

**CHAPTER 1: OVERVIEW OF GUARANTEED RURAL RENTAL HOUSING PROGRAM ORIGINATION AND SERVICING HANDBOOK**

**1.1 INTRODUCTION**

This chapter provides an overview of the Guaranteed Rural Rental Housing Program (GRRHP) Handbook and key program features. It includes the following sections:

**Key Topics in this Chapter**

- Section 1: The Handbook
- Section 2: The Rural Housing Service (RHS)
- Section 3: Program Overview
- Section 4: Federal Requirements

**SECTION 1: THE HANDBOOK**

**1.2 PURPOSE**

This handbook provides lenders and Rural Housing Service (hereinafter referred to as RHS or the Agency) staff with guidance on the origination and servicing of GRRHP loans and the approval of qualified lenders. Lenders will use this handbook as a guide for carrying out the activities and procedures required by the regulation. Agency staff will use the handbook as a reference to monitor and evaluate a lender’s performance in the program.





These instructions are intended to be consistent with all applicable laws, civil rights laws, Executive Orders, and U.S. Department of Agriculture (USDA) regulations. Nothing in this handbook should be construed to supersede, rescind, or otherwise amend such laws, Executive Orders, and regulations.

This handbook and any additions or revisions to this handbook will be distributed to approved lenders and are available to other interested parties at [www.rurdev.usda.gov/regs/hblist.html#hbw6](http://www.rurdev.usda.gov/regs/hblist.html#hbw6).

## 1.3 USING THE HANDBOOK

This handbook has been organized for ease in looking up information. Several graphic tools and conventions have been used to make information easier to find and understand.

### A. Handbook Symbols

- **References.** The book symbol directs the reader to additional information sources, such as laws, regulations, or instructions. 
- **Civil rights.** A modified fair housing logotype highlights processing procedures with significant fair housing or civil rights implications. 
- **Deadlines.** Time frames for completing required actions are highlighted by a small clock to make them easier to locate. Deadlines are also underlined in the text. Deadlines are generally expressed in terms of calendar days unless otherwise noted. 
- **Helpful hints.** Helpful hints, cautions, or important facts are included in text boxes throughout the handbook and display this hand symbol. 

### B. Citations and Text Boxes

- **Regulatory citations.** The text of the GRRHP regulation [*7 CFR part 3565*] is provided in Appendix 1. All references to this regulation appear in italicized brackets. Other referenced regulations or Rural Development (RD) Instructions may be found on the USDA/RD website at <http://www.rurdev.usda.gov/RegulationsAndGuidance.html>
- **Form references.** Agency forms, guides, and system letters are shown in italics. Appendix 2 lists all forms used in this handbook.
- **Examples and exhibits.** Text boxes labeled as examples or exhibits provide a specific illustration of a concept described in the text or provide additional detailed

#### The Code of Federal Regulations

**What is the CFR?** The Code of Federal Regulations (CFR) is published in volumes and is numbered according to the Agency or subject. The part pertaining to USDA can be found in Title 7 of the CFR.

**Where do I find Federal regulations?** Some sources for the CFR are:

- Purchase it from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402-9328.
- View the e-CFR on the Internet at: <http://www.gpoaccess.gov/cfr/index.html>.

information. Exhibits are numbered in sequence, using the chapter number. For example, Exhibit 2-1 is the first exhibit in Chapter 2. Examples are not numbered.

### **C. Attachments and 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 a letter; for example, Attachment 4-A is the first attachment in Chapter 4.
- **Glossary and acronyms lists.** Key words and terms are defined in the glossary. The glossary and list of acronyms can be found immediately before Appendix 1.
- **Appendices.** Appendices at the end of the handbook include forms and other reference materials that relate to multiple chapters or the entire handbook.

## **SECTION 2: THE RURAL HOUSING SERVICE (RHS)**

### **1.4 RHS ORGANIZATION**

RHS is a credit agency within USDA for rural housing and community development. The Agency's purpose is to increase the availability of affordable housing and community facilities for rural residents.

The GRRHP will be administered jointly by the RHS National Office and State Offices. The National Office will allocate guarantee authority to the States. National Office staff will also approve lenders and allocate interest credit, if applicable.

All applications will be sent to the State Offices initially. State Offices will score applications and submit them to the National Office for its concurrence, when applicable, and funding.

## **SECTION 3: PROGRAM OVERVIEW**

### **1.5 PROGRAM GOALS**

The GRRHP was established to:

- Increase the supply of affordable rental housing in rural areas;
- Ensure that housing is affordable to rural residents whose incomes are 115 percent or less of area median income (AMI);

- Provide housing that is decent, safe, sanitary, and competitive in the market; and
- Foster risk-sharing partnerships with public and private lenders.

Under the program, the Agency will provide credit enhancements through Government guarantees to encourage private and public lenders to make new loans for the construction and preservation of affordable rural rental properties. The Agency will review lender qualifications and approve eligible lenders to participate in the program. Approved, lenders will underwrite and service the loans guaranteed by the Agency. The Agency will monitor lender performance to ensure it meets program requirements.

## **1.6 ELIGIBLE RURAL AREA**

Loans under this program may only be made in an eligible rural area. An eligible rural area is:

- Open country which is not a part of or associated with an urban area.
- Any town, village, city, or place, including the immediate, adjacent, densely-settled area which is not part of or associated with an urban area and which has:
  - ◇ An area with a population of 10,000 or less if it is rural in character, or
  - ◇ An area with a population in excess of 10,000, but not in excess of 20,000, that is not contained within a Metropolitan Statistical Area and has a serious lack of mortgage credit for low and moderate income households, as determined by the Secretary of Agriculture and the Secretary of the Department of Housing and Urban Development (HUD), or
  - ◇ An area classified as a rural area prior to October 1, 1990, (even if within a Metropolitan Statistical Area), with a population exceeding 10,000, but not in excess of 25,000, which is rural in character and has a serious lack of mortgage credit for low and moderate income families. (This definition is effective through the receipt of the most current decennial census data.)
- A Section 515 revitalization property that will use Section 538 Guaranteed Rural Rental Housing loan funds. (This is permissible in areas that are no longer rural.)

## **1.7 PROGRAM FEATURES**

The GRRHP program offers the following types of loan guarantees [7 CFR 3565.52 (c)(1), (c)(2), and (c)(3)]:

- The Agency may guarantee permanent loans (Option One).

- The Agency may guarantee advances during construction and [when eligible] the permanent loan (Option Two).
- The Agency may provide a single continuous guarantee for construction and permanent loans (Option Three).

Key features of the program include:

#### **A. Risk Sharing With Lenders**

The Agency will provide a guarantee in the event of loss of up to 90 percent of the loan amount; lenders will retain the remaining 10 percent of any loss. The Agency and lender risk sharing percentages will be applied equally to every dollar of the Agency-approved loss amount. While this type of lending presents additional risks to lenders, the Agency believes that lender performance will be improved if lenders have a financial interest in preventing losses.

#### **B. Affordability Features**

The program restricts both tenant income and unit rents. The program is designed to provide housing for low- or moderate-income families or individuals whose incomes at initial occupancy do not exceed 115 percent of the AMI adjusted for family size. Monthly rent for a unit may not exceed 30 percent of 115 percent of adjusted AMI. Average project rent may not exceed 30 percent of 100 percent of AMI.

#### **C. Construction and Permanent Financing**

The program may provide credit enhancement for construction lending as part of a construction and permanent loan. This feature is intended to encourage greater construction lending in rural areas and make it easier for lenders to make one loan to finance a project.

#### **D. Lender Origination, Servicing, and Disposition**

To be approved to participate in the program lenders must be experienced in affordable rental housing loan origination and servicing. Lenders will be responsible for underwriting the loan in a prudent manner and for servicing the loan to ensure repayment and protection of the property. In the event of default by the borrower, lenders must dispose of properties prior to submitting a claim to the Agency.

When a borrower defaults on a loan, the lender must submit a liquidation plan for the Agency's approval. When the property is liquidated, the lender will be able to submit a claim and receive payment for the Agency's share of any loss if the lender has complied with all program requirements.

**E. The Notice of Funding Availability (NOFA) Process**

The availability of GRRHP guarantee and interest credit authority under all three options and the criteria for allocating this assistance will be made public through a NOFA. Once a NOFA has been published, lenders may submit a summary of proposed projects for scoring and ranking. All responses will be reviewed and ranked in accordance with selection criteria included in the NOFA. Applicants selected will be issued a Notice to Proceed with Processing (Notice to Proceed) of an application for a loan guarantee.

**1.8 ROLES AND RESPONSIBILITIES OF AGENCY, LENDER, AND BORROWER**

Each participant in the guarantee program has responsibilities that must be met if the program is to achieve its goals. Agency staff, participating lenders, and borrowers should understand the range of tasks for which they are responsible. The responsibilities are summarized below.

**The Agency will:**

- Approve qualified lenders and monitor lenders for compliance;
- Conduct the National Environmental Policy Act (NEPA) environmental review;
- Approve the loan guarantee application; and
- Process and pay claims.

**The Lender must:**

- Originate and service loans;
- Monitor the borrower and property for compliance with program requirements;
- Manage the mortgage asset through regular monitoring; and
- Provide reports to the Agency on loans in their portfolio.

**The Borrower must:**

- Develop and maintain property that is decent, safe, and sanitary;
- Ensure that the occupancy and rent requirements are met;

- Comply with all other program rules and regulations; and
- Comply with the loan requirements.

## 1.9 IDENTITY OF INTERESTS

Hidden identity of interest relationships may undermine the confidence of participants and the public that the program is fair and open. The lender is responsible for properly addressing any identity of interest situations and for disclosing their existence to the Agency using *Forms RD 3560-30* “Certification of No Identity of Interest (IOI)” or *3560-31* “Identity of Interest Disclosure/Qualification Certificate”.



Identity of interest may exist between the borrower and another party, such as a general contractor, architect, engineer, attorney, subcontractor, material supplier, or equipment lessor (hereafter called “other entities”) in circumstances such as the following:

- When there is any financial interest of the borrower in any other entity, except provisions of normal professional services by architects, engineers, attorneys, or accountants with a client-professional relationship (these situations will not constitute an identity of interest);
- When one or more of the officers, directors, stockholders, or partners of the borrower is also an officer, director, stockholder, or partner of any other entity;
- When any officer, director, stockholder, or partner of the borrower has any financial interest, whatsoever, in any other entity;
- When any spouse or relative (such as grandmother, aunt, daughter, granddaughter, grandfather, uncle, son, grandson, mother, sister, niece, cousin, father, brother, nephew) or step-relatives of the borrower, on its principals, has any significant financial interest in any other entity;
- When any other entity advances any funds to the borrower;
- When any other entity provides and pays, on behalf of the borrower, the cost of any legal services, architectural services, engineering services, or other development costs, other than those of a surveyor, general superintendent, or engineer employed by a general contractor, in connection with obligations under the construction contract;
- When any other entity takes significant stock or any interest in the borrower as part of the consideration to be paid;

- When there exists or comes into being any side deals, agreements, contracts, or undertakings that alter, amend, or cancel any of the required loan or construction closing documents; or
- When another party can significantly influence the management or operating policies of the transacting parties, or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.

When considering whether a lender's relationship in an entity that purchased the low income housing tax credits generated by a project may be an inappropriate identity of interest, the Agency will determine whether the lender's interest in the entity controlling the tax credits conflicts with the lender's responsibilities under the program. From time to time affordable housing lenders, in addition to providing loan funds on affordable housing projects may purchase an interest in an entity that purchased the low income housing tax credits on that project. The Agency does not want to discourage this practice however the Agency must be sure that its interest as a guarantor is not compromised by the lender's interest in the tax credit ownership entity. The Agency will look to several factors during its review;

- The lender's ownership interest in the entity owning the tax credits;
- The lender's ability to effect action within the entity that owns the tax credits;
- The connection and interaction between the subsidiary of the lender that owns the interest in the entity owning the subsidiary of the lender that originates and services the loan guaranteed by the Agency; and
- The loan to cost ratio of the guaranteed loan for the project.

## 1.10 AGENCY EXCEPTION AUTHORITY

Exceptions to any requirement of this handbook or [7 CFR part 3565], which are not inconsistent with any applicable law, may be approved by the Administrator or a designee, on an individual basis, if the application of the requirement or failure to take action would adversely affect the government's interest, adversely affect the accomplishment of the purposes of the program, or result in undue hardship. The Administrator may exercise such authority independently or at the request of the State Director. A request for an exception to any requirement may also be initiated by the Deputy Administrator for Multifamily Housing. The exception request must provide clear and convincing evidence of the need for the exception. At a minimum, the request must include:






- A full explanation of the circumstances, including an explanation of the adverse effect on the government's interest or on the accomplishment of program purposes, or any undue hardship that may result if an exception 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.

State Office requests for exceptions regarding architectural and engineering, environmental, or civil rights issues must be accompanied by the review and comments of the appropriate State Office technical staff and will be referred to the appropriate National Office technical staff for further comment before a decision is made. Likewise, when exception requests on such issues are generated by the Administrator or National Office staff, such requests will be referred to the appropriate National Office technical staff for further comment before a decision is made.

## 1.11 REVIEWS AND APPEALS

Only the borrower and/or lender can appeal an Agency decision. The borrower and lender must jointly execute the written request for review of an alleged adverse decision made by the Agency and both must participate in the appeal. In cases where the Agency has denied or reduced the amount of final loss payment to the lender, the adverse decision may be appealed by the lender only. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be handled in accordance with 7 CFR part 11. 

An Agency decision that is not made in favor of the lender may be considered an adverse decision. Agency decisions may include administrative actions taken by Agency officials or the Agency's failure to take required actions within required or reasonable timeframes. The lender may request a review of adverse Agency decisions by the next-level supervisor except those decisions made by the Secretary. In addition, most adverse decisions may be appealed to the National Appeals Division (NAD). The Agency review and appeals policy for all programs can be found in Attachment 1-A.

## SECTION 4: FEDERAL REQUIREMENTS

### 1.12 INTERGOVERNMENTAL REVIEW

The Agency is responsible for ensuring that intergovernmental review and comment is obtained on all proposals in accordance with RD Instruction 1970-I. The intergovernmental review process must be initiated by the lender or the borrower. This process should be completed as early as possible since all comments must be submitted to the Agency for consideration as part of the environmental review.



### 1.13 NATIONAL FLOOD INSURANCE PROGRAM

Property located in a Special Flood Hazard Area (SFHA) designated by the Federal Emergency Management Agency (FEMA) is not eligible for Federal financial assistance, including loan guarantees, unless flood insurance through the National Flood Insurance Program (NFIP) is available. Flood insurance through NFIP must be purchased prior to loan closing and issuance of the guarantee, in accordance with the National Flood Insurance Act, as amended, and RD Instruction 426.2. These requirements are also addressed in Chapter 11.



### 1.14 HISTORIC PRESERVATION

The Agency is responsible for compliance with historic preservation statutes, regulations, and related directives, in accordance with RD Instruction 1940-G and RD Instruction 1901-F.



### 1.15 CIVIL RIGHTS

#### A. Nondiscrimination

Federal civil rights laws ensure that no person will, exclude from participation in, deny the benefits of, or subject to discrimination, any person in the United States under program activity conducted by Rural Development, on the basis of race, color, religion, sex, age, national origin, familial status, physical or mental disability, or because all or part of an individual income is derived from any public assistance program. Discrimination in employment practices also is prohibited. Exhibit 7-5 lists the applicable Federal laws and Executive Orders and highlights key aspects of these requirements.



#### Key Civil Rights Issues

- Access
- Consistency and fairness of treatment
- Disparate impacts -- intended or unintended
- Record keeping

The rules of nondiscrimination apply to all parties involved in this process. The lender is responsible for upholding the laws pertaining to nondiscrimination in selecting, assisting, and monitoring a borrower. Borrowers are held accountable for any discrimination resulting from

development and management tasks, from the hiring of construction firms, and from the selection of tenants.

Effective program management and consistent policies and procedures are essential to ensure that all applicants are treated fairly. Poor program implementation, whether or not discrimination is intended, may have possible civil rights consequences. Attention to consistent procedures is especially important in several key areas listed below.

- **Outreach.** Information about the availability of GRRHP rental units and how to apply for tenancy must be broadly disseminated, and the information, assistance, and courtesy extended to those who make inquiries must be equal and consistent.
- **Application-taking procedures.** Application-taking procedures must be fair and equally accessible to all potential tenant applicants.
- **Determining eligibility.** Lenders, borrowers, and property managers must use equal rigor for all applicants when verifying income, conducting credit checks, and allowing applicants to clarify information.
- **Making exceptions.** Standards for offering exceptions to policies and procedures must be applied equally and consistently.
- **Loan terms and subsidies.** Opportunities for subsidies and favorable loan terms must be made available equally and consistently.
- **Hearings and appeals.** Avenues for remedies when problems arise must be equally accessible to all applicants.

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

It is unlawful for owners or managers to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a qualified person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas. It is also unlawful for owners or managers to refuse to permit, at the expense of a qualified person with a disability, reasonable modifications of existing premises, occupied or to be occupied by a disabled person so that they may have full enjoyment of the premises of a dwelling.

## 1.16 FAIR HOUSING

Federal fair housing regulations provide the specific framework to ensure that Federal housing assistance is available to all individuals qualified by income and residence in rural areas, without regard to race, color, religion, sex, familial status, national origin, or disability. This includes any actions in the financing, sale, rental, or advertising of the dwellings or in the provision of brokerage services that involve Federal assistance.



All participating lenders and borrowers must comply with the requirements of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (the Fair Housing Act). Any lender or borrower that refuses to comply with the regulations is liable for sanctions as authorized by law.

If a resident or prospective resident believes that their denial of occupancy was based on discrimination, they may file a complaint with HUD.

## 1.17 ENVIRONMENTAL REQUIREMENTS

It is the Agency's policy to give environmental quality equal consideration with economic, social, and other factors in its program development and decision-making processes. The Agency is concerned with the impact of the project on important environmental resources, as well as the quality of life for residents and the long-term viability of the project as an investment. It is the responsibility of the Agency to effectively integrate the environmental policies and procedures, described in RD Instruction 1940-G and Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low – Income Populations" and the Departmental Regulation 5600-002 which implements the Executive Order", into loan guarantee origination and servicing activities.



Lenders and borrowers must cooperate fully with the Agency and provide such information as the Agency needs to complete its environmental review. Lenders must become familiar with the requirements so they can help advise borrowers and reduce the probability of unacceptable applications being submitted to the Agency and so they can speed Agency approval or consent to certain servicing actions.


The responsibilities of the lender and the Agency to address environmental issues are discussed in more detail in Chapter 11.


## ATTACHMENT 1-A


### REVIEW AND APPEALS OF ADVERSE AGENCY DECISIONS

#### A. INFORMING LENDERS OF THEIR RIGHTS

Whenever the Agency makes a decision that will adversely affect a lender, the Agency must inform the lender in writing that a review by the next-level supervisor may be requested. The Agency must also inform the lender whether or not the decision can be appealed to the National Appeals Division (NAD).

The lender and/or borrower can appeal an Agency decision made under this program. In cases where the Agency has denied or reduced the amount of final loss payment to the lender, the adverse decision may be appealed by the lender only. A decision made by a lender adverse to the interest of the borrower is not a decision made by the Agency, whether or not concurred in by the Agency. Appeals will be handled in accordance with 7 CFR part 11. Any lender adversely affected by an Agency decision under this subpart may request a determination of appealability from the Director, NAD, USDA, within 30 days of the adverse decision. 

**Review Requests.** Lenders who want to request a review by the next-level supervisor must do so within 15 days of the date of the Agency's letter notifying the applicant of an adverse decision. The lender shall have the option to make the request in writing or verbally. Copies of written requests should be retained in the lender's files. If the lender chooses to make a verbal request, it should be carefully documented. The review must be completed within 45 days of the request. 

**Appeal Requests.** Lenders who wish to appeal an adverse decision must submit a written request to NAD within 30 days of receiving notice of an adverse decision. The request must be personally signed by the participant and include a copy of the adverse decision to be appealed and a brief statement describing why the participant believes the decision is wrong. 

NAD will notify the participant and the Agency once it has made a final determination. If NAD reverses the Agency's decision, the next loan processing action that would have occurred (had no adverse decision been made) must be taken within 30 days after the effective date of the notice from NAD.

## **B. DECISIONS THAT CANNOT BE APPEALED**

Decisions that cannot be appealed by the lender include:

- Interest rates set by the Agency's procedures, unless the participant alleges that an incorrect interest rate was applied;
- Decisions made in accordance with the statute;
- Denials of credit due to lack of funds; and
- Decisions made by the lender.

Participants may submit a written request to NAD to confirm that the decision cannot be appealed. Even though a decision is not appealable, Agency staff must provide the participant an opportunity for a review and explanation of the decision.

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