Welcome to Mediation and Appeals, presented by USDA’s Single Family Housing Guaranteed Loan Program!
Training Objectives

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

The objectives of the training include:
1. Demonstrating where the training topic is located in the program regulation, 7 CFR Part 3555 and the technical handbook, HB-1-3555.
2. Providing learning checks to help you gain a working knowledge of the topic, and
3. Links to online resources to assist in locating program information.
Every effort has been made to ensure this training and all references are accurate, however, new program revisions and clarifications may occur. Therefore, please ensure you always reference the most recent USDA publications available online.

This training module is not intended to replace the need to reference the regulation, technical handbook, and additional USDA published documents regarding the Guaranteed Loan Program.
7 CFR Part 3555 is the program regulation. It is the first place users should look for the answers to their questions.

The regulation is the rule and it cannot be overridden by the technical handbook.

The 7 CFR Part 3555 is comprised of 8 subparts, A through H.

You can access the full regulation online as Appendix 1 from the Regulations and Guidelines website.
The Regulations and Guidelines website is located from the link shown on the slide.

Under “Rural Development” there are many items available from this home page.

To access the regulation, select “Handbooks.”
A list of all USDA Rural Development handbooks will display.

Be sure to select the correct technical handbook: HB-1-3555.

Once HB-1-3555 is selected, the entire handbook, including all appendix will display for selection.

Appendix 1 is the full regulation, 7 CFR Part 3555.
Mediation and appeals is located in Subpart A, Section 3555.4.
The regulation Table of Contents provides a quick view of the individual topics included under this Section.
3555.4 states that when USDA makes a decision that will adversely affect a participant, the participant may proceed with an informal review of the adverse decision, mediation or a USDA National Appeals Division hearing.

In the event of an adverse decision regarding a loss claim, the only eligible participant to pursue the appeal process is the approved lender/servicer.
3555.10 defines the participant for the purpose of appeals as 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. Therefore, a participant would certainly include an applicant.
The 7 CFR Part 3555 regulation cannot cover every topic and every potential scenario, therefore a technical handbook has been published to support the regulation and provide additional clarification. HB-1-3555 has 20 chapters.
The handbook may be accessed from the Regulations and Guidelines website. Mediation and appeals guidance is located in Chapter 1 and Appendix 3.
This screen shot displays the Table of Contents of Chapter 1. This helps the user to locate specific topics more quickly.
Appendix 3 also provides guidance for the review and appeals process.
This is an example of the mediation and appeals process:

1. USDA determines a loan request is ineligible under 7 CFR Part 3555.
2. USDA informs the applicant(s) and the approved lender of the decision and their rights. One of two applicable handbook letters may be used. Letter 1 is most common, which is for appealable decisions. Letter 2 is for non-appealable decisions and it is not used very often as there are very few decisions that are not open for discussion. One example of a non-appealable decision is when the property is located in an ineligible rural area.
3. The participant may pursue the applicable options if they choose to appeal the Agency decision.
Mediation and appeals

Review and Appeal Options:

1. Informal Administrative Review by Agency Decision-Maker
2. Mediation as a Form of Alternative Dispute Resolution (ADR)
3. Appeal Request to National Appeals Division (NAD)

Letter will detail required steps to request review/appeal!

The review and appeal options that will be offered include:

1. An informal administrative review by the USDA decision maker with the participants.
2. Mediation as a form of Alternative Dispute Resolution, or
3. Formal appeal request to the National Appeals Division (NAD). NAD is not affiliated with USDA Rural Development. The hearing official will review the decision, regulation, supporting documentation and testimony of each participant and then determine the correct course of action under the 7 CFR Part 3555.

The handbook letter issued by USDA will detail the required steps the participant must follow in order to request the review or appeal.
The Review and Appeal process should be utilized when necessary. It is an opportunity to discuss the loan file, the regulation, and ensure that all parties leave with a full understanding of why the decision can or cannot be justified.

- It is an opportunity to review the facts of the loan file,
- Ask questions regarding the Agency decision,
- Present evidence from the regulation to support an alternate decision, and
- If applicable, request a NAD representative to review the information and determine a final decision.

Each participant bears the burden of evidence to support their position.
A few helpful tips:
1. The underwriter of the loan is the approved lender’s underwriter.
2. USDA is NOT the underwriter of the loan.
3. When researching topics, it is helpful to begin with the Table of Contents for the regulation and the handbook.
4. A great best practice when searching for information is to open the regulation or a handbook chapter, select the “Control” button on the keyboard, hold it down, and then also select the “F” key. A keyword search box will appear. Enter a keyword or phrase to locate information more quickly.
The best way to learn information is to test your knowledge!
Each question slide will list:
• the topic
• A question or scenario, and
• potential responses.
ANSWER SLIDE

“Topic”

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

X. Correct Response

• Additional guidance for clarification may be provided

The answer slide will list:

• The topic
• The reference to the answer from the regulation and handbook
• The correct response, and
• Any additional clarification that may be helpful.
Let’s get started!
Mediation and appeals

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

A. TRUE    B. FALSE

Read the question on the slide and select a response.
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

False
Any participant that is adversely affected by the USDA decision may decide to appeal the decision. A participant is defined as the lender, applicant, or both. There is an exception to this statement. Loss claim payments made to an approved lender by the Customer Service Center (CSC) may only be appealed by the approved USDA lender. The borrower would not be a party to a loss claim payment.
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

Read the question on the slide and select a response.
False

If the approved lender does not approve a USDA guaranteed loan application the applicant has no appeal rights against USDA.

USDA did not render the adverse decision and did not even receive or review an application.
Read the question on the slide and select a response.

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

False
The participant may request to skip an informal review and instead request to move forward to mediation or a full appeal.
If the appeal is pursued first, then the participant waives their rights to an information administrative review.
Many issues can be discussed and resolved at the informal review, which is available more quickly to better serve the applicant, lender, and Agency. It is recommended to attempt to resolve the issue with an information review first.
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

Read the question on the slide and select a response.
A. TRUE

• Adverse decisions must be based on CFR Part 3555

True

Adverse decisions must supported with citations from 7 CFR Part 3555. The technical handbook may be utilized to support the regulation, but it should not contradict the regulation. The regulation will always prevail.
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

Read the question on the slide and select a response.
True

The adjusted income limits that determine program eligibility are statutory, meaning they are governed by the Housing Act of 1949 as amended. Decisions made to support the statute or unable to be appealed.

However, the discussion regarding the calculation of the adjusted annual income is an eligible topic for an information administrative review between the approved lender, applicant, and USDA personnel.
Mediation and appeals

Participants have ___ days to request an informal administrative review.

A. 15      B. 45

Read the question on the slide and select a response.
Mediation and appeals

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

Response A: 15 days
The request for an informal administrative review must be made by the participant within 15 days of the date of the USDA issued letter. Reviews may be conducted face to face or over the phone. The actual USDA loan approval official/decision representative may attend to review the loan file. Participants should be prepared to review USDA’s calculations and documentation as well as bring support that they believe is supported with the regulation. The result of the informal review may be a reversed adverse decision by USDA with a Conditional Commitment to be issued to the approved lender, or the adverse decision may be determined to be accurate.
Read the question on the slide and select a response.

Mediation and appeals

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

A. 30      B. 60
Response A: 30 days
The written request for the appeal must be submitted to NAD with the signature of all participants.
NAD should receive a copy of the USDA denial decision and a statement of reasons as to why the decision is believed incorrect. Please include regulatory citations to support your determinations.
Appeals with NAD may also be conducted face to face or by telephone.
The NAD official is not an employee of USDA. Their final ruling may determine USDA did not act within the regulations and the loan file may be resubmitted for review, or the NAD official may agree that USDA did accurately deny the loan application.
Way to go! You have completed the learning checks!
Don’t forget the Regulations and Guidelines website is a wonderful source of USDA guideline knowledge.
Please sign up for GovDelivery messages. USDA sends out origination (including GUS) and servicing messages to alert lenders of new publications, clarifications, and additional program updates.
Thank you for supporting the USDA Single Family Housing Guaranteed Loan Program! We appreciate the opportunity to help you serve more rural homebuyers!
This will conclude the training module. Thank you and have a great day!