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SUBCHAPTER H—PROGRAM REGULATIONS

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AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 7 U.S.C. 6991, et. seq.; 42 U.S.C. 1480; Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

Subpart A—Delegations of Authority

§ 1900.1 General.

The authorities contained in this subpart apply to all assets, functions, and programs now or hereafter administered or serviced by the Rural Development, including but not limited to those relating to indebtedness, security, and other assets obtained or contracted through the Secretary of Agriculture, Resettlement Administration, Farm Security Administration, or Emergency Crop and Feed Loan Offices of the Farm Credit Administration, the Soil Conservation Service in connection with water conservation and utilization projects; the Puerto Rico Hurricane Relief Commission and successor agencies in connection with Puerto Rico Hurricane relief loans to individuals; State Rural Rehabilitation Corporations, the United States of America or its officials as trustees of the assets of State Rural Rehabilitation Corporations, Regional Agricultural Credit Corporations, Defense Relocation Corporations, land leasing and purchasing associations, corporations, and agencies, and whether the interest of the United States in the indebtedness, instrument of debt, security, security instrument, or other assets is that of obligee, owner, holder, insurer, assignee,

mortgagee, beneficiary, trustee or other interest. This subpart is inapplicable to Farm Service Agency, Farm Loan Programs.

[44 FR 18162, Mar. 27, 1979, as amended at 80 FR 9866, Feb. 24, 2015]

§ 1900.2 National office staff and state directors.

The following officials of the Rural Development, in accordance with applicable laws, and the regulations implementing these laws, are severally authorized, for and on behalf of and in the name of the United States of America or the Rural Development, to do and perform all acts necessary in connection with making and insuring loans, making grants and advances, servicing loans and other indebtedness and obtaining, servicing and enforcing security and other instruments related thereto: The Deputy Administrator Program Operations, the Assistant Administrators for Farmer Programs, Housing, and Community and Business Programs, the Assistant Administrator Accounting and Director Finance Office; each Director and the Insured Loan Officer, Finance Office; the Directors for the Water and Waste Disposal Division, the Community Facilities Division, the Business and Industry Division, the Multi-Family Housing Processing Division, the Multi-Family Housing Servicing and Property Management Division, the Single Family Housing Processing Division, the Single Family Housing Servicing and Property Management Division, the Farm Real Estate and Production Division, the Emergency Division; and each State Director within the area of that State Director's jurisdiction; and in the absence or disability of any such official, the person acting in that official's position; and the delegates of any such official. The authority includes, but is not limited to, the authority to:

(a) Effect the assignment of, or the declaration of trust with respect to, insured security instruments to place them in trust with the United States of America as trustee for the benefit of any holder of the promissory note or bond secured by such security instrument.

(b) Acknowledge receipt of notice of sale or assignment of insured loans and security instruments.

(c) Appoint or request the appointment of substitute trustees in deeds of trust.

(d) Execute proofs of claim in bankruptcy, death, and other cases.

(e) Consent to sale or assignment of, or sell or assign, direct or insured loans and security instruments (except that in the case of Agency asset sales, District Directors and County Supervisors are delegated the authority to assign security instruments), endorsements, reinsurance agreements, or other instruments in connection therewith; and execute agreements to insure and reinsure, and to purchase and repurchase insured loans and security instruments.

(f) Compromise, adjust, cancel or charge off indebtedness (except that County Supervisors are delegated authority to approve all settlements of sections 502 and 504 single family housing debt(s)).

(g) Modify contracts and other instruments and compromise claims owed to the Rural Development and covered by the Federal Claims Collection Act of 1966 and the joint regulations issued under it by the Attorney General and the Comptroller General as provided for in applicable program regulations.

(h) Perform all actions pertaining to the sale (or other disposal) of real or chattel property or interests therein and to execute and deliver bills of sale or other instruments to effect such sale (or disposition), which includes but is not limited to offering property for sale; advertising; receiving and accepting offers or bids; and closing sale transactions, including the collection of sale proceeds, and delivery of quitclaim deeds, easements, and right-of-way conveyances after those documents have been executed. The authority to execute any deeds of conveyance of inventory real property, including quitclaim deeds, easements, rights-of-way, or sale of any use rights is reserved to the State Director, and this authority may not be redelegated.

(i) Approve and consent to transfers of security property to other parties with or without assumption of debts;

and approve and accept transfers of security property or interests therein to the United States of America, and execute release from liability after determination is made in accordance with applicable program regulations.

(j) Execute and deliver, or approve in writing, suspensions, releases or terminations of assignments, of income, renewals, extensions, partial and full releases and satisfactions of security, and personal or indemnity liability for indebtedness, waivers, subordination agreements, severance agreements, affidavits, acknowlegements, certificates of residence, evidence of consent, and other instruments or documents.

(k) Accelerate and declare entire real estate or chattel indebtedness due and payable, foreclose or request foreclosure of real estate security instruments by exercise of power of sale or otherwise, and bid for and purchase at any foreclosure or other sale or otherwise acquire real property pledged, mortgaged, conveyed, attached, or levied upon to collect indetedness, and accept title to any property so purchased or acquired.

(l) Require and accept further or additional security.

(m) Accelerate and declare entire non-real estate indebtedness due and payable, and foreclose or request foreclosure of chattel security instruments by exercise of power of sale or otherwise.

(n) Bid for and purchase at any foreclosure or other sale, or otherwise acquire personal property pledged, mortgaged, conveyed, attached, or levied upon to collect indebtedness, and accept title to any property so purchased or acquired.

(o) Take possession of, maintain, and operate security or acquired real or personal property or interests therein, sell or otherwise dispose of such personal property, and execute and deliver contracts, caretaker's agreements, leases, and other instruments in connection therewith, as appropriate.

(p) Execute proofs of loss on insurance contracts and endorse without recourse loss payment drafts and checks.

(q) Issue, publish and serve notices and other instruments.

(r) File or record instruments, whether separate instruments, or by making marginal entries, or by use of other methods permissible under State law.

[44 FR 18162, Mar. 27, 1979, as amended at 47 FR 5700, Feb. 8, 1982; 50 FR 23901, June 7, 1985; 52 FR 44375, Nov. 19, 1987; 56 FR 6946, Feb. 21, 1991; 80 FR 9867, Feb. 24, 2015]

§ 1900.3 State, district, and county office employees.

The following officials and employees of the Rural Development, in accordance with applicable laws, and the regulations implementing these laws, for and on behalf of, and in the name of the United States of America or the Rural Development, are also severally authorized within the area of their respective jurisdictions to perform the acts specified in paragraphs (g) through (r) of § 1900.2; and within their loan approval authority to sell or otherwise dispose of real or chattel property or interests therein and to execute and deliver bills of sale or other instruments to effect such sale or disposition: Chief, Farmer Programs/Specialist; Chief, Rural Housing/Specialist; Chief, Community Programs/Specialist; Chief, Business and Industry/Specialist; Chief, Community and Business Programs/Specialist; Chief, Appraisal Staff/Appraiser; Chief, Underwriting Staff/Underwriter; Chief, Underwriting and Appraisal Staff; Chief, Servicing and Inventory Staff/Credit Management Specialist/Realty Specialist; each District Director, Assistant District Director, Loan Specialist General, County (including Parish) Supervisor, Emergency Loan Supervisor, Assistant Emergency Loan Supervisor, or other supervisor or assistant supervisor, and in the absence or disability of any such official or employee, the person acting in the position.

[50 FR 23902, June 7, 1985, as amended at 55 FR 43325, Oct. 29, 1990; 80 FR 9867, Feb. 24, 2015]

§ 1900.4 Ratification.

All written instruments affecting title to real or personal property, including but not limited to deeds, releases, satisfactions, subordination agreements, severance agreements, consents, waivers, assignments, declarations of trust, and heretofore executed by officials or employees of the agencies or other entities referred to in

§ 1900.1 to carry out any purpose authorized by law, incident to the administration of programs under the jurisdiction of said agencies or other entities, are hereby approved, confirmed, and ratified.

[44 FR 18162, Mar. 27, 1979]

§ 1900.5 Assignment of cases.

The State Director may, in writing, assign responsibilities and functions to a different office or staff position within the Rural Development State organizational structure other than that referred to in regulations, provided no benefits, rights, or opportunities of the public are changed.

[55 FR 43325, Oct. 29, 1990, as amended at 80 FR 9867, Feb. 24, 2015]

§ 1900.6 Chair, Loan Resolution Task Force.

The Chair, Loan Resolution Task Force is delegated the following authorities, to be exercised until September 30, 1996:

(a) The responsibility for, under applicable Rural Development regulations, collecting and settling all delinquent direct Farmer Program loans as defined in the Consolidated Farm and Rural Development Act, as amended, that have received all primary servicing rights and pre-acceleration homestead and preservation loan servicing rights under 7 CFR part 1951, subpart S;

(b) The responsibility for making and directing the making of loan servicing decisions, under applicable Rural Development regulations, concerning delinquent direct Farmer Programs loans for which accrued principal and interest equals or exceeds one million dollars, to extend to borrowers their remaining primary servicing rights and pre-acceleration homestead and preservation loan servicing rights under 7 CFR part 1951, subpart S;

(c) Authority for approving the grant of exceptions pursuant to §§ 1951.916, 1955.21, 1956.99 and 1965.35 of this chapter, to the extent necessary to carry out the responsibilities described in paragraphs (a) and (b) of this section.

[59 FR 43441, Aug. 24, 1994, as amended at 80 FR 9867, Feb. 24, 2015]

§ 1900.7 Effect on other regulations.

This subpart does not revoke or modify any other delegation or redelegation, instruction, procedure, or regulation issued by, or under authority of, the Under Secretary for Rural Development.

[44 FR 18162, Mar. 27, 1979. Redesignated at 55 FR 43325, Oct. 29, 1990, and further redesignated at 59 FR 43441, Aug. 24, 1994, as amended at 80 FR 9867, Feb. 24, 2015]

Subpart B—Adverse Decisions and Administrative Appeals

SOURCE: 60 FR 67318, Dec. 29, 1995, unless otherwise noted.

§ 1900.51 Definitions.

Act means the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Public Law No. 103–354 (7 U.S.C. 6991 *et seq.*).

Agency means the Rural Utilities Service (RUS), the Rural Housing Service (RHS), and the Rural Business-Cooperative Development Service (RBS), or their successor agencies.

Refer to 7 CFR 11.1 for other definitions applicable to appeals of adverse decisions covered by this subpart.

§ 1900.52 General.

This subpart specifies procedures for use by USDA personnel and program participants to ensure that full and complete consideration is given to program participants who are affected by an agency adverse decision.

§ 1900.53 Applicability.

(a) Appeals of adverse decisions covered by this subpart will be governed by 7 CFR part 11.

(b) The provisions of this subpart apply to adverse decisions concerning direct loans, loan guarantees, and grants under the following programs: RUS Water and Waste Disposal Facility Loans and Grants Program; RHS Housing and Community Facilities Loan Programs; RBS Loan, Grant, and Guarantee Programs and the Intermediary Relending Program; and determinations of the Rural Housing Trust 1987–1 Master Servicer.

(c) This subpart does not apply to decisions made by parties outside an agency even when those decisions are used as a basis for decisions falling within paragraph (b) of this section, for example: decisions by state governmental construction standards-setting agencies (which may determine whether RHS will finance certain houses); Davis-Bacon wage rates; flood plain determinations; archaeological and historical areas preservation requirements; and designations of areas inhabited by endangered species.

§ 1900.54 Effect on assistance pending appeal.

(a) Assistance will not be discontinued pending the outcome of an appeal of a complete or partial adverse decision.

(b) Notwithstanding the provisions of paragraph (a) of this section, administrative offsets initiated under subpart C of part 1951 will not be stayed pending the outcome of an appeal and any further review of the decision to initiate the offset.

§ 1900.55 Adverse action procedures.

(a) If an applicant, guaranteed lender, a holder, borrower or grantee is adversely affected by a decision covered by this subpart, the decision maker will inform the participant of the adverse decision and whether the adverse decision is appealable. A participant has the right to request the Director of NAD to review the agency's finding of nonappealability in accordance with 7 CFR 11.6(a). In cases where the adverse decision is based on both appealable and nonappealable actions, the adverse action is not appealable.

(b) A participant affected by an adverse decision of an agency is entitled under section 275 of the Act to an opportunity for a separate informal meeting with the agency before commencing an appeal to NAD under 7 CFR part 11.

(c) Participants also have the right under section 275 of the Act to seek mediation involving any adverse decision appealable under this subpart if the mediation program of the State in which the participant's farming operation giving rise to the decision is located has been certified by the Secretary for the program involved in the decision. An agency shall cooperate in such mediation. Any time limitation for appeal will be stayed pending completion of the mediation process (7 CFR 11.5(c)).

§ 1900.56 Non-appealable decisions.

The following are examples of decisions which are not appealable:

(a) Decisions which do not fall within the scope of this subpart as set out in § 1900.53.

(b) Decisions that do not meet the definition of an ''adverse decision'' under 7 CFR part 11.

(c) Decisions involving parties who do not meet the definition of ''participant'' under 7 CFR part 11.

(d) Decisions with subject matters not covered by 7 CFR part 11.

(e) Interest rates as set forth in agency procedures, except for appeals alleging application of an incorrect interest rate.

(f) The State RECD Director's refusal to request an administrative waiver provided for in agency program regulations.

(g) Denials of assistance due to lack of funds or authority to guarantee.

§ 1900.57 [Reserved]

EXHIBIT A TO SUBPART B OF PART 1900 [RESERVED]

EXHIBIT B–1 TO SUBPART B OF PART 1900—LETTER FOR NOTIFYING APPLICANTS, LENDER, HOLDERS AND BORROWERS OF ADVERSE DECISIONS WHERE THE DECISION IS APPEALABLE

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration or its successor agency under Public Law 103–354

(Insert Address)

Date

Dear _____:

After careful consideration, we [were unable to take favorable action on your application/request for Farmers Home Administration or its successor agency under Public Law 103–354 services] [are cancelling/reducing the assistance you are presently receiving]. The specific reasons for our decision are:

(Insert here the adverse decision and all of the specific reasons for the adverse action.)

If you have any questions concerning the decision or the facts used in making our decision and desire further explanation, you may call or write the County Office (insert phone number) to request a meeting with (this office) (The County Committee) within 15 calendar days of the date of 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. You also have the right to appeal this decision to a hearing officer in lieu of, or in addition to, a meeting with [this office] [the County Committee]. See attachment for your appeal rights. (Attach Form FmHA or its successor agency under Public Law 103–354 1900–1.) (For guaranteed loans, except loss claims, the applicant and lender must jointly request a meeting and/or an appeal.)

If you do not wish a meeting, as outlined above, a request for a hearing must be sent to the Area Supervisor, National Appeals Staff (address) _____, postmarked no later than (month) _____, (date) _____.

(insert date 30 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, handicap, or age (provided that 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 the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

(Decision Maker)
(County Supervisor may sign for County Committee)

(Title)

[55 FR 9874, Mar. 16, 1990]

EXHIBIT B–2 TO SUBPART B OF PART 1900—LETTER FOR NOTIFYING APPLICANTS, LENDERS AND HOLDERS AND BORROWERS OF UNFAVORABLE DECISION REACHED AT THE MEETING

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration or its successor agency under Public Law 103–354

(Insert Address)

Date

Dear _____:

We appreciated the opportunity to review the facts relative to [your application/request for FmHA or its successor agency under Public Law 103–354 services] [the assistance you are presently receiving]. We regret that our meeting with you did not result in a satisfactory conclusion.

(Insert here the adverse decision and all the specific reasons for the adverse action).

See attachment for your appeal rights. (Attach Form FmHA or its successor agency under Public Law 103–354 1900–1) (For guaranteed loans, except loss claims, the applicant and lender must jointly request an appeal.)

A request for a hearing must be sent to the Area Supervisor, National Appeals Staff _____, postmarked no later than (month) _____, (date) _____

(insert date 30 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, handicap, or age (provided that 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 the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

(Decision Maker)
(County Supervisor may sign for County Committee)

(Title)

[55 FR 9874, Mar. 16, 1990]

EXHIBIT B–3 TO SUBPART B OF PART 1900—LETTER FOR NOTIFYING APPLICANTS, LENDER, HOLDERS AND BORROWERS OF ADVERSE DECISIONS WHERE THE DECISION INVOLVES AN APPRAISAL (NOT TO BE USED IN CASES INVOLVING FARMER PROGRAM PRIMARY LOAN SERVICING ACTIONS)

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration or its successor agency under Public Law 103–354

(Insert Address)

Date

Dear_____:

After careful consideration, we [were unable to take favorable action on your application/request for Farmers Home Administration or its successor agency under Public Law 103–354 services] [are cancelling/reducing the assistance you are presently receiving]. The specific reasons for our decision are:

(Insert here the adverse decision and all of the specific reasons for the adverse action.)

If you have any questions concerning the decision or the facts used in making our decision and desire further explanation, you may call or write the County Office (insert phone number) to request a meeting with (this office) (The County Committee) within 15 calendar days of the date of 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 outlined above, you may contest the appraisal of the property value. In order to contest the appraisal you must first request review of the appraisal by the FmHA or its successor agency under Public Law 103–354 State Director. Your request for review by the State Director should be made 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 review of the appraisal must be postmarked no later than (month)_____, (date) _____ (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, handicap, or age (provided that the applicant has the capacity to enter

[55 FR 9874, Mar. 16, 1990]

EXHIBIT B–4 TO SUBPART B OF PART 1900—LETTER FOR NOTIFYING APPLICANTS, LENDERS AND HOLDERS AND BORROWERS OF UNFAVORABLE DECISION REACHED AFTER STATE DIRECTOR REVIEW OF AN APPRAISAL (NOT TO BE USED IN CASES INVOLVING FARMER PROGRAM PRIMARY LOAN SERVICING ACTIONS)

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration or its successor agency under Public Law 103–354

(Insert Address)

Date

Dear _____:

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 FmHA or its successor agency under Public Law 103–354 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 appraiser who is a designated member of [the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, American Society of Farm Managers and Rural Appraisers, etc.,] or an equivalent organization requiring appraisal education, testing and experience. The appraisal must conform to Agency Appraisal regulations applicable to the loan program.

See attachment for your appeal rights.

A request for a hearing must be sent to the Area Supervisor, National Appeals Staff (address) _____, postmarked no later than (month) _____, (date) _____,

(insert date 30 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, handicap, or age (provided that 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 the law concerning this creditor

is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

(State Director)

[55 FR 9875, Mar. 16, 1990]

EXHIBIT C TO SUBPART B OF PART 1900—LETTER FOR NOTIFYING APPLICANTS, LENDERS, HOLDERS, AND BORROWERS OF ADVERSE DECISIONS WHEN PART OR ALL OF THE DECISION IS NOT APPEALABLE [NOT USED IN CONNECTION WITH DECISIONS RELATED TO NONPROGRAM APPLICANTS, BORROWERS, OR PROPERTY]

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration or its successor agency under Public Law 103–354

(Insert Address)

(Date)

Dear _____:

After careful consideration we [were unable to take favorable action on your application/request for Farmers Home Administration or its successor agency under Public Law 103–354 services] [are cancelling/reducing the assistance you are presently receiving].

(Insert and number all of the *specific* reasons for the adverse action. Examples of nonappealable reasons are listed in §1900.55(a)).

If you have any questions about this action, we would like the opportunity to explain in detail why your request has not been approved, explain any possible alternative, or provide any other information you would like. You may bring any additional information you may have and you may bring a representative or counsel if you wish. Please call (*telephone number*) for an appointment.

Applicants and borrowers generally have a right to appeal adverse decisions, but FmHA or its successor agency under Public Law 103–354 decisions based on certain reasons are not appealable. We have determined that the reason(s) numbered _____ for the decision in this case make(s) the decision not appealable under FmHA or its successor agency under Public Law 103–354 regulations. You may, however, write the Area Supervisor, National Appeals Staff (insert address) for a review of the accuracy of our finding that the decision is not appealable, postmarked no later than (month) _____, (date) _____ (insert date 30 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, handicap, or age (provided that 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 the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

(Decision Maker)
(County Supervisor may sign for County Committee)

(Title)

[55 FR 9875, Mar. 16, 1990, as amended at 58 FR 52646, Oct. 12, 1993]

EDITORIAL NOTE: At 58 FR 52646, Oct. 12, 1993, the Farmers Home Administration attempted to amend exhibit C of subpart B of part 1900 by removing in the second paragraph the words ''(month) _____,''; however, because ''(month) _____'' does not exist in the second paragraph, this amendment could not be incorporated.

EXHIBIT D TO SUBPART B OF PART 1900—HEARINGS/REVIEW OFFICER DESIGNATIONS

HEARING/REVIEW OFFICER DESIGNATIONS

Decisionmaker or decision	Hearing officer	Review officer
County Supervisor	National Appeals Staff Hearing Officer	State Director and/or Director, National Appeals Staff.
County Committee	National Appeals Staff Hearing Officer	State Director and/or Director, National Appeals Staff.
*District Director, *State Program Chief, *District Specialist.	National Appeals Staff Hearing Officer	**State Director and/or Director, National Appeals Staff.
*State Director, *Regional Director	As appointed by Director, National Appeals Staff.	Director, National Appeals Staff.
Division Director or Assistant Administrator.	As appointed by Director, National Appeals Staff.	Director, National Appeals Staff.
Assistant Administrator	As appointed by Director, National Appeals Staff.	Director, National Appeals Staff.

HEARING/REVIEW OFFICER DESIGNATIONS—Continued

Decisionmaker or decision	Hearing officer	Review officer
Deputy or Associate Administrator	As appointed by Director, National Appeals Staff.	Director, National Appeals Staff.

*Decisionmaker for Rural Development Administration or its successor agency under Public Law 103–354 (RDA or its successor agency under Public Law 103–354) cases for Regional Office Operations.
**Review officer will be the Regional Director and/or the Director, National Appeals Staff for RDA or its successor agency under Public Law 103–354 cases.

NOTES

1. District Director also means Assistant District Director or District Loan Specialist.
2. County Supervisor also means Assistant County Supervisor with loan approval authority.
3. The Director of the National Appeals Staff may designate a staff member to conduct a hearing or review. When the hearing/review is completed, the designee will send the complete case file, hearing notes, tape recordings, and a recommended decision to the Director for a final decision. The Director may, for individual cases, delegate final decision authority to a designee.
4. For decisions not directly covered above, advice should be sought from the Director of the National Appeals Staff.
5. An appellant may elect to have an appeal reviewed by the State Director, or the Director of the National Appeals Staff. The decision of the State Director will be subject to further review by the Director of the National Appeals Staff upon request of the appellant.

[58 FR 4065, Jan. 13, 1993]

Subpart C—Applicability of Federal Law

§ 1900.101 General.

This subpart provides Rural Development policy concerning:

(a) The applicability of Federal rather than State Law in the conduct of Rural Development operations, and

(b) The liability of an auctioneer for conversion of personal property mortgaged to Rural Development.

[44 FR 10979, Feb. 26, 1979, as amended at 45 FR 8934, Feb. 11, 1980; 80 FR 9867, Feb. 24, 2015]

§ 1900.102 Applicable law.

Loans made by Rural Development are authorized and executed pursuant to Federal programs adopted by Congress to achieve national purposes of the U.S. Government.

(a) Instruments evidencing or securing a loan payable to or held by the Rural Development, such as promissory notes, bonds, guaranty agreements, mortgages, deeds of trust, financing statements, security agreements, and other evidences of debt or security shall be construed and enforced in accordance with applicable Federal law.

(b) Instruments evidencing a guarantee, conditional commitment to guarantee, or a grant, such as contracts of guarantee, grant agreements or other evidences of an obligation to guarantee or make a grant, executed by the Rural Development, shall be construed and enforced in accordance with applicable Federal law.

(c) In order to implement and facilitate these Federal loan programs, the application of local procedures, especially for recordation and notification purposes, may be utilized to the fullest extent feasible and practicable. However, the use of local procedures shall not be deemed or construed to be any waiver by Rural Development of Federal immunity from any local control, penalty, or liability, or to subject Rural Development to any State required acts or actions subsequent to the delivery by Rural Development 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 Rural Development that offers any assurance or security upon which Rural Development 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 Rural Development 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 Rural Development 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, as amended at 80 FR 9867, Feb. 24, 2015]

Subpart D—Processing and Servicing Rural Development Assistance to Employees, Relatives, and Associates

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

§ 1900.151 General.

(a) The Standards of Ethical Conduct for Employees of the Executive Branch 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 Rural Development 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 relating to eligibility for Rural Development assistance to Rural Development 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; 80 FR 9867, Feb. 24, 2015]

§ 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 Rural Development. Referred to as recipient.

Assistance. Loans or grants made, insured or guaranteed, or serviced by Rural Development.

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 a Rural Development employee's private interest conflicts with his or her Government duties and responsibilities, even though there may not actually be a conflict.

Employee. All Rural Development 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 Rural Development 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 Committee 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 Rural Development financial assistance in the form of a loan or grant. See definition of applicant or borrower.

[58 FR 224, Jan. 5, 1993, as amended at 80 FR 9867, Feb. 24, 2015]

§ 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 a Rural Development employee. The applicant is required to disclose the requested information under pertinent program regulations.

(b) *Responsibility of the Rural Development employee*. A Rural Development 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 Rural Development official who is processing or servicing the assistance, in writing. RD Guide Letter 1900–D–1 (available in any RD 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, if the employee believes there may be a potential conflict of interest, the Rural Development 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 the Rural Development official*. When any relationship or association is identified, the Rural Development official completes and submits RD Guide Letter 1900–D–2 to the State Director (or Administrator, under paragraph (e) of this section or §1900.155(a)). When completed, RD Guide Letter 1900–D–3 is returned by the State Director, the processing official;

(d) *Relationship or association established after application for Rural Development assistance*. If a relationship or association is established after an application has been filed or assistance has been provided, both recipient and employee are required to notify the Rural Development official as described in paragraphs (a) and (b) of this section.

(e) *Relationship or association with a State Office, Finance Office or National Office employee*. If an identified relationship or association is with an employee at a State Office (other than a State Director), Finance Office or National Office, the processing/servicing official completes and submits RD Guide Letter 1900–D–2 to the State Director in the normal manner. The State Director reviews the information, determines the need for special handling, designates the processing/servicing official, completes and submits RD Guide Letter 1900–D–3 to the Administrator for written concurrence. When the Administrator's concurrence is received, the State Director returns completed RD Guide Letter 1900–D–3 to the original official who completes the action described in paragraph (c) of this section.

(f) *Relationship or association with a State Director*. If an identified relationship or association is with a State Director, the processing/servicing official completes and submits RD Guide Letter 1900–D–2 to the Administrator. The Administrator reviews, determines the need for special handling, designates the processing/servicing official, completes and returns RD Guide Letter

1900–D–3 to the original official who completes the action described in paragraph (c) of this section.

(g) *Change in relationship or association, status of Rural Development assistance, or employee's duty station.* If the relationship or association has changed, the application denied or the assistance otherwise terminated, or Rural Development employee's duty station changed, the designated processing/servicing official completes RD Guide Letter 1900–D–2 with the new information and submits it. The review process takes place as described in paragraphs (a) through (e) of this section to determine if processing/servicing activity may return to normal or requires another change. If the assistance is denied or otherwise terminated, the designated official notifies the original official.

[80 FR 9867, Feb. 24, 2015]

§ 1900.154 Determining the need for special handling.

The State Director (or Administrator, under § 1900.153(e) or § 1900.155(a) of this subpart):

(a) [Reserved]

(b) Determines whether the reported relationship or association is defined in § 1900.152 of this subpart and would violate the provisions of § 1900.151(a) of this subpart,

(c)–(f) [Reserved]

§ 1900.155 Designating the processing/servicing official.

(a) *Designating an official with equivalent authority.* The State Director (or Administrator, under § 1900.253(e) of this subpart or this paragraph) designates a nonrelated or nonassociated Rural Development official authorized to conduct the activity under program regulations, established delegation of authority and approval authority under subpart A of part 1901 of this chapter, and whose duty station is most convenient to the recipient and to the security property. A type and/or amount of assistance processed or serviced by a County Supervisor or at a County Office should be assigned only to another County Supervisor or County Office. A type and/or amount of assistance processed or serviced by a District Director or at a District Office should be assigned only to another District Director or District Office.

(b) *County Committee.* For processing or servicing decisions to be made by a County Committee, if the recipient is a member, a different County Committee is designated. If the recipient is related to or associated with the member, notwithstanding the provisions of § 1900.151(a)(3) of this subpart, the State Director *may* permit the decision to be made by the local committee, if the related/associated member abstains.

(c) [Reserved]

[58 FR 224, Jan. 5, 1993, as amended at 80 FR 9868, Feb. 24, 2015]

§ 1900.156 Special handling—processing.

(a) [Reserved]

(b) *Eligibility determination.* The designated processing official reviews the application and develops additional data as necessary. Upon determination of whether the assistance will be provided, the designated processing official notifies the applicant of the decision in writing under program regulations, subpart A of part 1910 of this chapter, and subpart B of part 1900. If the determination is favorable, unless otherwise designated, the complete application is returned to the original processing official for docket preparation. If the determination is unfavorable, the designated processing official as decisionmaker participates in the appeal process to its conclusion.

(c)–(e) [Reserved]

(f) *Closing agent.* Unless there is a clear or apparent conflict of interest, closing will be at a location and by a closing agent chosen by the recipient.

(g) *Supervised bank account.* Unless there is a clear or apparent conflict of interest, any supervised bank account (or construction account) is established at a financial institution chosen by the recipient under subpart A of part 1902 of this chapter. Countersignature authority is delegated only to a nonrelated or nonassociated Rural Development official.

(h) *Construction inspection.* Construction inspections are delegated to a nonrelated or nonassociated employee authorized to conduct inspections, whose duty station is nearest the construction site. The designated processing/

servicing official notifies the builder (or architect/engineer) in writing of how and from whom to request inspections.

[58 FR 224, Jan. 5, 1993, as amended at 80 FR 9868, Feb. 24, 2015]

§§ 1900.157–1900.200 [Reserved]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

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Subparts L–N [Reserved]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480, 2942.

Subparts A–D [Reserved]

Subpart E—Civil Rights Compliance Requirements

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480, 2942.

§ 1901.201 Purpose.

This subpart contains policies and procedures for implementing the regulations of the Department of Agriculture issued pursuant to Title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, Executive Order 11246 and the Equal Credit Opportunity Act of 1974, as they relate to the Farmers Home Administration (FmHA) or its successor agency under Public Law 103–354. Nothing herein shall be interpreted to prohibit preference to American Indians on Indian Reservations.

[41 FR 40112, Sept. 17, 1976]

§ 1901.202 Nondiscrimination in FmHA or its successor agency under Public Law 103–354 programs.

(a) *Nondiscrimination by recipients of FmHA or its successor agency under Public Law 103–354 assistance.* (1) No recipient of FmHA or its successor agency