

§ 1980.317 Equal opportunity and non-discrimination requirements in use, occupancy, rental, or sale of housing.

(a) *Compliance.* Loans guaranteed under this subpart are subject to the provisions of various civil rights statutes. RHS and the Lender may not discriminate against any person in making guaranteed housing loans available, or impose different terms and conditions for the availability of these loans based on a person's race, color, familial status, religion, sex, age, physical or mental disability, or national origin, provided the applicant possesses the capacity to enter into a legal contract for services. These requirements will be discussed with the applicant, builder, developer, and other parties involved as early in the negotiations as possible.

(b) *Reporting.* If there is indication of noncompliance with these requirements, the matter will be reported by the borrower, Lender, or RHS personnel to the Administrator or the Director, Equal Opportunity Staff. Complaints and compliance will be handled by RHS in accordance with subpart E of part 1901.

(c) *Forms and requirements.* In accordance with Executive Order 11246, the following equal opportunity and non-discrimination forms and requirements are applicable when the loan guarantee involves a construction contract between the borrower and the contractor that is more than \$10,000. The Lender is responsible for seeing that the requirements of paragraphs (c)(1) through (c)(5) of this section are met:

(1) *Equal Opportunity Agreement.* Before loan closing, each borrower whose loan involves a construction contract of more than \$10,000 must execute the RHS Equal Opportunity Agreement or the equivalent HUD form.

(2) *Construction contract or subcontract in excess of \$10,000.* If the contract or a subcontract exceeds \$10,000:

(i) The contractor or subcontractor must submit the Agency Compliance Statement before or as a part of the bid or negotiation.

(ii) An Equal Opportunity Clause must be part of each contract and subcontract.

(iii) With notification of the contract award, the contractor must receive the Agency Notice to Contractors and Applicants signed by RHS, with an attached Equal Employment Opportunity poster. Posters in Spanish must be provided and displayed where a significant portion of the population is Spanish speaking.

(iv) Under Executive Order 11246 and Executive Order 11375, the contractor or subcontractor, subject to the requirements of paragraph (c)(5) of this section, is prohibited from discriminating because of race, color, religion, sex, or national origin to ensure equality of opportunity in all aspects of employment.

(3) *One hundred or more employees and construction contract or subcontract exceeds \$10,000.* If the contractor or subcontractor has 100 or more employees and the contract or subcontract is for more than \$10,000, in addition to the requirements of paragraph (c)(2) of this section, a report must be filed annually on or before March 31. Failure to file timely, complete, and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this form should be addressed by the contractor or subcontractor to the Joint Reporting Committee, 1800 G Street, NW., Washington, D.C. 20006.

(4) *Fifty or more employees and construction contract or subcontract exceeds \$50,000.* If the contract or subcontract is more than \$50,000 and the contractor or subcontractor has 50 or more employees, in addition to the requirements of paragraph (c)(2) of this section, each such contractor or subcontractor must be informed that the contractor or subcontractor must develop a written affirmative action compliance program for each of the contractor's or subcontractor's establishments and put it on file in each of the personnel offices within 120 days of the commencement of the contract or subcontract.

(5) [Reserved]

(6) *Employee complaints.* Any employee of or applicant for employment with such contractors or subcontractors may file a written complaint of discrimination with RHS.

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(i) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(A) The name and address (including telephone number, if any) of the complainant.

(B) The name and address of the person committing the alleged discrimination.

(C) A description of the acts considered to be discriminatory.

(D) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(ii) Such complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by RHS for good cause shown by the complainant.

§ 1980.318 Flood or mudslide hazard area precautions.

RHS policy is to discourage lending in designated flood and mudslide hazard areas. Loan guarantees shall not be issued in designated flood/mudslide hazard areas unless there is no practical alternative.

(a) *Dwelling location.* Dwellings and building improvements located in special flood or mudslide hazard areas, as designated by the Federal Emergency Management Agency (FEMA) may be financed under this subpart only if:

(1) The community, as a result of such designation by FEMA as a special flood or mudslide prone area, has an approved flood plain area management plan.

(2) The dwelling location and construction plans and specifications for new buildings or improvements to existing buildings comply with an approved flood plain area management plan (see paragraph (a)(1) of this section).

(3) Potential environmental impacts and feasible alternatives have been fully considered by RHS in accordance with the requirements of subpart G of part 1940.

(4) The first floor elevation is above the 100 year flood zone elevation.

(b) *Flood insurance.* If the dwelling is located in a special flood or mudslide hazard area, flood insurance must be purchased by the borrower prior to loan closing and maintained thereafter.

See subpart B of part 1806 (FmHA Instruction 426.2).

§ 1980.319 Other Federal, State, and local requirements.

In addition to the specific requirements of this subpart, on all proposals financed with an RHS guarantee, Lenders and/or applicants must coordinate with all appropriate Federal, state, and local agencies. Applicants and/or Lenders will be required to comply with any Federal, state, or local laws, regulatory commission rules, ordinances, and regulations which exist at the time the loan guarantee is issued which affect the dwelling including, but not limited to:

(a) Borrowing money and giving security therefore;

(b) Land use zoning;

(c) Health, safety, and sanitation standards; and

(d) Protection of the environment and consumer affairs.

§ 1980.320 Interest rate.

The interest rate must not exceed the established, applicable usury rate. Loans guaranteed under this subpart must bear a fixed interest rate over the life of the loan. The rate shall be agreed upon by the borrower and the Lender and must not be more than the current Fannie Mae rate as defined in § 1980.302(a) of this subpart. The Lender must document the rate and the date it was determined.

[76 FR 31220, May 31, 2011]

§ 1980.321 Terms of loan repayment.

(a) *Note.* Principal and interest shall be due and payable monthly.

(b) *Term.* The term for final maturity shall be not less than 30 years from the date of the note and not more than 30 years from the date of the first scheduled payment.

§ 1980.322 Loan guarantee limits.

The amount of the loan guarantee is 90 percent of the principal amount of the loan.

(a) The maximum loss payment under the guarantee of Single Family Housing loans is the lesser of:

(1) Any loss of an amount equal to 90 percent of the principal amount actually advanced to the borrower, or