

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

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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
FmHA or its successor agency under Public Law 103-354 1910-11	Application Letter and Attachments .....	2		1-0	1-C
	Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts.	2	2-O&C	1-0	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	
	Assurance Agreement .....	2	1	1-0	1-C
FmHA or its successor agency under Public Law 103-354 440-4					

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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 <sup>1</sup>	1

<sup>1</sup> 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

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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,

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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