

§ 1900.151

7 CFR Ch. XVIII (1-1-10 Edition)

waiver by FmHA or its successor agency under Public Law 103-354 of Federal immunity from any local control, penalty, or liability, or to subject FmHA or its successor agency under Public Law 103-354 to any State required acts or actions subsequent to the delivery by FmHA or its successor agency under Public Law 103-354 officials of the instrument to the appropriate local or State official.

(d) Any person, corporation, or organization that applies for and receives any benefit or assistance from FmHA or its successor agency under Public Law 103-354 that offers any assurance or security upon which FmHA or its successor agency under Public Law 103-354 relies for the granting of such benefit or assistance, shall not be entitled to claim or assert any local immunity, privilege, or exemption to defeat the obligation such party incurred in obtaining or assuring such Federal benefit or assistance.

(e) The liability of an auctioneer for conversion of personal property mortgaged to FmHA or its successor agency under Public Law 103-354 shall be determined and enforced in acceptance with the applicable Federal law. "Auctioneer" for the purposes of this subpart includes a commission merchant, market agency, factor or agent. In all cases in which there has been a disposition without authorization by FmHA or its successor agency under Public Law 103-354 of personal property mortgaged to that agency, any auctioneer involved in said disposition shall be liable to the Government for conversion—notwithstanding any State statute or decisional rule to the contrary.

[44 FR 10979, Feb. 26, 1979]

**Subpart D—Processing and Servicing FmHA or Its Successor Agency Under Public Law 103-354 Assistance to Employees, Relatives, and Associates**

SOURCE: 58 FR 224, Jan. 5, 1993, unless otherwise noted.

**§ 1900.151 General.**

(a) Farmers Home Administration (FmHA) or its successor agency under

Public Law 103-354 Instruction 2045-BB (available in any FmHA or its successor agency under Public Law 103-354 office) requires the maintenance of high standards of honesty, integrity, and impartiality by employees. To reduce the potential for employee conflict of interest, any processing, approval, servicing or review activity, including access through automated information systems, is conducted only by authorized FmHA or its successor agency under Public Law 103-354 employees who:

- (1) Are not themselves the recipient.
- (2) Are not members of the family or known close relatives of the recipient.
- (3) Do not have an immediate working relationship with the recipient, the employee related to the recipient, or the employee who would normally conduct the activity.
- (4) Do not have a business or close personal association with the recipient.

(b) No provision of this subpart takes precedence over individual program requirements or restrictions, especially those restrictions found in FmHA or its successor agency under Public Law 103-354 Instruction 2045-BB (available in any FmHA or its successor agency under Public Law 103-354 office) relating to eligibility for FmHA or its successor agency under Public Law 103-354 assistance of FmHA or its successor agency under Public Law 103-354 employees, members of families of employees, close relatives, or business or close personal associates of employees.

(c) The determination of a case's need for special handling under the provisions of this subpart is not an adverse action and, therefore, is not subject to appeal.

(d) The provisions of this subpart do not apply to the Farm Service Agency. The relevant regulations applicable to the Farm Service Agency can be found at 5 CFR parts 2635 and 8301.

[58 FR 224, Jan. 5, 1993, as amended at 71 FR 38979, July 11, 2006]

**§ 1900.152 Definitions.**

*Applicant or borrower.* All persons or organizations, individually or collectively, applying for or receiving insured or guaranteed loan or grant assistance from or through FmHA or its

successor agency under Public Law 103-354. Referred to as recipient.

*Assistance.* Loans or grants made, insured or guaranteed, or serviced by FmHA or its successor agency under Public Law 103-354.

*Associates.* All persons with whom an employee has a business or close personal association or immediate working relationship.

*Business association.* Business relationship between those with an identity of financial interest; including but not limited to a business partnership, being an officer, director, trustee, partner or employee of an organization, or other long-term contractual relationship.

*Close personal association.* Social relationship between unrelated residents of the same household.

*Close relatives.* The spouse, relatives and step-relatives of an employee or the employee's spouse, including Grandmother, Grandfather, Mother, Father, Aunt, Uncle, Sister, Brother, Daughter, Son, Niece, Nephew, Granddaughter, Grandson, and First Cousin.

*Conflict of interest.* A situation (or the appearance of one) in which one could reasonably conclude that an FmHA or its successor agency under Public Law 103-354 employee's private interest conflicts with his or her Government duties and responsibilities, even though there may not actually be a conflict.

*Employee.* All FmHA or its successor agency under Public Law 103-354 personnel, including gratuitous employees and those negotiating for or having arrangements for prospective employment, except as otherwise specifically stated. For the purposes of this instruction only, the term also refers to county or area committee members, elected or appointed, and to closing agents who, although they are not employees, have a special relationship to FmHA or its successor agency under Public Law 103-354 and therefore should be subject to these provisions.

*Immediate working relationship.* A relationship between a subordinate and a supervisor in a direct line, or between co-workers in the same office. For the purposes of this subpart, the relationships among a County Supervisor and members of the local County Com-

mittee are immediate working relationships.

*Members of family.* Blood and in-law relatives (such as by marriage or adoption) who are residents of the employee's household.

*Recipient.* One who has applied for or received FmHA or its successor agency under Public Law 103-354 financial assistance in the form of a loan or grant. See definition of applicant or borrower.

#### **§ 1900.153 Identifying and reporting an employee relationship.**

(a) *Responsibility of applicant.* When an application for assistance is filed, the processing official asks if there is any known relationship or association with an FmHA or its successor agency under Public Law 103-354 employee. The applicant is required to disclose the requested information under subpart A of part 1910 of this chapter and pertinent program regulations.

(b) *Responsibility of FmHA or its successor agency under Public Law 103-354 employee.* An FmHA or its successor agency under Public Law 103-354 employee who knows he or she is related to or associated with an applicant or recipient, regardless of whether the relationship or association is known to others, is required to notify the FmHA or its successor agency under Public Law 103-354 official who is processing or servicing the assistance, in writing. FmHA or its successor agency under Public Law 103-354 Guide Letter 1900-D-1 (available in any FmHA or its successor agency under Public Law 103-354 office) may be used as the notice. If the appropriate official is not known, the State Director should be notified. Regardless of whether the relationship or association is defined in § 1900.152 of this subpart, if the employee believes there may be a potential conflict of interest, the FmHA or its successor agency under Public Law 103-354 official who is processing or servicing the assistance may be notified and special handling requested. An employee's request that the case receive special handling is usually honored.

(c) *Responsibility of FmHA or its successor agency under Public Law 103-354 official.* When any relationship or association is identified, the FmHA or its successor agency under Public Law 103-