

## CHAPTER 1: GENERAL PROGRAM REQUIREMENTS

### 1.1 WELCOME TO THE HANDBOOK

This handbook provides Agency staff and lenders participating in the Single Family Housing Guaranteed Loan Program (SFHGLP) with the tools needed to originate, underwrite, and service guaranteed loans efficiently and effectively. Its goal is to help Agency staff and lenders administer the SFHGLP smoothly while ensuring that the program's basic legal and administrative requirements are met. The handbook describes:

- Loan origination, underwriting, servicing, and liquidation policies and procedures;
- The role of the Agency and participating lenders in program administration; and
- Practices that will help ensure efficient and effective program administration.

The guidance provided by this handbook is intended to be consistent with all applicable laws, Executive Orders, and departmental regulations, including other Agency regulations. Nothing contained in this handbook should be construed to supersede, rescind, or otherwise amend such laws, Executive Orders, and regulations.

### SECTION 1: INTRODUCTION TO THE HANDBOOK

### 1.2 USING THIS HANDBOOK

The handbook is organized to allow the reader to look up information on specific topics easily. There is a detailed Table of Contents that provides a guide to finding particular topics. In addition, several graphic tools and conventions have been used to make information easier to find and understand.

#### A. Citations

- **Regulatory citations.** The regulation for the SFHGLP is provided in 7 CFR Part 3555. The text of that regulation is provided in Appendix 1. To help readers locate the regulatory authority for procedures described here, references to this regulation appear in italicized brackets, for example: *[7 CFR 3555.55]*. Other regulations or Rural Development instructions are simply referenced.
- **Cross References.** Topics discussed in more than one place in the handbook are cross-referenced to help the reader find other related information more easily.

- **Form references.** Agency form names are shown in *italics*. All forms referenced in this handbook can be found in Appendix 2.

## **B. Attachments and Appendices**

- **Glossary and acronym lists.** Key words and terms are defined in the glossary. A list of acronyms and their definitions is also provided. The glossary and acronym lists can be found before the appendices.
- **Attachments.** Attachments at the end of each chapter contain technical information that is specific to the topics covered in the chapter. Attachments are referenced in sequence using the chapter number and an attachment letter. For example, Attachment 4-A is the first attachment in Chapter 4.
- **Appendices.** Appendices at the end of handbook include forms and other reference materials that relate to multiple chapters.

## **C. Terminology**

The SFHGLP is a centralized delivery platform in all states. Servicing functions are centralized at the Customer Service Center (CSC). The State Offices are responsible for implementation of state-based functions and are structured in various ways and often use diverse terms to describe staff roles. Since this terminology may vary from state to state and change over time, this handbook uses certain standard terminology to provide consistency.

- **Agency.** The organizational unit within the U.S. Department of Agriculture (USDA) that is responsible for administering the SFHGLP.
- **Field Office.** Refers to any Agency office (field, area, regional, or State) that is responsible for taking an action. In some situations, the action must be taken exclusively at the **State Office**, and in those cases, the term “State Office” will be specified.
- **Lender.** A financial institution that has been approved to participate in the SFHGLP. The term is used to refer to entities that underwrite and apply for loan guarantees, service SFHGLP loans, or purchase SFHGLP loans from other entities.
- **Customer Service Center - CSC.** The servicing center in St. Louis, Missouri where specific servicing functions, such as loss mitigation and loss claim, have been centralized.

- **Agency staff.** An Agency employee who is responsible for implementing the requirements of the SFHGLP on behalf of the Agency.
- **Applicant.** One or more individuals who have applied for a guaranteed loan.
- **Borrower.** One or more individuals who have received a guaranteed loan.

### 1.3 GETTING ADDITIONAL HELP

This handbook has been designed to be as comprehensive as possible. Each program requirement is outlined, and examples and case studies are included to help lenders understand not only the letter, but also the spirit of each requirement. However, no handbook can provide guidance adequate for every circumstance. For this reason, Agency staff is available to answer specific questions as they arise.

Agency staff will not make underwriting decisions for a lender; however, they will help the lender understand the intent of the applicable requirements and provide guidance about the kinds of information that the lender should include to document its decision-making processes. Additional training may also be provided by Agency staff with regard to particular program requirements that a lender finds very difficult to fulfill properly.

The Agency is committed to providing rapid responses to lender inquiries. Often, Agency staff can provide an immediate answer to lender questions. When that is not possible, the Agency strives to provide a response within one working day. Occasionally, Agency staff may need to consult with State or National Office staff to ensure an accurate response to a particularly complex question. In such situations, the turn-around time for an answer is likely to be somewhat longer. In such a case, the Agency staff member contacted by the lender will provide an estimate regarding the amount of time likely to be needed to answer the question, and will follow up with the appropriate Agency decision makers to ensure that the question is answered in a timely fashion.

## SECTION 2: OVERVIEW OF THE SFHGLP

### 1.4 SFHGLP GOALS

The SFHGLP is designed to provide low- and moderate-income households the opportunity to own adequate, modest, decent, safe, and sanitary dwellings and related facilities for their own residential use in rural areas. The program offers eligible applicants the opportunity to acquire, build, rehabilitate, improve, or relocate a dwelling

in rural areas. The program provides loan guarantees to an approved lender for loans made to eligible applicants.

In providing this service, the Agency strives to meet several goals.

- **Customer Service.** The Agency is committed to providing customer-friendly, streamlined service.
- **Partnerships.** The Agency is committed to working with participating lenders in order to serve more borrowers.
- **Effective Use of Resources.** As a publicly funded program, the SFHGLP must use tax dollars efficiently. The Agency aims to minimize administrative costs and costs incurred from loss claim payments.

## 1.5 SFHGLP SUMMARY

Private lenders are key to the success of the SFHGLP. Although the Agency issues loan guarantees, lenders that have been approved to participate in the program are responsible for originating, underwriting, servicing, and liquidating the loans. The Agency reviews each loan proposal to ensure the applicant and property appear to meet all program eligibility requirements. However, the lender is ultimately responsible for ensuring that all program requirements are met, and that the underwriting procedures for the loan are followed. The Agency monitors lender performance on an ongoing basis to help ensure that lenders accurately understand the Agency's expectations.

Applicant eligibility is discussed in detail in chapters 8 through 11. In summary, applicants may be eligible to receive a guaranteed loan if they:

- Are income-eligible;
- Agree to personally occupy the dwelling as their primary residence;
- Are U.S. citizens, U.S. non-citizen nationals, or qualified aliens;
- Have the legal capacity to incur the loan obligation;
- Have not been suspended or debarred from participation in Federal programs;
- Have demonstrated both the willingness and the ability to repay the loan; and
- Are purchasing a property that meets all program criteria.

In the event that a lender incurs a loss on a guaranteed loan, the Agency may compensate the lender for all or part of that loss. The amount of the compensation depends upon the size of the loss and whether the lender has complied with all program requirements.

## SECTION 3: GENERAL PROGRAM REQUIREMENTS

### 1.6 CIVIL RIGHTS

The Agency and participating lenders must administer the SFHGLP fairly and in accordance with all equal opportunity and fair housing legislation and applicable Executive Orders. Below is a list of the pertinent Federal laws and Executive Orders, as well as a brief description and highlights. While lenders will be familiar with many of these requirements, they should review carefully applicable legislation and orders, especially if new to Federally-assisted-conducted programs. Agency staff should refer to *RD Instruction 1901-E* for guidance on relevant civil rights requirements.

#### A. Major Civil Rights Laws Affecting the Single Family Loan Guarantee Program

- The Equal Credit Opportunity Act (ECOA)** prohibits discrimination in the extension of credit on the basis of race, color, religion, national origin, sex, marital status, age, income from public assistance, ~~and or because an applicant has in good faith exercised any of rights~~ under the Consumer Protection Act. ~~If a~~ An applicant or borrower who believes he or she has been discriminated by Rural Development against for any of these reasons may, that person can write to the Secretary of Agriculture, Washington, D.C. 20250. ~~Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her rights under the Consumer Credit Protection Act. If an applicant believes he or she was denied a loan for this reason, the applicant should contact the Federal Trade Commission, Washington, D.C. 20580.~~
- Title VIII of the Civil Rights Act of 1968** (also known as the Fair Housing Act of 1988, as amended) is enforced by the US Department of Housing and Urban Development. The Fair Housing Act prohibits discrimination in the sale, rental or financing of housing on the basis of race, color, religion, sex, national origin, familial status, or disability.
- Section 504 of the Rehabilitation Act of 1973** prohibits discrimination by the Federal government on the basis of disability. An applicant or borrower who believes he or she has been discriminated by Rural Development on the basis of disability may write to the Secretary of Agriculture, Washington, D.C. 20250.

- **Executive Order 11063 as Amended by 12259** prohibits discrimination in housing or residential property financing for any Federally assisted activity against individuals on the basis of race, color, religion, sex, or national origin.

## B. Nondiscrimination Practices

The ~~applicable various~~ civil rights laws prohibit the denial of loans, services, and benefits provided under the SFHGLP to any person based upon race, color, national origin, sex, religion, marital status, familial status, age, ~~physical or mental~~ disability, source of income, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1601). Discrimination in employment practices is also prohibited.

Effective management and consistent procedures are good business practices that help ensure all applicants are treated fairly. Poor program implementation, whether or not discrimination is intended, has possible civil rights consequences.

Consistent procedures are especially important in several key areas, which are listed below.

- **Outreach.** Information about the availability of the program and how to apply must be broadly disseminated, and the extent of the information, assistance, and courtesy extended to those who make inquiries must be consistent.
- **Application procedures.** Application procedures must be fair and accessible to all potential applicants.
- **Determining eligibility.** Equal rigor must be used for all applicants when verifying income, conducting credit checks, and allowing applicants to clarify information.
- **Making exceptions.** Standards for offering exceptions must be applied consistently.
- **Loan terms and subsidies.** Opportunities for any subsidies and favorable loan terms must be made available consistently.
- **Servicing.** Loan servicing, including offering benefits and assistance, must be offered in a fair and consistent manner to all borrowers.
- **Liquidation and Property Disposition.** Liquidation and any subsequent property disposition must be executed in a fair and consistent manner. Property

disposition practices, like those outlined for outreach, must ensure that no person has an unfair advantage in acquiring foreclosed property.

- Agency staff has the responsibility to provide guidance and oversight to participating lenders, and their agents, to ensure the above areas are consistently met.

### **C. Reasonable Accommodations for Persons with Disabilities**

The lenders and their agents must make reasonable accommodations to permit persons with disabilities to apply for and benefit from Agency programs. Reasonable accommodations may include providing facilities that are physically accessible and effective communication and outreach tools so that all applicants can get good program information, for example, a Telecommunications Device for the Deaf (TDD).

## **1.7 REVIEWS AND APPEALS**

Agency decisions that are not made in favor of a lender or other program participant (applicant or borrower) are known as adverse decisions, and may be reviewed or appealed. Adverse decisions must be based upon regulations published in the Code of Federal Regulation (CFR). For the SFHGLP, any adverse decision must be based upon 7 CFR Part 3555 found in Appendix 1 of this Handbook.

Adverse decisions include the administrative actions taken by Agency staff; and the Agency's failure to take required actions within time frames specified in statutes or regulations, or within a reasonable time if no deadline is specified. Adverse decisions made by a lender are not an Agency decision. Adverse decision made by the Agency may be appealed to USDA, National Appeals Division (NAD) in accordance with Appendix 3 of this Handbook.

## **1.8 STATE AND LOCAL LAW**

State and local laws and regulations, and the laws of American Indian tribes, may affect implementation of the program. In such cases, supplemental guidance to resolve any conflicts or differences may be issued by the State Director only as it relates to a specific State law. In cases where numerous inquiries on a specific State or local legal issue arise, the Agency may issue an Administrative Notice (AN) to help Agency staff address such issues with program participants and lenders. Lenders should seek guidance from the Agency when an interpretation of how a state or local law impacts implementation of the program.

## **1.9 EXCEPTION AUTHORITY**

Exceptions to any requirement of this handbook, or *7 CFR Part 3555*, can be approved in individual cases by the Administrator if application of the requirement or failure to take action would either adversely affect the Government's interest or conflict with the objectives and spirit of the authorizing statute. Any exception must be consistent with the authorizing statute and other applicable laws.

#### **A. Who Can File a Request**

Only Agency staff may file a request for an exception. However, lenders can request that the Field Office consider submission of a formal request for exception. When asking that the Agency consider requesting an exception, the lender should include documentation that demonstrates how the exception would protect the Government's interest or maintain consistency with the program's authorizing statute.

#### **B. What Must Be Included in the Request**

The exception request developed by the Agency for the Administrator, or designee, must provide clear and convincing evidence of the need for the exception. At a minimum, the request must include:

- A full explanation of the unique circumstances, including an explanation of any adverse effect on the Government's interest if the waiver is not granted;
- A discussion of proposed alternatives considered; and
- A discussion of how the adverse effect will be eliminated or minimized if the exception is granted.

#### **C. Where Requests are Submitted**

Requests for exceptions are submitted to the Administrator, through the Deputy Administrator, Single Family Housing. Requests may be initiated by:

- The State Director;
- The Deputy Administrator, Single Family Housing;
- The Director, Single Family Housing Direct Loan Division;
- The Director, Single Family Housing Guaranteed Loan Division; or

Requests for exceptions regarding architectural and engineering, environmental, or civil rights issues will be referred for review and comment to the appropriate technical staff by the State Office prior to exception request of the Administrator.

## 1.10 CONFLICT OF INTEREST

All Agency staff must strive to maintain the highest levels of honesty, integrity, and impartiality in conducting activities on behalf of the Agency. In order to avoid conflicts of interest, applicants and borrowers must disclose to the lender any prohibited relationship or association with any Rural Development employee and the lender must report this information to the Agency. Lenders must also disclose to the Agency any prohibited relationship or association that it or any of its employees has with any Rural Development employee.

### A. Prohibited Relationships

Prohibited relationships and associations include:

- Immediate family members, including parents and children, whether related by blood or marriage, and any household residents;
- Close relatives, including grandmother, grandfather, aunt, uncle, sister, brother, niece, nephew, granddaughter, grandson, or first cousin, whether related by blood or marriage;
- Immediate working relationships, including co-workers in the same office, subordinates, and immediate supervisors; and
- Close business associations with an identity of financial interest, including, but not limited to, business partnerships, joint ventures, or closely-held corporations.

### B. Disclosure Requirements

Disclosure of prohibited relationships and associations under this section will not result in applicant, borrower or lender ineligibility. Disclosures may result in special handling or reassignment of Rural Development employee responsibilities with regard to the loan guarantee in question so that no prohibited relationships or associations exist between the Rural Development employees responsible for loan guarantee transactions, and lenders, borrowers, or applicants. Agency staff wishing to obtain additional detail regarding the Agency's conflict of interest requirements can find it in *RD Instruction 1900-D*.

## 1.11 UNAUTHORIZED ASSISTANCE

Unauthorized assistance occurs when a borrower is not eligible for all or part of the financial assistance received in the form of a loan guarantee. Loans made to unqualified borrowers, written at the wrong interest rate, or made for an ineligible purpose is considered unauthorized assistance. The form of unauthorized assistance can differ based upon false information or inaccurate information.

False information includes information provided to the lender by the borrower that (i) the borrower knew was incorrect or should have known was incorrect; and (ii) was provided or omitted for the purpose of obtaining assistance for which the borrower was not eligible. It can also represent information the lender provides and falsely represents.

Inaccurate information is incorrect information inadvertently provided, used or omitted without the intent to obtain benefits for which the borrower was not eligible. The error may be caused by the borrower, a third party, or the Agency.

Unauthorized assistance may be identified through audits, reviews by the Agency, its agents or reported by lenders. Lenders will be notified by “Certified Mail, Return Receipt Requested” when incidents of unauthorized assistance are determined. The significance of the unauthorized assistance will determine the Agency’s response to the determination in accordance with Section 3555.257 of 7 CFR Part 3555.

Unauthorized assistance due to false information may require the lender to accelerate the loan request. Failure of the lender to accelerate the loan may result in reduction of a loss claim and/or voiding the guarantee. Based upon the severity, the Agency may pursue criminal and civil false claim actions, suspension and/or debarment or other appropriate action.

If a borrower receives a loan guarantee and the loan application documents include inaccurate information, , the Agency will honor the guarantee as long as the loan was for eligible loan purposes.

The Agency will notify the National Office when it becomes known the loan guarantee was issued based on false information provided by the borrower or lender. The state must document in detail the findings surrounding the unauthorized assistance **and** provide a detailed solution and recommendation on disposition of the case.

## 1.12 RURAL DEVELOPMENT ADMINISTRATIVE RESPONSIBILITIES

Each centralized delivery office must:

1. Establish an office management system to track applications for loan guarantees.
2. Maintain files and other Agency records in accordance with RD Instruction 2033-A.
3. Implement oversight mechanisms to monitor the loans for Rural Development. Utilize the Guaranteed Loan System (GLS) to assist with the management oversight.
4. Ensure sensitive applicant information delivered by email is encrypted and password protected.
5. Monitor and review unliquidated obligations at the end of each quarter by utilizing available GLS reports. Take action to ensure loans are closed or deobligated if no longer valid.
6. Establish a segregation of key duties or develop mitigating controls within the program delivery structure to minimize fraud, waste and abuse.