified as either program or nonprogram (NP) property. An REO property that is eligible for financing under the section 502 program, or which could reasonably be repaired to be eligible, is classified as program property. An REO property that cannot reasonably be repaired to be eligible as section 502 property, and property that has been improved to a point that it will no longer qualify as modest under section 502, is classified as NP property.

(2) Disclosing decent, safe, and sanitary defects. When RHS determines that an REO property to be sold is not decent, safe, and sanitary, or does not meet cost-effective energy conservation standards, it will disclose the reasons why. The deed by which such an REO property is conveyed will contain a covenant restricting it from residential use until it is decent, safe, and sanitary and meets the RHS cost-effective energy conservation standards. RHS will also notify any potential purchaser of any known lead-based paint hazards.

(3) Property on Indian tribal allotted or trust land. REO property which is located on Indian tribal allotted or trust land, will be sold or otherwise disposed of only to a member of the particular tribe having jurisdiction over the allotted or tribal land, to the tribe, or to an Indian housing authority serving the tribe on a first-come, first-served basis.

(4) Reservation of program REO properties.

(i) Program REO properties are reserved for eligible direct or guaranteed single family housing loans under this part or part 1980, subpart D of this title and nonprofit organizations or public bodies providing transitional housing during the first 60 days after the date of the first notice of sale, and during the first 30 days following any reduction in price or any other change in credit terms or other sale terms. After the expiration of a reservation period, program REO properties can be bought by any buyer.

(ii) An offer on a program REO property from a buyer who does not qualify for a direct or guaranteed single family housing loan may be submitted during a reservation period, but is considered to have been received on the day after the reservation period ends.

(iii) No offer is considered until 3 business days after the date the property is offered for sale. An offer received during the 3-day holding period is not considered until the 4th day, and is evaluated with any other offers actually received on the 4th day.

(5) Priority of offers received the same day.

(i) Offers received on the same business day are selected in the following order:

(A) Offers from eligible direct or guaranteed single family housing loan applicants, with a request for credit on program terms. All offers are evaluated as if they were submitted at the listed price, regardless of the offering price.

(B) Offers from nonprofits or public bodies for conversion to use as transitional housing or for other special purposes as specified in paragraph (d)(4) of this section.

(C) Cash offers, from highest to lowest.

(D) NP credit offers, from highest to lowest.

(ii) Acceptable offers of equal priority received on the same business day are selected by lot.

(iii) REO properties are not held off the market pending the outcome of an appeal of RHS rejection of a request for financing.

(6) Sale by sealed bid or auction. RHS may authorize the sale of an REO property by sealed bid or public auction when it is in the best interest of the Government. RHS will publicly solicit requests for sealed bids and publicize auctions. If a successful bidder is unable to settle the transaction under the terms of the offer, except for the financing contingency, any required bid deposit may be retained by RHS. If the highest bid is lower than the minimum acceptable bid established by RHS, or if no acceptable bids are received, RHS may negotiate a sale without further public notice.

(d) Special purposes.

(1) REO property may be purchased for conversion to multiple family housing.

(2) When a nonprofit organization or public body notifies RHS in writing of its intent to buy an REO property to provide transitional housing for the homeless, RHS may withdraw the property from the market for up to 30 days to give the entity an opportunity to execute a purchase contract. The listed price may be discounted for offers on a nonprogram REO property at any time, and on a program REO property after the 60-day reservation period. No down payment is required, and the loan term will be for a maximum of 30 years. Until RHS executes a sales agreement, an offer from a program-eligible applicant will receive priority, regardless of a nonprofit's interest in purchasing the REO property for use as transitional housing.

(3) NP properties may be leased to a nonprofit organization or public body to provide transitional housing for the homeless at an annual cost of one dollar. When an REO property is to be leased as transitional housing, RHS will make repairs needed to put the property in decent, safe, and sanitary condition. The lessee is responsible for all future repairs and maintenance.

(4) REO property may be sold under special provisions to nonprofit organizations or public bodies for the purpose of providing affordable housing to very low- and low-income families.

§ 3550.252 Debt settlement policies.

(a) Applicability. Debt settlement procedures may be initiated to collect any amounts due to RHS including:

(1) Balances remaining on loan accounts after all liquidation proceeds or credits have been applied,

(2) Subsidy recapture or grant amounts due, and

(3) Unauthorized assistance due.

(b) Judgment. RHS may seek a judgment whenever a judgment might enable RHS to collect all or a significant portion of an amount owed.

(c) Multiple loans. RHS does not settle debts for one loan while other RHS loans on the same security property remain active.

(d) Cosigners and claims against estates. RHS may use any and all remedies available under law to collect from any cosigner and from a deceased borrower's estate.

(e) Reporting. RHS will report to the Internal Revenue Service and credit reporting agencies any debt settled through cancellation, compromise, or adjustment.

(f) Settlement during legal or investigative action. Cases that are under investigation for fiscal irregularity or have been referred to the Office of the Inspector General, the Office of the General Counsel, or the U.S. Attorney will not be considered for debt settlement until final action by the investigating or prosecuting entity has been taken.

(g) Offsets. RHS may request offsets as described in § 3550.210 to collect amounts owed.

(h) Escrow funds. At liquidation all funds held in escrow or unapplied funds will be applied against the debt.

§ 3550.253 Settlement of a debt by compromise or adjustment.

Compromise or adjustment offers may be initiated by the debtor or by RHS. RHS will approve only those compromises and adjustments that are in the best interest of the Government.

(a) Compromise. A compromise is an agreement by RHS to release a debtor from liability upon receipt of a specified lump sum that is less than the total amount due.

(b) Adjustments. An adjustment is an agreement by RHS to release a debtor from liability generally upon receipt of an initial lump sum representing the maximum amount the debtor can afford to pay and periodic additional payments over a period of up to 5 years.

(c) Timing of offers.

(1) For a settlement offer to be considered, secured debts must be fully matured under the terms of the debt instrument or must have been accelerated by RHS.

(2) Unsecured debts owed after the sale of the security property may be proposed for compromise or adjustment at any time. Debts that were never secured may be proposed for compromise or adjustment when they are due and payable.

(d) Retention of security property. The debtor may retain the security property if the compromise payment is at least equal to the net recovery value, and it is in the best interest of the Government to allow the debtor to retain the security property.

§§ 3550.254 - 3550.299 [Reserved]

§ 3550.300 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1 1/2 hours per response, including time for review instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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APPENDIX 2

FORMS AND CERTIFICATIONS REFERENCED IN THIS HANDBOOK

FORMS

AD 1048, Certification Regarding Debarment, Suspension, Ineligibility, and Other Voluntary Exclusions – Lower Tier Covered Transactions
FEMA Form 81-93, Standard Flood Hazard Determination
Form RD 400-1, Equal Opportunity Agreement
Form RD 400-3, Notice to Contractors and Applicants
Form RD 400-6, Compliance Statement
Form RD 402-1, Deposit Agreement
Form RD 402-2, Statement of Deposits and Withdrawals
Form RD 410-4, Application for Rural Housing Assistance (Nonfarm Tract), Uniform Residential Loan Application
Form RD 410-8, Applicant Reference Letter
Form RD 440-58, Estimate of Settlement Costs
Form 1007, Marshall and Swift Square Foot Appraisal Form
Form RD 1910-5, Request for Verification of Employment
Form RD 1922-12, Nonfarm Tract Comparable Sales Data
Form RD 1922-14, Residential Appraisal Review for Single Family Housing
Form RD 1922-15, Administrative Appraisal Review for Single Family Housing
Form RD 1924-1, Development Plan
Form RD 1924-2, Description of Materials
Form RD 1924-6, Construction Contract
Form RD 1924-7, Contract Change Order
Form RD 1924-9, Certification of Contractor's Release
Form RD 1924-10, Release by Claimants
Form RD 1924-12, Inspection Report
Form RD 1924-16, Record of Pre-Construction Conference
Form RD 1924-19, Builder's Warranty
Form RD 1924-25, Plan Certification
Form RD 1927-4, Transmittal of Title Information
Form RD 1927-5, Affidavit Regarding Work of Improvement
Form RD 1927-8, Agreement with Prior Lienholder
Form RD 1927-9, Preliminary Title Opinion
Form RD 1927-19, Certification of Attorney
Form RD 1927-20, Certification of Title Insurance Company

Form RD 1940-16, Promissory Note
Form RD 1940-21, Environmental Assessment for Class I Action
Form RD 1940-22, Environmental Checklist for Categorical Exclusions
Form RD 1940-41, Truth in Lending Statement
Form RD 1940-43, Notice of Right to Cancel
Form RD 1940-59, Settlement Statement
Form RD 1944-3, Budget and/or Financial Statement
Form RD 1944-4, Certification of Disability or Handicap
Form RD 1944-5, Manufactured Housing Dealer-Contractor Application
Form RD 1944-6, Interest Credit Agreement
Form RD 1944-11, Conditional Commitment
Form RD 1944-12, Rural Housing Loan Application Package
Form RD 1944-14, Payment Assistance/Deferred Mortgage Assistance Agreement
Form RD 1944-36, Application for Conditional Commitment
Form RD 1944-59, Certificate of Eligibility
Form RD 1944-60, Landlord's Verification
Form RD 1944-61, Credit History Worksheet
Form RD 1944-62, Request for Verification of Deposit
Form RD 1955-2, Report on Real Estate Problem Case
Form RD 1955-20, Lease of Real Property
Form RD 1955-42, Open Real Property Master Listing Agreement
Form RD 1955-43, Notice of Real Property for Sale (Single Family Housing)
Form RD 1955-44, Notice of Residential Occupancy Restriction
Form RD 1955-45, Standard Sales Contract, Sale of Real Property by the United States
Form RD 1955-46, Invitation, Bid, and Acceptable Sale of Real Property by the United States
Form RD 1955-47, Bill of Sale 'A'
Form RD 1955-49, Quitclaim Deed
Form RD 1955-50, Advice of Inventory Property Sold
Form RD 1955-50A, Advice of Inventory Property Sold-Credit Sale
Form RD 1955-50B, Advice of Inventory Property Sold-Cash Sale/Transfer--Acquired Property

Form RD 3550-1, Authorization to Release Information
Form RD 3550-2, Request for Verification of Gift/Gift Letter
Form RD 3550-4, Employment and Asset Certification
Form RD 3550-6, Notice of Special Flood Hazards, Flood Insurance Purchase Requirements, and Availability of Federal Disaster Relief Assistance
Form RD 3550-7, Funding Commitment and Notification of Loan Closing
Form RD 3550-9, Initial Escrow Account Disclosure Statement
Form RD 3550-10, Condominium Rider
Form RD 3550-11, Planned Unit Development (PUD) Rider
Form RD 3550-12, Subsidy Repayment Agreement
Form RD 3550-14, Real Estate Mortgage or Deed of Trust for (State)
Form RD 3550-15, Tax Information
Form RD 3550-16, Release from Personal Liability
Form RD 3550-17, Funds Transmittal Report
Form RD 3550-19, Transmittal-Closing Documents
Form RD 3550-22, Assumption Agreement, Single Family Housing
Form RD 3550-23, Applicant Orientation Guide
Form RD 3550-24, Grant Agreement
Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement
Form RD 3550-26, Substitute Payment Coupon
Form RD 3550-30, Verification of Debt Proposed for Refinancing
Form RD 3550-34, Option to Purchase Real Property
Authorization Agreement for Preauthorized Payments
ASTM E-1528, Transaction Screen Questionnaire
Internal Revenue Service Form 4506-T, Request for Transcript of Tax Return
U.S. Citizenship and Immigration Services Form G-845, Document Verification Request
Social Security Administration Form SSA-3288, Consent for Release of Information

CERTIFICATIONS

Grant Repayment Agreement
Verification of Pensions and Annuities
Verification of Student Income and Expenses
Verification of Medical Expenses
Verification of Social Security Benefits
Verification of Public Assistance
Verification of Child/Dependent Care
Verification of Unemployment Benefits
Verification of Business Expenses
Verification of Support Payments
Record of Oral Verification

APPENDIX 3

HANDBOOK LETTERS REFERENCED IN THIS HANDBOOK

Handbook Letter 1(3550), Moderate Income Options

Handbook Letter 2(3550), Pre-eligible

Handbook Letter 3(3550), Waiting Period

Handbook Letter 10(3550), Status of Offer to Buy Single Family Housing REO Property

Handbook Letter 11(3550), Selected for Processing/Request Information

Handbook Letter 12(3550), Notification of Approval (504 Grant and/or Loan)

Handbook Letter 15(3550), Standardized Adverse Decision Letter

Handbook Letter 16(3550), Eligibility of Self-Help Applicants

Handbook Letter 17(3550), Adverse Decision Involving An Appraisal

Handbook Letter 18(3550), Unfavorable Decision After State Director Review Of An Appraisal

Handbook Letter 19(3550), Pre-qualification Review

Handbook Letter 20(3550), Response to Request to Sale for Less Than the Debt

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Moderate Income Options

Date: [insert today's date]

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

Information obtained while processing your application for Rural Development loan assistance indicates that your adjusted annual household income exceeds the maximum low-income limit for this area, which is $(*insert the applicable income limit*). If this information is correct, the following options are available to you in obtaining housing:

1. Sale of Real Estate Owned (REO) Property. This is the sale of a property that is owned by the Government. Rural Development acquires title to properties periodically and has (*insert the number of properties available*) properties available for sale at this time. We welcome you to visit our Real Estate for Sale website at http://www.resales.usda.gov to view the changing availability of properties or contact this office for more information.

2. A transfer and assumption of an existing Rural Development loan. You may assume the unpaid balance of a loan from a Rural Development borrower whose property is for sale. Equity or repairs would need to be paid for with cash provided by you.

3. A Guaranteed Rural Housing loan. If you wish to learn more about this program and obtain a list of participating lenders, please contact this office at (*insert field office address*).

4. Other credit. You may wish to pursue financing through a private lending institution.

Applications for the purchase of an REO property or loan transfer and assumption are given funding priority. If you are interested in a specific REO property or loan transfer and believe you can meet the conditions outlined above, you should notify this office within 30 days of receipt of this letter. If we do not hear from you within the specified time frame, your application will be withdrawn. Please refer to Attachment 1-C in this letter regarding your ability to have the decision further reviewed.

Sincerely,

(*insert name of the Loan Originator*)
(*insert title of the Loan Originator*)

Attachment
[*Attachment 1-C of Chapter 1*]

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Pre-eligible

Date: [insert today's date]

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

Rural Development cannot continue to process your application at this time due to the lack of availability of funds for households within your income category. However, based on a preliminary review of your unverified credit and financial information, it appears you may be eligible for loan services through this Agency. It should be stressed that a final determination of your eligibility using verified information is being postponed. The approximate waiting period before funds may be available to consider your loan request is (*insert approximate days/months funds will be available*).

We will contact you every 6 months to update you on the status of the waiting period and to inquire about your continued interest in Rural Development assistance. Failure to respond to future notices will result in the withdrawal of your application. **Consequently, it is extremely important that you contact our office if you experience a change in your address or telephone number.**

Once we are in a position to process your application, you will be asked to furnish monies for a residential mortgage credit report and all relevant information will be verified by third parties so that we can make a final eligibility determination. We will notify you once funding is available to consider your loan request and provide you with further instructions. Please be advised that Rural Development has a homeownership education requirement for first-time homebuyers. If you are a first-time homebuyer who is found eligible for a loan, and financing is available, you will be required to provide documentation of completion of an acceptable homeownership education course. In the meantime, **do not** incur debts for items such as a building site, or the repair, purchase, or construction of a home; there is no guarantee that the Agency will extend you financing.

If you are planning to assume the unpaid balance of a loan from an existing Rural Development borrower or purchase a Government Real Estate Owned property, you should advise this office. These transactions can be processed without delay. You may also wish to discuss eligibility requirements for the Guaranteed Rural Housing loan.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Sincerely,

[*insert name of Loan Approval Official*]
[*insert title of Loan Approval Official*]

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Waiting Period

Date: [insert today's date]

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

The rural housing application that you submitted to Rural Development on [*insert receipt date*] remains active.

However, resources are still currently unavailable to consider your loan request. The approximate waiting period is now [*insert # of months/days*].

Please complete the enclosed form if you are still interested in Rural Development assistance and update your current address and telephone number. Your failure to return the enclosed form to this office within 30 days of the date of this letter will result in the withdrawal of your application. If your application is withdrawn, you may reapply.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Feel free to contact this office at [*insert phone number*] if you have any questions.

Sincerely,

[*insert name of Loan Approval Official*]
[*insert title of Loan Approval Official*]

Enclosure

TO: [*insert name and address of applicable Rural Development field office*]

I am still interested in receiving rural housing assistance through Rural Development. Please keep my application active. My current address and telephone number are as follows:

Name: _____
(Please print)

Address: _____
(Street/Post Office Address)

_____
(City, State, and Zip Code)

Telephone: _____
(Please include area code)

THIS INFORMATION **HAS ___/HAS NOT ___** CHANGED SINCE YOU LAST CONTACTED ME. (*Please check either "has" or "has not" above.*)

Signed by:_____ Date:_____
Applicant

Signed by:_____ Date:_____
Applicant

Note: If you wish to have your application remain on file, please complete this form, sign and date it, then return it to the Rural Development office processing your loan application. Your response must be received within 30 days from the date on the attached letter of *[insert today's date]***.**

(01-23-03) SPECIAL PN
Revised (09-22-04) PN 379

Handbook Letter 10 (3550)

REFERENCE: Field Office Handbook Chapter 16

SUBJECT: Status of Offer to Buy Single Family Housing REO Property

Date: [insert today's date]

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

Regarding your offer to purchase the above-referenced REO property, please be advised that:

_____ 1. Your offer has been accepted. Please contact this office to discuss proceeding with the transaction.
_____ 2. Another offer has been accepted, however, your offer is being held as a back-up offer.
_____ 3. The property is reserved for exclusive purchase by program applicants for the first 60 days after listing and for 30 days after any reduction in price. Your offer will be considered after this period if no acceptable offer from a program applicant is received.
_____ 4. Your offer could not be accepted for the following reason(s):
_____ Less than the listed sale price.
_____ An offer from a program applicant has been accepted.
_____ Another offer has already been accepted.
_____ The property is no longer for sale.
_____ (For back-up offers) The prior offer has been accepted.
_____ 5. The property has been withdrawn from sale.
_____ 6. A previous offer has been canceled. The property has been relisted for sale.
_____ 7. The property has been relisted for sale at the following:
Price $ _____
Terms: _____
_____ 8. Other: _____

Please feel free to contact this office if you have any questions regarding this letter. Thank you for your interest in purchasing REO property.

Sincerely,
[*insert name of Loan Approval Official*]
[*insert title of Loan Approval Official*]

(01-23-03) SPECIAL PN
Revised (06-09-04) PN 375

Handbook Letter 11 (3550)

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Selected for Processing/Request Information

Date: *[insert today's date]*

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

The application you filed with Rural Development has been selected for processing. The following information must be submitted to this office in order to determine your final eligibility for loan services:

- Residential Mortgage Credit Report - In order to request a credit report, it is necessary that you submit a non-refundable credit report fee of $ (insert amount of credit report fee). You may mail or bring this amount to this office at (insert field office address). A credit report cannot be ordered until these funds are received in this office.

Notice to Customers Making Payment by Check: If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours, and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep an image of it. If the EFT cannot be processed for technical reasons, you authorize us to process a paper copy of the image in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to two additional times [and we will charge you a one-time fee of $15, which we will also collect by EFT].

- Verification of Identity - Picture identification (i.e. driver's license, passport, work related ID cards, etc.), evidence of age, and evidence of taxpayer's identification number for each person that is party to the application.

- Separation Agreement/Divorce Decree

- Evidence Child Care Payment
- Medical Expense(s) Payment(s) Documentation
- Social Security or Other Retirement Benefits Notice
- Other_____

This letter is to advise you that no action can be taken until all of the above-marked items have been received in this office. Your application will remain in an inactive status until the information is received. Your failure to respond to this request within 30 days of the date of this letter will result in the withdrawal of your application. If your application is withdrawn, you may reapply.

Please be advised that Rural Development has a homeownership education requirement for first-time homebuyers. If you are a first-time homebuyer, you will be required to provide documentation of completion of an acceptable homeownership education course. Documentation must be in the form of a certificate of completion or letter from the provider of the homeownership education. Our office can assist you in locating an acceptable provider. We strongly encourage that applicants look into and take the training early in the process.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Sincerely,

[*insert name of Rural Development Official*]
[*insert title of Rural Development Official*]

_____

Handbook Letter 12 (3550)

REFERENCE: Field Office Handbook Chapter 12

SUBJECT: Notification of Approval (504 Grant and/or Loan)

Date: *[insert today's date]*

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

Rural Development has approved your request for Section 504 Grant assistance in the amount of $ *(insert grant amount)* and/or Section 504 Loan assistance in the amount of $ *(insert loan amount)*. Note: 504 Grant assistance is limited to households where at least one of the applicants is 62 years of age or older and who lack repayment ability for all or part of the requested assistance.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Sincerely,

[*insert name of Rural Development Official*]
[*insert title of Rural Development Official*]

Handbook Letter 15 (3550)

REFERENCE: Field Office Handbook Chapter 1

SUBJECT: Standardized Adverse Decision Letter

Date: [*insert today's date*]

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

Thank you for the opportunity to consider your request for Rural Development assistance. In reviewing your request, we considered all information submitted to the Agency and the regulations that govern the assistance for which you applied. After careful review, we regret to inform you that we were unable to take favorable action on your request. The specific reasons for our decision are as follows:

(*The following items should be included in each adverse decision letter and can be presented in different formats depending upon the type of assistance requested and reasons for denial*):

- Specific reasons for the decision;
- Regulatory basis (CFR citation) for the decision;
- If applicable, a statement of any evidence considered in making the decision such as credit reports, financial statements, etc.;
- If applicable, a statement of any issues presented by the customer such as those discussed during any meetings or phone conversations.

If one of the above reasons included an unacceptable credit history, please note that a residential mortgage credit report on you was obtained from CBCInnovis, Inc., 8 Parkway Center, Pittsburgh, Pennsylvania, 15220; telephone (877)237-8317. You may obtain a free copy of your credit report from CBCInnovis and dispute the accuracy or completeness of the report directly to CBCInnovis. While the report was provided by CBCInnovis, the decision to deny your request for assistance was made by this Agency and not CBCInnovis.

If you believe our decision is incorrect, or the facts used in this case are in error, you may challenge our decision. Please see the attached document.

Sincerely,

[*insert name of Rural Development Official*]
[*insert title of Rural Development Official*]

Attachment [*insert Attachment 1-B or 1-C, as appropriate from Chapter 1*]

Handbook Letter 16 (3550)

REFERENCE: Field Office Handbook Chapter 7

SUBJECT: Eligibility of Self-Help Applicants

Date: [*insert today's date*]

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

You have been determined eligible for Rural Development financing for construction of a modest single family home under the Self-Help program. Eligibility is based on income and financial information that is verified within 90 days of loan approval and closing. Loan approval and closing are subject to the continued eligibility of the applicant and the availability of loan funds. Changes in your financial status (income and expenses) must be reported to Rural Development, and may affect your eligibility and the amount of loan for which you qualify. Rural Development has determined that you qualify for a Self-Help loan up to the amount of $_____ in_____ County.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Sincerely,

[*insert name of Rural Development Official*]
[*insert title of Rural Development Official*]

Handbook Letter 17 (3550)

REFERENCE: Field Office Handbook Chapter 5

SUBJECT: Adverse Decision Involving an Appraisal

Date: [*insert today's date*]

[*insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]
[*insert applicant(s) street/post office address*]
[*insert city, state, and zip code*]

Dear [*insert applicant(s) last name(s) (Mr., Mrs., Ms.)*]:

After carefully analyzing the appraisal of the property located at _____, we are unable to take favorable action on your request for Rural Development services. The specific reasons for our decision are:

[*insert the specific reasons associated with the appraisal for the adverse action*]

If the aforementioned reason for denial was because the appraised value was for less than the sales contract, you may want to look into the following options:

1) Adjust the sales contract
2) Dispute the appraisal

If you have any questions concerning this decision or the facts used in making our decision and desire further explanation, you may call or write the Local Office at [*insert office phone number*] to request a meeting with this office within 15 calendar days of the date on this letter. You should present any new information or evidence along with possible alternatives for our consideration. You may also bring a representative or legal counsel with you.

If you do not wish to have a meeting as provided above, you may contest the appraisal of the property value. In order to contest the appraisal you must first request a review of the appraisal by the Rural Development State Director. Your request for review by the State Director should be through our office. You will be advised of the results of the State Director's review. If after the State Director's review you still disagree with the appraisal you may request a hearing. When you receive the results of the State Director's review you will be advised on how to ask for a hearing. Your request for a review of the appraisal must be postmarked no later than _____,_____[*insert date 15 days from date of letter*].

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Sincerely,

[*insert name of Loan Approval Official*]
[*insert title of Loan Approval Official*]

REFERENCE: Field Office Handbook Chapter 5

SUBJECT: Unfavorable Decision After State Director Review of an Appraisal

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Date: [*insert today's date*]

[insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert applicant(s) street/post office address]
[insert city, state, and zip code]

Dear *[insert applicant last name(s) (Mr., Mrs., Ms.)]*:

At your request, we have reviewed the appraisal of the property you wish to purchase. We have determined that the value estimate of the property is both supportable and defensible (as required by Rural Development regulations and appraisal industry standards) and, therefore, acceptable.

You have the right to appeal this decision. You must show why the appraisal is in error. You may submit an independent appraisal, at your expense, from a qualified State licensed appraiser who is active on the Appraisal Sub Committee Website (www.asc.gov). The appraisal must conform to Agency appraisal regulations applicable to the loan program.

See Attachment 1-B for your appeal rights. [*Include Attachment 1-B from Chapter 1*]

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Sincerely,

[*insert name of Loan Approval Official*]
[*insert title of Loan Approval Official*]

Handbook Letter 19 (3550)

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Pre-qualification Review

Date: [*insert today's date*]

[*insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]
[*insert applicant(s) street/post office address*]
[*insert city, state, and zip code*]

Dear [*insert applicant(s) last name(s) (Mr., Mrs., Ms.)*]:

Rural Development has conducted a pre-qualification review using a profile credit report (obtained at no cost to you) as well as unverified information you provided either orally or in writing. During this informal and unbinding review, items that raised concerns or need clarification were noted.

To qualify for program assistance, applicants must meet basic eligibility requirements that include, but are not limited to, acceptable credit history and loan repayment ability. We would like the opportunity to discuss with you the information obtained through the pre-qualification review. We ask that you call our office at [*insert office phone number*] within 30 calendar days of the date on this letter.

You are welcome to submit a Uniform Residential Loan Application regardless of the issues discussed during the phone conversation.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Sincerely,

[*insert name of Loan Approval Official*]
[*insert title of Loan Approval Official*]

REFERENCE: Field Office Handbook Chapter 13

SUBJECT: Response to Request to Sale for Less Than the Debt

Date: [insert today's date]

[insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)]
[insert borrower(s) street/post office address]
[insert city, state, and zip code]

RE: [Type of Assistance Requested]
[insert account #_____]
[Residential Real Estate Located at (Popular Street Address of Property)]

Dear [insert borrower last name(s) (Mr., Mrs., Ms.)]:

USDA Rural Development has reviewed your request for consent to allow you to sell the subject property for the sale price that you have proposed. USDA Rural Development consents to this sale and agrees to release its first mortgage lien upon receipt of net proceeds from the sale in an amount not less than $_____. By approving this sale, the Agency is agreeing only to release its lien; however, you will remain obligated for repayment of any remaining debt. The remaining debt can be settled through the debt settlement process. For your convenience a Debt Settlement Application is enclosed for you to complete and return to the Centralized Servicing Center as instructed in the application.

- or -

USDA Rural Development has reviewed your request for consent to allow you to sell the subject property for the sale price that you have proposed and does not consent to this sale for the following reasons: [insert specific reasons]. Please contact the local field office at the above location for additional information.

Sincerely,

[insert name of RD Official]
[insert title of RD Official]

Added (04-20-05) PN 385

APPENDIX 4

7 CFR PART 11--NATIONAL APPEALS DIVISION RULES OF PROCEDURE

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Sec.

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Authority: 5 U.S.C. 301; Title II, Subtitle H, Pub. L. 103-354, 108 Stat. 3228 (7 U.S.C. 6991 et seq.); Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

§ 11.1 Definitions.

For purposes of this part:

Adverse decision means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant within timeframes specified by agency program statutes or regulations or within a reasonable time if timeframes are not specified in such statutes or regulations. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

Agency means:

(1) The Agricultural Stabilization and Conservation Service (ASCS);

(2) The Commodity Credit Corporation (CCC);

(3) The Farm Service Agency (FSA);

(4) The Farmers Home Administration (FmHA);

(5) The Federal Crop Insurance Corporation (FCIC);

(6) The Natural Resources Conservation Service (NRCS);

(7) The Rural Business-Cooperative Service (RBS);

(8) The Rural Development Administration (RDA);

(9) The Rural Housing Service (RHS);

(10) The Rural Utilities Service (RUS) (but not for programs authorized by the Rural Electrification Act of 1936 and the Rural Telephone Bank Act, 7 U.S.C. 901 et seq.);

(11) The Soil Conservation Service (SCS);

(12) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)); and

(13) Any successor agency to the above-named agencies, and any other agency or office of the Department which the Secretary may designate.

Agency record means all the materials maintained by an agency related to an adverse decision which are submitted to the Division by an agency for consideration in connection with an appeal under this part, including all materials prepared or reviewed by the agency during its consideration and decision-making process, but shall not include records or information not related to the adverse decision at issue. All materials contained in the agency record submitted to the Division shall be deemed admitted as evidence for purposes of a hearing or a record review under Sec. 11.8.

Agency representative means any person, whether or not an attorney, who is authorized to represent the agency in an administrative appeal under this part.

Appeal means a written request by a participant asking for review by the National Appeals Division of an adverse decision under this part.

Appellant means any participant who appeals an adverse decision in accordance with this part. Unless separately set forth in this part, the term ``appellant'' includes an authorized representative.

Authorized representative means any person, whether or not an attorney, who is authorized in writing by a participant, consistent with Sec. 11.6(c), to act for the participant in an administrative appeal under this part. The authorized representative may act on behalf of the participant except when the provisions of this part require action by the participant or appellant personally.

Case record means all the materials maintained by the Secretary related to an adverse decision. The case record includes both the agency record and the hearing record.

Days means calendar days unless otherwise specified.

Department means the United States Department of Agriculture (USDA).

Director means the Director of the Division or a designee of the Director.

Division means the National Appeals Division established by this part.

Equitable relief means relief which is authorized under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws administered by the agency.

Ex parte communication means an oral or written communication to any officer or employee of the Division with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports, or inquiries on Division procedure, in reference to any matter or proceeding connected with the appeal involved.

Hearing, except with respect to Sec. 11.5, means a proceeding before the Division to afford a participant the opportunity to present testimony or documentary evidence or both in order to have a previous determination reversed and to show why an adverse determination was in error.

Hearing Officer means an individual employed by the Division who conducts the hearing and determines appeals of adverse decisions by any agency.

Hearing record means all documents, evidence, and other materials generated in relation to a hearing under Sec. 11.8.

Implement means the taking of action by an agency of the Department in order fully and promptly to effectuate a final determination of the Division.

Participant means any individual or entity who has applied for, or whose right to participate in or receive, a payment, loan, loan guarantee, or other benefit in accordance with any program of an agency to which the regulations in this part apply is affected by a decision of such agency. With respect to guaranteed loans made by FSA, both the borrower and the lender jointly must appeal an adverse decision except that the denial or reduction of a final loss payment to a lender shall be appealed by the lender only. The term does not include persons whose claim(s) arise under:

(1) Programs subject to various proceedings provided for in 7 CFR part 1;

(2) Programs governed by Federal contracting laws and regulations (appealable under other rules and to other forums, including to the Department's Board of Contract Appeals under 7 CFR part 24);

(3) The Freedom of Information Act (appealable under 7 CFR part 1, subpart A);

(4) Suspension and debarment disputes, including, but not limited to, those falling within the scope of 7 CFR parts 1407 and 3017;

(5) Export programs administered by the Commodity Credit Corporation;

(6) Disputes between reinsured companies and the Federal Crop Insurance Corporation;

(7) Tenant grievances or appeals prosecutable under the provisions of 7 CFR part 1944, subpart L, under the multi-family housing program carried out by RHS;

(8) Personnel, equal employment opportunity, and other similar disputes with any agency or office of the Department which arise out of the employment relationship;

(9) The Federal Tort Claims Act, 28 U.S.C. 2671 et seq., or the Military Personnel and Civilian Employees Claims Act of 1964, 31 U.S.C. 3721; or

(10) Discrimination complaints prosecutable under the nondiscrimination regulations at 7 CFR parts 15, 15a, 15b, and 15e.

Record review means an appeal considered by the Hearing Officer in which the Hearing Officer's determination is based on the agency record and other information submitted by the appellant and the agency, including information submitted by affidavit or declaration.

Secretary means the Secretary of Agriculture.

§ 11.2 General statement.

(a) This part sets forth procedures for proceedings before the National Appeals Division within the Department. The Division is an organization within the Department, subject to the general supervision of and policy direction by the Secretary, which is independent from all other agencies and offices of the Department, including Department officials at the state and local level. The Director of the Division reports directly to the Secretary of Agriculture. The authority of the Hearing Officers and the Director of the Division, and the administrative appeal procedures which must be followed by program participants who desire to appeal an adverse decision and by the agency which issued the adverse decision, are included in this part.

(b) Pursuant to section 212(e) of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Public Law 103-354 (the Act), 7 U.S.C. 6912(e), program participants shall seek review of an adverse decision before a Hearing Officer of the Division, and may seek further review by the Director, under the provisions of this part prior to seeking judicial review.

§ 11.3 Applicability.

(a) Subject matter. The regulations contained in this part are applicable to adverse decisions made by an agency, including, for example, those with respect to:

(1) Denial of participation in, or receipt of benefits under, any program of an agency;

(2) Compliance with program requirements;

(3) The making or amount of payments or other program benefits to a participant in any program of an agency; and

(4) A determination that a parcel of land is a wetland or highly erodible land.

(b) Limitation. The procedures contained in this part may not be used to seek review of statutes or USDA regulations issued under Federal law.

§ 11.4 Inapplicability of other laws and regulations.

The provisions of the Administrative Procedure Act generally applicable to agency adjudications (5 U.S.C. 554, 555, 556, 557, & 3105) are not applicable to proceedings under this part. The Equal Access to Justice Act, as amended, 5 U.S.C. 504, does not apply to these proceedings. The Federal Rules of Evidence, 28 U.S.C. App., shall not apply to these proceedings.

§ 11.5 Informal review of adverse decisions.

(a) Required informal review of FSA adverse decisions. A participant must seek an informal review of an adverse decision issued at the field service office level by an officer or employee of FSA, or by any employee of a county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590h(b)(5), before NAD will accept an appeal of an FSA adverse decision. Such informal review shall be done by the county or area committee with responsibility for the adverse decision at issue. The procedures for requesting such an informal review before FSA are found in 7 CFR part 780. After receiving a decision upon review by a county or area committee, a participant may seek further informal review by the State FSA committee or may appeal directly to NAD under Sec. 11.6(b).

(b) Optional informal review. With respect to adverse decisions issued at the State office level of FSA and adverse decisions of all other agencies, a participant may request an agency informal review of an adverse decision of that agency prior to appealing to NAD. Procedures for requesting such an informal review are found at 7 CFR part 780 (FSA), 7 CFR part 614 (NRCS), 7 CFR part 1900, subpart B (RUS), 7 CFR part 1900, subpart B (RBS), and 7 CFR part 1900, subpart B (RHS).

(c) Mediation. A participant also shall have the right to utilize any available alternative dispute resolution (ADR) or mediation program, including any mediation program available under title V of the Agriculture Credit Act of 1987, 7 U.S.C. 5101 et seq., in order to attempt to seek resolution of an adverse decision of an agency prior to a NAD hearing. If a participant:

(1) Requests mediation or ADR prior to filing an appeal with NAD, the participant stops the running of the 30-day period during which a participant may appeal to NAD under Sec. 11.6(b)(1), and will have the balance of days remaining in that period to appeal to NAD once mediation or ADR has concluded.

(2) Requests mediation or ADR after having filed an appeal to NAD under Sec. 11.6(b), but before the hearing, the participant will be deemed to have waived his right to have a hearing within 45 days under Sec. 11.8(c)(1) but shall have the right to have a hearing within 45 days after conclusion of mediation or ADR.

§ 11.6 Director review of agency determination of appealability and right of participants to Division hearing.

(a) Director review of agency determination of appealability.

(1) Not later than 30 days after the date on which a participant receives a determination from an agency that an agency decision is not appealable, the participant must submit a written request to the Director to review the determination in order to obtain such review by the Director.

(2) The Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal, and will issue a final determination notice that upholds or reverses the determination of the agency. This final determination is not appealable. If the Director reverses the determination of the agency, the Director will notify the participant and the agency of that decision and inform the participant of his or her right to proceed with an appeal.

(3) The Director may delegate his or her authority to conduct a review under this subsection to any subordinate official of the Division other than a Hearing Officer. In any case in which such review is conducted by such a subordinate official, the subordinate official's determination shall be considered to be the determination of the Director and shall be final and not appealable.

(b) Appeals of adverse decisions.

(1) To obtain a hearing under Sec. 11.8, a participant personally must request such hearing not later than 30 days after the date on which the participant first received notice of the adverse decision or after the date on which the participant receives notice of the Director's determination that a decision is appealable. In the case of the failure of an agency to act on the request or right of a recipient, a participant personally must request such hearing not later than 30 days after the participant knew or reasonably should have known that the agency had not acted within the timeframes specified by agency program regulations, or, where such regulations specify no timeframes, not later than 30 days after the participant reasonably should have known of the agency's failure to act.

(2) A request for a hearing shall be in writing and personally signed by the participant, and shall include a copy of the adverse decision to be reviewed, if available, along with a brief statement of the participant's reasons for believing that the decision, or the agency's failure to act, was wrong. The participant also shall send a copy of the request for a hearing to the agency, and may send a copy of the adverse decision to be reviewed to the agency, but failure to do either will not constitute grounds for dismissal of the appeal. Instead of a hearing, the participant may request a record review.

(c) If a participant is represented by an authorized representative, the authorized representative must file a declaration with NAD, executed in accordance with 28 U.S.C. 1746, stating that the participant has duly authorized the declarant in writing to represent the participant for purposes of a specified adverse decision or decisions, and attach a copy of the written authorization to the declaration.

§ 11.7 Ex parte communications.

(a) Ex parte communications.

(1) At no time between the filing of an appeal and the issuance of a final determination under this part shall any officer or employee of the Division engage in ex parte communications regarding the merits of the appeal with any person having any interest in the appeal pending before the Division, including any person in an advocacy or investigative capacity. This prohibition does not apply to:

(i) Discussions of procedural matters related to an appeal; or

(ii) Discussions of the merits of the appeal where all parties to the appeal have been given notice and an opportunity to participate.

(2) In the case of a communication described in paragraph (a)(1)(ii) of this section, a memorandum of any such discussion shall be included in the hearing record.

(b) No interested person shall make or knowingly cause to be made to any officer or employee of the Division an ex parte communication relevant to the merits of the appeal.

(c) If any officer or employee of the Division receives an ex parte communication in violation of this section, the one who receives the communication shall place in the hearing record:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses to such communications, and memoranda stating the substance of any oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section the Hearing Officer or Director may, to the extent consistent with the interests of justice and the policy of the underlying program, require the party to show cause why such party's claim or interest in the appeal should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

§ 11.8 Division hearings.

(a) General rules.

(1) The Director, the Hearing Officer, and the appellant shall have access to the agency record of any adverse decision appealed to the Division for a hearing. Upon request by the appellant, the agency shall provide the appellant a copy of the agency record.

(2) The Director and Hearing Officer shall have the authority to administer oaths and affirmations, and to require, by subpoena, the attendance of witnesses and the production of evidence. A Hearing Officer shall obtain the concurrence of the Director prior to issuing a subpoena.

(i) A subpoena requiring the production of evidence may be requested and issued at any time while the case is pending before the Division.

(ii) An appellant or an agency, acting through any appropriate official, may request the issuance of a subpoena requiring the attendance of a witness by submitting such a request in writing at least 14 days before the scheduled date of a hearing. The Director or Hearing Officer shall issue a subpoena at least 7 days prior to the scheduled date of a hearing.

(iii) A subpoena shall be issued only if the Director or a Hearing Officer determines that:

(A) For a subpoena of documents, the appellant or the agency has established that production of documentary evidence is necessary and is reasonably calculated to lead to information which would affect the final determination or is necessary to fully present the case before the Division; or

(B) For a subpoena of a witness, the appellant or the agency has established that either a representative of the Department or a private individual possesses information that is pertinent and necessary for disclosure of all relevant facts which could impact the final determination, that the information cannot be obtained except through testimony of the person, and that the testimony cannot be obtained absent issuance of a subpoena.

(iv) The party requesting issuance of a subpoena shall arrange for service. Service of a subpoena upon a person named therein may be made by registered or certified mail, or in person. Personal service shall be made by personal delivery of a copy of the subpoena to the person named therein by any person who is not a party and who is not less than 19 years of age. Proof of service shall be made by filing with the Hearing Officer or Director who issued the subpoena a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service in person or by return receipts for certified or registered mail.

(v) A party who requests that a subpoena be issued shall be responsible for the payment of any reasonable travel and subsistence costs incurred by the witness in connection with his or her appearance and any fees of a person who serves the subpoena in person. The Department shall pay the costs associated with the appearance of a Department employee whose role as a witness arises out of his or her performance of official duties, regardless of which party requested the subpoena.

The failure to make payment of such charges on demand may be deemed by the Hearing Officer or Director as sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(vi) If a person refuses to obey a subpoena, the Director, acting through the Office of the General Counsel of the Department and the Department of Justice, may apply to the United States District Court in the jurisdiction where that person resides to have the subpoena enforced as provided in the Federal Rules of Civil Procedure (28 U.S.C. App.).

(3) Testimony required by subpoena pursuant to paragraph (a)(2) of this section may, at the discretion of the Director or a Hearing Officer, be presented at the hearing either in person or telephonically.

(b) Hearing procedures applicable to both record review and hearings.

(1) Upon the filing of an appeal under this part of an adverse decision by any agency, the agency promptly shall provide the Division with a copy of the agency record. If requested by the appellant prior to the hearing, a copy of such agency record shall be provided to the appellant by the agency within 10 days of receipt of the request by the agency.

(2) The Director shall assign the appeal to a Hearing Officer and shall notify the appellant and agency of such assignment. The notice also shall advise the appellant and the agency of the documents required to be submitted under paragraph (c)(2) of this section, and notify the appellant of the option of having a hearing by telephone.

(3) The Hearing Officer will receive evidence into the hearing record without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made.

(c) Procedures applicable only to hearings.

(1) Upon a timely request for a hearing under Sec. 11.6(b), an appellant has the right to have a hearing by the Division on any adverse decision within 45 days after the date of receipt of the request for the hearing by the Division.

(2) The Hearing Officer shall set a reasonable deadline for submission of the following documents:

(i) By the appellant:

(A) A short statement of why the decision is wrong;

(B) A copy of any document not in the agency record that the appellant anticipates introducing at the hearing; and

(C) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(ii) By the agency:

(A) A copy of the adverse decision challenged by the appellant;

(B) A written explanation of the agency's position, including the regulatory or statutory basis therefor;

(C) A copy of any document not in the agency record that the agency anticipates introducing at the hearing; and

(D) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(3) Not less than 14 days prior to the hearing, the Division must provide the appellant, the authorized representative, and the agency a notice of hearing specifying the date, time, and place of the hearing. The hearing will be held in the State of residence of the appellant, as determined by the Hearing Officer, or at a location that is otherwise convenient to the appellant, the agency, and the Division. The notice also shall notify all parties of the right to obtain an official record of the hearing.

(4) Pre-hearing conference. Whenever appropriate, the Hearing Officer shall hold a pre-hearing conference in order to attempt to resolve the dispute or to narrow the issues involved. Such pre-hearing conference shall be held by telephone unless the Hearing Officer and all parties agree to hold such conference in person.

(5) Conduct of the hearing.

(i) A hearing before a Hearing Officer will be in person unless the appellant agrees to a hearing by telephone.

(ii) The hearing will be conducted by the Hearing Officer in the manner determined by the Division most likely to obtain the facts relevant to the matter or matters at issue. The Hearing Officer will allow the presentation of evidence at the hearing by any party without regard to whether the evidence was known to the officer, employee, or committee of the agency making the adverse decision at the time the adverse decision was made. The Hearing Officer may confine the presentation of facts and evidence to pertinent matters and exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions.

Any party shall have the opportunity to present oral and documentary evidence, oral testimony of witnesses, and arguments in support of the party's position; controvert evidence relied on by any other party; and question all witnesses. When appropriate, agency witnesses requested by the appellant will be made available at the hearing. Any evidence may be received by the Hearing Officer without regard to whether that evidence could be admitted in judicial proceedings.

(iii) An official record shall be made of the proceedings of every hearing. This record will be made by an official tape recording by the Division. In addition, either party may request that a verbatim transcript be made of the hearing proceedings and that such transcript shall be made the official record of the hearing. The party requesting a verbatim transcript shall pay for the transcription service, shall provide a certified copy of the transcript to the Hearing Officer free of charge, and shall allow any other party desiring to purchase a copy of the transcript to order it from the transcription service.

(6) Absence of parties.

(i) If at the time scheduled for the hearing either the appellant or the agency representative is absent, and no appearance is made on behalf of such absent party, or no arrangements have been made for rescheduling the hearing, the Hearing Officer has the option to cancel the hearing unless the absent party has good cause for the failure to appear. If the Hearing Officer elects to cancel the hearing, the Hearing Officer may:

(A) Treat the appeal as a record review and issue a determination based on the agency record as submitted by the agency and the hearing record developed prior to the hearing date;

(B) Accept evidence into the hearing record submitted by any party present at the hearing, and then issue a determination; or

(C) Dismiss the appeal.

(ii) When a hearing is cancelled due to the absence of a party, the Hearing Officer will add to the hearing record any additional evidence submitted by any party present, provide a copy of such evidence to the absent party or parties, and allow the absent party or parties 10 days to provide a response to such additional evidence for inclusion in the hearing record.

(iii) Where an absent party has demonstrated good cause for the failure to appear, the Hearing Officer shall reschedule the hearing unless all parties agree to proceed without a hearing.

(7) Post-hearing procedure. The Hearing Officer will leave the hearing record open after the hearing for 10 days, or for such other period of time as the Hearing Officer shall establish, to allow the submission of information by the appellant or the agency, to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised at the hearing. Any such new information will be added by the Hearing Officer to the hearing record and sent to the other party or parties by the submitter of the information. The Hearing Officer, in his or her discretion, may permit the other party or parties to respond to this post-hearing submission.

(d) Interlocutory review. Interlocutory review by the Director of rulings of a Hearing Officer are not permitted under the procedures of this part.

(e) Burden of proof. The appellant has the burden of proving that the adverse decision of the agency was erroneous by a preponderance of the evidence.

(f) Timing of issuance of determination. The Hearing Officer will issue a notice of the determination on the appeal to the named appellant, the authorized representative, and the agency not later than 30 days after a hearing or the closing date of the hearing record in cases in which the Hearing Officer receives additional evidence from the agency or appellant after a hearing. In the case of a record review, the Hearing Officer will issue a notice of determination within 45 days of receipt of the appellant's request for a record review. Upon the Hearing Officer's request, the Director may establish an earlier or later deadline. A notice of determination shall be accompanied by a copy of the procedures for filing a request for Director review under Sec. 11.9. If the determination is not appealed to the Director for review under Sec. 11.9, the notice provided by the Hearing Officer shall be considered to be a notice of a final determination under this part.

§ 11.9 Director review of determinations of Hearing Officers.

(a) Requests for Director review.

(1) Not later than 30 days after the date on which an appellant receives the determination of a Hearing Officer under Sec. 11.8, the appellant must submit a written request, signed personally by the named appellant, to the Director to review the determination in order to be entitled to such review by the Director. Such request shall include specific reasons why the appellant believes the determination is wrong.

(2) Not later than 15 business days after the date on which an agency receives the determination of a Hearing Officer under Sec. 11.8, the head of the agency may make a written request that the Director review the determination. Such request shall include specific reasons why the agency believes the determination is wrong, including citations of statutes or regulations that the agency believes the determination violates. Any such request may be made by the head of an agency only, or by a person acting in such capacity, but not by any subordinate officer of such agency.

(3) A copy of a request for Director review submitted under this paragraph (a) shall be provided simultaneously by the submitter to each party to the appeal.

(b) Notification of parties. The Director promptly shall notify all parties of receipt of a request for review.

(c) Responses to request for Director review. Other parties to an appeal may submit written responses to a request for Director review within 5 business days from the date of receipt of a copy of the request for review.

(d) Determination of Director.

(1) The Director will conduct a review of the determination of the Hearing Officer using the agency record, the hearing record, the request for review, any responses submitted under paragraph (c) of this section, and such other arguments or information as may be accepted by the Director, in order to determine whether the decision of the Hearing Officer is supported by substantial evidence. Based on such review, the Director will issue a final determination notice that upholds, reverses, or modifies the determination of the Hearing Officer.

The Director's determination upon review of a Hearing Officer's decision shall be considered to be the final determination under this part and shall not be appealable. However, if the Director determines that the hearing record is inadequate or that new evidence has been submitted, the Director may remand all or a portion of the determination to the Hearing Officer for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing.

(2) The Director will complete the review and either issue a final determination or remand the determination not later than--

(i) 10 business days after receipt of the request for review, in the case of a request by the head of an agency; or

(ii) 30 business days after receipt of the request for review, in the case of a request by an appellant.

(3) In any case or any category of cases, the Director may delegate his or her authority to conduct a review under this section to any Deputy or Associate Directors of the Division. In any case in which such review is conducted by a Deputy or Associate Director under authority delegated by the Director, the Deputy or Associate Director's determination shall be considered to be the determination of the Director under this part and shall be final and not appealable.

(e) Equitable relief. In reaching a decision on an appeal, the Director shall have the authority to grant equitable relief under this part in the same manner and to the same extent as such authority is provided an agency under applicable laws and regulations.

§ 11.10 Basis for determinations.

(a) In making a determination, the Hearing Officers and the Director are not bound by previous findings of facts on which the agency's adverse decision was based.

(b) In making a determination on the appeal, Hearing Officers and the Director shall ensure that the decision is consistent with the laws and regulations of the agency, and with the generally applicable interpretations of such laws and regulations.

(c) All determinations of the Hearing Officers and the Director must be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate under the applicable agency program laws and regulations.

§ 11.11 Reconsideration of Director determinations.

(a) Reconsideration of a determination of the Director may be requested by the appellant or the agency within 10 days of receipt of the determination. The Director will not consider any request for reconsideration that does not contain a detailed statement of a material error of fact made in the determination, or a detailed explanation of how the determination is contrary to statute or regulation, which would justify reversal or modification of the determination.

(b) The Director shall issue a notice to all parties as to whether a request for reconsideration meets the criteria in paragraph (a) of this section. If the request for reconsideration meets such criteria, the Director shall include a copy of the request for reconsideration in the notice to the non-requesting parties to the appeal. The non-requesting parties shall have 5 days from receipt of such notice from the Director to file a response to the request for reconsideration with the Director.
(c) The Director shall issue a decision on the request for reconsideration within 5 days of receipt of responses from the non-requesting parties. If the Director's decision upon reconsideration reverses or modifies the final determination of the Director rendered under Sec. 11.9(d), the Director's decision on reconsideration will become the final determination of the Director under Sec. 11.9(d) for purposes of this part.

§ 11.12 Effective date and implementation of final determinations of the Division.

(a) On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

(b) A final determination will be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable under the applicable agency program statutes or regulations.

§ 11.13 Judicial review.

(a) A final determination of the Division shall be reviewable and enforceable by any United States District Court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

(b) An appellant may not seek judicial review of any agency adverse decision appealable under this part without receiving a final determination from the Division pursuant to the procedures of this part.

§ 11.14 Filing of appeals and computation of time.

(a) An appeal, a request for Director review, or any other document will be considered ``filed'' when delivered in writing to the Division, when postmarked, or when a complete facsimile copy is received by the Division.

(b) Whenever the final date for any requirement of this part falls on a Saturday, Sunday, Federal holiday, or other day on which the Division is not open for the transaction of business during normal working hours, the time for filing will be extended to the close of business on the next working day.

(c) The time for filing an appeal, a request for Director review, or any other document expires at 5:00 p.m. local time at the office of the Division to which the filing is submitted on the last day on which such filing may be made.

APPENDIX 5

(This Appendix was intentionally left blank.)

Effective Dates and Interest Rates
for Above-Moderate Rural Housing (RH)
or Other Real Estate (ORE) Loans

Effective Date	Interest Rate (%)
March 11, 1978	8.75 + .50
June 3, 1978	9.00 + .50
July 4, 1978	9.50 + .50
May 23, 1979	10.00 + .50
October 15, 1979	10.50 + .50
November 14, 1979	11.50 + .50
February 27, 1980	12.00 + .50
March 6, 1980	13.00 + .50
April 19, 1980	14.00 + .50
May 14, 1980	13.00 + .50
June 14, 1980	11.50 + .50
September 20, 1980	12.00 + .50
December 20, 1980	13.50 + .50
May 27, 1981	15.50 + .50
September 14, 1981	16.50 + .50
October 1, 1981	17.50 + .50
November 9, 1981	16.50 + .50
December 7, 1981	15.50 + .50
February 22, 1982	16.50 + .50
April 8, 1982	15.50 + .50
August 30, 1982	15.00 + .50
September 20, 1982	14.00 + .50
October 25, 1982	13.50 + .50
November 1, 1982	12.50 + .50
December 6, 1982	12.00 + .50
May 23, 1983	11.50 + .50
July 11, 1983	12.00 + .50
August 8, 1983	12.50 + .50
September 19, 1983	13.00 + .50
December 1, 1983	12.50 + .50

Effective Dates and Interest Rates for
Above-Moderate Single Family Housing (SFH) Nonprogram Loans

Effective Date	Interest Rate (%)
July 8, 1985	13.00
September 1, 1985	12.375
December 2, 1985	11.375
May 1, 1986	10.375
June 1, 1986	10.00
March 1, 1987	9.75
April 1, 1987	9.00
July 1, 1987	9.50
October 1, 1987	10.00
November 1, 1987	10.50
January 1, 1988	10.00
April 1, 1988	9.50
June 1, 1988	10.00
October 1, 1988	10.25
December 1, 1988	10.00
February 1, 1989	10.25
April 1, 1989	10.00
May 1, 1989	10.25
July 1, 1989	10.00
August 1, 1989	9.50
September 1, 1989	9.25
May 1, 1990	9.75
August 1, 1990	9.50
February 1, 1991	9.25
December 1, 1991	8.75
October 1, 1992	8.25
May 1, 1993	7.75
November 1, 1993	7.00
May 1, 1994	8.00
July 1, 1994	8.50
January 1, 1995	9.25
May 1, 1995	8.50
July 1, 1995	8.00
January 1, 1996	7.25
June 1, 1996	7.75
February 1, 1998	7.25
August 1, 1998	6.75
October 1, 1998	7.25
November 1,1998	6.875
December 1, 1998	6.625
January 1, 1999	6.875
February 1, 1999	6.750
March 1, 1999	6.875
May 1, 1999	7.25
July 1, 1999	7.375
August 1, 1999	7.625
October 1, 1999	7.750

Effective Dates and Interest Rates for
Above-Moderate Single Family Housing (SFH) Nonprogram Loans

Effective Date	Interest Rate (%)
December 1, 1999	7.875
October 1, 2000	7.375
January 1, 2002	6.625
May 1, 2002	7.250
November 1, 2002	6.500
July 1, 2003	6.250
August 1, 2003	5.875
September 1, 2003	6.250

(01-23-03) SPECIAL PN
Revised (09-10-03) PN 363

DETERMINATION OF AMOUNT OF UNAUTHORIZED ASSISTANCE

A. When the recipient was at fault, choose the interest rate (from page 5 or 6 of this appendix) that was in effect when the loan was approved and compute interest on the entire loan at that interest rate from the date the loan was closed to the date the letter to the borrower of unauthorized assistance is sent. Add the interest to the beginning principal balance, and subtract that from any payments the borrower has made on the loan. The result is the amount of unauthorized assistance.

B. When the recipient received interest credits to which he or she was not entitled, the amount of unauthorized assistance is considered to be the monthly amount of unauthorized interest credit times the number of months the incorrect agreement has been (or was) in effect, without the addition of interest. This formula will be used both in cases where the recipient was at fault and where the recipient was not at fault.

C. When the recipient was not at fault and:

1. The entire loan was unauthorized, the amount of unauthorized assistance is the outstanding balance (principal and interest) due as of the date of the repayment. The interest rate will be the rate set in the note.

2. The entire loan was made at the wrong interest rate, the amount of unauthorized assistance will be computed as follows:

Outstanding principal balance x (correct rate - note rate) x length of time the loan was outstanding. For example, suppose a borrower received a $35,000 loan on February 1, 1982, at 11 percent. The loan should have been made at 13 percent. The borrower has made several payments and reduced the outstanding principal balance to $33,500. The borrower will repay the loan on February 1, 1984. To figure the amount of unauthorized assistance; multiply $33,500 x 2 percent x 2 years. The 2 percent is the difference between the current rate and the note rate. If the borrower was properly granted interest credits, the unauthorized assistance for the time the interest credit agreement was in effect will be zero. For example, suppose a borrower's note should have been written at 13 percent but was improperly written at 11 percent. The borrower was granted interest credits and has been repaying at a rate of 1 percent. It makes no difference what the note and the current rates were; the borrower was entitled to repay the loan at 1 percent, in accordance with the interest credit agreement.

INTEREST RATES TO BE CHARGED ON LUMP-SUM REPAYMENTS
WHEN UNAUTHORIZED ASSISTANCE WAS RECEIVED BECAUSE
RECIPIENT WAS AT FAULT

For Fiscal Year (FY)	Interest Rate to Be Charged (%)
1979	8.974
1980	10.734
1981	13.094
1982	14.208
1983	10.880
1984	12.255
1985	11.236
1986	9.015
1987	8.227
1988	8.461
1989	8.990
1990	8.590
1991	7.936
1992	7.042
1993	6.200
1994	5.350
1995	7.797
1996	6.770
1997	7.110
1998	5.980

INTEREST RATES TO BE CHARGED ON LUMP-SUM REPAYMENTS
WHEN UNAUTHORIZED ASSISTANCE WAS RECEIVED BECAUSE
RECIPIENT WAS AT FAULT (Con.)

For Fiscal Year (FY)	Interest Rate to Be Charged (%)
1999	5.81
2000	6.36
2001	5.75
2002	5.62

* The interest rate for FY 2002 will not be available until early FY 2003. If cases of unauthorized assistance received in FY 2002 are being serviced prior to the provision of a rate for FY 2002, use the interest rate for FY 2001 to compute the amount due.

APPENDIX 7

STATE SUPPLEMENTS

Refer to State Supplements.

APPENDIX 8

SECTION 306C WWD GRANTS TO INDIVIDUALS

I. GENERAL. This appendix sets forth the policies and procedures for making initial and subsequent Water and Waste Disposal (WWD) grants to individuals authorized by Section 306C(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(c)), as amended. The objective of the Section 306C WWD individual grant program is to facilitate the use of community water and/or waste disposal systems by the residents of colonias along the U.S./Mexico border. WWD grants are processed similarly to Section 504 grants, except as modified by this appendix.

II. DEFINITIONS. The following definitions apply to this appendix.

(a) **Colonia**. Any identifiable community designated in writing by the State or county in which it is located; determined to be a colonia on the basis of objective criteria including lack of potable water supply, lack of adequate sewage systems, lack of decent, safe, and sanitary housing, and inadequate roads and drainage; and existed and was generally recognized as a colonia before October 1, 1989.

(b) **Individual**. Resident of a colonia located in a rural area.

(c) **Rural areas**. Includes unincorporated areas and any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States.

(d) **System**. A community or central water supply or waste disposal system.

III. GRANT PURPOSES. Grant funds may be used to pay the reasonable costs for individuals to:

(a) Extend service lines from the system to a residence;

(b) Connect service lines to a residence's plumbing;

(c) Pay reasonable charges or fees for connecting to a system;

(d) Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities (this is limited to one bath tub, sink, commode, kitchen sink, water heater, and outside spigot); and

(e) Construct and/or partition off a portion of the dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.

IV. GRANT RESTRICTIONS

(a) **Maximum grant**

(1) Maximum grant to any individual for water service lines, connections, and/or construction of a bathroom is $3,500.

(2) Maximum grant to any individual for sewer service lines, connections, and/or construction of a bathroom is $4,000.

(3) Lifetime assistance to any individual for initial or subsequent Section 306C WWD grants may not exceed a cumulative total of $5,000.

(4) Document the amount of assistance provided each grantee on a list of Section 306C WWD recipients and retain it in the office operational file.
Maintenance of the list will permit destruction of closed Section 306C WWD assistance case folders as prescribed in §2033.10(b)(4)(i) of RD
Instruction 2033-A. The list must include the following information recorded at the time a Section 306C WWD grant is made:

(i) Grantee name, address, and case number;

(ii) Name of co-grantees, if any;

(iii) Amount of the grant; and

(iv) Date grant was made.

(b) **Limitation on use of grant funds**. Section 306C WWD grant funds ***may not*** be used to:

(1) Pay any debt of obligation of the grantee other than obligations incurred for items listed in Section III of this appendix;

(2) Pay individuals for their own labor; or

(3) Pay costs that are not considered reasonable by the Agency.

V. ELIGIBILITY REQUIREMENTS. Section 306C WWD applicants must meet the following requirements (applicants need not be age 62 or older):

(a) Own a dwelling located in a colonia and must present evidence of ownership (see Chapter 12 for requirements).

(b) Have a total taxable income based on the latest Federal income tax form from all individuals residing in the household that is below the most recent poverty income guidelines established by the Department of Health and Human Services; and

(c) Must not be delinquent on any Federal debt.

APPENDIX 9

HUD INCOME LIMITS

INSTRUCTIONS:

When the HUD income limits arrive from the State Office, copy the relevant page or pages, and insert them here for easy reference.

APPENDIX 10

AREA LOAN LIMITS

When the Area Loan Limits arrive from the State Office , copy the relevant page or pages, and insert them here.

APPENDIX 11

NET RECOVERY VALUE WORKSHEET

I. BACKGROUND		
(1) Case Number:	(2) Borrower Name/ID	
(3) Proposed Liquidation Option:		(4) Calculation Date:
(5) Estimated Holding Period[1]:		
II. CALCULATION OF NET RECOVERY VALUE		
(6) Market Value (use current appraisal)		(6)
(7) Deductions from Market Value		
A. Prior liens to be paid by the Agency		$_____
B. Junior liens to be paid by Agency (N/A for foreclosures)		$_____
C. Selling expenses to be paid by Agency [2]		$_____
D. Holding costs[3]		$_____
E. Depreciation During Holding Period		$_____
F. Administrative Costs[4]		$_____
G. Management Costs[5]		$_____
H. Total Reductions (sum of items 7A through 7G)		$_____
(8) Additions to Present Market Value		
A. Appreciation during holding period		$_____
B. Income during holding period		$_____
C. Total Additions (sum of items 8A and 8B)		$_____
(9) NET RECOVERY VALUE (6 minus Item 7G plus Item 8C)		

[1]To calculate holding period use number of months from calculation to:

- filing the release, for release of valueless lien
- closing of new loan and payoff, for refinancing
- closing of loan or transfer and assumption, for sales
- filing warranty deed for deed-in-lieu of foreclosure
- payoff and release for debt settlement offer subsequent to acceleration
- filing of deed and expiration of redemption rights, for foreclosures
- plus the time for marketing and disposition, if acquired

[2] Selling expenses; advertising, commissions for selling agents, required seller certifications, surveys, points, closing costs if to be paid by RHS.

[3] Holding costs: monthly interest accrual multiplied by number of months in the holding period.

[4] Administrative costs: costs of liquidation, including Attorney and other fees, such as filing, recordation, advertising, document service that are customarily incurred in a liquidation or foreclosure action and payment of prior liens.

[5] Management Costs: cost of cleaning, securing and maintaining the property during the holding period, including utilities, real estate taxes and other assessments accruing for custodial or REO properties.

APPENDIX 12

(This Appendix was intentionally left blank.)

APPENDIX 13

(This Appendix was intentionally left blank.)

VERIFICATION OF PENSIONS AND ANNUITIES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

A. INCOME FROM ANNUITIES

1. $ _____ Current monthly gross amount received. Will the applicant continue to receive this monthly amount for the next twelve months? ___ Yes ___ No If, no please explain.
2. Describe any deductions from the gross amount that are taken.

B. VERIFICATION OF ASSETS

1. $_____ Current market value of assets held in the retirement or pension plan.
2. Can the applicant withdraw amounts from the retirement account without retiring or terminating employment? _____ Yes _____ No. If yes, explain the terms of the withdrawal, including any penalties.
3. Can the applicant borrow against amounts in the retirement account? ___ Yes ____ No
   If yes, explain the terms (maximum amount, interest rate, repayment term, purposes, etc.)

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF STUDENT INCOME AND EXPENSES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

1. Describe any financial assistance the above-reference student receives.

Amount	**Source**	**Purpose for Which Funds May Be Used**

2. Describe any expenses the above-referenced student has for:

$_____ Tuition
$_____ Housing
$_____ Books
$_____ Supplies and Equipment
$_____ Transportation
$_____ Misc. Personal Expenses
$_____ Total

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF MEDICAL EXPENSES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

1. Please list the purpose of any accumulated medical bills, identify to whom the amount is owed, and provide the amount to be paid during the coming 12 months.

Amount	**Owed To**	**Medical Expenses for**

2. Medical Insurance Premiums

   $_____ Amount Paid Payment Period: __ per month, ___ per year

   Medical Insurance Premiums

   $_____ Amount Paid Payment period: __ per month, ___ per year

3. List other anticipated medical expenses

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF SOCIAL SECURITY BENEFITS

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

Social Security Data

_____ Date of Birth

_____ Gross Monthly Social Security Benefit Amount, Type of Benefit

_____ Gross Monthly Supplemental Security Income Payment Amount (including State Supplement) Type of Benefit

_____ Amount of Monthly Deductions for Medicare Paid by the Applicant

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF PUBLIC ASSISTANCE

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

Number in Family: _____	Rate Per Month
Aid to Families with Dependent Children	$_____
General Assistance	$_____
Does this amount include Court Awarded Support Payments	☐ Yes ☐ No
Amount Specifically Designated for Shelter and Utilities	$_____
Other Assistance - Type: _____	$_____
Total Monthly Grant	$_____
Other Income - Source: _____	$_____
*Maximum Allowance for Rent and Utilities	$_____
Amount of Public Assistance given during the past 12 months	$_____

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF CHILD/DEPENDENT CARE

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

Name of Person or Agency Providing Care: _____

Address: _____

_____

_____

Name(s) of person or Persons Cared for: _____

_____

_____

Specify Hours _____ and Days _____ of Care.

Average Amount Paid for Care: $_____ ☐ Week ☐ Month

Estimated Amount to be Paid in coming 12 months (including full-time summer care of school children, if applicable): $_____

Will any amount of this expense be reimbursed by an outside source: ☐ Yes ☐ No

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF UNEMPLOYMENT BENEFITS

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

1. Are benefits being paid now? ☐ Yes ☐ No
2. If yes, what is Gross Weekly payment? $_____
3. Date of Initial Payment _____
4. Duration of Benefits _____ weeks
   Is claimant eligible for future benefits? ☐ Yes ☐ No
5. If yes, How many weeks? _____
6. If no, what is termination date of benefits? _____

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF BUSINESS EXPENSES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

Based on business transacted during _____ 20____, to _____ 20____

1. Gross Income $_____
2. Expenses:
   - (a) Interest on Loans $_____
   - (b) Cost of Goods/Materials $_____
   - (c) Rent $_____
   - (d) Utilities $_____
   - (e) Wages/Salaries $_____
   - (f) Employee Contributions $_____
   - (g) Federal Withholding Tax $_____
   - (h) State Withholding Tax $_____
   - (i) FICA $_____
   - (j) Sales Tax $_____
   - (k) Other $_____
   - (l) Straight Line Depreciation $_____

   Total Expenses $_____
3. Net Income $_____

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF SUPPORT PAYMENTS

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number_____

REQUESTED INFORMATION

Name of Person Paying Support: _____

Address: _____

_____

_____

For ( ) Former Spouse

( ) Children

Children Names are:

_____

_____

_____

_____

Amount of Support

$_____ ☐ Week, ☐ Month, ☐ Year

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name:_____ Title:_____

_____ Telephone Number:_____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

RECORD OF ORAL VERIFICATION

APPLICANT INFORMATION

Re: _____

Address: _____

_____

Date Received: _____

INFORMATION VERIFIED

Item Verified: _____

Person Contacted: _____

Representing: _____

INFORMATION SUPPLIED

_____ _____

Signature of Person Receiving Verification Date and Time

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

RECORD OF ORAL VERIFICATION

APPLICANT INFORMATION

Re: _____

Address: _____

_____

Date Received: _____

INFORMATION VERIFIED

Item Verified: _____

Person Contacted: _____

Representing: _____

INFORMATION SUPPLIED

_____ _____

Signature of Person Receiving Verification Date and Time

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

APPENDIX 15

RURAL HOUSING DEMONSTRATION PROGRAM

I. PURPOSE

Section 506 (b) of title V of the Housing Act of 1949 authorizes the Secretary of Agriculture to permit demonstrations involving innovative housing units and systems that do not meet existing published standards, rules, regulations, or policies. Under this law, Rural Housing Service is authorized to provide the Rural Housing Demonstration program which tests new approaches to construction of housing under the statutory authority granted to the Secretary of Agriculture.

Section 506 (b) imposes two conditions: (1) that the health and safety of the population of the areas in which the demonstrations are carried out will not be adversely affected, and (2) that the aggregate expenditures for such demonstrations may not exceed $10 million in any fiscal year.

II. OBJECTIVES

The intended effect is to increase the availability of affordable rural housing low-income families through innovative designs and systems. The Agency solicits proposals for a Rural Housing Demonstration Program under section 506(b) of title V of the Housing Act of 1949, which provides loans to low income borrowers to purchase innovative housing units and systems that do not meet existing regulations. However, any program requirements that are statutory will remain in effect.

III. STATE OFFICE ROLES AND RESPONSIBILITIES

A. Have demonstration application packages available for interested parties.

1. Maintain list of persons given a demonstration package.

2. Designate housing state member as coordinator.

3. Develop a plan to coordinate review by program and technical staff.

B. Field office staff should be instructed to refer questions or interested parties to designated person in the State Office.

C. Review proposals for completeness within 15 days of receipt.

1. Completed proposals must be reviewed and evaluated based on the evaluation criteria. Submit proposals determined to be acceptable to the National Office with recommendations within 20 days.

2. Incomplete packages must be returned to the submitter within 15 days of receipt with an explanation of what is missing.

D. Upon request, be able to provide the National Office with a list of package requesters as well as status of submissions.

E. The State Office will track such approved proposals including any conditional commitments and Section 502 loans approved.

IV. PROPOSAL CONTENT AND EVALUATION CRITERIA

The innovative housing units and systems must be creative, affordable, durable, energy efficient, and include a diversity of housing types. The proposal must be beyond the "idea" state. The proposed organization or individual must have the experience and "know-how" to implement construction of the housing unit concept in relation to the requirements of RHS's housing programs. The proposed cost and price analysis should be in comparison with other proposals and be considered realistic for the efforts planned. Examples of eligible proposals include, but are not limited to: new or improved energy-savings houses, roofing that cools and building techniques that cut costs and improve the quality of rural housing. These innovative housing units should reduce costs, raise living standards, and improve rural area living environments.

RHS, in its analysis of the proposals received, will consider whether the proposals will carry out the objectives of this demonstration effort in accordance with the following proposed content and evaluation criteria:

A. Technical Management. A proposal providing for the design, development, and application of a complete housing unit, including effective use of land, to be considered responsive shall address each of the items listed below. These items have been selected and arranged to provide a basis for the rapid and impartial evaluation of the proposal. Proposal development and design of innovative housing units and systems shall address those items under a housing unit concept which are

applicable to the particular situation. For example, appropriate statements are to be made with respect to the housing unit description adaptability, state of development, resolution of potential code problems, cost projections, and reassurance of health and safety.

The proposer is requested to keep the proposal as concise as possible and consistent with providing the requested information. Elaborate brochures and presentation methods are not desired.

B. Housing Unit Concept. A description of the housing unit concept shall include the items listed below (the term "housing unit concept" is considered to include the construction method and process, the effective innovative use of land for single or multiple units, and the interrelations with utilities and other services):

1. Housing Unit Description. Provide written and graphic details of the total housing unit including floor plan and conceptual arrangement drawings and outline specifications. Highlight innovative and unique features. Indicate the relationship between subsystems. Elements to be addressed include rationale for selection of the housing unit concepts including factors of economy, productivity, performance, anticipated benefits, market acceptance, and consumer preference as they relate to the following:

   a. Architectural: Floor plan at 1/4" per 10'; arrangements of housing units; finishes and aesthetic treatment; comparison with the requirements of national model codes; ability to incorporate varying appearance elements to provide architectural diversity.

   b. Structural: Structural system (including engineering calculations) and total weather envelope (RHS present "Thermal Performance Construction Standards" used as a minimum) and acoustical treatment and exterior finishes.

   c. Foundations: Foundation requirements peculiar to the proposed housing unit if separate from the structural system noted above.

d. Interior Work: Partitions, floor, wall and ceiling, finishes, cabinetry, trim, built-in furniture, and stair treatment, if any.

e. Mechanical: Heating, ventilating and, if applicable, air conditioning; unit air changes; plumbing and fuel supply system piping or conduits; waste disposal.

f. Electrical: Power supply and distribution system; lighting system.

g. Appliance and Equipment: Describe items which are included, and any special features, interface requirements.

h. Ancillary Structure and Facilities: Describe any features provided separate from the basic housing unit that are normally part of a total housing complex, such as central laundry facilities and communal areas.

i. Land Use Concepts: Outline plans for innovative use of land to permit effective rural communities and small town planning, and effective utility systems.

2. Housing Unit Adaptability. Address the methods planned for adapting the proposed housing units to a variety of housing types and site considerations. Describe in narrative form and by concept drawings, modifications, or variations required to adapt the housing units to these varying situations.

a. Housing Types: Describe the type of housing for which the unit may be used, and indicate adjustments that may be required. Provide sketches.

b. Climatic Area: Designate the climatic area where the housing unit should be placed, and describe design changes required to adapt the unit to each area for which the unit is suitable. Particular reference to the changes to be made to the unit for adaptability to resist severe weather conditions such as hurricane and extreme snow accumulation.

c. Geology and Soils: Provide conceptual foundation design for those geologic soil conditions considered as appropriate for the proposed system. Conversely, list the geologic and soil conditions which would preclude the use of the proposed units.

d. Site Topography: Provide drawings or sketches which indicate adjustments or modifications required to adapt the units to various topographies.

e. Site Size: Discuss the ability of the proposed units and its mix of housing types to adapt to various site sizes.

f. Site Situations: Designate the types of sites for which the unit is considered appropriate and describe conceptually the unit treatment for each type. Describe the effects on unit design and production due to labor and material availability or similar factors related to site situation.

g. "Self-Help" Completion: Describe any work that can be done by the prospective occupant and the degree to which this might be practical. Note any skill or special training required.

h. Changes: Discuss the flexibility of the unit with regard to modifications in the unit after construction, including expansion and rearrangements.

i. Regional Applications: Discuss the States, regions, or areas of the country where the proposer is willing or interested in construction of this housing unit.

3. State of Housing Unit Development. Describe the present state of development of the housing unit and the subsystem components. Highlight any previous or current experience utilizing the proposed housing unit with particular emphasis on cost, acceptability, construction experience, and health and safety.

4. Constraints. Discuss and list restrictive provisions in the model and local codes that the proposer has resolved and that will not cause conflict with or inhibit the demonstration of the innovative housing unit concept in the selected areas of the country.

5. Housing Unit Cost Projections. Furnish cost projections for each of the following situations ("housing unit in place cost" is defined as including all construction, utility, and land cost):

   a. Housing Unit Construction: Construction of the housing unit on sites proposed in the climatic regions noted above.

   b. Ownership and Operating Cost Projections: Annual cost of ownership and operation of a housing unit, including estimates for utility expenses, insurance, and similar items. State assumptions.

   c. Maintenance Projections: Annual rate of expense averaged over a 5-year cycle for property maintenance including painting, repairs, and prorated replacement of equipment.

   d. Useful Life Projections: The probable useful life of the housing unit using separate projections for the structural systems, interior work, and mechanical and electrical system, if appropriate. State any conditions pertinent to the estimate. If housing units are constructed based on settled proposals, the proposer will be required to certify the actual construction cost.

C. Organization and Staffing. Describe the plan for organizing the total effort required to implement housing unit design and construction. This plan must include the following elements:

1. Management. An outline of the proposed management framework, including lines of responsibility and illustrating the varied disciplines required. Discuss the organizational and contractual requirements among the parties and their separate and mutual responsibilities, including plans for subcontracting portions of the work where applicable.

2. Key Individuals. A list of key individuals who will be assigned major management and professional responsibilities. Indicate the responsibilities to be assigned and indicate the persons' qualifications for the proposed assignment.

3. Data Collection. Describe the types, how, and by whom housing unit evaluation data will be collected and analyzed.

4. Time Schedule. Prepare a time schedule for development that sets start dates, completion dates, and relationships between different activities.

D. Evaluation Criteria. The Rural Housing Service, in its analysis of the proposals received, will give primary consideration to those proposals which demonstrate the greatest potential for carrying out the objectives of this demonstration effort in accordance with the following general criteria.

1. Housing Unit Concept.

a. A proposal must be well beyond the "idea" stage. Sufficient testing must have been completed to demonstrate its feasibility. The proposal must be judged ready for full-scale field testing in a rural setting.

b. Ability of the housing unit to provide for the protection of life, property, and for the safety and welfare of the consumer, general public, and occupants through the design, construction, qualify of materials, use and maintenance of the housing unit.

c. Flexibility of the housing unit in relation to varying types of housing and varying site considerations.

d. Flexibility of the housing concept, insofar as it provides the ability to adjust or modify unit size and arrangements, either during design or after construction.

e. Efficiency in the use of materials and labor, with respect to cost in place, the conservation of materials, and the effective use of labor skills. Potential for Self-Help Housing Program will also be considered.

f. Selection of materials for durability and ease of maintenance.

g. Concepts for the effective use of land and environment.

2. Organizational Capabilities.

a. The experience and "know-how" of the proposed organization or individual to implement construction of the housing unit concept in relation to the requirements of RHS' housing programs. The interests of low- and very low-income rural residents in the proposed housing will be considered.

b. The management structure and organization of the proposer.

c. The quality and diversity of management and professional talent proposed as "key individuals."

d. The management plan of how this effort will be conducted.

3. Cost and Price Analysis.

a. The level of costs which are proposed, as they may compare with other proposals and be considered realistic for the efforts planned. Also, the quantity and level of detail in the information supplied.

b. Projected cost of "housing in place," with particular reference to housing for very low and low-income families.

V. SUBMITTING AND REVIEWING PROPOSALS

All interested parties must make a written request for a proposal package. The request must be made to the State Director in the State in which the proposal will be submitted. RHS will not be liable for any expenses incurred by respondents in the development and submission of applications.

Completed applications that have been determined to carry out the objectives of the program will be considered on a first come, first served basis based on the date a completed application was submitted. An application is considered complete only if the "Application for Approval of Housing Innovation" (included at the end of this Appendix) is complete in content, contains information related to the criteria, and all applicable additional information required by the application form has been provided. Applicants submitting an incomplete application will be advised in writing of additional information needed for continued processing. Rural Development will review each application for completeness and accuracy.

All application packages received by the State Director are evaluated and all acceptable application packages are submitted to the National Office for concurrence. The package is reviewed by the Program Support Staff and determined whether acceptable or unacceptable under the Demonstration Program. Each acceptable package must include a proposed allocation for the dwellings to be built.

VI. NATIONAL OFFICE APPROVAL OF PROPOSALS

After the National Office concurrence by the RHS Administrator, the State Director is notified and the Community Development Manager is made aware of the approval and prepares to issue conditional commitments for proposed dwellings. If the proposal is not selected, the State Director will so notify the applicant in writing, giving specific reasons why the proposal was not selected. Any decisions made by the Agency for the Section 502 Rural Housing Demonstration program cannot be appealed. Each borrower's file should be marked as a demonstration dwelling.

VII. FUNDING OF APPROVED PROPOSALS

State Directors are authorized to use funds for the section 502 Direct Rural Housing Demonstration Program on a project-by-project basis. Funds are subject to the requirements of RD Instruction 1940-L and are based on the availability of funds prior to the National Office year-end pooling date. Funds cannot be reserved or guaranteed under

the demonstration-housing concept. There is no guarantee that a market exists for demonstration dwellings, and this does not ensure that an eligible loan applicant will be available for such a section 502 Rural Housing dwelling.

VIII. PROJECT REQUIREMENTS

All RHS eligible loan applicants must meet the applicable requirements of 7 CFR part 3550.

A. When the proposer has an applicant, the next step will be the development of drawings and specifications that detail the requirements for construction of a demonstration dwelling unit on a specific site. The floor plans and elevations must be satisfactory to the applicant.

B. The State Engineer must review and determine acceptability of the individual unit and site designs for specific locations prior to construction. Adequate inspections per RD Instruction 1924-A should be made to protect the security interest of the Agency.

C. The proposer will be responsible for the drawings and specifications that detail the requirements for construction of demonstration dwelling units on specific sites.

D. All plans and specifications must meet the certification requirements of RD Instruction 1924-A.

E. The necessary permits should be obtained for local authorities prior to any site, building, plumbing, mechanical or electrical work being started.

F. When applying the demonstration concepts, requirements of RD Instruction 1940-G must be met.

G. Executive Order 12898 requires the Agency to conduct a Civil Rights Impact Analysis on each project prior to loan approval. Also, the requirements of Executive Order 11246 are applicable regarding equal employment opportunity when the proposed contract exceeds $10,000.

If there is no available RHS eligible loan applicant, the Rural Housing Demonstration Program applicant will have to advance funds to complete the construction of the demonstration housing with the risk that there may be no RHS applicant or other purchaser from which the builder will recover his or her development and construction costs.

Paperwork Reduction Act

The information collection requirements contained in this appendix have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0114. Public reporting burden for this collection of information is estimated to be 80 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The following contain the "Application for Approval of Housing Innovation" which should be completed by the applicant and the "State Office Technical Evaluation Sheet" is an analysis of the Housing Demonstration concept in relation to the specific criteria contained in the Proposed Content and Evaluation Criteria.

FORM APPROVED
OMB No. 0575-0114

APPLICATION FOR APPROVAL OF HOUSING INNOVATION
(To be Completed by Applicant)

Name of Company:_____

Address: _____

_____

Executive Officer:_____

Contact Person:_____ Phone Number:_____

1. Describe the proposed housing unit innovation.

_____

_____

_____

2. How does the innovation differ from comparable, conventional housing units?

_____

_____

_____

3. How does the innovation deviate from present RHS housing standards for this type of housing unit?

_____

_____

_____

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0114. The time required to complete this information collection is estimated to average 80 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

4. Describe the intended buyer occupants of the housing unit (income levels, age groups, family composition).

_____

_____

_____

5. Does the innovation comply with local building codes? Yes _____ No _____

If no, has variance from those codes been approved by local housing authorities?

Yes _____ No _____

Attach documentation of compliance or approval of variance.

6. What impact, if any, will the innovation have on the health or safety of the:

a. housing unit occupants

b. local population

7. What impact, if any, will the innovation have on the physical environment?

8. What are your qualifications for implementing the proposed innovation?

a. Training

b. Experience

9. Will the innovation increase, or decrease, the initial cost of construction?

Increase _____ Decrease _____ Neither increase nor decrease _____

If increase or decrease, by what amount? _____

Explain

Attach documentation

10. Will the innovation increase, or decrease, the cost of maintenance, repairs, or replacements?

Increase _____ Decrease _____ Neither increase nor decrease _____

If increase or decrease, explain, including time frames in your estimations of additional costs or savings.

Attach documentation.

11. Will the innovation make it more feasible for the housing owners to do part of the initial construction or finishing work?

Yes _____ No _____

If yes, describe.

12. Will the innovation make it more feasible for the housing owners to do their own repairs, replacements, or maintenance?

Yes _____ No _____

If yes, describe.

FOR INNOVATIONS INVOLVING BASIC ARCHITECTURE OR CONSTRUCTION

13. What impact will the innovation have on the life expectancy of the housing unit?

_____ shorten life expectancy _____ extend life expectancy

_____ no impact on life expectancy

If shorten or extend life expectancy, explain.

FOR INNOVATIONS INVOLVING A COMPONENT OF THE HOUSING UNIT

14. Compared to comparable, conventional components, will the innovation have a longer, shorter, or the same life expectancy?

shorter _____ longer _____ the same _____

Explain.

15. What impact, if any, will the innovation component have on other parts of the housing unit?

---

16. Has this innovation been successfully used before?

a. in similar types of housing units. Yes _____ No _____

b. in different types of housing units. Yes _____ No _____
If yes, what types of units?

c. in similar climates. Yes _____ No _____

---

d. in different types of climates. Yes _____ No _____
If yes, what types of units?

_____

e. in similar geological areas. Yes _____ No _____

f. in different types of geological areas. Yes _____ No _____
If yes, what types of units?

If you answered yes to any part of question 16, attach documentation.

17. Will the innovation make future remodeling or expansion of the unit more feasible?

Yes _____ No _____

If yes, explain

18. Address the issues in the technical management section of the proposal contract section and evaluation criteria to the extent these issues were not fully discussed in the responses to the preceding questions.

Rural Housing Service is an Equal Opportunity Lender. Complaints of discrimination should be sent to: Secretary of Agriculture, Washington, DC 20250.

Rural Housing Service
State Office Technical Evaluation Sheet
Rural Housing Demonstration Program

Instruction:

Evaluation of Rural Housing Demonstration Program technical proposal concepts will be based upon analysis of the proposer's concept in relation to the specific criteria contained in the Proposal Content and Evaluation Criteria. Reviewers should record their evaluation of each proposal in terms of its strengths and weaknesses, i.e., the degree to which the proposal concept possesses or lacks the attributes set forth in the Proposal Content and Evaluation Criteria paragraphs of this Appendix.

Reviewer's comments should be provided in the space below to indicate the basis for the State Office recommendations and any other pertinent observations.

Prior to evaluating the proposer's concepts, it should be screened to determine if it is fully responsive in accordance with the requirements of the Proposal Content and Evaluation Criteria paragraphs of this Appendix. Proposals found to be non-responsive will be removed from further consideration. The State Office will return the submission to the proposer with a list of the non-responsive areas identified.

State: _____ Reviewer: _____ Date: _____

Name of Proposer: _____

Address: _____

_____

Executive Officer: _____

Contact Person: _____ Phone Number: _____

Proposal Description: _____

_____

_____

_____

(01-23-03) SPECIAL PN
Added (10-27-04) PN 380

The proposal is (check one):

___ Responsive - complete the technical evaluation sheet
___ Nonresponsive - return to proposer with explanation

I. Proposal Evaluation (Specific strengths and weaknesses. Use additional sheets if more space is needed.)

A. Housing Unit Concept

1. State of Development - is the housing unit ready for full scale field testing in a rural setting:

Strengths	Weaknesses

2. Ability of Housing Concept to provide for the protection of life, property, and for the safety and welfare of occupants:

Strengths	Weaknesses

3. Flexibility of Housing Concepts:

a. Site Consideration

Strengths	Weaknesses

b. Dwelling Unit Concept

Strengths	Weaknesses

4. Efficiency in the use of material and labor.

Strengths	Weaknesses

5. Materials durability and ease of maintenance.

Strengths	Weaknesses

6. Concepts effect on land use and the environment.

Strengths	Weaknesses

B. Organization Capabilities

1. Experience of organizations or proposer to implement construction of the Housing Unit Concept: Is there evidence of a potential applicant?

Strengths	Weaknesses

2. Evaluation of effectiveness of Management structure and organization of proposer.

Strengths	Weaknesses

3. Qualifications of key individuals.

Strengths	Weaknesses

4. The management plan of how construction will be conducted.

Strengths	Weaknesses

5. Is the proposed time schedule realistic?

Strengths	Weaknesses

C. Cost and Price Analysis:

1. The quality, quantity, and level of detail supporting the cost of constructing the property concept.

Strengths	Weaknesses

2. How does this compare with present housing costs in your State?

Strengths	Weaknesses

3. Projected housing cost for low- and very low-income Individuals.

Strengths	Weaknesses

II. State Office Summary Review Comments and Recommendations.

A. Recommendations/Comments (Proposals's overall strengths and weaknesses)

1. Housing Unit Concept:

2. Organizational Capabilities:

3. Cost and Price Analysis:

4. Other:

B. Recommendation/Rating based on the proposal and objective of the demonstration.

(Check one): _____ Excellent _____ Very Good _____ Good

_____ Fair _____ Poor

APPENDIX 16

SINGLE FAMILY HOUSING FIELD GUIDANCE ON DISASTER DECLARATIONS

I. PURPOSE

The purpose of disaster funding in the Single Family Housing program is to provide assistance to families and individuals whose primary residences were damaged or destroyed by events covered by a Presidential Disaster Declaration. Assistance is made available in counties named by the Federal Emergency Management Agency (FEMA) as being eligible for Individual Assistance.

The following provides general guidance to agency field staff for appropriate action following a disaster. The extent of disasters varies greatly. Additional guidance may be provided from program staff based upon need. The following provides guidance to state and local offices in serving the residents of a disaster area, monitoring activities of agency staff, and serving existing borrowers in the disaster area.

Field offices should check FEMA's website at www.fema.gov for disaster declarations in areas served. This appendix applies to designated areas eligible for Individual Assistance (assistance to individuals and households). Loan or grant assistance provided in regards to a disaster must follow all program requirements and guidelines to providing low- and very low income individuals and households the opportunity to own and maintain adequate, modest, decent, safe, and sanitary homes in rural areas.

Disaster victims should be directed to first contact FEMA, Small Business Administration (SBA), their homeowner insurance company, and other agencies or charitable organizations offering assistance.

Unless otherwise specified in this Appendix, disaster assistance applications for Section 502 Direct and Section 504 Loans and/or Grants should be accepted, evaluated, and closed following the same procedures as described in Chapters 2 through 10 and 12 of this Handbook. This applies to existing customers returning for subsequent assistance or

new customers. The focus by agency staff will be to serve those affected by the disaster as quickly and efficiently as possible. Awareness of policies and procedures such as separation of duties and proper use of funds remain of the utmost importance.

For the purpose of administering these funds, "natural disaster" will only include those areas identified by a Presidential Disaster Declaration for Individual Assistance. Again, loans and grants are only available to applicants to the extent that funds are not provided by FEMA, SBA, or other sources. Applicants must establish that physical damage to their home was caused by the natural disaster. Applicants must file application packages at the Rural Development field office serving the county where the dwelling is located.

II. NOTICE OF AVAILABILITY OF FUNDING

Disaster funding, when available, is money to assist individuals and families in an area where property has been damaged or destroyed by natural disaster but not covered by insurance. It is meant to help persons with critical expenses that cannot be covered in other ways. This assistance is intended to restore the damaged property to its condition before the disaster.

Rural Development may announce the availability of Disaster Relief Funding in the Federal Register, through a Notice of Funds Availability (NOFA). In that event, the NOFA will list the application deadlines, eligibility requirements and places the public may apply for program dollars.

III. 502 DIRECT LOAN DISASTER ASSISTANCE

Program Number 10.445- Direct Housing- Natural Disaster- Section 502 Very Low and Low Income Loans Authorization- Housing Act of 1949, Title V, Section 502, as amended, Public Law 89-117, 42 U.S.C 172, Public law 98-51;Public Law 98-51; Public Law 100-233; Amendment of Consolidated Farm and Rural Development Act of 1987; Section 601.

The purpose of these loans are to assist qualified low and very low income families to meet emergency assistance needs resulting from natural disaster to buy, build, rehabilitate or improve dwellings in rural areas. Direct loans may be used for construction, repair, or purchase of housing in rural areas affected by the natural disaster. Documentation is needed to show that the applicant's permanent home was in the affected area before the disaster.

IV. LOAN AND GRANT DISASTER ASSISTANCE

Program Number 10.444- Direct Housing Natural Disaster Loans and Grants. Authorization- Housing Act of 1949, Title V, Section 504, as amended. Public Law 89-117, 42 U.S. C. 14764; Public Law 104-134.

The purpose of these loans and grants are to assist very low income owner-occupants to repair or replace damaged property as a result of a natural disaster.

V. ADDITONAL STATE/FIELD OFFICE ROLES AND RESPONSIBILITIES

Designate an individual to coordinate Rural Development response and recovery efforts.

- Obtain the State Preliminary Damage Assessment from FEMA.
- Plan and conduct outreach efforts to reach disaster victims.
- Consider utilizing assistance of field offices outside of the disaster area to support application processing activities.
- Coordinate assistance from local appraisers, insurance adjusters, and other agencies to verify losses when possible.

VI. ELIGIBLE PURPOSES

The repairs must be a direct result of housing needs. The home repairs or replacement must be necessary due to damage caused by the disaster. The following are some examples:

- Structural (foundation, walls, roof, etc.)
- Windows, flooring, interior walls, ceiling, etc.
- Water and wastewater disposal systems
- Heating, ventilating, and air conditioning systems
- Electricity
- Replacement of essential appliances (refrigerators and stoves/ranges)
- Accessibility (Stoop, ramp, etc.)
- Reconstruction of damaged walkways or driveways that previously provided direct access to the dwelling

VII. INELIGIBLE PURPOSES

- Repairs when the condition of the home was not aggravated by the disaster.
- Home affected is not the applicant’s primary residence.

- FEMA, SBA, insurance or other covered losses - Disaster assistance has been provided or denied by other sources.
- 504 Grant funds for cosmetic improvements, such as installing ceiling fans, wall cabinets, or crown molding.
- Purchase or replacement of non-essential appliances (washing machines, dryers, microwaves, etc.).

VIII. DOCUMENTATION OF IMPACT

The following documentation must be in the case file:

- Home is in a disaster area identified in the Presidential Disaster Declaration.
- Registration with FEMA for Individual Assistance where the home, owned or otherwise, is categorized by FEMA as being destroyed or having major damage.
- Non-owners must provide documentation regarding destruction of or damage to the residence. This may include an insurance report, an inspection report by an independent fee inspector or government agency, or conclusive photographic evidence showing the construction or damage.
- Applicant's insurance information claim is needed for insurance benefits and evidence to show that the damaged to the property is not fully covered.
- Proof of ownership, rental, or other arrangement for primary residence documentation in the designated disaster area.
- Documentation that the applicant has accepted assistance from all other sources or received notification for which they are eligible, either from FEMA or SBA or other charitable organization.
- Certification written on Form RD 410-4, Uniform Residential Loan Application, page 8, "I/we certify that I/we have not previously nor do I/we anticipate receiving any other payment or benefit of any kind for the same purpose for which I/we am applying for assistance from Rural Development.") This must also be signed by all parties of the application and/or owners of the home to be repaired.
- Staff must make responsible efforts to avoid providing duplicate benefits. If applicable, this includes verification from the mortgage lender of insurance coverage and verification by the insurer of coverage.
- Applicants and the home must meet the all eligibility requirements for the applicable single-family housing program.
- Grant funds must only be for repairs and improvements that will remove health and safety hazards, or to repair or remodel dwellings to make them accessible and useable for household members with disabilities.

IX. PORTFOLIO MONITORING

Immediately following a disaster there is usually little application activity as most residents are in "recovery mode". Outreach efforts take effect over time, applications

begin coming in, and supplemental funding may or may not become available. The focus is on providing assistance to those in great need. State Offices need to monitor activities of the affected field offices *during* this time.

Items to consider include the following:

- Are there outreach efforts in all affected areas of the designation?
- Are funds being used for persons and families affected or displaced by the presidential declared disaster?
- Are disaster funds utilized for eligible purposes?
- Do applicants meet all 502 or 504 eligibility requirements?
- Does the property meet all 502 eligibility requirements?
- Is FEMA's disaster declaration specified in the case files?
- Is there certification *and* follow up in the applicant's case file to indicate the applicant has not received assistance through homeowner's insurance, FEMA, SBA or other organizations for the same purpose?
- Are the disaster loans and grants coded properly?

Monitoring by the State Office does not end with the file review. Open communication with the staff of the affected field office(s) is important. Communication and coordination with other agencies before, during, and after is important to the success of recovery.

X. CUSTOMER SERVICE AND LOAN SERVICING

Rural Development makes every effort to help existing borrowers who are victims of disaster to recover from the financial hardship, to minimize the potential for delinquency liquidation, and to protect the Government's interest. The Centralized Servicing Center (CSC) will take the lead. However, field office staff may frequently be the first contact point.

Field Staff should refer existing customers seeking loan servicing assistance to CSC at:

USDA Rural Development
Centralized Servicing Center
Attn: Cash Management and Borrower Assistance Branch
Post Office Box 66818
St. Louis, Missouri 63166-6818
Phone: (800) 349-5097

NOTE: The following information is provided for awareness of field staff. CSC will continue to provide customers with servicing options and decisions.

Upon notice of a disaster declaration, collection calls and treasury offset will be suspended for all borrowers residing in the declaration area. In addition, the following servicing options will be available for borrowers affected by the natural disaster:

Insured Losses: If security property is to be repaired, the borrower's Rural Development loan account must be current before insurance proceeds can be released. An authorized field office employee may release insurance proceeds less than $5,000 to the borrower when presented with the insurance company's repair list. Insurance proceeds of $5,000 or more must be forwarded to CSC, Hazard Insurance Section, according to current claims handling procedures. A field office employee will inspect repairs when completed as required under 7 CFR 3550.110(d) (3) and RD Instruction 1924-A. If security property is not going to be repaired, insurance proceeds must be applied to pay off the loan. Recapture is calculated based on the market value at the time of the loss, according to 7 CFR 3550.162. If market value is less than the debt, CSC will apply the insurance proceeds to the amount of the debt, including recapture. Market value is determined by a recent file appraisal if documented that it represents an accurate indication of value at the time of the loss.

Uninsured Losses: A borrower who sustains an uninsured loss is covered by the moratorium authority below but is in default of the mortgage by failing to keep the property insured. If a borrower incurs an uninsured loss, the field office will notify CSC through Task 285 of the estimated amount of damage to the property and the date of loss. If a borrower is unable to pay off the debt or repair the house with personal resources or other credit, the debt must be settled under 7 CFR 3550.253.

Moratorium: Under the exception authority of 7 CFR 3550.8, CSC is authorized to grant a moratorium for a period not to exceed 180 days for 502 and 504 borrowers located in the declared area. Borrowers who have lost employment, sustained severe property damage or medical expenses, should contact CSC for an extension for up to 18 additional months, not to exceed a total of 24 months. If an extension is not requested, the account will automatically be reamortized at the end of the 180 days. Escrow will not be required.

Reamortization: Since SBA is statutorily prohibited from making disaster loans to persons delinquent on a federal debt, CSC is authorized to reamortize a delinquent 502 Direct account when a borrower shows evidence of application for a disaster loan from the SBA.

The primary servicing actions in the natural disaster area will continue to be the responsibility at CSC as described in this Handbook; however, assistance may be needed from the Field so that CSC can adequately service the loan.