

Part 1924 - PROPERTY AND SUPPLY

Subpart F - Advertising in Publications

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PART 2024 - PROPERTY AND SUPPLY

SUBPART F - ADVERTISING IN PUBLICATIONS

§ 2024.251 General.

This Subpart delegates and assigns the authority and identifies the procedures for ordering and placing advertisements in newspapers and in other publications.

§ 2024.252 Delegation of Authority.

In accordance with Title 5, United States Code, Section 302, the Secretary of Agriculture has delegated authority to approve newspaper advertisements to agency heads of contracting activities with power of redelegation. (See, Agriculture Acquisition Regulation Section 405.502.) The Under Secretary, as a head of a contracting activity, herein redelegates the authority to State Directors to approve newspaper advertisements.

§ 2024.253 Responsibilities and Duties.

(a) State Directors. Each State Director has the authority to approve or to delegate the authority in writing, except to warranted procurement officials, to approve the publication of advertisements for the reasons set forth below:

- (1) for the sale of real property repossessed or under lien to Rural Development and its predecessor agencies in foreclosure, as required by state laws or by order of the court.
- (2) for the sale of all other acquired real property.
- (3) for the synopses of solicitations for prospective bidders/offerors for procurement/leasing actions.
- (4) for the public notification of office hours.
- (5) for the public notification of Rural Development program services.
- (6) for the recruitment of employees.

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(7) for services for any of the above that are necessary and that are provided by real estate brokers, management services companies, etc., as well as necessary supplies.

(b) Other United States Department of Agriculture (USDA) Officials. The Procurement Management Division and the Support Services Division for the Procurement and Administrative Services Staff will assist State Directors in fulfilling the advertising responsibilities identified in §2024.253(a), as needed, and wholly within their official program areas, by performing administrative duties including, but not limited to, assisting in the selection of appropriate print and non-print publications in which to advertise and processing requests to purchase advertisements.

(c) Legislative and Public Affairs Staff. The Director for Legislative and Public Affairs (LPAS) shall review and approve the text of advertisements related to the promotion of Rural Development programs prior to the purchase and publication of any advertisement. Advertisements related to the recruitment of prospective employees or the solicitation of bids and proposals do not need LPAS review or approval.

(d) Warranted Procurement Officials. Except for advertisements having an estimated value below the micro-purchase threshold and for which a purchase card may be used to purchase the advertisement, warranted procurement officials must issue the contract for the advertisements.

(e) General Counsel. When deemed necessary or as required by law or this instruction, State Directors shall obtain legal assistance, including the review of advertising text and other material relevant to the advertisement prior to publication, from the General Counsel. If a matter is in litigation and the Department of Justice (DOJ) is representing USDA, including any division, branch or office thereunder, advertisement of any matter pertaining to the litigation will be ordered and paid for by the DOJ using its own funds, unless the appropriate United States Attorney or delegate, to include an attorney in the DOJ's Commercial Litigation Department, advises the General Counsel that no funds are available for that purpose and the General Counsel concurs that the advertisement is necessary to further the interests of Rural Development in the litigation.

§ 2024.254 Scope and Nature of Advertisements.

The text of advertisements shall provide sufficient information to inform and to notify the public of facts relevant to the underlying program or mission being served by the advertisement. No advertisement may be authorized if the purpose of the advertisement is simply to promote the value of any office, program or individual, to curry favor or gain good will with the public or for any other self-aggrandizement purpose. The selection and choice of print and/or non-print publishers for advertisements shall be as broad or as limited as necessary, without regard to location, in order to ensure adequate dissemination of the advertisement to reach the target audience. For guidance purposes only, however, no advertisement for any single purpose should be placed in more than ten different print publications, and no more than five advertisements should be placed in the same print publication, except when:

- (a) the State Director authorizes additional advertisements in the same or additional print publications to ensure the public has been sufficiently notified; and/or
- (b) Federal or state law or a court directs otherwise.

§ 2024.255 Purchasing Advertisement.

- (a) Approval for Advertising in Newspapers. State Directors must approve in writing the purchase and publication of any advertisement in a newspaper. (This written approval does not apply to publication of advertisement in any other print publication or to broadcasting on radio or television.)
- (b) Estimated Cost or Price Below the Micro-Purchase Threshold. A single requirement for advertisement may not be split in order to ensure that the cost is or remains below the micro-purchase threshold for each purchase.
- (c) Commercial Rates. The cost or price to be paid for advertisement may not exceed the commercial rate(s) charged by the publisher to private entities and individuals, with the usual discounts.
- (d) Proof of Actual Publication. Proof of actual publication must be obtained regardless of the estimated cost or price of the advertisement and the method of purchase. The contracting officer must include the following statement in a contract for advertising:

"PROOF OF ADVERTISEMENT IN ORDER TO PROCESS INVOICE

Proof of actual publication must be submitted with the invoice. Forms of proof include a copy of the published advertisement or an affidavit by the publisher or broadcaster that the advertisement was actually published or broadcasted. The invoice and accompanying documents should be mailed within a reasonable time after publication."

(e) Funding Accounts/Classifications. The cost or price of advertising for the following administrative purposes shall be charged to the appropriate Salaries & Expenses (S&E) appropriation account:

- (1) The public notification of office hours;
- (2) The public notification of Rural Development program services;
- (3) The recruitment of employees; and
- (4) The synopses of solicitations for prospective supplies for procurement and/or leasing actions.
- (5) Advertising expenses that cannot be classified as administrative in nature and are associated with specific program loans, including the sale of real property repossessed or under lien, the sale of all other acquired real property, and those expenses associated with real estate brokers, suppliers, management services companies, etc., are to be charged to the appropriate program loan cost expense account as identified in RD Instruction 2024-A, Exhibit D.

§ 2024.256 Nondiscrimination.

If the advertisement is to inform the public about the sale of personal or real property, the text of the advertisement must also inform the public that the property will be sold without regard to a buyer's race, religion, color, sex, age, marital status or national origin.

§ 2024.257 Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) Integrated Mortgage Disclosures rule (TRID). (Revised 06-21-18, SPECIAL PN.)

All advertisements informing the public about the cost and terms of credit for housing and of an individual's right to cancel certain credit transactions resulting in a lien or mortgage on their home must comply with the provisions of TRID.

§ 2024.258 Compliance.

All Rural Development officials seeking to purchase advertisements must comply with this instruction and all other departmental and agency directives pertinent to the subject matter, including but not limited to Department Regulation (DR) 1490-001, "Broadcast Media and Technology Policy;" DR 1470-001, "Policy for Visual Communication Standards;" and DR 1480-001, "Photography Policy."

§§ 2024.259 - 2024.300 [Reserved]

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