(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.

§ 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 the property is damaged, lost or destroyed or if there is a default in payment, the auctioneer or other fiduciary shall immediately notify the FmHA or its successor agency under Public Law 103-354 and the purchase agreement shall be terminated.

(b) Property not under contract. If the property is damaged, lost or destroyed or if there is a default in payment, the FmHA or its successor agency under Public Law 103-354 shall notify the seller and the sale shall be canceled.

(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.