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AUTHORITY: 5 U.S.C. 301; 7 U.S.C 1989; 42 U.S.C 1480.

Subpart A—Planning and Performing Construction and Other Development

SOURCE: 52 FR 8002, Mar. 13, 1987, unless otherwise noted.

§ 1924.1 Purpose.

This subpart prescribes the basic Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 policies, methods, and responsibilities in the planning and performing of construction and other development work for insured Rural Housing (RH), single unit Labor Housing (LH). It also provides supplemental requirements for Rural Rental Housing (RRH) loans, Rural Cooperative Housing (RCH) loans, multi-unit (LH) loans and grants, and Rural Housing Site (RHS) loans. This subpart is inapplicable to Farm Service Agency, Farm Loan Programs.

[53 FR 35679, Sept. 14, 1988, as amended at 72 FR 64122, Nov. 15, 2007]

§ 1924.2 [Reserved]

§ 1924.3 Authorities and responsibilities.

The County Supervisor and District Director are authorized to redelegate, in writing, any authority delegated to them in this subpart to the Assistant County Supervisor and Assistant District Director, respectively, when determined to be qualified. FmHA or its successor agency under Public Law 103-354 Construction Inspectors, District Loan Assistants, and County Office Assistants are authorized to perform duties under this subpart as authorized in their job descriptions.

§ 1924.4 Definitions.

(a) *Construction*. Such work as erecting, repairing, remodeling, relocating, adding to or salvaging any building or structure, and the installation or repair of, or addition to, heating and electrical systems, water systems, sewage disposal systems, walks, steps, driveways, and landscaping.

(b) *Contract documents*. The borrower-contractor agreement, the conditions

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of the contract (general, supplementary, and other), the drawings, specifications, warranty information, all addenda issued before executing the contract, all approved modifications thereto, and any other items stipulated as being included in the contract documents.

(c) *Contractor*. The individual or organization with whom the borrower enters into a contract for construction or land development, or both.

(d) *County Supervisor and District Director*. In Alaska, for the purpose of this subpart, "County Supervisor" and "District Director" also mean "Assistant Area Loan Specialist" and "Area Loan Specialist," respectively. The terms also include other qualified staff who may be delegated responsibilities under this subpart in accordance with the provisions of subpart F of part 2006 (available in any FmHA or its successor agency under Public Law 103-354 office).

(e) *Date of commencement of work*. The date established in a "Notice to Proceed" or, in the absence of such notice, the date of the contract or other date as may be established in it or by the parties to it.

(f) *Date of substantial completion*. The date certified by the Project Architect/Engineer or County Supervisor when it is possible, in accordance with any contract documents and applicable State or local codes and ordinances, and the FmHA or its successor agency under Public Law 103-354 approved drawings and specifications, to permit safe and convenient occupancy and/or use of the buildings or other development.

(g) *Development*. Construction and land development.

(h) *Development standards*. Any of the following codes and standards:

(1) A standard adopted by FmHA or its successor agency under Public Law 103-354 for each state in accordance with § 1924.5(d)(1)(i)(E) of this subpart.

(2) *Voluntary national model building codes (model codes)*. Comprehensive documents created, referenced or published by nationally recognized associations of building officials that regulate the construction, alteration and repair of building, plumbing, mechanical and electrical systems. These

codes are listed in exhibit E of this subpart.

(3) *Minimum Property Standards (MPS)*. The Department of Housing and Urban Development (HUD) Minimum Property Standards for Housing, Handbook 4910.1, 1984 Edition with Changes. (For One and Two Family Dwellings and Multi-Family Housing).

(i) *Identity of interest*. Identity of interest will be construed as existing between the applicant (the party of the first part) and general contractors, architects, engineers, attorneys, subcontractors, material suppliers, or equipment lessors (parties of the second part) under any of the following conditions:

(1) When there is any financial interest of the party of the first part in the party of the second part. The providing of normal professional services by architects, engineers, attorneys or accountants with a client-professional relationship shall not constitute an identity of interest.

(2) When one or more of the officers, directors, stockholders or partners of the party of the first part is also an officer, director, stockholder, or partner of the party of the second part.

(3) When any officer, director, stockholder or partner of the party of the first part has any financial interest whatsoever in the party of the second part.

(4) Between the spouse, significant other, relatives, and step-relatives of the principal owners of the party of the first part and its management, such as Grandmother, Aunt, Daughter, Granddaughter, Grandfather, Uncle, Son, Grandson, Mother, Sister, Niece, Cousin, Father, Brother, Nephew;

(5) When the party of the second part advances any funds to the party of the first part.

(6) When the party of the second part provides and pays on behalf of the party of the first part the cost of any legal services, architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with obligations under the construction contract.

(7) When the party of the second part takes stock or any interest in the

party of the first part as part of the consideration to be paid them.

(8) When there exist or come into being any side deals, agreements, contracts or undertakings entered into thereby altering, amending, or canceling any of the required closing documents except as approved by FmHA or its successor agency under Public Law 103-354.

(9) An identity of interest will also exist when another party can significantly influence the management or operating policies of the transacting parties or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.

(j) *Land development*. Includes items such as terracing, clearing, leveling, fencing, drainage and irrigation systems, ponds, forestation, permanent pastures, perennial hay crops, basic soil amendments, pollution abatement and control measures, and other items of land improvement which conserve or permanently enhance productivity. Also, land development for structures includes the applicable items above, and items such as rough and finish grading, retaining walls, water supply and waste disposal facilities, streets, curbs and gutters, sidewalks, entrancewalks, driveways, parking areas, landscaping and other related structures.

(k) *Manufactured housing*. Housing, constructed of one or more factory-built sections, which includes the plumbing, heating and electrical systems contained therein, which is built to comply with the Federal Manufactured Home Construction and Safety Standards (FMHCSS), and which is designed to be used with or without a permanent foundation. Specific requirements for manufactured homes sites, rental projects and subdivisions are in exhibit J of this subpart.

(l) *Mechanic's and materialmen's liens*. A lien on real property in favor of persons supplying labor and/or materials for the construction for the value of labor and/or materials supplied by

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them. In some jurisdictions, a mechanic's lien also exists for the value of professional services.

(m) *Modular/panelized housing.* Housing, constructed of one or more factory-built sections, which, when completed, meets or exceeds the requirements of one or more of the recognized development standards for site-built housing, and which is designed to be permanently connected to a site-built foundation.

(n) *Project representative.* The architect's or owner's representative at the construction site who assists in the administration of the construction contract. When required by FmHA or its successor agency under Public Law 103-354, a full-time project representative shall be employed.

(o) *Technical services.* Applicants are responsible for obtaining the services necessary to plan projects including analysis of project design requirements, creation and development of the project design, preparation of drawings, specifications and bidding requirements, and general administration of the construction contract.

(1) *Architectural services.* The services of a professionally qualified person or organization, duly licensed and qualified in accordance with state law to perform architectural services.

(2) *Engineering services.* The services of a professionally qualified person or organization, duly licensed and qualified in accordance with State law to perform engineering services.

(p) *Warranty.* A legally enforceable assurance provided by the builder (warrantor) to the owner and the FmHA or its successor agency under Public Law 103-354 indicating that the work done and materials supplied conform to those specified in the contract documents and applicable regulations. For the period of the warranty, the warrantor agrees to repair defective workmanship and repair or replace any defective materials at the expense of the warrantor.

[52 FR 8002, Mar. 13, 1987, as amended at 59 FR 6882, Feb. 14, 1994]

§ 1924.5 Planning development work.

(a) *Extent of development.* For an FO loan, the plans for development will include the items necessary to put the

farm in a livable and operable condition consistent with the planned farm and home operations. For other types of loans, the plans will include those items essential to achieve the objectives of the loan or grant as specified in the applicable regulation.

(b) *Funds for development work.* The total cash cost of all planned development will be shown on Form FmHA or its successor agency under Public Law 103-354 1924-1, "Development Plan," except Form FmHA or its successor agency under Public Law 103-354 1924-1 may be omitted when: (1) All development is to be done by the contract method, (2) adequate cost estimates are included in the docket, and (3) the work, including all landscaping, repairs, and site development work, is completely described on the drawings, in the specifications, or in the contract documents. Sufficient funds to pay for the total cash cost of all planned development must be provided at or before loan closing. Funds to be provided may include loan proceeds, any cash to be furnished by the borrower, proceeds from cost sharing programs such as Agricultural Stabilization and Conservation Service (ASCS) and Great Plains programs or proceeds from the sale of property in accordance with paragraph (g) of this section.

(c) *Scheduling of development work.* (1) All construction work included in the development plan for RH loans will be scheduled for completion as quickly as practicable and no later than 9 months from the date of loan closing, except for mutual self-help housing where work may be scheduled for completion within a period of 15 months.

(2) Development for farm program loans will be scheduled for completion as quickly as practicable and no later than 15 months from the date of loan closing unless more time is needed to establish land development practices in the area.

(d) *Construction.* (1) All new buildings to be constructed and all alterations and repairs to buildings will be planned to conform with good construction practices. The FmHA or its successor agency under Public Law 103-354 Manual of Acceptable Practices (MAP) Vol. 4930.1 (available in any FmHA or its successor agency under Public Law 103-