

§ 1955.132

7 CFR Ch. XVIII (1-1-09 Edition)

(a) *Selection criteria.* The auctioneer should be selected by evaluating criteria such as proposed sales dates, location, advertising, broker cooperation, innovations, mechanics of sale, sample advertising, personal qualifications, financial capability, private sector financing and license/bonding.

(b) *Commission.* FmHA or its successor agency under Public Law 103-354 may not set the commission rate in an auctioneer solicitation/contract. The rate of commission will be one of the evaluation criteria in the solicitation. However, any offeror that submits an offer with a commission rate lower than the typical rate for such services in the area must include documentation that they have successfully sold properties at the lower rate with no compromise in services. The solicitation/contract will explicitly detail this policy. Commissions will be paid at closing if sufficient cash to cover the commission is paid by the purchaser. Otherwise, the commission will be paid by the appropriate FmHA or its successor agency under Public Law 103-354 official completing Form AD-838 and processing Form FmHA or its successor agency under Public Law 103-354 838-B for payment in accordance with the respective FMI's, and charged to the inventory account as a nonrecoverable cost.

(c) *Auctioneer restriction.* The auctioneer, his/her sales agents, cooperating brokers or persons living in his, her or their immediate household are restricted from bidding or from subsequent purchase of any property sold or offered at the auctioneer's sale for a period of one year from the auction date.

[50 FR 23904, June 7, 1985, as amended at 53 FR 27837, July 25, 1988]

GENERAL

§ 1955.132 **Pilot projects.**

FmHA or its successor agency under Public Law 103-354 may conduct pilot projects to test policies and procedures for the management and disposition of inventory property which deviate from the provisions of this subpart, but are not inconsistent with the provisions of the authorizing statute or other applicable Acts. A pilot project may be con-

ducted by FmHA or its successor agency under Public Law 103-354 employees or by contract with individuals, organizations or other entities. Prior to initiation of a pilot project, FmHA or its successor agency under Public Law 103-354 will publish notice in the FEDERAL REGISTER of its nature, scope, and duration.

[55 FR 3943, Feb. 6, 1990]

§ 1955.133 **Nondiscrimination.**

(a) *Title VI provisions.* If the inventory real property to be sold secured a loan that was subject to Title VI of the Civil Rights Act of 1964, and the property will be used for its original or similar purpose, or if FmHA or its successor agency under Public Law 103-354 extends credit and the property then becomes subject to Title VI, the buyer will sign Form FmHA or its successor agency under Public Law 103-354 400-4. "Assurance Agreement." The instrument of conveyance will contain the following statement:

The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purposes for which the Federal financial assistance was extended.

(b) *Affirmative Fair Housing Marketing Plan.* Exclusive listing brokers or auctioneers selling SFH properties having 5 or more properties in the same subdivision listed or offered for sale at the same time will prepare and submit to FmHA or its successor agency under Public Law 103-354 an acceptable Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," for each such subdivision in accordance with §1901.203(c) of Subpart E of Part 1901 of this chapter.

(c) *Equal Housing Opportunity logo.* All FmHA or its successor agency under Public Law 103-354 and contractor sale advertisements will contain the Equal Housing Opportunity logo.

§ 1955.134 **Loss, damage, or existing defects in inventory real property.**

(a) *Property under contract.* If a bid or offer has been accepted by the FmHA

or its successor agency under Public Law 103-354 and through no fault of either party, the property is lost or damaged as a result of fire, vandalism, or an act of God between the time of acceptance of the bid or offer and the time the title of the property is conveyed by FmHA or its successor agency under Public Law 103-354, FmHA or its successor agency under Public Law 103-354 will reappraise the property. The reappraised value of the property will serve as the amount FmHA or its successor agency under Public Law 103-354 will accept from the purchaser. However, if the actual loss based on the reduction in market value of the property as determined by FmHA or its successor agency under Public Law 103-354 is less than \$500, payment of the full purchase price is required. In the event the two parties cannot agree upon an adjusted price, either party, by mailing notice in writing to the other, may terminate the contract of sale, and the bid deposit or earnest money, if any, will be returned to the offeror.

(b) *Existing defects.* FmHA or its successor agency under Public Law 103-354 does not provide any warranty on property sold from inventory. Subsequent loans may be made, in accordance with applicable loan making regulations for the respective loan program, to correct defects.

[50 FR 23904, June 7, 1985, as amended at 53 FR 27837, July 25, 1988]

**§ 1955.135 Taxes on inventory real property.**

Where FmHA or its successor agency under Public Law 103-354 owned property is subject to taxation, taxes and assessment installments will be prorated between FmHA or its successor agency under Public Law 103-354 and the purchaser as of the date the title is conveyed in accordance with the conditions of Forms FmHA or its successor agency under Public Law 103-354 1955-45 or FmHA or its successor agency under Public Law 103-354 1955-46. The purchaser will be responsible for paying all taxes and assessment installments accruing after the title is conveyed. The County Supervisor or District Director will advise the taxing authority of the sale, the purchaser's name, and the description of the property sold.

Only the prorata share of assessment installments for property improvements (water, sewer, curb and gutter, etc.) accrued as of the date property is sold will be paid by FmHA or its successor agency under Public Law 103-354 for inventory property. At the closing, payment of taxes and assessment installments due to be paid by FmHA or its successor agency under Public Law 103-354 will be paid from cash proceeds FmHA or its successor agency under Public Law 103-354 is to receive as a result of the sale or by voucher and will be accomplished by one of the following:

(a) For purchasers receiving FmHA or its successor agency under Public Law 103-354 credit and required to escrow, FmHA or its successor agency under Public Law 103-354's share of accrued taxes and assessment installments will be deposited in the purchaser's escrow account.

(b) For purchasers not required to escrow, accrued taxes and assessment installments may be:

(i) Paid to the local taxing authority if they will accept payment at that time; or

(ii) Paid to the purchaser. If appropriate, for program purchasers, the funds can be deposited in a supervised bank account until the taxes can be paid.

(c) Except for SFH, deducted from the sale price (which may result in a promissory note less than the sale price), if acceptable to the purchaser.

[56 FR 6953, Feb. 21, 1991]

**§ 1955.136 Environmental Assessment (EA) and Environmental Impact Statement (EIS).**

(a) Prior to a final decision on some disposal actions, an environmental assessment must be made and when necessary, an environmental impact statement. Detailed guidance on when and how to prepare an EA or an EIS is found in Subpart G of Part 1940 of this Chapter. Assessments must be made for those proposed conveyances that meet one of the following criteria:

(1) The conveyance is controversial for environmental reasons and/or is qualified within those categories described in § 1955.137 of this subpart.