

Rural Housing Service, USDA

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The Agency will publish a NOFA in the FEDERAL REGISTER to notify interested parties of the availability of assistance.

§ 3565.5 Ranking and selection criteria.

(a) *Threshold criteria.* Applications for loan guarantee submitted by lenders must include a loan request for a project that meets all of the following threshold criteria:

(1) The project must involve an owner and a development team with qualifications and experience sufficient to carry out development, management, and ownership responsibilities, and the owner and development team must not be under investigation or suspension from any government programs;

(2) The project must involve the financing of a property located in an eligible rural area;

(3) Demonstrate a readiness, for the project to proceed, including submission of a complete application for a loan guarantee and evidence of financing;

(4) Demonstrate market and financial feasibility; and

(5) Include evidence that the credit risk is reasonable, taking into account conventional lending practices, and factors related to concentration of risk in a given market and with a given borrower.

(b) *Priority projects.* Priority will be given to projects: in smaller rural communities, in the most needy communities having the highest percentage of leveraging, having the lowest interest rate, having the highest ratio of 3-5 bedroom units to total units, or located in Empowerment Zones/Enterprise Communities or on tribal lands. In addition, the Agency may, at its sole discretion, set aside assistance for or rank projects that meet important program goals. Assistance will include both loan guarantees and interest credits. Priority projects must compete for set-aside funds. The Agency will announce any assistance set aside and selection criteria in the NOFA.

[63 FR 39458, July 22, 1998, as amended at 64 FR 32371, June 16, 1999]

§ 3565.6 Inclusion of tax-exempt debt.

Tax-exempt financing can be used a source of capital for the guaranteed loan.

[64 FR 32371, June 16, 1999]

§ 3565.7 Agency environmental requirements.

The Agency will take into account potential environmental impacts of proposed projects by working with applicants, other federal agencies, Indian tribes, State and local governments, and interested citizens and organizations in order to formulate actions that advance the program goals in a manner that will protect, enhance, and restore environmental quality. Actions taken by the Agency under this subpart are subject to an environmental review conducted in accordance with the requirements of 7 CFR part 1940, subpart G or any successor regulations.

§ 3565.8 Civil rights compliance.

(a) All actions taken by the Agency, or on behalf of the Agency, by a lender will be conducted without regard to race, color, religion, national origin, sex, marital status, age, income from public assistance or having exercised their right under the Consumer Credit Protection Act, and in accordance with the Equal Credit Opportunity Act (ECOA).

(b) Any action related to the sale, rental or advertising of dwellings; in the provision of brokerage services; or in making available residential real estate transactions involving Agency assistance, must be in accordance with the Fair Housing Act, which prohibits discrimination on the basis of race, color, religion, sex, national origin, familial status or handicap. It is unlawful for a lender or borrower participating in the program to:

(1) Refuse to make accommodations in rules, policies, practices, or services if such accommodations are necessary to provide a person with a disability an opportunity to use or continue to use a dwelling unit and all public and common use areas; and

(2) Refuse to allow an individual with a disability to make reasonable modifications to a unit at his or her expense, if such modifications may be

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necessary to afford the individual full enjoyment of the unit.

(c) Any resident or prospective resident seeking occupancy or use of a unit, property or related facility for which a loan guarantee has been provided, and who believes that he or she is being discriminated against may file a complaint with the lender, the Agency or the Department of Housing and Urban Development. A written complaint should be sent to the Secretary of Agriculture or of the Department of Housing and Urban Development in Washington, DC.

(d) Lenders and borrowers that fail to comply with the requirements of title VIII of the Civil Rights Act of 1968, as amended (the Fair Housing Act), are liable for those sanctions authorized by law.

(e) For guaranteed loans with “interest credit,” the following additional civil rights laws will apply and be enforced by the agency delivering this guarantee program: title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Age Discrimination Act of 1975, and title IX of the Education Amendments of 1972.

(f) In accordance with title VI, borrowers will be subjected to compliance reviews for projects that receive interest credit.

[64 FR 32371, June 16, 1999]

§ 3565.9 Compliance with federal requirements.

The Agency and the lender are responsible for ensuring that the application is in compliance with all applicable federal requirements, including the following specific statutory requirements:

(a) *Intergovernmental review.* 7 CFR part 3015, subpart V, “Intergovernmental Review of Department of Agriculture Programs and Activities”, or successor regulation, including the Agency supplemental administrative instruction, RD Instruction 1970-I, ‘Intergovernmental Review,’ available in any Agency office or on the Agency’s Web site.

(b) *National flood insurance.* The National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973; the National Flood In-

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urance Reform Act of 1994; and 7 CFR part 1806, subpart B, or successor regulation.

(c) *Clean Air Act and Water Pollution Control Act Requirements.* For any contract, all applicable standards, orders or requirements issued under section 306 of the Clean Air Act; section 508 of the Clean Water Act; Executive Order 11738; and EPA regulations at part 32, of title 40.

(d) *Historic preservation requirements.* The provisions of 7 CFR part 1901, subpart F or successor regulation.

(e) *Lead-based paint requirements.* The provisions of 7 CFR part 1924, subpart A, or successor regulation.

[63 FR 39458, July 22, 1998, as amended at 64 FR 32372, June 16, 1999; 76 FR 80731, Dec. 27, 2011]

§ 3565.10 Conflict of interest.

(a) *Objective.* It is the objective within the Rural Development mission area to maintain the highest standards of honesty, integrity, and impartiality by employees.

(b) *Rural Development requirement.* To reduce the potential for employee conflict of interest, all Rural Development activities will be conducted in accordance with 7 CFR part 1900, subpart D, or successor regulation by Rural Development employees who:

- (1) Are not themselves a beneficiary;
- (2) Are not family members or known relatives of any beneficiary; and
- (3) Do not have any business or personal relationship with any beneficiary or any employee of a beneficiary.

(c) *Rural Development employee responsibility.* Rural Development employees must disclose any known relationship or association with a lender or borrower or their agents, regardless of whether the relationship or association is known to others. Rural Development employees or members of their families may not purchase a Real Estate Owned property, security property from a borrower, or security property at a foreclosure sale.

(d) *Loan closing agent responsibility.* Loan closing agents (or members of their families) who have been involved with a particular property are precluded from purchasing such properties.