

RD AN No. 4590 (1980-D)
July 22, 2011

TO: State Directors
Rural Development

ATTENTION: Housing Program Directors,
Guaranteed Loan Coordinators,
Area Directors and Area Specialists

FROM: Tammye Treviño *(Signed by Tammye Treviño)*
Administrator
Housing and Community Facilities Programs

SUBJECT: Single Family Housing Guaranteed Loan Program
Outbuildings

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide clarification regarding the interpretation and intent of 7 C.F.R. sections 1980.310, 1980.311(a)(4), 1980.313(a) and 1980.313(e) and the corresponding sections of RD Instruction 1980-D.

The objective of the Single Family Housing Guaranteed Loan Program (SFHGLP) is to assist eligible households in obtaining adequate but modest, decent, safe, and sanitary dwellings and related facilities for their own use in rural areas. The principal purpose of the SFHGLP is to guarantee loans on a subject property identified as a single-family, marketable real estate dwelling which will be the primary residence for an eligible household. The basic fundamental premise of the SFHGLP is to guarantee a loan for financing a residence and related facilities. Financing farms, buildings designed or intended for business or commercial enterprises, or income-producing land do not meet the basic fundamental premise of the SFHGLP.

The intended outcome of this AN is to clarify regulations regarding qualified properties for the SFHGLP.

EXPIRATION DATE:
July 31, 2012

FILING INSTRUCTION:
Preceding RD Instruction 1980-D

COMPARISON WITH PREVIOUS AN:

There is no previous AN issued on this subject.

BACKGROUND:

Section 502 of the Housing Act of 1949, as amended, authorizes rural lending programs backed by the Federal government. RD Instruction 1980-D, codified at 7 CFR part 1980-D, subpart D is the regulation which furnishes national policy and provides guidance under the statutory authorization. ANs such as this one serve to clarify the regulation as needed.

IMPLEMENTATION RESPONSIBILITIES:

The Agency may extend a guarantee when the loan is used to acquire or construct a single-family residence that is to be used as the principal residence of the borrower in accordance with section 1980.310. The residence must meet the requirements of eligible housing and be located in a rural area in accordance with sections 1980.312 and 1980.313. The Agency will not guarantee a loan that is made for ineligible loan purposes under section 1980.311 or fails to meet site or building requirements. In determining an eligible qualified property, use the following guidance:

Farm Service Buildings

The regulation at 7 C.F.R. section 1980.313(a) states: “The property on which the loan is made must be located in a designated rural area A nonfarm tract to be purchased or improved with loan funds must not be closely associated with farm service buildings.”

The Agency considers a farm to be a parcel or parcels of land operated for the production of one or more agricultural commodities and which customarily produces or is capable of producing such commodities for sale.

The Agency considers a farm service building to be any of the structures used in farming operations, which may include buildings to house workers and their families, or livestock, machinery and crops. Service buildings can include, but are not limited to, livestock barns and shelters; machinery-and form supply-storage buildings; buildings and facilities for crop storage, including fodder; and special-purpose structures such as grain silos. The nature and arrangements of farm facilities vary significantly. Older buildings may be built with lumber, while modern buildings are typically steel. Farm service buildings are typically associated with a tract of land cultivated for the purpose of agricultural production or devoted to raising and breeding domestic animals, such as cattle. They can also be associated with other types of farm operations involving water, such as oyster, catfish, or trout farms.

Properties that are actively used as a farm operation, or in cases where the seller previously used the property to operate a farm, are ineligible for the SFHGLP. The same apply for properties that contain farm service building(s), even if the building(s) have no contributory value. The presence of a farm service building on an adjoining property which is not part of the parcel or lot being purchased does not disqualify a property. If a farm service building is located on the lot or

parcel being purchased, however, then the property is not eligible regardless of the farm service building's value.

Eligible and Prohibited Loan Purposes

In accordance with 7 CFR section 1980.310(a) and RD Instruction 1980-D, an eligible loan purpose may include (in part): “...*necessary related facilities such as a garage, storage shed, walks...*”

The purpose of the loan guarantee is to acquire a dwelling and related facilities to be used by the applicant as their primary residence. Related facilities by definition at section 1980.310(a) can be, as an example, but not limited to, garages and storage sheds for consumer use. Other examples (not all inclusive) of related facilities could be a basement, semi-basement, underground shelters, summer kitchen, garden sheds, carports, pump houses, and recreational structures such as exercise rooms, game rooms, craft or hobby rooms, and noncommercial workshops.

Neither the regulation nor RD Instruction 1980-D require or prohibit the “related facility” from being attached to the dwelling, detached to the dwelling, limited by number of garages, or limited in total number of structures. States cannot impose “state” limitations on related facilities.

Many rural properties have buildings described above as a “related facility” which are not farm service buildings. The presence of such related facilities on the site to be purchased is not prohibited. Farm service buildings, however, are not permissible as described above.

For loan purposes, 7 CFR section 1980.311(a)(4) prohibits, among other things, the:

Purchase or improvement of income-producing land, or buildings to be used principally for income-producing purposes, or buildings not essential for RH purposes, or to buy or build buildings which are largely or in part specifically designed to accommodate a business or income-producing enterprise.

Properties that include buildings which largely or in part have been designed for a business or income producing purpose are subject to this regulation and not eligible. Examples of income-producing buildings include, but are not limited to, warehouses, bed and breakfast facilities, boarding homes, buildings with mechanical equipment remaining from a prior business, horse riding arenas, and nonresidential buildings such as office buildings, commercial buildings or mixed-use properties with store-fronts that contain residential space.

Income-producing land signifies properties bought or developed specifically to earn revenue for the owner. Whether the property actually produces a profit is not material. Some examples of income producing land include the purchase of a residence with a lot or parcel of land which customarily produces or is capable of producing the commercial sale of one or more agricultural commodities, including timberland, or sites with one or more income-producing wind turbines or cell towers.

The regulation does not support imposing limitations on the area of land associated with the dwelling purchase. Therefore USDA Rural Development State Offices cannot impose acreage limitations, such as 2 acres, 10 acres, 15 acres, etc. Through 7 CFR section 1980.313(e) supports limiting the value of the site to 30 percent of the total value of the property, the 30 percent limitation may be exceeded if the property is typical for the area, as evidenced in the appraisal report, and the site cannot be subdivided into two or more sites.

Questions regarding this AN may addressed to Debbie Terrell, Senior Loan Specialist, at (918) 534-3254.