

RD AN No. 4758 (1980-D)
May 29, 2014

TO: State Directors
Rural Development

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

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

SUBJECT: Single Family Housing Guaranteed Loan Program
Outbuildings and Property Eligibility

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance surrounding 7 C.F.R. 1980, Subpart D sections 1980.310, 1980.311(a)(4), 1980.313(a) and 1980.313(e) and corresponding sections of RD Instruction 1980-D that concern the permissible purposes of loans provided through the Single Family Housing Guaranteed Loan Program (SFHGLP). This AN addresses outbuildings as they relate to the financing eligibility of a property.

The fundamental objective of the SFHGLP is to guarantee a loan for an eligible household to finance a **residential** property that may include related facilities. Many rural properties include functional farm service buildings, such as barns or sheds, or other buildings designed for business or commercial enterprises. A property might still be eligible for the program if these buildings are not income-producing. The financing of income-producing properties or related facilities, including farm service buildings, or other facility that might be used for commercial purposes, does not meet the fundamental objective of the SFHGLP, which is to address residential needs.

EXPIRATION DATE:
March 31, 2015

FILING INSTRUCTION:
Preceding RD Instruction 1980-D

This AN is intended to assist staff and lenders in qualifying properties for the SFHGLP. It is updated to confirm that a formal waiver letter to allow lending on properties with functional farm service buildings as described is not required. It also reiterates that additional property eligibility tests are required if the value of the site exceeds 30 percent of the total value of the property as described in 7 CFR 1980.313(d).

COMPARISON WITH PREVIOUS AN:

This AN replaces AN 4688 (1980-D), which expired October 31, 2013.

BACKGROUND:

Section 502 of the Housing Act of 1949, as amended, authorizes rural lending programs backed by the Federal government. 7 CFR 1980, Subpart D (also known as RD Instruction 1980-D) is the regulation which furnishes national policy and provides guidance under the statutory authorization. ANs serve to clarify the regulation as needed.

IMPLEMENTATION RESPONSIBILITIES:

An approved lender's underwriter bears primary responsibility for determining the eligibility of a property for the SFHGLP. Agency representatives in each state have the expertise and knowledge to assist approved lenders regarding questionable site eligibility.

The purpose of the loan guarantee is to expand the opportunities available to low and moderate income households seeking to acquire, as a primary residence, a rural dwelling and any "necessary related facilities." According to 7 CFR 1980.310(a), examples of necessary related facilities may include a garage or storage shed for consumer use.

This AN provides additional guidance surrounding the eligibility of properties with outbuildings. The presence of an outbuilding (or multiple outbuildings) in addition to the residential structure does not automatically establish the ineligibility of a property for SFHGLP financing.

The regulation does not require or prohibit the presence of a "related facility" to the dwelling, nor does the regulation establish limitations based upon the number of garages or total number of structures. Many rural properties have one or more buildings that qualify as a "necessary related facility." Irrespective of the presence of such related facilities on the site to be purchased, a property must be predominately residential in design, use, and character, and meet other program criteria to be eligible for SFHGLP financing.

State Offices cannot impose their own limitations on related facilities, and must defer to the regulation and guidance issued by the national office, including this AN. The following are general steps to consider when determining whether a property is qualified:

Step 1: Site and Building Requirements

The first step in the SFHGLP is to qualify the property. Farm-related property cannot be acquired under this program. Vacant land or properties used primarily for agricultural, farming, farm operation or commercial enterprise are ineligible.

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

The Agency considers a farm service building to be any of the structures used in farming operations, such as livestock barns and shelters; machinery-and farm supply-storage buildings; buildings and facilities for crop storage, including fodder; and special-purpose structures such as grain silos. Properties zoned non-farm, that include a farm service structure no longer used for agricultural, farming, farm operation or commercial enterprise require further analysis to determine eligibility.

Functional Farm Service Structures

A farm service structure is considered to be functional when it can be used for its intended design purpose without significant repair. For example, a barn structure is typically designed to house livestock and feed. If a barn can be used for this purpose without significant repair, regardless of the applicant’s intended use for the structure, then it is considered a functional farm service structure for rural housing purposes. This type of farm service structure typically adds value to the subject property, as evidenced by an appraisal report.

Rural non-farm acreage tracts often contain farm service structure outbuildings such as barns, and machine sheds that may have some functionality; however the tract of land is **not income-producing** and is **typical for residential properties in the area**. State Directors or their designees, may approve the purchase of a site with a functional farm service building **if the site is not income-producing**. A formal waiver issued by the State Director or their designee to allow this type of property is **not** required. This flexibility will allow financing through a guarantee on smaller tracts of land that, as one example, may have a structure designed for a horse, a calf, or a goat. **Properties primarily utilized for agricultural, farm operation or commercial enterprises continue to be ineligible**. Under the Uniform Standards of Professional Appraisal Practice (USPAP), licensed or certified appraisers will address the contributory value of all structures on the site. The value of a functional farm service structure must be deducted from the appraised value before computing the maximum loan amount.

Example:

Appraised value of site and structures:	\$100,000
Contributory value of the functional farm service structure:	<u>-\$10,000</u>
Net value adjustment:	\$90,000

Maximum loan amount for guarantee:	\$90,000
	+ any amount of the up- front guarantee fee financed

Non-Functional Farm Service Structures

Some rural properties have structures that were once used for agricultural production, but as a result of disuse or other circumstance these structures can no longer serve in the originally intended

capacity. In the case of a non-farm tract of land with a farm service structure that cannot be used for the purposes for which it was intended or designed without significant repair, the presence of the structure does not disqualify the property from consideration. For example, a dilapidated barn, in need of significant repair that may have once been used to house livestock and feed, is not considered a functional farm service structure. These types of structures offer little to no value as evidenced by an appraisal report. Often these non-functional farm service structures can be used for a storage shed, which is an eligible loan purpose.

Appraisal Report

Lenders are responsible for selecting a qualified appraiser to perform an appraisal that accurately reports the value of the site and all buildings on the subject property prior to requesting a Conditional Commitment for Loan Note Guarantee. Appraisers who do not accurately report the value of structures, or report “valueless” structures at the request of the originator based upon the type of financing will be reviewed under 7 CFR 1980.334.

Land Limitations

The amount of land associated with the residential purchase is limited by 7 CFR 1980.313(d) which indicates “*Generally, the value of the site must not exceed 30 percent of the total value of the property.*” If the site exceeds 30 percent of the total value of the property, two additional tests must be met to ensure the property is eligible: 1) the value of the site must be typical for the area, as evidenced by the appraisal; 2) the parcel cannot be subdivided into two or more sites. The additional tests are applicable when the site value exceeds 30 percent of the total value of the property. The regulation does not support imposing limitations on the area of land associated with the dwelling purchase. State Offices cannot impose arbitrary acreage limitations, such as 2 acres, 10 acres, 15 acres, etc.

Consider the following questions when qualifying the site and buildings:

<u>Question</u>	<u>Yes</u>	<u>No</u>
1) The property is in a designated rural area?		
2) The property is a nonfarm tract?		
3) Functional farm service buildings are not present?		
4) The value of the site is less than or equal to 30 percent of the total value of the property?		

If the response to each question is “yes,” continue to qualify the property with step 2.

If the response to questions 1 or 2 is “No”, then the property is not eligible for financing through the program. If the response to question 3 is “No” and a functional farm service building is present, deduct the contributory value from the maximum loan amount prior to including any up-front guarantee fee financed. Continue to qualify the property with step 2 below.

If the response to question 4 is “No” and the value of the site is greater than 30 percent of the total value of the property, continue with additional tests as referenced at 7 CFR 1980.313(d). Additional tests include determinations that (1) the value of the site is typical for the area, as evidenced by an

appraisal and (2) the site cannot be subdivided into two or more sites. If these test requirements are met, continue to qualify the property with step 2.

Additional regulation surrounding site access, water and waste disposal, etc. are noted at 7 CFR 1980.313.

Step 2: Identify Any Loan Limitations of the Proposed Property

For loan purposes, 7 CFR 1980 1980.311(a)(4) prohibits 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.”*

The presence of a building (or multiple buildings) other than the residential structure on the proposed property to be purchased does not automatically disqualify a property for eligibility under the SFHGLP. If the building is not a farm service building, is not currently utilized for income producing purposes, was not designed specifically for income producing purposes, and meets the general acceptability standards for existing property referenced in the Department of Housing Urban and Development (HUD) Handbooks 4150.2 and 4905.1, then lenders and Agency may proceed with the application.

Building types/structures that are eligible loan purposes under section 1980.310 include, but are not limited to workshops typical of residential use, garages and storage sheds (attached or detached).

As long as a property remains primarily residential in character, use and design, home-based operations, such as child care, product sales, or craft production, that do not require specific property features that would alter the design, character or residential use of the property are not restricted under the SFHGLP eligibility criteria related to income-producing property. Examples of restricted income producing property may include, but are not limited to, commercial tree farms, commercial equestrian riding arenas, boarding stables, and properties that generate wind turbine or cell tower revenue.

Consider the following questions to determine if the property is ineligible, or if a building is non-essential for rural housing purposes under 7 CFR 1980.311(a)(4):

<u>Question</u>	<u>Yes</u>	<u>No</u>
Is there income producing land?		
Are there buildings to be used <u>PRINCIPALLY</u> for income-producing purposes?		
Are there buildings <u>SPECIFICALLY DESIGNED</u> to accommodate a business or income-producing enterprise?		

If the response to each question is “No,” the property is eligible under this citation of the regulation, otherwise it is ineligible.

Lenders are encouraged to work closely with state Agency representatives who recognize the diverse geography, building types and generalities specific to their state. A full list of contacts may be found at:

<http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=GetRHContact&NavKey=contact@12>

Questions regarding this AN may be addressed to the Single Family Housing Guaranteed Loan Division at (202) 720-1452.