

### § 36.4522

made unless such property complies or conforms with those standards of planning, construction, and general acceptability applicable thereto which have been prescribed by the Secretary.

[23 FR 2340, Apr. 10, 1958]

### § 36.4522 Waivers, consents, and approvals.

No waiver, consent, or approval required or authorized by the regulations concerning direct loans to veterans shall be valid unless in writing signed by Department of Veterans Affairs.

[15 FR 6291, Sept. 20, 1950]

### § 36.4523 Geographical limits.

Any real property purchased, constructed, or improved with the proceeds of a loan under 38 U.S.C. 3711 shall be situated in the United States, which for purposes of 38 U.S.C. Chapter 37 is here defined as the several States, Territories, and possessions, and the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands: *Provided*. That no loan shall be made pursuant to 38 U.S.C. 3711 unless the real property is located in one of the areas designated from time to time by the Department of Veterans Affairs as an area in which private capital is not available under 38 U.S.C. chapter 37 to eligible veterans for financing of the purchase, construction, repairs, alterations, or improvement of a farm residence or other dwelling, as the case may be.

[46 FR 43675, Aug. 31, 1981]

### § 36.4524 Sale of loans.

In the event a direct loan is purchased from the Department of Veterans Affairs at any time pursuant to the provisions of 38 U.S.C. 3711(g), the Department of Veterans Affairs may issue a guaranty in connection therewith within the maximums applicable to loans guaranteed under 38 U.S.C. 3710 and such loans shall thereafter be subject to the applicable provisions of the regulations governing the guaranty or insurance of loans to veterans, and such part of the regulations concerning direct loans to veterans as may be inconsistent therewith or variant therefrom shall no longer govern the subse-

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quent disposition of the rights and liabilities of any interested parties.

[24 FR 2659, Apr. 7, 1959]

### § 36.4525 Requirement of a construction warranty.

Any commitment to make a direct loan and any approval of a direct loan application issued or made on or after May 2, 1955, shall, if the purpose of the loan is to finance the construction of a dwelling or farmhouse or to finance the purchase of a newly constructed dwelling, be subject to the express condition that the builder, seller, or the real party in interest in the transaction shall deliver to the veteran constructing or purchasing such dwelling with the aid of a direct loan a warranty, in the form prescribed by the Secretary, that the property has been completed in substantial conformity with the plans and specifications upon which the Secretary based the valuation of the property, including any modifications thereof, or changes or variations therein, approved in writing by the Secretary, and no direct loan shall be disbursed in full unless a copy of such warranty duly received by the purchaser is submitted to the Department of Veterans Affairs.

[20 FR 2463, Apr. 14, 1955, as amended at 46 FR 43676, Aug. 31, 1981]

### § 36.4526 Issuance of fund reservation commitments.

(a) Any builder or sponsor proposing to construct one or more dwellings in an area designated as eligible for direct loans may apply for a commitment for the reservation of direct loan funds to be used for the making of loans to eligible veterans for the purchase or construction of such dwellings. Such commitment may be issued on such conditions as the Department of Veterans Affairs determines to be proper in the particular case and will be valid for a period of 3 months;

*Provided*, That the Department of Veterans Affairs may, for good and sufficient reasons, extend the period of the commitment. No commitment shall be issued unless the builder or sponsor shall have paid an amount equivalent

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to 2 percent of the funds being reserved, which amount shall be non-refundable. The commitment shall be nontransferable except with the written approval of the Department of Veterans Affairs.

(b) Notwithstanding that direct loan funds may be available for reservation when issuance of a reservation commitment is requested by a builder or sponsor, the Department of Veterans Affairs may withhold issuance of such commitment in any case in which it determines that the experience or technical qualifications of the builder in respect to home construction are not acceptable, or that other factors bearing on the likelihood of the success of the proposed project are such as to justify withholding issuance of a fund reservation commitment.

[23 FR 2340, Apr. 10, 1958]

### § 36.4527 Direct housing loans to Native American veterans on trust lands.

(a) The Secretary may make a direct housing loan to a Native American veteran if:

(1) The Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; or

(2) The tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to such loans and the memorandum complies with the requirements of paragraph (b) of this section.

(Authority: 38 U.S.C. 3762(a))

(3) The memorandum is in effect when the loan is made and will remain in effect until the maturity of the subject loan.

(b)(1) Subject to paragraph (b)(2) of this section, each memorandum of understanding entered into by the Secretary with a tribal organization shall provide for the following:

(i) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this section

(A) Holds, possesses, or acquires using the proceeds of the loan a meaningful interest in a lot and/or dwelling that is located on trust land; and

(B) Will purchase, construct, or improve a dwelling on the lot using the proceeds of the loan.

(ii) That each Native American veteran obtaining a direct loan under this section will convey to the Secretary by an appropriate instrument the interest referred to in paragraph (A) as security for the direct loan or, if the laws of the tribal organization do not allow the veteran to convey the meaningful interest to the Secretary, the memorandum of understanding may authorize the tribe to serve as Trustee for the Secretary for purposes of protecting the interest of the Secretary as lender.

(iii) That the tribal organization and each Native American veteran obtaining a direct loan under this section will permit the Secretary or his or her designee to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary or his or her designee determines may be necessary:

(A) To evaluate the advisability of the loan; and

(B) To monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

(C) To protect the improvements from vandalism and the elements,

(D) To make property inspections in conjunction with loan servicing, financial counseling, foreclosure, acquisition, management, repair, and resale of the secured interest.

(iv) That the tribal organization has established standards and procedures that authorize the grantee to legally establish the interest conveyed by a Native American veteran pursuant to subsection (B) and terminate all interest of the veteran in the land and improvements, including:

(A) Procedures for foreclosing the loan in the event of a default;

(B) Procedures for acquiring possession of the veteran's interest in the property; and

(C) Procedures for the resale of the property interest and/or the dwelling purchased, constructed, or improved using the proceeds of the loan.