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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1901 and 1944

RIN 0575–AA92

Housing Application Packaging Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending the Agency's policies and procedures governing the administration of Housing Application Packaging Grants (HAPG). This action is necessary to comply with the Cranston-Gonzalez Affordable Housing Act of 1990, which allows private and public nonprofit organizations to participate as grant recipients to package housing applications in targeted underserved areas and colonias. This will result in reimbursing qualified organizations for the costs of preparing applications for housing under certain agency housing programs.

EFFECTIVE DATE: December 3, 1993.

FOR FURTHER INFORMATION CONTACT: Betsy McDaniel, Senior Loan Specialist, Single Family Housing Loan Processing Division, at (202) 690–4209, or Sue Harris, Senior Loan Specialist, Multi-Family Housing Processing Division, at (202) 720–1660. The address is USDA-FmHA, South Agricultural Building, 14th and Independence Ave. SW., Washington, DC 20250–0700.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions or significant adverse effects on competition, employment, productivity, innovation or in the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provision of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575–0157 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This final rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

A proposed rule was published in the **Federal Register** (57 FR 39635) on September 1, 1992, and invited comments for 60 days ending November 2, 1992. Eight comments were received. All comments were considered. All of the comments were submitted by groups who work with FmHA applicants on a regular basis, or by employees of these groups. Included in this category were responses from nonprofit housing advocacy associations, farmworker housing organizations, and local governments. Six respondents were either public or private nonprofits. This category of respondents will be referred to as the nonprofits.

Two respondents were FmHA employees who work with various types of housing applications. They represented several levels within the Agency, including State Rural Housing Chiefs and Assistant District Directors. This category will be referred to as FmHA employees.

Several comments were received that were not relevant to the proposed rule. These respondents were contacted directly and the responses are not included here.

Two respondents were concerned with the training that is required for grantees. One nonprofit, currently packaging applications, was not aware of Certificates of Training. They felt that previous experience or a demonstration of their ability to package should be sufficient. We have determined that annual training is necessary for participating grantees to be apprised of current regulations and any changes.

An FmHA employee wanted a training outline and/or an agenda provided by the National Office for purposes of training the grantees. The National Office is taking this under advisement.

Four respondents commented on the amount of reimbursement for Sections 502 and 504 packages. Several questioned the source used to determine the $300 fee per package. One respondent felt the fee was excessive for packaging Sections 502 and 504 loans and grants. There was little information available when the proposed rule was written, however based on the comments we received by nonprofits currently doing application packaging, we agree that the fee should be raised to $500 per sections 502 and 504 application package. A higher fee is justified in order to carry out the objectives of this Instruction and direct funds to underserved areas. We also felt that a higher fee would attract public and private nonprofit agencies to provide application packages and thereby increase capacity building in underserved areas. This recommendation was adopted.

One respondent commented that the amount of reimbursement could not possibly pay for a full-time employee. We did not visualize this program as a full-time job. There is limited funding available for FmHA housing programs, which therefore limits the number of applications that can be processed in any given year. FmHA takes the position that only in unique situations would nonprofit groups be able to justify a fulltime employee. This would be based mainly on the number of packages the State Director advertises for in that particular underserved area.

Several respondents were concerned about the number of packages a State Director advertises for in accordance with § 1944.70(b). It is not FmHA's intention to limit the number of applications in any FmHA office. Even though we advertise for a specific number of applications in a particular housing program, it does not limit us to paying only for that prescribed number of applications submitted. We have made a change to the final rule that allows the FmHA approval official to pay for application packages over and above the prescribed number, as long as the grantee completes them in good faith and submits them to the appropriate FmHA office prior to receiving notice from FmHA to stop packaging activities.

One respondent was very concerned about the method of grant disbursement. While we understand the position of some nonprofit organizations regarding reimbursement grants, FmHA feels this is an effective management tool to carry out the intent of the program and provide housing opportunities to those with the most need. A reimbursement system will ensure application packages are developed quickly and thoroughly and submitted in a timely manner. We determined reimbursement to be an incentive to the nonprofits involved. Additionally, this is also in conformance with private industry standard. Fees, other than credit report and appraisal fees, are generally not collected by mortgage originators until loan closing.

An FmHA employee was concerned with promoting programs when there is limited funding. This is a targeting program to direct scarce resources to those areas with the most need. It will provide the underserved areas with equal access to housing program funds.

A nonprofit disagreed with designating 523 counties as underserved areas. They felt that this program should be tied into the 100 counties and colonias targeted in the Rural Housing Targeting Set Aside (RHTSA). We disagree that expanding the number of designated counties dilutes the resources. FmHA believes that to have an effective packaging program reaching those in most need, we need to work in all impacted underserved areas. This does not dilute resources but instead redirects them.

Several respondents commented they felt their area should qualify for this program. The determination of the 523 counties was based on census data in accordance with the criteria in the definition of "Designated counties" in § 1944.52. Additionally, all territories and commonwealths of the United States were given the same consideration in determining eligible underserved areas.

Several respondents were concerned with the intent of § 1944.67 regarding accepting additional compensation for application packaging from other sources. This section clearly states "except as permitted by FmHA," which is intended to allow other funding in some circumstances. Some nonprofits obtain funding from local governments and private foundations to use for application packaging. We do not foresee a problem with this type of source, however the intent was to prevent grantees from accepting funding from developers, contractors, and other parties with a pecuniary interest in the packaging of housing loan/grant applications. We also wanted to protect applicants from being charged a fee by the grantee.

An FmHA employee responded that payment to grantees for packaging Sections 502 and 504 loans and grants should be tied to a split payment system similar to that used in the multi-family housing programs. It was suggested that 50 percent of the packaging fee be paid to the grantee upon FmHA's receipt of the complete application and 50 percent paid at loan approval. FmHA determined that it is unfair to grantees to tie their packaging fee to Section 502 and 504 loan or grant approvals since so many variables beyond the grantees control can prevent an eligible applicant from being approved. We instead clarified in § 1944.73(d) that grantees will not be reimbursed for an application package that does not meet initial eligibility. For example a grantee would not be reimbursed for submitting a Section 502 applicant with an adjusted income over the income limits established in FmHA Instruction 1944–A, Exhibit C or who already owns adequate housing. Likewise a grantee would not be reimbursed for submitting an application for a Section 504 loan where the adjusted family income exceeds very low-income limits of Exhibit C of FmHA Instruction 1944–A or where the applicant does not own the property, or for a Section 504 grant where the applicant is not 62 years of age. This change is intended to encourage grantees to package applications for those families who will meet FmHA eligibility requirements. This will also ensure the intent of the program, to provide housing in underserved areas, is being carried out and FmHA is obtaining the desired number of eligible applicants necessary to process loans and grants.

Two respondents questioned the formula for determining packaging grants for sections 515, 514/516 applications. Non-profit organizations with substantial history of involvement in these programs were polled for their costs to package applications. FmHA determined in order to provide the most housing assistance to the areas with the most need, the sliding scale method of reimbursement is equitable. This method provides reasonable assistance recognizing there are a variety of development costs by area.

Another respondent was concerned about the limitations of § 1944.62 regarding pecuniary interest between the packager and the sections 515 and 514/516 applicant. The respondent felt that in underserved rural areas, there may be only one organization involved in housing. This organization might in some situations be involved in the eventual management of the project. We have adopted language that will allow the authorized representative to have an indirect pecuniary interest in managing these projects.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal Action significant affecting the quality of the human environment, and in accordance with the National Environment Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (EO) 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court Systems in that it meets all applicable standards provided in section 2 of the EO.

Programs Affected

The Catalog of Federal Domestic Assistance programs affected by this action are:

10.405 Farm Labor Housing Loans and Grants
10.410 Low-Income Housing Loans
10.411 Rural Housing Site Loans
10.415 Rural Rental Housing Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.433 Rural Housing Preservation Grants

Intergovernmental Consultation

For the reason set forth in the final rule and related notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, 10.410 Low-Income Housing Loans and 10.417 Very Low-Income Housing Repair Loans and Grants are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. All other programs affected by this program are included in this process.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1944

Administrative practice and procedure, Grant programs—Housing and community development, Loan programs—Housing and community development, Migrant labor, Nonprofit organizations, Reporting requirements, Rural housing.

Therefore, parts 1901 and 1944, chapter XVIII, title 7, Code of Federal Regulations are amended as follows:

PART 1901—PROGRAM RELATED INSTRUCTIONS

1. The authority citation for subpart E of part 1901 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442: 5 U.S.C. 301; 42 U.S.C. 2942; sec. 10, Pub. L. 93–357, 88 Stat. 392 delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director OEO, 29 FR 14764, 33 FR 9850.

Subpart E—Civil Rights Compliance Requirements *C*

2. Section 1091.204 is amended by adding a paragraph (a)(26) to read as follows:

§ 1901.204 Compliance Reviews.

(a) * * *

(26) Housing Application Packaging Grants.

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PART 1944—HOUSING

3. The authority citation for part 1944 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

4. Subpart B of part 1944 is added to read as follows:

Subpart B—Housing Application Packaging Grants

Subpart B—Housing Application Packaging Grants

§ 1944.51 Objective.

This subpart states the policies and procedures for making grants under Section 509 of the Housing Act of 1949, as amended (42 U.S.C. 1479). Grants reimburse eligible organizations for part or all of the costs of conducting, administering, and coordinating an effective housing application packaging program in colonias and designated counties. Eligible organizations will aid very low- and low-income individuals and families in obtaining benefits from Federal, State, and local housing programs. The targeted groups are very low- and low-income families without adequate housing who will receive priority for recruitment and participation and nonprofit organizations able to propose rental or housing rehabilitation assistance benefitting such families. These funds are available only in the areas defined in Exhibit D of this subpart. Participants will assist very low- and low-income families in solving their housing needs. One way of assisting is to package single family housing applications for families wishing to buy, build, or repair houses for their own use. Another way is to package applications for organizations wishing to develop rental units for lower income families. The intent is to make Farmers Home Administration (FmHA) housing assistance programs available to very low- and low-income rural residents in colonias and designated counties. FmHA will reimburse eligible organizations packaging loan/grant applications without discrimination because of race, color, religion, sex, national origin, age, familial status, or handicap if such an organization has authority to contract.

§ 1944.52 Definitions.

References in this subpart to County, District, State, National and Finance Offices, and to County Supervisor, District Director, State Director, and Administrator refer to FmHA offices and officials and should be read as prefaced by FmHA. Terms used in this subpart have the following meanings:

Colonias. As defined in Exhibit C of subpart L of part 1940 of this chapter.

Complete application package (hereafter called package). The package submitted to the appropriate FmHA office which is considered acceptable in accordance with Exhibit C of this subpart.

Cost reimbursement. Amount determined by the Administrator that equals the customary and reasonable costs incurred in preparing a package for a loan or grant. These amounts are included in Exhibit B of this subpart.

Designated counties. These counties are listed in Exhibit D of this subpart. Using the most recent published census data, the counties meet the following criteria:

(1) Twenty percent or more of the county population is at or below the poverty level; and

(2) Ten percent or more of the occupied housing units are substandard.

Organization. Any of the following entities which are legally authorized to work in designated counties and/or colonias and are:

(1) A State, State agency, or unit of general local government or;

(2) A private nonprofit organization or corporation that is owned and controlled by private persons or interests, is organized and operated for purposes other than making gains or profits for the corporation, and is legally precluded from distributing any gains or profits to its members.

Packager. Any eligible organization which is reimbursed with Housing Application Packaging Grants (HAPG) funds.

Technical assistance. Any assistance necessary to carry out housing efforts by or for very low- and low-income individuals/families to improve the quality and/or quantity of housing available to meet their needs. Such assistance must include, but is not limited to:

(1) Contacting and assisting very low- and low-income families in need of adequate housing by:

(i) Implementing an organized outreach program using available media and personal contacts;

(ii) Explaining available housing programs and alternatives to increase the awareness of very low- and low-income families and to educate the community as to the benefits from improved housing;

(iii) Assisting very low- and low-income families in locating adequate housing; and

(iv) Developing and packaging loan/grant applications for new construction and/or rehabilitation, or repair of existing housing.

(2) Contacting and assisting eligible applicants to develop multi-family housing loan/grant applications for new construction, rehabilitation, or repair to serve very low- and low-income families.

§ 1944.53 Grantee eligibility.

An eligible grantee is an organization as defined in § 1944.52 of this subpart and has received a current "Certificate of Training" pertaining to the type of application being packaged. In addition, the grantee must:

(a) Have the financial, legal, and administrative capacity to carry out the responsibilities of packaging housing applications for very low- and low-income applicants. To meet this requirement it must have the necessary background and experience with proven ability to perform responsibly in the field of housing application packaging, low-income housing development, or other business or administrative ventures which indicate an ability to perform responsibly in this field of housing application packaging.

(b) Legally obligate itself to administer grant funds, provide adequate accounting of the expenditure of such funds, and comply with FmHA regulations.

(c) If the organization is a private nonprofit corporation, be a corporation that:

(1) Is organized under State and local laws.

(2) Is qualified under section 501(c)(3) of the Internal Revenue Code of 1986.

(3) Has as one of its purposes assisting very low- and low-income families to obtain affordable housing.

§§ 1944.54–1944.61 [Reserved]

§ 1944.62 Authorized representative of the applicant.

FmHA will deal only with authorized representatives designated by the applicant. The authorized representatives must have no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of the land for the housing site.

§ 1944.63 Authorized use of grant funds.

Grant funds may only be used to reimburse a packager for delivered packages. Payment will be made for each complete package received and accepted in accordance with Exhibit C of this subpart.

§§ 1944.64–1944.65 [Reserved]

§ 1944.66 Administrative requirements.

The following policies and regulations apply to grants made under this subpart:

(a) Grantees must comply with all provisions of the Fair Housing Act of 1988 and subpart E of part 1901 of this chapter which states in part, that no person in the United States shall, on the grounds of race, color, national origin, sex, religion, familial status, handicap, or age, be excluded from participating in, be denied the benefits of, or be subject to discrimination in connection with the use of grant funds.

(b) the policies and regulations contained in subpart S of part 1940 of this chapter apply to grantees under this subpart.

(c) The policies and regulations contained in FmHA Instruction 1940–Q (available in any FmHA office), Departmental Regulation 2400–5, and 7 CFR part 3018 apply to grantees under this subpart.

(d) Grantees should be aware of the policies and regulations contained in subpart G of part 1940 of this chapter. They will supply needed information requested by the local FmHA office in connection with the loan/grant application.

(e) The grantee will retain records for three years from the date Standard Form (SF)–269A, "Financial Status Report (Short Form)," is submitted. These records will be accessible to FmHA and other Federal officials in accordance with 7 CFR part 3015.

(f) Annual audits will be completed if the grantee has received more than $25,000 of Federal assistance in the year in which HAPG funds were received. These audits will be due 13 months after the end of the fiscal year in which funds were received.

(1) States, State agencies, or units of general local government will complete an audit in accordance with 7 CFR parts 3015 and 3016 and OMB Circular A–128.

(2) Nonprofit organizations will complete an audit in accordance with 7 CFR part 3015 and OMB Circular A–133.

(g) Performance reports, as required, will be submitted in accordance with 7 CFR part 3015.

§ 1944.67 Ineligible activities.

The packager may not charge fees or accept compensation or gratuities directly or indirectly from the very low- and low-income families being assisted under this program. The packager may not represent or be associated with anyone else, other than the applicant, who may benefit in any way in the proposed transaction. If the packager is compensated for this service from other sources, then the packager is not eligible for compensation from this source except as permitted by FmHA. Grantees who are funded to do Self-Help Housing, may not be reimbursed for packaging applications for participation in the Self-Help Housing effort.

§ 1944.68 [Reserved]

§ 1944.69 FmHA point of contact.

Grantees must submit packages to the appropriate FmHA office serving the designated county and/or colonias. Packages for Single Family Housing loans/grants are submitted to the appropriate County Office. All other packages are submitted to the appropriate District Office. The applicable forms required to develop a package can be obtained in any District or County Office. Packagers should coordinate their packaging activity with the appropriate District and County Offices.

§ 1944.70 Targeting of HAPG funds to States.

(a) HAPG funds will be distributed administratively by the Administrator to achieve the success of the program. Allocations will be distributed to States as set forth in Attachment 2 of Exhibit A of subpart L of part 1940 of this chapter.

(b) The State Director will determine based on the housing funds available and the personnel available, how many applications can be processed for each program during the fiscal year in each FmHA office serving a designated county and/or colonias. The number of applications will be published in the advertisement required under § 1944.72 of this subpart.

§ 1944.71 Term of grant.

(a) For Single Family Housing loans/grants, HAPG funds will be specifically available for designated counties. Packages may be submitted after the annual housing application packaging orientation and training is held. The grant period will end when sufficient packages are received for each designated county or colonia or on September 30, of the fiscal year, whichever is earlier. The State Director must send notification, in the form of a letter, to all packagers who attended the packaging orientation and training that the number of applications specified in the advertisement required under § 1944.72 of this subpart have been received. Any packages submitted after this date will be paid for only if the grantee can demonstrate the package was prepared in good faith and prior to receipt of the above notification.

(b) For Multi-Family Housing loans/grants, HAPG funds will be available for designated areas or colonias to the extent specified in FmHA's advertisement. Preapplications approved in one fiscal year, for which grant funds were obligated, may have the balance disbursed in a later fiscal year when the application is submitted and approved.

§ 1944.72 Application packaging orientation and training.

FmHA approval officials will orient and train organizations on how to package. A newspaper advertisement will be published by FmHA offices serving designated counties and/or colonias after October 1. The advertisement will announce that application packaging services are being requested and specify the date of the certification training. All eligible organizations may attend this training. This date will be no more than 30 days after the advertisement appears in the newspaper and no later than December 31 of any year. The advertisement will include the estimated number of packages needed by loan type, i.e., Single Family, Multi-Family, etc. Exhibit A of this subpart (available in any FmHA office) is an example of an appropriate advertisement. "Certificates of Training" as required under § 1944.53 of this subpart will be signed by the State Director and given after completion of the training. Efforts will be made by the appropriate FmHA office to complete this training process and certify packagers as quickly as possible. Grantees must attend this training each year in order to qualify for assistance.

§ 1944.73 Package submission.

(a) When submitting its first package to an FmHA office, in addition to the item in paragraph (b) of this section and the information set forth in Exhibit C of this subpart, the organization must submit the following. A file of these documents will be established in the FmHA office and retained in accordance with FmHA Instruction 2033–A (available in any FmHA office).

(1) Proof of their nonprofit status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986 or of their existence as a state agency or unit of general local government legally authorized to work in the designated county and/or colonias. If the FmHA approval official is in doubt about the legal status of the organization, the evidence will be sent to the State Director. The State Director may, if needed, submit the above documents with any comments or questions to the Office of General Counsel (OGC) for an opinion as to whether the applicant is a legal organization of the type required by these regulations.

(2) An original and copy of Forms FmHA 400–1, "Equal Opportunity Agreement," and FmHA 400–4, "Assurance Agreement."

(3) A copy of a current "Certificate of Training" pertaining to the type of application package submitted.

(b) All packages must contain a signed statement which states, "Neither the organization nor any of its employees have charged, received or accepted compensation from any source other than FmHA for packaging this application and are not associated with or represent anyone other than the applicant in this transaction."

(c) Form SF–270, "Request for Advance or Reimbursement" will be submitted with each application package for the amount authorized for the specific loan type in Exhibit B of this subpart.

(d) The FmHA approval official will review each package for completeness, accuracy, and conformance to program policy and regulations. Cost reimbursement will be made in accordance with Exhibit B of this subpart. Packagers that submit "incomplete" packages for sections 502 and 504 loans/grants will be sent a letter within 5 working days after submission of the "incomplete" package advising of additional information needed. Payment will be held until all the information is received. Packagers for sections 502 loans and 504 loans/grants will not be paid for packages submitted on applicants who are obviously ineligible for the programs. For example, a grantee would not be reimbursed for submitting a package for a section 502 loan applicant with an adjusted income exceeding the limits of Exhibit C of subpart A of part 1944 of this chapter (available in any FmHA office) or who already owns adequate housing. Likewise, a grantee would not be reimbursed for submitting an package for a section 504 loan/grant when the adjusted family income exceeds the very low-income limits of Exhibit C of FmHA Instruction 1944–A (available in any FmHA office) or when the applicant does not own and occupy his/her property, or for a section 504 grant when the applicant is not 62 years of age or older.

(e) Submissions for sections 514/516, 515, and 524 loans/grants will be reviewed and, if incomplete, a letter sent within 15 working days advising of additional information required.

(f) Form SF–269A, will be submitted within 15 days of the end of the fiscal year.

§ 1944.74 Debarment of suspension.

Certified packagers whose actions or acts warrant they not be allowed to participate in the program are to be investigated in accordance with § 1940.606 (c) or FmHA Instruction 1940–M (available in any FmHA office).

§ 1944.75 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected. The Administrator will exercise this authority only at the request of the State Director and recommendation of the Assistant Administrator, Housing. Requests for exceptions must be in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest and/or impact on the applicant, borrower, or community, proposed alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1944.76–1944.99 [Reserved]

§ 1944.100 OMB Control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0157. Public reporting burden for this collection of information is estimated to vary from 30 minutes to five hours per response, with an average of 3 hours per response including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575–0157), Washington, DC 20503.

Exhibits to Subpart B

Exhibit A—[Reserved]

Exhibit B—Housing Application Packaging Grant (HAPG) Fee Processing

The Farmers Home Administration (FmHA) approval official will execute and distribute Form FmHA 1940–1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). HAPG funds will be used for the fees except as otherwise noted in paragraphs II (A) and (B) of this exhibit. Funds for all loan and/or grant application packages will be paid as follows.

I. For all Single Family Housing loans (Sections 502, 504, and 514 ("on" farm labor housing only) of the Housing Act of 1949, checks will be ordered when complete application packages as defined in § 1944.73 of this subpart and Exhibit C of this subpart are received. The fees are as follows:

(A) Section 502 Single Family Housing Loans—$500
(B) Section 504 Rural Housing Loans and Grants—$500
(C) Section 514 "On" Farm Labor Housing Loans—$500

II. For all Multi-Family Housing loans and grants (sections 514/516, 515, 524, and 533 of the Housing Act of 1949), the entire amount of the fee coming from HAPG funds will be obligated when the packager has met all the requirements of the preapplication stage, however, payments will be made in accordance with the following schedules:

(A) Sections 514/516 Farm Labor Housing Loans and Grants

"Off" farm labor housing loans/grants—fees paid in accordance with the schedule for section 515 Rural Rental Housing loans.

(B) Section 515 Rural Rental Housing Loans.

(1) The scale for packaging fees is based on the percentage of the total development cost as follows:

Up to $400,000—1.6 percent

For additional amounts between:

$400,001 and $800,000—add 1.2 percent
$800,001 and $1,200,000—add 1.0 percent
$1,200,001 and $1,600,000—add .7 percent
$1,600,001 and $2,000,000—add .5 percent
Over $2,000,001—No additional amount

(2) Twenty-five percent paid from HAPG funds when Form AD-622, "Notification of Preapplication Review Action," is sent inviting submission of a complete application.

(3) Twenty percent paid from HAPG funds when a complete application is filed including plans and specifications.

(4) The 55 percent balance paid when the loan is approved. Funds for this 55 percent will be drawn from loan funds in accordance with § 1944.212(j) of subpart E of 1944 of this chapter for Section 515 loans and § 1944.158(i) of subpart D of part 1944 of this chapter for Section 514 loans.

(C) Section 524 Rural Housing Site Loans—total fee is 1 percent of the loan amount payable in two installments.

(1) Thirty percent paid after FmHA's review of the preapplication under § 1822.271(a) of subpart G of part 1822 of this chapter (paragraph XI A of FmHA Instruction 444.8).

(2) Seventy percent paid upon the completion of the docket in accordance with § 1822.271(c) of subpart G of part 1822 of this chapter (paragraph XI C of FmHA Instruction 444.8).

(D) Section 533 Housing Preservation Grants—total fee is 2 percent of the grant amount paid in two installments.

(1) Forty percent will be paid when the Form AD-622, inviting submission of a complete application, is sent.

(2) Sixty percent will be paid after grant closes.

Exhibit C—Requirements for Housing Application Packages

A package will consist of the following requirements for the respective program.

A. Section 502—Complete applications packages will be submitted in accordance with the requirements of Exhibit A of subpart A of part 1944 of this chapter. The package must also include the following:

Form FmHA 410-9—"Statement Required by the Privacy Act."
Form FmHA 1910-11—"Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
Form FmHA 1944-3—"Budget and/or Financial Statement."

B. Section 504—Complete application packages will be submitted in accordance with the requirements of Exhibit C of subpart J of part 1944 of this chapter (available in any FmHA office). The package must include the forms listed in paragraph A of this exhibit and the following:

Form FmHA 410-4—Application for Rural Housing Assistance (Non-Farm Tract)."
Form FmHA 1910-5—Request for Verification of Employment."
Form FmHA 1944-12—Rural Housing Loan Application Package."

Evidence of ownership in accordance with § 1944.461(a) of subpart J of part 1944 of this chapter.

Cost estimates or bid prices for removal of health or safety hazards in accordance with § 1944.463(a) of subpart J of part 1944 of this chapter.

C. Section 514/516—Complete application packages will be submitted in accordance with Exhibit A-1 of subpart D of part 1944 of this chapter.

D. Section 515—Complete application packages will be submitted in accordance with the requirements of Exhibit A-7 of subpart E of part 1944 of this chapter.

E. Section 524—Complete application packages will be submitted in accordance with § 1822.271(a) of subpart G of part 1822 of this chapter (paragraph XI A of FmHA Instruction 444.8). After Farmers Home Administration's review and as instructed, the application should be completed in accordance with § 1822.271(c) of subpart G of part 1822 of this chapter (paragraph XI C of FmHA Instruction 444.8).

F. Section 533—Complete application packages will be submitted in accordance with the requirements of subpart N of part 1944 of this chapter.

Exhibit D—Designated Counties for Housing Application Packaging Grants

Alabama (13): Barbour County, Bibb County, Choctaw County, Clarke County, Conecuh County, Dallas County, Greene County, Hale County, Lowndes County, Marengo County, Perry County, Sumter County, and Wilcox County.

Alaska (5): Bethel Census Area, Dillingham Census Area, Nome Census Area, Wade Hampton Census Area, and Yukon-Koyukuk Census Area.

Arizona (8): Apache County, Coconino County, Graham County, La Paz County, Navajo County, Pinal County, Santa Cruz County, and Yuma County.

Arkansas (5): Crittenden County, Lee County, Newton County, St. Francis County, and Searcy County

California (3): Fresno County, Imperial County, and Tulare County.

Colorado (1): Conejos County.

Florida (2): Gadsden County and Jefferson County.

Georgia (22): Baker County, Burke County, Calhoun County, Clay County, Dooly County, Early County, Greene County, Hancock County, Jenkins County, Marion County, Meriwether County, Mitchell County, Quitman County, Randolph County, Stewart County, Talbot County, Taliaferro County, Terrell County, Twiggs County, Warren County, Washington County, and Webster County.

Idaho (1): Madison County.

Kentucky (25): Breathitt County, Casey County, Clay County, Clinton County, Clinton County, Elliott County, Estill County, Fleming County, Jackson County, Knott County, Knox County, Lawrence County, Lee County, Leslie County, Lewis County, Lincoln County, McCreary County, Magoffin County, Morgan County, Owsley County, Perry County, Powell County, Robertson County, Rockcastle County, Wayne County, and Wolfe County.

Louisiana (10): East Carroll Parish, East Feliciana Parish, Plaquemines Parish, Red River Parish, St. Helena Parish, St. James Parish, St. Martin Parish, St. Mary Parish, Terrebonne Parish, and West Feliciana Parish.

Mississippi (27): Attala County, Benton County, Bolivar County, Claiborne County, Coahoma County, Greene County, Holmes County, Humphreys County, Issaquena County, Jasper County, Jefferson County, Jefferson Davis County, Kemper County, Leflore County, Madison County, Marshall County, Noxubee County, Panola County, Quitman County, Sharkey County, Sunflower County, Tallahatchie County, Tate County, Tunica County, Walthall County, Washington County, and Yazoo County.

Montana (2): Big Horn County and Glacier County.

New Mexico (11): Catron County, Chaves County, Cibola County, Dona Ana County, Luna County, McKinley County, Mora County, Rio Arriba County, Sandoval County, San Juan County, and San Miguel County.

North Carolina (4): Bertie County, Halifax County, Hyde County, and Warren County.

North Dakota (3): Benson County, Rolette County, and Sioux County.

Ohio (1): Vinton County.

South Carolina (6): Clarendon County, Dillon County, Fairfield County, Lee County, Marlboro County, and Williamsburg County

South Dakota (9): Bennett County, Buffalo County, Corson County, Dewey County, Jackson County, Mellette County, Shannon County, Todd County, and Ziebach County.

Tennessee (2): Fayette County and Hancock County.

Texas (45): Atascosa County, Brooks County, Caldwell County, Cameron County, Castro County, Cochran County, Crosby

County, Culberson County, Dawson County, Deaf Smith County, Dimmit County, Duval County, Ector County, Edwards County, El Paso County, Frio County, Gaines County, Grimes County, Hale County, Hidalgo County, Hudspeth County, Jim Hogg County, Jim Wells County, Karnes County, Kinney County, Kleberg County, La Salle County, Marion County, Matagorda County, Maverick County, Medina County, Nueces County, Pecos County, Presidio County, Reeves County, San Jacinto County, San Patricio County, Starr County, Terry County, Uvalde County, Val Verde County, Webb County, Willacy County, Zapata County, and Zavala County.

Utah (1): San Juan County.

Virginia (4): Brunswick County, Lee County, Northampton County, and Scott County.

Washington (2): Ferry County and Yakima County.

West Virginia (4): Calhoun County, Clay County, Webster County, and Wirt County.

Wisconsin (1): Menominee County.

Puerto Rico (77): Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arecibo, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas, Carolina, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Florida, Guanica, Guayama, Guayanilla, Guaynabo, Gurabo, Hatillo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Las Piedras, Loiza, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naguabo, Noranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, and Yauco.

Virgin Islands (2): St. Croix Island and St. Thomas Island.

Western Pacific Territories (5): American Samoa, Federated States of Micronesia, Marshall Islands, Northern Marianas, and Palau.

Dated: August 7, 1993.

Bob Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 93–26891 Filed 11–2–93; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Parts 1943 and 1955

RIN 0575–AB62

Management and Disposal of FmHA Inventory Farm Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: FmHA amends its regulations to allow the Agency to declare suitable inventory farm property surplus 12 months from the date it was first published for sale to family-size farm operators, including beginning farmers and ranchers. FmHA also amends its definition of a "socially disadvantaged applicant." These changes are required by recent legislative changes to the Consolidated Farm and Rural Development Act (CONACT). FmHA also is amending its regulations to conform to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989. The intended effect is to facilitate the Agency's efforts to sell farm and ranch property, reduce the Agency's holding cost for inventory property and implement legislative requirements.

EFFECTIVE DATE: November 3, 1993.

FOR FURTHER INFORMATION CONTACT: James P. Fortner, Realty Specialist, Farmer Programs Loan Servicing and Property Management Division, Farmers Home Administration, U.S. Department of Agriculture, room 5449–South, Washington, DC 20250, Telephone (202) 720–1976.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be nonmajor because it will not result in an annual effect on the economy of 100 million dollars or more.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.407—Farm Ownership Loans

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of FmHA Programs and Activities" (December 23, 1983), Farm Ownership Loans are excluded, with the exception of the nonfarm enterprise activity, from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Certification of Compliance with Executive Order 12778

The rule has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and 2(b)(2) of that Order. Provisions within this part which are inconsistent with state law are controlling. All administrative remedies pursuant to 7 CFR part 1900 subpart B must be exhausted prior to filing suit.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190), an Environmental Impact Statement is not required.

Background of Final Rule and Response to Comments

A. Background

One purpose of this final rule is to implement the provisions of Section 1813, "Disposition of Suitable Property," of the FACT Act (Pub. L. 101–624)(CONACT § 335). Therefore, this revises the procedures by which the Agency disposes of inventory farm property. CONACT § 335(c)(1) now provides that the Agency will classify suitable farm property surplus 12 months from the date it was first published for sale. Prior to the enactment of the FACT Act, the Agency was required to hold suitable farm property in inventory for a 3-year period after the date of acquisition before it declared the property surplus and sold it to the general public. On May 7, 1992, an interim rule was published in the **Federal Register** (57 FR 19526 and 19529) and provided for a 30-day comment period ending June 8, 1992. The Agency amended its regulations by removing the 3-year holding period and adding the provision of the FACT Act that suitable inventory farm property will be classified surplus 12 months from the date the property was first published for sale to family-size farm operators. All comments received on the interim rule will be addressed in this final rule. Changes also were made in order to better explain how appeals affect acceleration and foreclosure actions when loan servicing rights are involved and to be consistent with other FmHA regulations. Farmer Programs cases may be accelerated after any primary loan servicing and associated appeals have been concluded. These cases, however, will not be submitted to OGC for foreclosure until all appeals related to any preservation loan servicing have been concluded. The definition of a "socially disadvantaged applicant" also is revised to comply with the Agricultural Improvement Act of 1992 (Pub. L. 102–554). Section 21(b) of this Act revised the 355(e)(1) definition to include gender prejudice. Changes also were made to the section pertaining to appraisals in order to conform with the provisions of the Office of Management and Budget Circular A–129 and other guidelines concerning the implementation of the FIRREA. These directives provide guidelines for appraising all real estate including FmHA's inventory farm property. Other minor changes have been made in order to provide clarification, to update references to other FmHA instructions and exhibits, and to correct grammar and punctuation.

B. Response to Comments

The Agency received two comments from two respondents; those comments and the Agency's responses are as follows:

One respondent commented that permitting FmHA to reclassify as surplus, land in inventory prior to May 7, 1992, which is not sold after only one more advertisement, clearly violated Congressional intent. The respondent further commented that beginning farmers would be the biggest losers since there was no preference given for beginning farmers prior to May 7, 1992. The Agency is unable to adopt this comment. The Agency has already begun the disposition of its inventory properties, and the vast majority of the suitable properties on hand had already been advertised numerous times with no success. Since these properties did not sell previously, not even as the result of one more advertisement after May 7, 1992, the Agency does not consider these farms to be suitable units for beginning farmers to purchase and will, therefore, classify them as surplus.

One respondent also commented that clarification should be provided to show that it is not the Agency's intent to hold inventory farm property that was in inventory on May 7, 1992, another 12 months after the first set of advertisements. The respondent suggested that § 1955.63 be revised to use the word "is" instead of "was" when referring to property that was not available for sale or was withheld from the market. The Agency does not accept this comment. This section refers to property that was in inventory prior to May 7, 1992, and does not affect newly acquired properties.

List of Subjects

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water Resources

7 CFR Part 1955

Foreclosure, Government acquired property, Government property management, sale of government acquired property, Surplus government property.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

1. The authority citation for Part 1943 continues to read as follows:

Authority: 7 U.S.C 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

2. Section 1943.4 is amended by revising the definition of "Socially disadvantaged applicant" to read as follows:

§ 1943.4 Definitions.

* * * * *

Socially disadvantaged applicant. An applicant/borrower who has been subjected to racial, ethnic, or gender prejudice because of his/her identity as a member of a group, without regard to his/her individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FmHA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

* * * * *

PART 1955—PROPERTY MANAGEMENT

3. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

4. Section 1955.15 is amended by revising paragraph (d)(5) to read as follows:

§ 1955.15 Foreclosure by the Government of loans secured by real estate.

* * * * *

(d) * * *

(5) *Appeals.* All appeals will be handled pursuant to subpart B of part 1900 of this chapter. Foreclosure actions will be held in abeyance while an appeal is pending. No case will be referred to OGC for processing of foreclosure until a borrower's appeal and appeal review have been concluded, or until the time has elapsed during which an appeal or a request for review may be made. In Farmer Programs cases, (except graduation cases under subpart F of part 1951 of this chapter), the borrower must have received the appropriate notices and consideration for primary loan servicing per subpart S of part 1951 of this chapter. Any Farmer Programs cases may be accelerated after all primary loan servicing options have been considered and all related appeals concluded, but will not be submitted to OGC for foreclosure action until all appeals related to any preservation rights have been concluded.

* * * * *

Subpart B—Management of Property

5. In § 1955.53, the definition of "Socially disadvantaged applicant" is revised to read as follows:

§ 1955.53 Definitions.

* * * * *

Socially disadvantaged applicant. An applicant/borrower who has been subjected to racial, ethnic, or gender prejudice because of his/her identity as a member of a group, without regard to his/her individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FmHA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

* * * * *

6–7. Section 1955.63 is amended by revising paragraph (a) to read as follows:

§ 1955.63 Suitability determination.

* * * * *

(a) *Property other than housing.* Property which secured loans or was acquired under the CONACT will be classified as suitable or surplus by the applicable County Committee. The classification will be recorded on Form FmHA 440–2, "County Committee Certification or Recommendation," and placed in the inventory property case file. CONACT property originally classified as suitable may be reclassified as surplus because of physical damage such as fire, flood, sheet erosion or falling water table; or change in economic conditions such as the rising cost of production inputs, viable market outlets and obsolescence, which affect its suitability for program purposes. In addition, suitable farm property that is not sold to a family-size farm operator, including beginning farmers or ranchers, within 12 months from the date of the first advertisement pursuant to § 1955.107(a) of subpart C of this part 1955, will be reclassified surplus (without County Committee approval). Any suitable property that was in inventory as of May 7, 1992, must be advertised one more time (that is, one advertisement must be after May 7, 1992) to family-size farm operators. If the property was withheld from the market because its sale may have a negative impact on farm real estate values or for other administrative reasons, such as statutory or proposed regulation revisions, the 12-month period will be extended to compensate for the period of time the property was not available for sale. Form FmHA 1955–3A, "Acquired Property—Maintenance," must be completed and entered into the FmHA field office terminal to update the change in the property's classification. If the property is offered for sale as surplus and the purchaser is eligible for FmHA assistance, it may be reclassified by the County Committee as suitable, if it is in fact suitable for program purposes.

* * * * *

8. Section 1955.66 is amended by adding the words "of this section" following the words "(d)(1) and (d)(2)" in paragraph (d)(4) and by revising paragraphs (c)(2), (e)(1), and (g) to read as follows:

§ 1955.66 Lease of real property.

* * * * *

(c) * * *

(2) *Racial, ethnic, and gender consideration.* The approval official will make a special effort to insure that those prospective lessees are reached in the marketing area who traditionally would not be expected to lease FmHA farm inventory properties or apply for Farm Ownership loan assistance because of existing racial, ethnic, or gender prejudice. Emphasis will be placed on providing technical assistance to such socially disadvantaged individuals in accordance with the applicable sections of subpart A of part 1910 of this chapter.

* * * * *

(e) * * *

(1) *Farm property.* To arrive at a market rent amount, the County Supervisor will make a survey of lease amounts of farms in the immediate area with similar soils, capabilities, and income potential. This rental data will be maintained in an operational file as well as in the running records of case files for leased inventory properties. While cash rent is preferred, lease of a farm on a crop-share basis may be approved if this is the customary method in the area. For crop-share leases, the lease amount and terms must be outlined in detail in the "Special Stipulations" section of the lease, in accordance with the FMI for Form FmHA 1955–20. The lessee will in these cases market the crop(s), provide FmHA with documented evidence of crop income, and pay the pro rata share of the income to FmHA. The leasing official is responsible for seeing that crops are properly accounted for and for collecting the lease money.

* * * * *

(g) *Highly erodible land.* If farm inventory property contains "highly erodible land," as determined by the SCS, the lease must include conservation practices specified by the SCS and approved by FmHA as a condition for leasing.

* * * * *

9. Section 1955.80 is amended by revising paragraph (c) to read as follows:

§ 1955.80 Management of inventory chattel property.

* * * * *

(c) *Lease of chattel property.* Chattels which are essential to the operation of a farm, such as bulk milk tanks, pumps, and center-pivot sprinkler systems may be leased along with the real property. The lease amount will be based on documented comparable rental rates and the amount will be specified in the lease agreement. The lessee will be responsible for maintenance and repairs during the lease term. Repair costs will be limited to those essential under the terms of the lease to place the equipment in operable condition. When a lessee cannot or will not make needed repairs, the servicing official will contact the State Director for guidance on economic feasibility.

* * * * *

10. In § 1955.81, the first sentence is amended by adding commas after the words "cases," "law," and the first occurrence of the word "subpart;" and the second sentence is amended by adding the word "the" after the word "with" and adding the word "a" after the word "upon."

Subpart C—Disposal of Inventory Property

11. In § 1955.103, the definition of "socially disadvantaged applicant" is revised to read as follows:

§ 1955.103 Definitions.

* * * * *

Socially disadvantaged applicant. An applicant/borrower who has been subjected to racial, ethnic, or gender prejudice because of his/her identity as a member of a group, without regard to his/her individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FmHA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskan Natives, Hispanic, Asians, and Pacific Islanders.

* * * * *

12. Section 1955.105 is amended by revising paragraph (d) to read as follows:

§ 1955.105 Real property affected (CONACT).

* * * * *

(d) Highly erodible land. If farm inventory property contains "highly erodible land," as determined by the SCS, the lease must include conservation practices specified by the SCS and approved by FmHA as a condition for leasing. Refer to § 1955.137 (f) of this subpart for implementation requirements.

13. In Section 1955.106, paragraph (b) is revised to read as follows:

§ 1955.106 Disposition of farm property.

* * * * *

(b) *Racial, ethnic, and gender consideration.* The County Supervisor will make a special effort to insure that prospective purchasers, who traditionally would not be expected to apply for farm ownership loan assistance because of existing racial, ethnic, or gender prejudice, are informed of the availability of the Socially Disadvantaged Program. Emphasis will be placed on providing assistance to such socially disadvantaged applicants in accordance with the applicable sections of subpart A of part 1943 of this chapter.

* * * * *

14. In § 1955.108, paragraph (b) is amended in the last sentence by removing the title of Form FmHA 1955–41, and paragraph (c) is revised to read as follows:

§ 1955.108 Sale of surplus property (CONACT).

* * * * *

(c) *Sale by sealed bid or auction.* Surplus real property must be offered for public sale by sealed bid or auction. The State Director will determine the method of the sale, the minimum acceptable sale price and whether or not credit will be offered prior to the offering. The minimum acceptable sale price established may not be more than the market value. For sealed bid sales, preference will be given to a cash offer which is at least * percent of the highest offer requiring credit. (*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.) For property other than farm property, equally acceptable sealed bid offers will be decided by lot.

* * * * *

15. Section 1955.122 is amended by revising the first sentence of paragraph (d)(1) to read as follows:

§ 1955.122 Method of sale (chattel).

* * * * *

(d) * * *

(1) *Established public auction.* An established public auction is an auction that is widely advertised and held on a regularly scheduled basis at the same facility. * * *

* * * * *

16. Section 1955.123 (a) is revised to read as follows:

§ 1955.123 Sale procedures (chattel).

(a) *Sales.* Although cash sales are preferred in the sale of chattels, credit sales may be used advantageously in the sale of chattels to eligible purchasers and to facilitate sales of high-priced chattels. Chattel sales will be made to eligible purchasers in accordance with the provisions of this chapter. Preference will be given to a cash offer which is at least * percent of the highest offer requiring credit. (*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.) Credit sales made to ineligible purchasers will require not less than a 10 percent downpayment with the remaining balance amortized over a period not to exceed 5 years. The interest rate for ineligible purchasers will be the current ineligible interest rate for Farmer Programs property set forth in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office). Form FmHA 431-2, in conjunction with Form FmHA 440-32, "Request for Statement of Debts and Collateral," may be used to show financial capability. For Farmer Programs, County Supervisors, District Directors, and State Directors are authorized to approve or disapprove chattel sales on eligible terms in accordance with the respective loan approval authorities in Exhibit C of FmHA Instruction 1901-A (available in any FmHA office). Applicants who have been determined ineligible, and eligible applicants who have their application disapproved, will be notified of the opportunity to appeal in accordance with subpart B of part 1900 of this chapter. County Supervisors, District Directors, and State Directors are authorized to approve or disapprove chattel sales on ineligible terms in accordance with the respective type of program approval authorities in Exhibit E of FmHA Instruction 1901-A (available in any FmHA office.)

* * * * *

17. Section 1955.128 is revised to read as follows:

§ 1955.128 Appraisers.

(a) *Real property.* The State Director may authorize the County Supervisor or District Director to procure fee appraisals of inventory property, except MFH properties, to expedite the sale of inventory real or chattel property. (Fee appraisals of MFH properties will only be authorized by the Assistant Administrator, Housing, when unusual circumstances preclude the use of a qualified FmHA MFH appraiser.) The decision will be based on the availability of comparables, the capability and availability of personnel, and the number and type of properties (such as large farms and business property) requiring valuation. For Farmer Programs real estate properties, all contract (fee) appraisers should include the sales comparison, income (when applicable), and the cost approach to value. All FmHA real estate contract appraisers must be certified as State-Certified General Appraisers.

(b) *Chattel property.* For Farmer Programs chattel appraisals, the contractor/appraiser completing the report must meet at least one of the following qualifications:

(1) Certification by a National or State appraisal society.

(2) If the contractor is not a certified appraiser and a certified appraiser is not available, the contractor may qualify or may use other qualified appraisers, if the contractor can establish that he/she or that the appraiser meets the criteria for a certification in a National or State appraisal society.

(3) The appraiser has recent, relevant, documented appraisal experience or training, or other factors clearly establish the appraiser's qualifications.

Dated: August 16, 1993.

Bob Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 93-26889 Filed 11-2-93; 8:45 am]

BILLING CODE 3410-07-U

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) hereby amends its size regulations to provide that prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list.

DATES: This rule is effective November 3, 1993.

FOR FURTHER INFORMATION CONTACT: Catherine B. Thomas, Procurement Analyst, (202) 205-6460.

SUPPLEMENTARY INFORMATION: On September 9, 1993, the SBA amended its size regulations to make a general policy statement that prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size for the purpose of maintaining a small business source list. Although contained in the supplementary information, the words "and ownership characteristics" were inadvertently omitted from the actual rule. This final rule is to remedy that omission. The new rule will amend the size regulations to make a general policy statement that prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size and ownership characteristics for the purpose of maintaining a small business source list.

SBA is publishing this rule setting forth a general statement of Agency policy without prior notice or an opportunity for public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(A).

Compliance With Executive Orders 12291, 12612 and 12778, the Regulatory Flexibility Act (55 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Chap. 35)

For purposes of Executive Orders 12291, SBA certifies that this final rule is not considered a major rule because it would not have an annual economic effect in excess of $100 million, it would not lead to a major increase in costs, and it would not have an adverse effect on competition. This rule effects no substantive change to SBA's regulations and does not affect the rights of any party. Rather, this rule is meant to provide contractors with an efficient, cost-effective means of undertaking a task they are presently doing. In fact, SBA believes that this rule will result in collective savings to prime contractors and small businesses of more than $6 million per year.

For purposes of the Regulatory Flexibility Act, SBA certifies that this rule will not have a significant economic impact on a substantial