

## § 1955.54

Loan Fund (RDLF), Intermediary Relending Program (IRP), Nonprofit National Corporation (NNC), Economic Opportunity Cooperative (EOC), Rural Housing Site (RHS), Rural Cooperative Housing (RCH), and Rural Rental Housing (RRH) and Labor Housing (LH) to both individuals and groups. The housing-type loans identified here are referred to in this subpart collectively as MFH loans.

*Nonprogram (NP) property.* SFH and MFH property acquired pursuant to the Housing Act of 1949, as amended, that cannot be used by a borrower to effectively carry out the objectives of the respective loan program; for example, a dwelling that cannot be feasibly repaired to meet the requirements for existing housing as described in 7 CFR part 3550. It may contain a structure which would meet program standards; however, is so remotely located it would not serve as an adequate residential unit or an older house which is excessively expensive to heat and/or maintain for a very-low or low-income homeowner.

*Nonrecoverable cost* is a contractual or noncontractual program loan cost expense not chargeable to a borrower, property account, or part of the loan subsidy.

*Office of the General Counsel (OGC).* The OGC, U.S. Department of Agriculture, refers to the Regional Attorney or Attorney-in-Charge in an OGC field office unless otherwise indicated.

*Program property.* SFH and MFH inventory property that can be used to effectively carry out the objectives of their respective loan programs with financing through that program. Inventory property located in an area where the designation has been changed from rural to nonrural will be considered as if it were still in a rural area.

*Recoverable cost* is a contractual or noncontractual program loan expense chargeable to a borrower, property account, or part of the loan subsidy.

*Servicing official.* For loans to individuals as defined in this section, the servicing official is the County Supervisor. For insured B&I loans, the servicing official is the State Director. For Rural Development Loan Fund and Intermediary Relending Program loans, the servicing official is the Director, Busi-

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ness and Industry Division. For Nonprofit National Corporations loans, the servicing official is Director, Community Facility Division. For all other types of loans, the servicing official is the District Director.

*Suitable property.* For FSA inventory property, real property that can be used for agricultural purposes, including those farm properties that may be used as a start up or add-on parcel of farmland. It also includes a residence or other off-farm site that could be used as a basis for a farming operation. For agencies other than FSA, real property that could be used to carry out the objectives of the Agency's loan program with financing provided through that program.

*Surplus property.* For FSA inventory property, real property that cannot be used for agricultural purposes including nonfarm properties. For other agencies, property that cannot be used to carry out the objectives of financing available through the applicable loan program.

[53 FR 35765, Sept. 14, 1988, as amended at 56 FR 29402, June 27, 1991; 57 FR 19525, 19528, May 7, 1992; 58 FR 58648, Nov. 3, 1993; 62 FR 44396, Aug. 21, 1997; 63 FR 41716, Aug. 5, 1998; 67 FR 78329, Dec. 24, 2002]

### § 1955.54 Redlegation of authority.

Authorities will be redelegated to the extent possible, consistent with program objectives and available resources.

(a) Any authority in this subpart which is specifically provided to the Administrator or to an Assistant Administrator may only be delegated to a State Director. The State Director cannot redelegate such authority.

(b) Except as provided in paragraph (a) of this section, the State Director may redelegate, in writing, any authority delegated to the State Director in this subpart, unless specifically excluded, to a Program Chief, Program Specialist, or Property Management Specialist on the State Office staff.

(c) The District Director may redelegate, in writing, any authority delegated to the District Director in this subpart to an Assistant District Director or District Loan Specialist. Authority of District Directors in this

subpart applies to Area Loan Specialists in Alaska and the Director for the Western Pacific Territories.

(d) The County Supervisor may redelegate, in writing, any authority delegated to the County Supervisor in this subpart to an Assistant County Supervisor, GS-7 or above, who is determined by the County Supervisor to be qualified. Authority of County Supervisors in this subpart applies to Area Loan Specialists in Alaska, Island Directors in Hawaii, the Director for the Western Pacific Territories, and Area Supervisors in the Western Pacific Territories and American Samoa.

**§ 1955.55 Taking abandoned real or chattel property into custody and related actions.**

(a) *Determination of abandonment.* (Multi-family housing type loans will be handled in accordance with 7 CFR part 3560, subpart J.) When it appears a borrower has abandoned security property, the servicing official shall make a diligent attempt to locate the borrower to determine what the borrower's intentions are concerning the property. This includes making inquiries of neighbors, checking with the Postal Service, utility companies, employer(s), if known, and schools, if the borrower has children, to see if the borrower's whereabouts can be determined and an address obtained. A State supplement may be issued if necessary to further define "abandonment" based on State law. If the borrower is not occupying or is not in possession of the property but has it listed for sale with a real estate broker or has made other arrangements for its care or sale, it will not be considered abandoned so long as it is adequately secured and maintained. Except for borrowers with Farmers Program loans, if the borrower has made no effort to sell the property and can be located, an opportunity to voluntarily convey the property to the Government will be offered the borrower in accordance with § 1955.10 of Subpart A of this part. In farmer program cases, borrowers must receive Attachments 1 and 2 of Exhibit A of Subpart S of Part 1951 of this chapter and any appeal must be concluded before any adverse action can be taken. The County Supervisor will send

these forms to the borrower's last known address as soon as it is determined that the borrower has abandoned security property.

(b) *Taking security property into FmHA or its successor agency under Public Law 103-354 custody.* When security property is determined to be abandoned, the running record in the borrower's file will be fully documented with the facts substantiating the determination of abandonment, and the servicing official shall proceed as follows without delay:

(1) For loans to individuals (except those with Farmer Program loans), if there are no prior liens, or if a prior lienholder will not take the measures necessary to protect the property, the County Supervisor shall take custody of the property, and a problem case report will be prepared recommending foreclosure in accordance with § 1955.15 of Subpart A of this part, unless the borrower can be located and voluntary liquidation accomplished. Farmer Program loan borrowers will be sent the forms listed in paragraph (a) of this section and the provisions of § 1965.26 of Subpart A of Part 1965 of this chapter will be followed.

(2) For MFH loans, if there are no prior liens, the District Director will immediately notify the State Director, who will request guidance from OGC and may also request advice from the National Office. The State Director, with the advice of OGC, will advise the borrower by writing a letter, certified mail, return receipt requested, at the address currently used by Finance Office, outlining proposed actions by FmHA or its successor agency under Public Law 103-354 to secure, maintain, and operate the project.

(i) If the unpaid loan balance plus recoverable costs do not exceed the State Director's loan approval authority, the State Director will authorize the District Director to take custody of the property, make emergency repairs if necessary to protect the Government's interest, and will advise how the property is to be managed in accordance with 7 CFR part 3560.

(ii) If the unpaid loan balance plus recoverable costs exceeds the State Director's loan approval authority, the State Director will refer the case to