

May 6, 2016

TO: State Directors
Rural Development

ATTN: Program Directors
Single Family Housing

FROM: Tony Hernandez /s/ *David Lipsetz* *for*
Administrator
Housing and Community Facilities Programs

SUBJECT: Implementation of the Certified Loan Application Packaging Process and General Packaging Guidance for the Section 502 Direct Single Family Housing Program

PURPOSE:

The purpose of this Unnumbered Letter (UL) is to provide guidance on the implementation of the certified loan application packaging process (hereinafter referred to as the certified packaging process). The final rule on the certified packaging process was published in the Federal Register (FR) on April 29, 2015 (80 FR 23673). Although the original effective was deferred, it is with much anticipation that the Agency and its partners (specifically affordable housing nonprofit organizations, public agencies, tribal housing authorities, and State Housing Finance Agencies) prepare for the final rule's effective date of May 19, 2016 (as announced in 81 FR 8389 (February 19, 2016)).

This UL will also highlight the benefits of loan application packaging (particularly through the certified packaging process), encourage Agency staff to develop strong relationships with third parties engaged in regulated loan application packaging, and address special considerations when processing packaged loan applications.

EXPIRATION DATE:
May 31, 2017

FILING INSTRUCTIONS:
Housing Programs

BACKGROUND:

The Agency strongly believes that establishing a vast network of competent, experienced, and committed certified packagers will benefit low- and very low-income people who wish to achieve homeownership in rural areas by increasing their awareness of the Agency's housing program, increasing specialized support available to them to complete the application for assistance, and improving the quality of loan application packages submitted on their behalf.

Given this belief, the final rule imposes reasonable experience, training, structure, and performance requirements on the third parties engaged in the certified packaging process so that only viable, decision-ready loan application packages are submitted to the Agency.

The final rule amended 7 CFR part 3550 to add definitions to 7 CFR 3550.10, revise 7 CFR 3550.52 (d)(6), revise 7 CFR 3550.55 (c)(5), and add 7 CFR 3550.75. On or shortly after May 19, 2016, a procedure notice will be issued to reflect these amendments in Appendix 1 of Handbook-1-3550, Direct Single Family Housing Loans and Grants Field Office Handbook (hereinafter referred to as the handbook).

On May 19, 2016, the guidance contained within this UL will supersede the guidance contained in Attachment 3-A of the handbook as it relates to the loan application packaging fee allowed under the Section 502 direct loan program and the conditions for financing that fee with Agency loan funds. This will be the case until such time as the handbook is updated to reflect the certified packaging process, which will be before the end of the calendar year.

IMPLEMENTATION RESPONSIBILITIES

Starting on May 19, 2016, when Agency financing is sought to cover the packaging fee, the Agency will only finance a packaging fee if the conditions outlined in 7 CFR 3550.52 (d)(6) are met. To be considered a part of the certified packaging process, the conditions outlined in 7 CFR 3550.75 must be met.

Loan Application Packaging Course:

Under the certified packaging process, the course requirements outlined in 7 CFR 3550.75(b)(1)(iii),(b)(3)(vii) and (c) can be fulfilled by the three-day classroom sessions offered by NeighborWorks, the Housing Assistance Council, and Rural Community Assistance Corporation (who are currently the only approved non-Agency trainers). Please note that:

- The Agency will recognize the attendance of past training sessions provided the attendee fully attended a three-day classroom course jointly presented by the Agency and one of the aforementioned sponsoring nonprofit organizations, and passed the corresponding test. If the training was taken more than three years ago from May 19, 2016, recognition will also be subject to the attendee having submitted at least one viable packaged loan application between passing the course and May 19, 2016.
- Due to limited training availability, the Agency may approve parties to participate in the certified packaging process even if the training has not been completed and provided all

other requirements are met upfront; however the participation in the certified packaging process is contingent upon the party’s successful completion of the course requirements within a reasonable timeframe. Parties will have one year from the date of being added to the certified packaging process to complete the course requirements and provide evidence to the appropriate party (intermediary or Agency depending on the situation) that the requirements have been fulfilled.

- Course participants should take the corresponding test within 30 days of completing the course.
- A score of 70 percent or higher is needed to pass the corresponding test. The Agency may raise this minimum score as the certified packaging process matures.
- Course participants needing to retake the test should do so within 90 days of completing the course.
- Failure to pass the corresponding test after three attempts will result in the need to retake the three-day classroom training.

Intermediary Identification:

As mentioned in 81 FR 8389, the following pilot intermediaries will be classified as Agency-approved intermediaries under the regulation for the states listed in the table below (and for any subsequent state(s) they wish to cover). This classification is based on the fact that all of these pilot intermediaries applied under the “Notice of Intent to Accept Applications To Be an Intermediary Under the Certified Loan Application Packaging Process Within the Section 502 Direct Single Family Housing Program” (80 FR 32526) and demonstrated to the Agency’s satisfaction that they meet all the requirements to be an intermediary.

Intermediary		States Served
Entity Name	Contact Information	
Federation of Appalachian Housing Enterprises, Inc.	Tom Carew Executive Vice President, Advocacy FAHE 340 North Wilson Ave Morehead, KY 40351 tomc@fahe.org Phone: 606-669-0053	Alabama, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia
Little Dixie Community Action Agency, Inc.	Rebecca Reynolds Executive Director Little Dixie Community Action Agency, Inc. 209 North 4 th St. Hugo, OK 74743 Rebecca Reynolds breyolds@littledixie.org Phone: 580-326-3351	Arkansas, Kansas, Louisiana, Missouri, Nebraska and Oklahoma
NeighborWorks Dakota Home Resources	Joy McCracken Executive Director	North Dakota and South Dakota

	NeighborWorks Dakota Home Resources joy@nwdhr.org Phone: 605-578-1401	
Northeast South Dakota Community Action Program	Marcia Erickson Chief Executive Officer NESDCAP 104 Ash Street East Sisseton, SD 57262 marcia@growsd.org Phone: 605-698-7654	North Dakota and South Dakota
Northwest Regional Housing Authority	Vickey Stratton Intermediary Director 317 Industrial Park Road Harrison, AR 72601 vickey@nwregionalhousing.org Phone: 870-743-6779	Arkansas, Louisiana, Mississippi, Missouri, and Oklahoma
Rural Community Assistance Corporation	Juanita A. Hallstrom Assistant Director Lending & Housing 3120 Freeboard Drive, Suite 201 West Sacramento, CA 95691 jhallstrom@rcac.org Phone: 916-447-9832, ext. 1065	Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Western Pacific and Wyoming
Texas Community Capital	Matt Hull Executive Director 1910 East Martin Luther King Jr. Blvd. Austin, TX 78702 matt@tacdc.org Phone: 512-916-0508	Texas
Tierra del Sol Housing Corporation	Art Marrugo Home Ownership Center Director PO Box 2626 Anthony, NM 88021 artm@tdshc.org Phone: 575-541-0477	Arizona, Colorado, New Mexico, and Texas

National Headquarters will take steps to update the Agency’s website to identify Agency-approved intermediaries; and will update the website as new intermediaries are approved and any states are added.

To apply to be an Agency-approved intermediary under the certified packaging process, an interested party must furnish sufficient documentation to demonstrate to the Agency’s satisfaction that they meet each of the conditions specified in 7 CFR 3550.75(b)(3) and as further detailed in the table below. This documentation constitutes the application. Applications to be

an Agency-approved intermediary are welcomed at any time and should be emailed to SFHDIRECTPROGRAM@wdc.usda.gov. The application will be reviewed by National Headquarters with input from the applicable State Office(s).

(1)(a)	Be a Section 501 (c)(3) nonprofit organization as evidenced by the organization's Internal Revenue Service (IRS) nonprofit determination letter for 501 (c) (3) status.
(1)(b)	Be in good standing in the State(s) of its operation as evidenced by a Certificate of Good Standing or equivalent documentation from the applicable Secretary of State(s) or recent State filings.
(1)(c)	Have the capacity to serve multiple qualified employers and their Agency-certified loan application packagers throughout an entire State or entire States and have the capacity to perform quality assurance reviews on a large volume of packaged loan applications within three to five business days of receipt.
(1)(d)	Identify what State or States the interested party proposes to serve and provide details on their capacity to serve the identified State(s).
(2)	Be engaged in affordable housing in accordance with their regulations, articles of incorporation, or bylaws.
(3)	Be financially viable and demonstrate positive operating performance as evidenced by an independent audit paid for by the applicant seeking to be an intermediary.
(4)	Have at least five years of verifiable experience with the Agency's direct single family housing programs (specifically the Section 502 direct single family housing loan program, the Section 504 single family housing repair programs, and/or the Section 523 mutual self-help housing technical assistance program). Verifiable experiences would include, but are not exclusive to, routinely leveraging resources for individual transactions (e.g. providing affordable housing products to Agency borrowers), packaging loan applications, and/or being a self-help grantee or technical and management assistance contractor. To the greatest extent possible, the submission should detail collaborations and dollars leveraged.
(5)	Demonstrate that its quality assurance staff has experience with packaging, originating, or underwriting affordable housing loans. Provide a resume for each quality assurance staff member. The breadth and depth of their combined skills and qualifications will be considered during the Agency's application review process.
(6)	Provide a quality control plan that is customized to the applicant's organization. The quality control plan must show there are controls in place to process application packages that will likely result in an eligibility determination by the Agency. The plan should include at a minimum, but not limited to: procedures for obtaining and evaluating loan application documents (e.g. credit checks and income verification); measures the applicant will take to prevent the submission of incomplete or ineligible application packages to the Agency; the standard operating procedures for employees who will be involved with or affected by the quality control process; and, procedures for ensuring accurate information is submitted to the Agency.
(7)	Ensure that their quality assurance staff completes an Agency-approved loan application packaging course and successfully pass any corresponding test within a reasonable amount of time if selected.
(8)	Provide a letter jointly signed by the organization's Executive Director and Board President affirming the organization will not be the developer, builder, seller of, or

	<p>have any other such financial interest in the properties for which the application packages are submitted by the organization as an intermediary pursuant to this notice.</p> <p>NOTE: An intermediary that is also a Community Development Financial Institution (CDFI) will not be considered noncompliant when CDFI funds are tied to the transaction.</p>
(9)	<p>Provide a training and support plan that focuses on the measures the applicant will take to provide supplemental training, technical assistance, and support to certified loan application packagers and qualified employers to promote quality standards and accountability. (Note that the Agency may require implementation of Agency-developed and/or approved training and support plan once accepted as an intermediary pursuant to this notice.)</p>
<p>Please note that:</p> <ul style="list-style-type: none"> • A State Housing Finance Agency (HFA) interested in being an Agency-approved intermediary needs to apply but does not need to demonstrate meeting items 1 through 5 above, given the States' HFAs purpose, vision, and structure. • Approved parties will be expected to sign a Memorandum of Understanding. • Decisions by the Agency on intermediary applications are not appealable to the National Appeals Division. 	

Involvement of an Intermediary:

Under the certified packaging process, a State Director may require a certified packaging body (which consists of the certified packager and qualified employer outlined in 7 CFR 3550.75(b)(1) and (b)(2)) to submit loan application packages via an intermediary. If a state is served by multiple intermediaries, a certified packaging body may choose which intermediary to funnel their packaged loan applications through.

Since the certified packaging process is new, State Directors will require all certified packaging bodies to funnel packaged loan applications through an intermediary (if present in the state) unless the certified packaging body requests and meets the requirements for an opt-out as outlined below. If a certified packaging body serves multiple states, the request must be made on a per state basis. These opt-out requirements will help ensure that these requests are handled in a consistent manner nationwide.

- **Transition Period:** Through September 30, 2016, State Directors may approve an opt-out request from a certified packaging body who meets each of the following conditions:
 - Was not funneling packages through an intermediary under the packaging pilot as of the date of this UL.
 - Has actively and successfully packaged loan applications in the state during the last 36 months. The approach taken by the State Director to make this determination must be reasonable and must consider both the quantity and quality of the packages submitted by the certified packaging body.
 - Meets the conditions outlined in 7 CFR 3550.75(b)(1) and (b)(2).
 - The certified packager must have met the course requirement as of the date of the request, or agree to meet it within one year of receiving the opt-out.

- Performance Based:** State Directors may approve an opt-out request from a certified packaging body when the request is supported by the intermediary based on the quality and quantity of loan application packages submitted by the certified packaging body through the intermediary. At a minimum, the certified packaging body must have funneled at least 20 loan application packages through the same intermediary and have funneled packages through the same intermediary for a period of at least 12 months before an opt-out can be considered. With these minimums in mind, the intermediary will support the request if the certified packaging body has a 90% or higher success rate. The intermediary will apply the following conditions when the request cannot be initially supported; these conditions specify when a subsequent opt-out request will be supported.
 - Success rate of 85% - 89.99% at the time of the original opt-out request: Requires an additional three months of oversight and support by the intermediary and five or more complete application packages with a 90% or higher success rate.
 - Success rate of 80% - 84.99% at the time of the original opt-out request: Requires an additional six months of oversight and support by the intermediary and ten or more complete application packages with a 90% or higher success rate.
 - Success rate of less than 80% at the time of the original opt-out request: Requires an additional 12 months of oversight and support by the intermediary and 20 or more complete application packages with a 90% of higher success rate.

When an intermediary is not involved because an opt-out request was approved by the State Director or because an intermediary doesn't cover a particular state, it will fall upon the State Office to:

- Ensure that a certified packaging body meets and continues to meet the conditions outlined in 7 CFR 3550.75(b)(1), (b)(2), (d), and (e).
- Update the Agency's state-level website to identify certified packaging bodies with an approved opt-out and approved non-certified loan application packagers. Working with Legislative and Public Affairs, a standard template for this purpose will be created and sent to the State Offices.

Packaging Type, Permissible Packaging Fee, and Eligible Loan Purpose:

The packaging type and who is involved impacts the permissible packaging fee amount and whether or not the fee is an eligible loan purpose (see the table below for details).

Packaging Type*	Permissible Packaging Fee	Regulated by 7 CFR Part 3550	Eligible Loan Purpose?
Certified packaging body via an intermediary	Up to \$1,500 split between certified packaging body and intermediary	Yes 3550.52 (d)(6) and 3550.75	Yes
Certified packaging body without an intermediary**	Up to \$1,250	Yes 3550.52 (d)(6) and 3550.75	Yes

Intermediary acting as a certified packaging body	Up to \$1,250	Yes 3550.52 (d)(6) and 3550.75	Yes
Approved non-certified application packager	Up to \$350	Yes 3550.52 (d)(6)	Yes
Other non-certified packaging arrangements***	Not regulated and discouraged when a fee is charged	No	No. In addition, the Agency will review the impact of the fee to the applicant and will make the determination if it adversely affects their qualification.
<p>* Self-help projects and loans are excluded from the certified loan application process and may not include a packaging fee as an eligible loan purpose since grantees receive grant funds to package (among other things) and are provided technical and management assistance. However, a grantee and its staff may participate in the process for non-self-help loans provided they meet all the rule's requirements.</p> <p>** This can occur when the State Director approves an opt-out request or when a state is not served by an intermediary.</p> <p>*** This focuses on packaging activities outside of the Agency's regulatory controls (e.g. packaging by for-profit entities).</p>			

General Packaging Guidance:

When contacted by a potential applicant, Agency staff will discuss the benefits of obtaining the optional services of an Agency-approved loan application packager (specifically through the certified packaging process) and provide the appropriate referrals. Referrals should not be made if a party submits a uniform residential loan application directly to the Agency.

Upon receipt of a packaged loan application, the Agency will process the application in accordance with program guidance. Along the way, the Agency will inform the loan application packager or intermediary (if present) when critical processing activities have occurred. Critical processing activities include, but are not limited to, receipt of the loan application package, the eligibility determination, receipt of an appraisal, the underwriting decision, and preparation for closing. If the applicant marked “No” to the Privacy Act waiver, no details can be provided. The Agency staff would simply report that the processing activity has occurred.

Continuous and open lines of communication and feedback between the Agency and the loan application packager or intermediary (if present) is extremely important. It not only ensures the timely processing of an individual loan application request, it enhances the overall packaging experience going forward.

Regardless of the packaging type, loan application packagers need to be mindful of the following:

- Loan application packagers are not authorized to issue the Loan Estimate or Closing Disclosure on behalf of the Agency.

- A loan application package prepared by a packager and submitted to the Agency must only contain the items needed by the Agency to determine whether to issue Form RD 1944-59, Certificate of Eligibility (COE).
- Loan application packagers are to instruct their clients that a property must not be identified in the application unless and until such time as the Agency issues a COE.
- If a COE is issued, it is at this point and only at this point where the loan application packager would assist their client in gathering the property related items needed by the Agency.

When processing a packaged loan application, Agency staff needs to be mindful of the following:

- A certified packaging body funneling loan application packages via an intermediary is the only packaging type that has distinct access to the National Office reserve (subject to the conditions outlined in funding news announcements from National Headquarters to Agency staff).
- Even if a Tri-Merge Credit Report (TMCR) was provided by the packager, Agency staff must order a TMCR through the Agency's loan origination system (a.k.a. UniFi) and obtain the associated credit report fee.
- Agency staff must order the flood hazard determination and the appraisal.
- For regulated packaging activity, the packaging fee must be shown on the Loan Estimate under "Origination Charges".
- Depending on the income category, the program type code entered into UniFi must be 1060 (very low income) or 1061 (low income).
- As a nationwide program with guidance set at the national level, loan application packagers should not be asked to perform functions or provide materials over and above what is detailed in program guidance.

Please note that this UL is not reflective of all the related guidance that will eventually be placed in the program's handbook. For example, the Agency is considering how to best recognize an individual loan application packager's certification.

State Office staff and stakeholders with questions regarding this UL should contact Tammy Repine of the Single Family Housing Direct Loan Division at (360) 753-7677. Field staff should direct their questions to their respective State Office.