Mediation and Appeals

Single Family Housing Guaranteed Loan Program

Training Objectives

• Where is the topic located?
  * 7 CFR Part 3555 and HB-1-3555
• Learning Checks
• Resources
Things change!

• Every effort has been made to ensure training references are accurate at the time of publication.

• Always reference the most recent USDA publications available online.

Guaranteed Loan Program Regulation

7 CFR Part 3555

• The regulation is the rule!
• 8 Subparts: A – H
• Appendix 1
7 CFR Part 3555

7 CFR Part 3555

Subpart A: General

- .1: Applicability
- .2: Purpose
- .3: Civil Rights
- **.4: Mediation and appeals**
- .5: Environmental Requirements
- .6: State and local law
- .7: Exception authority
- .8: Conflict of interest
- .9: Enforcement
- .10: Definitions and abbreviations
Sec. 3555.4  Mediation and appeals.

Whenever Rural Development makes a decision that will adversely affect a participant, the participant may proceed with alternative dispute resolution including mediation and a USDA National Appeals Division hearing in accordance with 7 CFR parts 1 and 11. The participant also may request an informal review of the adverse decision made by Rural Development. Except when the adverse decision applies to a loss claim, the applicant or borrower and the lender may participate in the appeal process. Adverse decisions made by the lender cannot be appealed unless concurrence by Rural Development was required by this subpart and obtained by the lender.

7 CFR Part 3555
3555.10: Definitions

Participant. For the purpose of appeals, a participant is any individual or entity that has applied for, or whose right to participate in or receive a payment, loan guarantee, or other benefit, is affected by an Agency decision in accordance with 7 CFR 11.1.
Guaranteed Loan Program Technical Handbook

HB-1-3555

- Provides guidance to support the regulation
- HB is not the rule
- 20 Chapters
HB-1-3555

SECTION 3: GENERAL PROGRAM REQUIREMENTS

1.6 CIVIL RIGHTS
A. Major Civil Rights Laws Affecting the SFHGLP
B. Non-discrimination
C. Reasonable Accommodations for Persons with Disabilities

1.7 REVIEW AND APPEALS

1.8 STATE AND LOCAL LAWS

1.9 EXCEPTION AUTHORITY
A. Who Can File a Request
B. What Must be Included in the Request
C. Where Requests are Submitted

1.10 CONFLICT OF INTEREST
A. Prohibited Relationship
B. Discrimination Requests

1.11 UNAUTHORIZED ASSISTANCE

1.12 RURAL DEVELOPMENT ADMINISTRATIVE RESPONSIBILITIES

APPENDIX 1: 7 CFR 3555 IMPLEMENTED 12/01/14
APPENDIX 2: FORMS AND INSTRUCTIONS
APPENDIX 3: REVIEW AND APPEALS
APPENDIX 4: AGENCY AND EMPLOYEE ADDRESSES
APPENDIX 5: INCOME LIMITS
APPENDIX 6: INTEREST ASSISTANCE
APPENDIX 7: CAIVRS ACCESS INSTRUCTIONS
APPENDIX 8: EDI DOCUMENTATION
APPENDIX 9: PENALTIES
APPENDIX 10: UN-NUMBERED LETTERS AND STATE SUPPLEMENTS
Mediation and appeals

1. Agency determines the loan request is ineligible under 7 CFR Part 3555
2. Agency informs participants of decision and their rights
   • HB-1-3555 Letter 1, appealable decisions
   • HB-1-3555 Letter 2, non-appealable decisions
3. Participant may pursue applicable options

Review and Appeal Options:
• Informal Administrative Review by Agency Decision-Maker
• Mediation as a Form of Alternative Dispute Resolution (ADR)
• Appeal Request to National Appeals Division (NAD)

Letter will detail required steps to request review/appeal!
Mediation and appeals

Reviews and Appeals:
• Opportunity to review the facts of the loan file
• Ask questions regarding decisions
• Present evidence from the regulation to support an alternate decision
• If applicable, NAD representative will review and determine outcome

TIPS
• Underwriter = USDA Approved Lender
• USDA = not an underwriter
• Research Rule & HB questions: Table of Contents
• Research Rule & HB questions: Control + F
7 CFR PART 3555 / HB-1-3555
LEARNING CHECKS

Question Slide
“Topic”

• Question will be bulleted with scenario, or
• Include a statement/question

TRUE/FALSE or other answer options will be displayed
ANSWER SLIDE

“Topic”

ANSWER: 7 CFR Part 3555 and HB-1-3555 references provided

X. Correct Response

• Additional guidance for clarification may be provided
Mediation and appeals

The lender must give their consent for an applicant to appeal an adverse decision made by USDA.

A. TRUE  B. FALSE

Mediation and appeals

ANSWER: 3555.4, HB 1.7, and Appendix 3 A. Review and Appeal Options

B. False

• The lender, applicant or both may appeal adverse decisions as applicable
• Exception: Adverse loss claim decisions made by the Customer Service Center (CSC) may only be appealed by the approved USDA lender
Mediation and appeals

• USDA approved lender denies a guaranteed loan application
• No loan application is submitted to USDA for review
• The applicant may appeal the lender’s decision

A. TRUE   B. FALSE

Mediation and appeals

ANSWER: 3555.4, HB 1.7

B. False

• Adverse decisions made by the lender are not appealable
Mediation and appeals

A participant must attend a face-to-face Informal Administrative Review with the adverse decision official prior to requesting an Appeal.

A. TRUE    B. FALSE

Mediation and appeals

ANSWER: 3555.4, HB 1.7 and Appendix 3

D. Informal Administrative Review

B. False

• Participant may skip an informal review and request mediation or an appeal
• If appeal is pursued first, participant waives rights to an informal administrative review
Mediation and appeals

• USDA denies a guaranteed loan application
• Reason for denial cited: HB-1-3555, Chapter 10, 10.8
• Denial reason is incorrect

A. TRUE       B. FALSE

ANSWER: 3555.4, HB 1.7

• Adverse decisions must be based on CFR Part 3555
Mediation and appeals

- USDA denies a loan request
- Denial reason: Household income exceeds application adjusted annual household limit
- This decision is non-appealable

A. TRUE  B. FALSE

Mediation and appeals

ANSWER: 3555.4, HB 1.7 and Appendix 3

C. Adverse Decision that cannot be appealed

B. TRUE

- Income limits are statutory and are not appealable
- However, the calculation of the adjusted annual income is eligible for an informal administrative review
Mediation and appeals

Participants have ___ days to request an informal administrative review.

A. 15     B. 45

ANSWER: 3555.4, HB 1.7 and Appendix 3

D. Informal Administrative Review

A. 15

• Request must be made within 15 days of the date of the USDA letter
• Reviews may take place face to face or telephone
• Actual USDA decision maker or representative may attend
Mediation and appeals

Participants have ____ days to request an appeal from the National Appeals Division (NAD).

A. 30    B. 60

Mediation and appeals

ANSWER: 3555.4, HB 1.7 and Appendix 3

E. Mediation

A. 30

- Written request must be signed by participant(s)
- Sent to NAD with 1. copy of USDA decision and 2. reasons why the decision is believed incorrect
- Appeals may be face to face or by telephone
WAY TO GO!

Regulations

GovDelivery Sign up

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