AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

agency of the Federal Government (other than the Office of the Inspector General (OIG) or the Office of Equal Opportunity (OEO)) without express approval of OGC.

[48 FR 30947, July 6, 1983, as amended at 52 FR 6500, Mar. 4, 1987; 58 FR 34307, June 24, 1993; 61 FR 67633, Dec. 23, 1996]

§ 1980.47 Time frame for processing applications for loan guarantees.

All guaranteed loan applications must be approved or disapproved, and the lender notified in writing, not later than 60 days after receipt of a completed application, except as noted in paragraph (d) of this section.

(a) If an application is not complete, the lender will be notified, in writing, not later than 20 days after receipt of the application by FmHA or its successor agency under Public Law 103–354, of the reason(s) the application is incomplete.

(b) When an application is disapproved, the written notification to the lender will state the reasons(s) for disapproval.

(c) When an application is disapproved and subsequent action, as the result of an appeal, reverses or revises the initial decision, FmHA or its successor agency under Public Law 103–354 will notify the lender of such action within 15 days after the reversal/revision decision is made.

(d) Applications for Community Programs guaranteed loans that would otherwise be disapproved due to the lack of guarantee authority to make the loans will be placed in a pending status. The applications will remain in a pending status until guarantee authority becomes available. Within 60 days after guaranteed authority becomes available, FmHA or its successor agency under Public Law 103–354 will notify the applicants of the approval or disapproval of the loan.

[51 FR 6710, Feb. 25, 1986, as amended at 57 FR 6068, Feb. 20, 1992; 61 FR 67633, Dec. 23, 1996]

§ 1980.48 Seismic safety of new building construction.

(a) The guaranteed loan programs are subject to the provisions of Executive Order 12699 which requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(b) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes or the latest edition of that code providing an equivalent level of safety to that contained in the latest edition of the National Earthquake Hazard Reduction Program's (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Building (NEHRP Provisions):

(1) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(2) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(3) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(c) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications will be evidence of compliance with the seismic requirements of the appropriate building code.

[61 FR 65157, Dec. 11, 1996]

§§ 1980.49—1980.59 [Reserved]

§ 1980.60 Conditions precedent to issuance of the Loan Note Guarantee or Contract of Guarantee.

(a) *Lender certification*. For Farmer Programs loans, Form FmHA or its successor agency under Public Law 103–354 449–34 or Form FmHA or its successor agency under Public Law 103–354 1980–27 will not be issued until the lender certifies to the applicable conditions below by executing Form FmHA or its successor agency under Public Law 103–354 1980–22, ''Lender Certification.'' For all other loans, Form FmHA or its successor agency under Public Law 103–354 449–34 will not be issued until the lender certifies that:

(1) No major changes have been made in the lender's loan or line of credit conditions and requirements since the issuance of the Conditional Commitment for Guarantee or Conditional

Commitment for Contract of Guarantee except those approved in the interim by FmHA or its successor agency under Public Law 103–354 in writing.

(2) All planned property acquisition has been completed and all development has been substantially completed in accordance with plans and specifications. All costs have not exceeded the amounts approved by the lender and the Agency.

(3) Required hazard, flood, or prevention insurance, worker's compensation and personal life insurance when required is in effect.

(4) Truth in lending requirements have been met.

(5) All equal employment opportunity and nondiscrimination requirements have been or will be met at the appropriate time.

(6) The loan or line of credit has been properly closed, and the required security instruments have been obtained, or will be obtained on any after acquired property that cannot be covered initially under State law.

(7) The borrower has marketable title to the collateral then owned by borrower, subject to the instrument securing the loan or line of credit to be guaranteed and subject to any other exceptions approved in writing by FmHA or its successor agency under Public Law 103–354.

(8) When required, the entire amount of loan for working capital has been disbursed except in cases where the State Director has approved disbursement over an extended time.

(9) When required personal, joint operation (for Farmer Program loans only), partnership, or corporate guarantees have been obtained. Copies of the guarantees will be provided to FmHA or its successor agency under Public Law 103–354.

(10) All other requirements of the Conditional Commitment for Guarantee or Conditional Commitment for Contract of Guarantee have been met.

(11) Lien priorities are consistent with requirements of the Conditional Commitment for Guarantee or Conditional Commitment for Contract of Guarantee.

(12) The loan proceeds have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Guarantee and as specified on Form FmHA or its successor agency under Public Law 103–354 449–1, ''Application for Loan and Guarantee,'' or Form FmHA or its successor agency under Public Law 103–354 1980–10, ''Application for Loan and Guarantee'' (Community Programs). In line of credit cases if any advances have occurred, advances have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Contract of Guarantee and Line of Credit Agreements. A copy of a detailed loan settlement statement of the lender will be attached to support this certification.

(13) Equity requirements have been met. A reconciliation of the borrower's net worth from the latest financial statement to the date of loan closing will be provided with this certification.

(14) There has been no adverse change(s) in the borrower's financial condition nor any other adverse change in the borrower during the period of time from FmHA or its successor agency under Public Law 103–354's issuance of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee or from the time of FmHA or its successor agency under Public Law 103–354's issuance of the Conditional Commitment for Contract of Guarantee to the issuance of the Contract of Guarantee. The lender's certification must address all adverse changes of the borrower and be supported by financial statements of the borrower and its guarantors not more than 60 days old at time of certification. For purposes of this paragraph, the term ''borrower'' includes additionally any parent, affiliate, or subsidiary of the borrower.

(b) *Inspections.* The lender will notify FmHA or its successor agency under Public Law 103–354 of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee or Contract of Guarantee. FmHA or its successor agency under Public Law 103–354 may attend such field inspections. Any inspections or review conducted by FmHA or its successor agency under Public Law 103–354, including those with the lender, are for the benefit of FmHA or its successor agency under Public Law 103–354

only and not for other parties of interest. FmHA or its successor agency under Public Law 103–354 inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections, nor can these parties rely on FmHA or its successor agency under Public Law 103–354's inspections in any manner whatsoever.

(c) *Execution of form.* The lender has executed and delivered to FmHA or its successor agency under Public Law 103–354 Form FmHA or its successor agency under Public Law 103–354 449–35 or Form FmHA or its successor agency under Public Law 103–354 1980–38.

(d) *Plans for marketing.* The lender advises FmHA or its successor agency under Public Law 103–354 of its plans to sell or assign any part of the loan as provided in Form FmHA or its successor agency under Public Law 103–354 449–35.

(e) *Additional requirements.* See also appropriate subpart for additional requirements.

[48 FR 30947, July 6, 1983, as amended at 49 FR 28039, July 10, 1984; 50 FR 39885, Sept. 30, 1985; 51 FR 6710, Feb. 25, 1986; 55 FR 11134, Mar. 27, 1990; 58 FR 34307, June 24, 1993; 61 FR 67633, Dec. 23, 1996]

§ 1980.61 Issuance of Lender's Agreement, Loan Note Guarantee, Contract of Guarantee and Assignment Guarantee Agreement.

(a) *Lender's Agreement.* If FmHA or its successor agency under Public Law 103–354 finds that all requirements have been met:

(1) Except for Farmer Programs loans, the lender and FmHA or its successor agency under Public Law 103–354 will execute Form FmHA or its successor agency under Public Law 103–354 449–35. The original will be delivered to FmHA or its successor agency under Public Law 103–354 and a signed duplicate original will be retained by the lender. There will be a Form FmHA or its successor agency under Public Law 103–354 449–35 executed for all loans and lines of credit guaranteed by FmHA or its successor agency under Public Law 103–354.

(2) For Farmer Programs loans, a new lender's agreement (Form FmHA or its successor agency under Public Law 103–354 1980–38) does not need to be executed for each loan.

(i) Eligible lenders (non-CLP or non-ALP) must execute the most current version of Form FmHA or its successor agency under Public Law 103–354 1980–38. The original will be kept in the County Office operational file for that lender.

(ii) ALP lenders must have executed an ALP lender's agreement (attachments 1 or 2 of exhibit A of subpart B of this part). The original will be kept in the State Office with a copy in the County Office operational file.

(iii) CLP lenders must have executed the most current version of Form FmHA or its successor agency under Public Law 103–354 1980–38. The original will be kept in the State Office with a copy in the County Office operational file.

(iv) Outstanding guarantees will be governed by the provisions of the lender's agreement in effect at the time the guarantee was issued; therefore, all expired lender's agreements must be retained in the State and/or County Office operational file.

(3) In all cases, the lender's agreement will be executed no later than the time the Loan Note Guarantee or Contract of Guarantee is signed.

(b) *Loan Note Guarantee.* (1) Upon receipt of the Form FmHA or its successor agency under Public Law 103–354 449–35 or Form FmHA or its successor agency under Public Law 103–354 1980–38, and after all requirements have been met, FmHA or its successor agency under Public Law 103–354 will execute Form FmHA or its successor agency under Public Law 103–354 449–34. All original(s) will be provided to the lender and attached to the note(s). A conformed copy with copies of notes attached will be retained by FmHA or its successor agency under Public Law 103–354.

(2) In the event a lender has made a loan guaranteed by FmHA or its successor agency under Public Law 103–354 under previous regulations and has obtained a Form FmHA or its successor agency under Public Law 103–354 449–17, ''Contract of Guarantee,'' the lender