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SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1822—RURAL HOUSING LOANS AND GRANTS

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AUTHORITY: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subparts A–F [Reserved]

Subpart G—Rural Housing Site Loan Policies, Procedures, and Authorizations

AUTHORITY: 5 U.S.C. 301; 42 U.S.C. 1480.

SOURCE: 35 FR 16087, July 1, 1970, unless otherwise noted.

§ 1822.261 General.

This subpart sets forth the policies and procedures and delegates authority for making Rural Housing Site (RHS) loans under sections 523 and 524 of the Housing Act of 1949. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to FmHA or its successor agency under Public Law 103–354 employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an FmHA or its successor agency under Public Law 103–354 employee. Section 523 loans are direct loans for the purchase and development of building sites for housing to be built by the self-help method; they have additional requirements which are contained in § 1822.278.

[35 FR 16087, July 1, 1970, as amended at 58 FR 224, Jan. 5, 1993]

§ 1822.262 Objective.

The basic objective of RHS loans is to assist public or private nonprofit organizations interested in providing sites for housing, to acquire and develop land in rural areas. This land will be subdivided into adequate building sites and sold on a nonprofit basis to (a) families eligible for low and moderate income section 502 Rural Housing (RH) loans, including self-help housing; (b) cooperative Rural Cooperative Housing (RCH) applicants and broadly based nonprofit Rural Rental Housing (RRH) applicants; and (c) applicants eligible for Housing and Urban Development (HUD) sections 235 and 236 insured mortgages.

§ 1822.263 Definitions.

As used in this subpart:

(a) A *private nonprofit organization* is a corporation which: is owned and controlled by private persons; is organized and operated for purposes other than making gains or profits for the corporation or members; and, is legally precluded from distributing to its members any gains or profits.

(b) A *public nonprofit organization* is a nonprofit corporation other than a private nonprofit corporation, including a

municipal corporation or other corporate agency of a State or local government.

(c) *Rural area* is open country or rural places as defined in 7 CFR part 3550, subpart A.

(d) *Development cost* means the cost of purchasing and developing the sites including engineering and legal fees, streets, roads, utilities, minimum essential administrative costs, necessary equipment and estimated interest which the borrower cannot pay from other sources.

(e) *RHS section 523 loan* means a loan to an organization which will provide sites for housing to be built by the self-help method.

(f) *RHS section 524 loan* means a loan to an organization which will provide sites for housing to be built with no limitation as to the method of construction that will be used.

(g) *OGC* means the Office of the General Counsel, including the regional attorney or attorney in charge serving the State in which the RHS project is located.

[35 FR 10687, July 1, 1970, as amended at 40 FR 52837, Nov. 13, 1975; 46 FR 61989, Dec. 21, 1981; 67 FR 78326, Dec. 24, 2003]

§ 1822.264 Eligibility requirements.

(a) *Eligibility of applicant*. To be eligible for an RHS loan, the applicant must be a private or public nonprofit organization as defined in § 1822.263 (a) or (b) which is authorized to provide housing sites on a nonprofit basis.

(1) If it is a private nonprofit organization as defined in § 1822.263(a), it should also:

(i) Have a membership of at least 10 community leaders.

(ii) Plan to adopt, if it is being newly organized, articles of incorporation and bylaws that generally conform to model articles and bylaws provided by the State director which will be consistent with State law and with changes appropriate to the purposes and powers of an eligible applicant under this subpart.

(2) [Reserved]

(b) *Authorized representative of applicant*. The Farmers Home Administration (FmHA) or its successor agency under Public Law 103–354 will deal only with the applicant or bona fide representative or the applicant or the representative's technical advisors. An authorized representative of the applicant must have no pecuniary interest in the award of the engineering, architectural or construction contracts, necessary equipment, or the purchase or development of the land.

§ 1822.265 Loan purposes.

RHS loans may be made to qualified applicants:

(a) For the purchase and development of adequate sites, including the construction of essential access roads, streets, utility lines, and necessary equipment which will become a permanent part of the development. If public water and waste disposal facilities are not available and cannot reasonably be provided on a community basis with other financing, including FmHA or its successor agency under Public Law 103–354 Water and Waste Disposal Association loans, funds may be included for this purpose.

(b) For the payment of necessary engineering fees, legal fees, and closing costs.

(c) For the payment of actual cash cost of incidental administrative expenses such as postage, telephone, advertising, and temporary secretarial help, if funds to pay these expenses are not otherwise available. The estimated cost of these items should be identified and shown in the budget.

(d) To provide for needed landscaping, planting, seeding, or sodding, or other necessary facilities related to buildings such as walks, parking areas, and driveways.

(e) When legally required by proper local, county, and State Governmental bodies as a condition for subdivision approval, RHS loan funds may be used to provide common areas playgrounds and tot lots, provided such facilities are dedicated to, and maintained by, a public body.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

[35 FR 16087, July 1, 1970, as amended at 43 FR 24264, June 5, 1978]

§ 1822.266 Limitations.

(a) *Loan limits*. No RHS loan(s) will be made to any applicant which will result in the applicant's owning an unpaid principal balance of more than $100,000 on such loan(s) unless prior authorization for a larger loan is obtained from the national office. No such loan will exceed the development cost as defined in § 1822.263(d), or the value of the property as improved with the loan. These limitations also apply to cases in which the same persons hold a majority of the membership interests or constitute a majority of the directors of two or more applicants.

(b) *Limitations of use of loan funds*. Loans will not be made for:

(1) The purchase of land in excess of the immediate and identified needs in the locality.

(2) The purchase of land from a member of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior consent of the national office.

(3) Refinancing of debts, except in accordance with paragraph (e) of this section.

(4) Payment of any fee, charge, or commission to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of a loan.

(5) Payment of any fee, salary, commission, profit, or compensation to an applicant, or to any officer, director, trustee, stockholder, member or agent of an applicant, except as provided in § 1822.265(b). No contract or agreement for services to be paid for with loan funds should be executed by the applicant without prior approval by the State director.

(c) *Sale of developed sites*. The sites developed with a section 524 loan must be for housing low- and moderate-income families and may be sold to families, nonprofit organizations, public agencies, and cooperatives eligible for assistance under any section of title V of the Housing Act of 1949, or under any other law which provides financial assistance. For example, this may include:

(1) Individuals with low and moderate incomes eligible for HUD mortgages.

(2) Individuals with low and moderate incomes eligible for VA guaranteed loans.

(3) Individuals with low or moderate incomes eligible for a loan from any private lender which is authorized by law to provide financial assistance for housing.

(4) Nonprofit organizations funded by Federal, State, or local governments carrying out programs for low- and moderate-income families to obtain housing.

(5) State or local public agencies such as a housing authority or a housing finance development agency carrying out programs for low- and moderate-income families to obtain housing.

(d) *Suitability of sites*. Sites will meet the requirements of the planned use; for example, individual housing or multiple housing or any combination thereof. Building sites must be well located and designed to provide a desirable living environment. Generally a loan will not be made for the development of less than 10 units, but they need not be contiguous.

(e) *Obligations incurred before loan closing*. When an applicant files an application for a loan, the county supervisor will advise the applicant that development work must not be started and obligations for work, materials, or land purchase must not be incurred before the loan is closed. If, nevertheless, the applicant incurs obligations for work, materials, or land purchase before the loan is closed, the State director may authorize the use of loan funds to pay such obligations only when he finds that all the following conditions exist:

(1) The obligations were incurred after the applicant filed a written application for a loan.

(2) The applicant is unable to pay such obligations from its own resources or to obtain credit from other sources, and failure to authorize the use of loan funds to pay such debts would impair the applicant's financial position.

(3) The obligations were incurred for authorized loan purposes.

(4) Contracts, materials, development and any land purchase meet FmHA or its successor agency under Public Law 103–354 standards and requirements.

(5) Payment of the obligations will remove any liens which have attached, and any basis for liens that may attach, to the property on account of such obligations or such work, materials, or land purchase.

[35 FR 10687, July 1, 1970, as amended at 40 FR 6951, Feb. 18, 1975]

§ 1822.267 Special conditions.

(a) *Evidence of need.* Loans will be made on the basis of the applicant providing firm information as to the number of sites to be developed and evidence of a need for the proposed building sites in the locality.

(b) *Nondiscrimination.* The borrower will be required to agree not to discriminate or permit discrimination, in accordance with section 3 of the loan resolution form "('Rural Housing Site' Loan to Nonprofit Corporation)," available at all FmHA or its successor agency under Public Law 103–354 offices.

(c) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government. County supervisors will counsel with applicants in selecting locations that will provide essential services and facilities and will result in the development of desirable residential communities.

(d) *Loan resolution.* A Loan Resolution will be adopted by the applicant's Board of Directors or similar governing body using a form entitled, "((Rural Housing Site) Loan to Nonprofit Corporation)" available at all FmHA or its successor agency under Public Law 103–354 offices. If any provisions are not appropriate to a particular case, proposed substitute language should be submitted to the national office with the recommendations of the State director.

(e) *Development policies.* Development will be planned and performed in accordance with subparts A and C of part 1924 of this chapter, and certain information in a guide entitled "Planning and Developing Building Sites" available at all FmHA or its successor agency under Public Law 103–354 offices.

(f) *Water and waste disposal facilities.* If public water and waste disposal facilities are not available and these facilities will be provided on a community basis with funds included in the RHS loan or with other financing, provision should be made to form an organization with members who will provide continuing maintenance and management of facilities. The cost of the facilities should be considered as a cost of developing the sites and included in the price charged for the lots when they are sold.

(g) *Compliance with local codes and regulations.* Planning and development of sites will comply with all State, county, and local planning and zoning requirements, and will be for housing that will conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, and sanitation.

(h) *Optioning of land.* If a loan includes funds to purchase real estate, the applicable provisions of subpart A of part 1943 regarding options will be followed. After the loan is approved, the county supervisor will have Form FmHA or its successor agency under Public Law 103–354 440–35, "Form Letter—Acceptance of Option," or other appropriate form of acceptance, completed, signed by the applicant, and mailed to the seller.

(i) *Use of and accountability for loan funds.* Supervised bank accounts will not be used except when their requirement is made or authorized by the State director for cases where adequate bonding is not available. If a supervised bank account is used, collateral for deposits of funds will be pledged when the supervised bank account exceeds $100,000. All loan funds and funds from other sources to be used to pay the development costs of the site, as well as proceeds from the sale of any sites, will be deposited in accordance with part 1902, subpart A of this chapter. The county supervisor will see that funds for land purchase are paid to the seller simultaneously with loan closing. After the loan is closed, monthly reports will be provided to FmHA or its successor agency under Public Law 103–354 of all disbursements made and income received by the borrower. Reports for each month will be submitted to the FmHA or its successor agency under Public Law 103–354 county office during the first 10 days of the next

month. No expenditures will be made without prior FmHA or its successor agency under Public Law 103–354 consent for items which are not included in the FmHA or its successor agency under Public Law 103–354 approved development cost estimate or for amounts greater than those set forth in such estimate.

(j) *Insurance.* The State director will determine the minimum amounts and types of insurance the applicant will carry.

(1) Suitable workman's compensation insurance will be carried by the applicant for all its employees.

(2) The applicant will be advised of the possibility of incurring liability and encouraged, or required when appropriate, to obtain liability insurance.

(k) *Bonding.* (1) Approved corporate surety bonds will be required in all cases involving a development contract in excess of $20,000, unless an exception is made by the national office. In other cases, the county supervisor will determine whether a surety bond is required.

(2) The applicant will provide fidelity bond coverage for its officers and employees entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily saleable personal property. The amount of the bond will be at least equal to the maximum amount of such funds including funds in bank accounts, and property that the applicant will have in its possession or control at any one time. If permitted by State law, the United States will be named coobligee in the bond. Form FmHA or its successor agency under Public Law 103–354 440–24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(l) *Conditional commitments for construction of homes on developed sites.* Conditional commitments may be issued on sites developed with an RHS section 524 loan to permit homes to be constructed on sites prior to the sale of the site to an eligible purchaser in accordance with the following:

(1) The requirements of 7 CFR 3550.70 must be met and a conditional commitment issued prior to the start of construction of the home.

(2) The conditional commitment must be issued to an RHS borrower who can legally provide the proposed housing and has the experience and training in construction to the extent necessary to assure that the housing will be built or jointly to the RHS loan borrower and a builder who has the legal capacity, training and experience necessary to construct the housing. In all cases the following language will be added under "other conditions" on Form FmHA or its successor agency under Public Law 103–354 1944–11, "Conditional Commitment":

(i) "Not withstanding the other provisions of this commitment the sale of completed homes on sites developed with section 524 Rural Housing Site loans will be limited to families eligible for assistance under any section of title V of the Housing Act of 1949 or under any other law which provides financial assistance for housing low- and moderate-income families. The approval of FmHA or its successor agency under Public Law 103–354 will be obtained prior to the sale of each home. The request for approval shall be submitted to the local FmHA or its successor agency under Public Law 103–354 office along with an application for an RH 502 loan or a financial statement from the purchaser and verification of the other credit that is available."

(ii) The benefits of the nonprofit development of the site(s) must be passed on to the purchaser. This will result in this site being sold for $_____ (price to be determined as provided for in (§ 1822.275(b))).

(3) In arriving at the commitment price for the site and the completed home, the value will be based on the present market value of the house only, plus the nonprofit selling price of the lot.

(4) If in order to obtain interim financing for the construction of the homes, the RHS loan borrower requests a subordination by FmHA or its successor agency under Public Law 103–354 on individual lots, the State Director may approve the subordination by completing and executing a subordination in the format of exhibit C of this subpart.

(5) FmHA or its successor agency under Public Law 103–354's lien on any

lot will be released only at the time of sale to an eligible purchaser.

(6) The County Supervisor should provide the necessary supervision to assure that the RHS loan borrower takes the necessary action to assure that all qualified builders in the area are aware of the availability of rural housing sites and are given an equal opportunity to participate in this conditional commitment program. As a minimum, the borrower will be required to submit a signed statement indicating the actions taken including names and dates of contacts with builders.

(7 U.S.C. 1989; 5 U.S.C. 301; sec. 10, Pub. L. 93–347, 88 Stat. 392; 42 U.S.C. 1480; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

[35 FR 16087, July 1, 1970, as amended at 41 FR 47460, Oct. 29, 1976; 42 FR 44669, Sept. 6, 1977; 43 FR 24264, June 5, 1978; 44 FR 1702, Jan. 8, 1979; 45 FR 39793, June 12, 1980; 46 FR 36106, July 14, 1981; 46 FR 61989, Dec. 21, 1981; 52 FR 8002, Mar. 13, 1987; 52 FR 19283, May 22, 1987; 67 FR 78326, Dec. 24, 2002]

§ 1822.268 Rates, terms, and source of funds.

(a) *Interest rate.* Upon request of the applicant, the interest rate charged by FmHA or its successor agency under Public Law 103–354 will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in exhibit B of FmHA or its successor agency under Public Law 103–354 Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103–354 office) for the type assistance involved.

(b) *Repayment period.* Final payment will be due 2 years after the date of the loan. When necessary to carry out the loan purposes, the national office may authorize extension of maturity dates. As lots are sold before the final due date of the note, the proceeds of the sales will be applied on the account or any prior lien, or, with the prior approval of the national office, used in a manner consistent with the purposes of the loan and the security interest of the Government.

(c) *Source of funds.* Loans under this subpart will be made as insured loans, except that loans under § 1822.278 to develop building sites for sale in connection with self-help projects will be made as direct loans.

[35 FR 10687, July 1, 1970, as amended at 51 FR 6733, Feb. 26, 1986]

§ 1822.269 Security.

Each loan will be secured by a mortgage on the property purchased or improved with the loan, and a security interest in the funds held by the corporation in trust for the Government, in accordance with the provisions of the required Loan Resolution.

§ 1822.270 Technical, legal, and other services.

(a) *Appraisals.* The property will be appraised by an FmHA or its successor agency under Public Law 103–354 employee authorized to make real estate appraisals. The appraisal will consist of a narrative statement prepared and signed by the authorized employee describing in detail the items considered in arriving at the value of the property. Two values will be established by the appraiser:

(1) The fair market value of the total property "as is".

(2) The aggregate fair market value of the building sites after development.

(i) In determining the value of the property, the appraiser will consider the value and selling prices of similar building sites in the area. The selling prices of similar sites must be fully documented.

(ii) [Reserved]

(b) *Title clearance and legal services.* For a loan to a public nonprofit organization, title clearance and legal services will be obtained in accordance with instructions from the OGC, observing the provisions of subpart B of part 1927 of this chapter to the extent feasible. For a loan to a private nonprofit organization, the provisions of subpart B of part 1927 of this chapter regarding title clearance and legal services will apply. The applicant will be encouraged to have the same approved closing agent, where practical, perform the title clearance work in connection with the purchase of the

land and the sale of the individual sites.

(c) *Contracts for legal services.* On projects requiring more legal services than are customarily required for title clearance alone, the applicant will be required to have a written contract when loan funds will be used for legal services. All such contracts will be subject to review and approval by the State director and therefore should be submitted to the State Director before execution by the applicant. Contracts will provide for the types of service to be performed and the amount of fees to be paid either in lump sum on the completion of all services or in installments as services are performed.

(d) *Engineering services.* On projects requiring engineering services, a written contract will be required between the engineer and the borrower. All such contracts will be subject to review and approval by the State director and therefore should be submitted to the State Director before execution by the applicant. The form of contract must conform with standard professional practices and describe the types of services to be performed and fees to be paid.

[35 FR 16087, July 1, 1970, as amended at 51 FR 6733, Feb. 26, 1986; 56 FR 67471, Dec. 31, 1991]

§ 1822.271 Processing applications.

(a) *Application.* The application will be in the form of a letter to the county supervisor with the following information included in or attached to the letter:

(1) Name and address of applicant.

(2) A copy of, or an accurate citation to, the specific provisions of State law under which the applicant is organized; a copy of the applicant's articles of incorporation, bylaws, and other authorizing documents; the names and addresses of the applicant's members, directors, and officers; and if another organization is a member of the applicant organization its name, address, and principal business.

(3) A current, dated, and signed financial statement showing assets, and liabilities, together with information on the repayment schedule and status of each debt.

(4) Evidence of inability to obtain credit from other sources.

(5) General description of the project.

(i) Location and size of tract or tracts to be bought and/or developed.

(ii) Number and size of individual sites planned together with a detailed plot plan.

(iii) Preliminary engineering plans, if available.

(6) Estimated cost and amount of loan needed.

(7) Explanation of applicant's financial contribution to the project.

(8) A map showing the location of and other supporting information on neighborhood and existing facilities such as distance to shopping area, neighborhood churches, available transportation, drainage, sanitation facilities, water supply available or planned, and access to essential services such as doctors, dentists, and hospitals.

(9) If facilities such as water and sewage systems, paved streets, and utilities are not currently available, information on when and how they will be provided.

(10) Evidence of the need for the proposed sites in the locality by low- and moderate-income families and other qualified applicants that are likely to be able to obtain financing for a home.

(11) Written evidence of any State, county, or local planning, zoning, or other ordinances imposing additional restrictions or requirements upon the proposed sites.

(b) *County supervisor's review and evaluation of applications.* The county supervisor will:

(1) Determine that the applicant meets the eligibility requirements of § 1822.264.

(2) Verify that the information provided is accurate and complete.

(3) Determine that:

(i) The sites will be located in a good residential area and that essential facilities and services will be provided.

(ii) The lots will be reasonable in cost and of a type FmHA or its successor agency under Public Law 103–354 can appropriately finance.

(iii) There is an immediate and ready market for the proposed sites in the planned location.

(iv) The total number of sites planned does not exceed the number of

loans the county supervisor can reasonably expect to include in the rural housing program or for which other credit is reasonably assured when the sites are developed.

(v) Proposed subdivisions will comply with the local codes and ordinances and also meet the requirements of subpart C of part 1924 of this chapter.

(4) Evaluate the manner in which the applicant plans to conduct its business and financial affairs.

(5) Comment on the background of the members, directors and officials.

(6) If he has questions about the proposal, send the incomplete docket to the State office for advice.

(7) If for any reason the loan cannot be made, inform the applicant.

(c) *Completion of the docket*. If the county supervisor determines that the applicant is eligible and the loan will be sound and proper, he should request the applicant to make any needed revisions. In addition to the items required in the application the docket must include:

(1) A plot plan and detailed preliminary plans and specifications for development of the building sites.

(2) A detailed cost breakdown of the project for such items as land and rights-of-way, utility installations or connections, on-site improvements, engineering and legal services, and estimated interest.

(3) If water and sanitary facilities are not publicly owned, a complete statement as to how they will be provided and details about their ownership and operation.

(4) Satisfactory evidence of review and approval of the proposed development by applicable State and local officials whose approval is required by State or local laws, ordinances, or regulations.

(5) Satisfactory evidence that the appropriate public bodies will accept and maintain all public facilities, including common areas, playgrounds, and tot lots, when dedicated to such bodies.

(d) *Preparation of docket forms*—(1) *Request for obligation of funds and fund analysis*. Form RD 3560–51, "Multiple Family Housing Obligation Fund Analysis" will be completed in accordance with the Forms Manual Insert (FMI).

(2) *County committee certification or recommendation*. County committees will not be used to review RHS loan applications.

(e) *Assembly, review and distribution of complete loan docket items*. When all items required for the complete loan docket have been furnished, they will be examined thoroughly to make sure they are properly and accurately prepared and are complete in all respects, including dates and signatures. The loan docket items will be assembled in the following order and distributed as follows:

Form No.	Name of form or document	Total No. of copies	Signed by borrower	Number for loan docket	Copy for borrower
	Application Letter and Attachments	2		1–0	1–C
FmHA or its successor agency under Public Law 103–354 1910–11	Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts.	2	2–O&C	1–O	1–C
	Evidence of Legal Authority (copy or citation of specific provisions of State statutory authority).	2	1	1–0	1–C
	Proof of Organization (certified copy of Articles of Incorporation)	2	1	1–0	1–C
	Certified copy of Bylaws	2	1	1–0	1–C
	List of names and addresses of officers, directors and members	2	1	1–0	1–C
	Narrative plan and other supporting information	2	1	1–0	1–C
	Evidence of Need.				
	Certified Copy of Loan Resolution	1	1	1–0	
FmHA or its successor agency under Public Law 103–354 440–4	Assurance Agreement	2	1	1–0	1–C

Form No.	Name of form or document	Total No. of copies	Signed by borrower	Number for loan docket	Copy for borrower
FmHA or its successor agency under Public Law 103–354 400–1	Equal Opportunity Agreement (when applicable)	2	1	1–0	1–C
FmHA or its successor agency under Public Law 103–354 400–3	Notice to Contractors and Applicants	3		1–C	1–C
FmHA or its successor agency under Public Law 103–354 400–6	Compliance Statement (when applicable)	3		1–C	1–C
	Survey of land given as security, plans specifications, cost estimates, and proposed manner of development.	3	1	1–0	1–C
	Operating budget (if administrative expenses are to be included in loan).	2	1	1–0	1–C
	Appraisal Report with Attachments	1		1–0	
	Preliminary Title Opinion and a Final Title Opinion or a title insurance binder and a mortgage title insurance policy.				
	Option or copy of deed, purchase contract, or other instruments of ownership.				
FmHA or its successor agency under Public Law 103–354 3560–51	Multiple Family Housing Obligation-Fund Analysis	2	2	[1] 1	1

[1] Data input to Finance Office through field office terminals.

(f) *Submission of complete docket*. The complete docket will be sent to the State office together with the District Director's comments and recommendations and a draft for a press release.

(g) *Loan approval authority and State Office action*. The State Director is authorized to approve loans in accordance with this subpart and subpart A of part 1901 of this chapter. As soon as it is evident that a loan will be approved, the State Director will complete exhibit A to subpart C of part 2015 of this chapter. The State Director may redelegate approval authority to qualified State Office employees. When a docket or preliminary application is received in the State Office, the State Director will:

(1) Utilize the services of technicians on his staff and from other agencies in evaluating the application.

(2) Review the applicant's articles of incorporation and bylaws. If they conform to approved forms for the State as provided in § 1822.264(a)(1)(ii), the State director need not obtain a preliminary opinion from the OGC. In all other cases the State director will, and in any case may, submit the docket with any comments or questions to the OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(3) If additional information is needed to adequately evaluate the application, return the loan docket to the District Director with any comments and recommendations for further processing.

(4) If the docket is sufficiently complete to enable the State Director to determine that the applicant is eligible and the loan would be sound and proper, issue a proposed memorandum of approval listing any specific conditions that must be met before loan closing.

(5) If the applicant is not eligible or the loan would not be sound and proper

and the deficiencies cannot be corrected, inform the District Director accordingly.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

[35 FR 16087, July 1, 1970, as amended at 41 FR 7487, Feb. 19, 1976; 41 FR 20392, May 18, 1976; 43 FR 24264, June 5, 1978; 44 FR 4435, Jan. 22, 1979; 50 FR 8583, Mar. 4, 1985; 52 FR 19283, May 22, 1987; 54 FR 29330, July 12, 1989; 69103, Nov. 26, 2004]

§ 1822.272 Approval or disapproval of a loan.

The provisions of 7 CFR part 3560, subpart B will be followed.

[69 FR 69103, Nov. 26, 2004]

§ 1822.273 Actions subsequent to loan approval.

After the loan is approved, actions to be taken will be in accordance with 7 CFR part 3560, subpart B.

[69 FR 69103, Nov. 26, 2004]

§ 1822.274 Loan closing.

(a) *Applicable instructions.* The complete loan docket will be sent to the OGC for loan closing instructions. RHS loans will be closed in accordance with applicable provisions of subpart B of part 1927 of this chapter, and State Instructions which supplement this Instruction, and closing instructions of the OGC, and with the assistance of the approved attorney, representatives of the title insurance company, or local attorney, whichever is appropriate.

(b) *Mortgage.* Unless the OGC determines the Form to be inappropriate, real estate mortgage Form FmHA or its successor agency under Public Law 103–354 1927–1 (state), "Real Estate Mortgage for _____," will be used for all RHS section 524 loans modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, the style of execution, and the acknowledgement. Additional paragraphs will be included in the mortgage to read as follows:

The borrower agrees not to discriminate in the sale of the dwelling financed under this mortgage due to a prospective purchaser's race, color, national origin, sex, religion, age, marital status, or handicap. The borrower further agrees to comply with all Federal, State, or local laws and ordinances prohibiting discrimination in the sale of housing. The borrower's failure or refusal to comply with this agreement will be a basis for the FmHA or its successor agency under Public Law 103–354 to deny future requests for participation in its rural housing programs and activities.

This instrument also secures the obligations and covenants of borrower set forth in Borrower's Loan Resolution of _____ (date), which is hereby incorporated herein by reference.

(c) *Promissory note.* Form RD 3560–52, "Promissory Note," will be used. Instructions for preparation will be in accordance with the FMI and the following:

(1) The total amount to be shown in the note will be the amount of the loan shown on Form RD 3560–51. The note will be dated the date of the loan closing.

(2) The note will be signed in accordance with subpart B of part 1927 of this chapter and the forms manual insert for Form RD 3560–52 (available in any FmHA or its successor agency under Public Law 103–354 office).

(3) Payments shall not be deferred.

(d) *Recorded mortgage.* When the real estate mortgage is returned by the recording official, the county supervisor will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy including the recording data showing the date and place of recordation and book and page number will be prepared and filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower but will be conformed only if required by State law or if it is the custom of other lenders in the area.

(e) *Date of loan closing.* An RHS loan is considered closed when the mortgage is filed of record.

[35 FR 16087, July 1, 1970, as amended at 42 FR 4408, Jan. 25, 1977; 50 FR 8584, Mar. 4, 1985; 56 FR 67472, Dec. 31, 1991; 69 FR 69104, Nov. 26, 2004]

§ 1822.275 Actions after sites are developed.

The building sites will be sold on a nonprofit basis to eligible families or

organizations as described in § 1822.266(c).

(a) An option, Form FmHA or its successor agency under Public Law 103–354 440–34, "Option to Purchase Real Property," will be executed. The site will be clearly identified by a land survey.

(b) The sale price of each individual site will not be more than a sufficient amount to pay a proportionate part of the RHS loan and any other actual costs of buying, developing, and selling the building site.

(c) The proceeds from sale of the building sites will be applied on the RHS loan and any prior lien or, with the prior approval of the National Office, used in a manner consistent with the purpose of the loan and the security interest of the Government. The sites will be released from the mortgage in accordance with 7 CFR part 3550, subpart D or otherwise in accordance with prior approval of the National Office.

[35 FR 16087, July 1, 1970, as amended at 51 FR 4135, Feb. 3, 1986; 67 FR 78326, Dec. 24, 2002]

§ 1822.276 Subsequent RHS loans.

A subsequent RHS loan is an RHS loan to an applicant indebted for an initial RHS loan. Subsequent RHS loans will be made on the same basis as initial RHS loans.

§ 1822.277 Complaints regarding discrimination in opportunity to buy developed sites.

Any applicant wishing to purchase a site financed by an RHS loan who believes he or she has been discriminated against because of race, color, national origin, religion, sex, handicap, or age, may file a complaint with the County Supervisor or State Director. Any such complaint will be handled in accordance with 7 CFR 3560.2.

[56 FR 67472, Dec. 31, 1991, as amended at 69 FR 69104, Nov. 26, 2004]

§ 1822.278 Special requirements for RHS section 523 loans (loans to organizations providing sites for self-help housing).

Loans to organizations which will provide sites for self-help housing (RHS sec. 523 loans) will be made under the provisions of this subpart with the following exceptions:

(a) *Eligibility*. The applicant must be a nonprofit organization engaged in assisting self-help projects.

(b) *Interest*. The interest rate will be 3 percent per annum on the unpaid principal balance.

(c) *Source of funds*. These will be direct loans made from the self-help fund.

(d) *Evidence of need*. Loans to newly formed organizations will be made on the basis of the applicant's providing firm information as to the number of sites to be developed and the names of eligible bona fide prospective purchasers who are assured of available home financing. Loans to organizations currently involved in mutual self-help housing projects may be made without submitting a list of the names of prospective site purchasers. There must, however, be definite evidence that enough families are available who are eligible and who will buy the sites when they are developed.

(e) *Multiple advances*. These loans may be disbursed over a period not to exceed 18 months from the date of the first advance.

(f) *Note forms*. Form RD 3560–52, "Multiple Family Housing Promissory Note," will be used. See § 1822.274 (c).

(g) *Mortgage*. Unless the OGC determines the Form to be inappropriate, real estate mortgage Form FmHA or its successor agency under Public Law 103–354 1927–1 (state), "Real Estate _____ for _____ (Direct Loan)," will be used modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, the style of execution, and the acknowledgement. Additional paragraphs will be included in the mortgage to read as follows:

The borrower agrees not to discriminate in the sale of the dwelling financed under this mortgage due to a prospective purchaser's race, color, national origin, sex, religion, age, marital status, or handicap. The borrower further agrees to comply with all Federal, State, or local laws and ordinances prohibiting discrimination in the sale of housing. The borrower's failure or refusal to comply with this agreement will be a basis for the FmHA or its successor agency under Public Law 103–354 to deny future requests

for participation in its rural housing programs and activities.

This instrument also secures the obligations and covenants of borrower set forth in Borrower's Loan Resolution of _____ (*date*), which is hereby incorporated herein by reference.

[35 FR 16087, July 1, 1970, as amended at 42 FR 4408, Jan. 25, 1977; 50 FR 8584, Mar. 4, 1985; 56 FR 67472, Dec. 31, 1991; 69 FR 69104, Nov. 26, 2004]

§ 1822.279 Loan supervision and servicing.

Loan supervision and loan servicing will be provided according to 7 CFR part 3560.

[69 FR 69104, Nov. 26, 2004]

EXHIBITS A–B TO SUBPART G TO PART 1822 [RESERVED]

EXHIBIT C TO SUBPART G OF PART 1822—SUBORDINATION BY THE GOVERNMENT FOR USE WITH RURAL HOUSING SITE LOANS

Whereas, The United States of America acting through the Farmers Home Administration or its successor agency under Public Law 103–354 (hereinafter called the "Government") is the holder of the following-described instrument(s) executed by

of _____
County, State of _____
(hereinafter called the "Borrower")

Title of instrument	Date of instrument	Date filed	Office filed	Book No.	Page No.

And whereas, _____ (hereinafter called the "Lender") has agreed to provide a loan to the borrower or to a builder designated by the borrower to construct a home on the property described in this instrument.

Now Therefore, in consideration of the Lender's agreement to make such loan to the borrower, the Government hereby consents to the Borrower obtaining said loan from the lender, and agrees to and hereby subordinates in favor of the Lender and his successors and assigns its liens or security interests created or evidenced by the above-described instrument(s) insomuch as they cover the following described property:

Except That, The Government shall retain a first lien or security interest in the above-described property in an amount of $_____. Such first lien will be released only when satisfactory evidence is provided indicating that the lot with completed home is being sold to a family eligible for assistance under any section of Title V of the Housing Act of 1949 or under any other law which provides financial assistance for housing low- and moderate-income families and that the benefits of the nonprofit development of the site are being passed on to the eligible purchaser and that the amount of that first lien is paid on the Borrower's Rural Housing Site Loan debt to the Government.

This subordination is limited to the amount actually loaned by the Lender to the Borrower for the foregoing purpose, but shall not exceed $_____.

Only the above described property is affected by this subordination. This subordination shall not otherwise affect or modify the obligations secured by the aforesaid lien instrument(s), and the said obligations shall continue in force and effect until fully paid, satisfied, and discharged.

No member of Congress shall be admitted to any share or part of this agreement or to any benefit that may arise thereupon.

In Witness Whereof, The United States of America has caused these presents to be signed on the _____ day of _____, 19—, pursuant to delegated authority published in 7 CFR, Part 1800.

Witness: UNITED STATES OF AMERICA
_____ By: _____
_____ Title: _____
Farmers Home Administration or its successor agency under Public Law 103–354, U.S. Department of Agriculture.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

[41 FR 47460, Oct. 29, 1976]

PART 1823 [RESERVED]