CHAPTER 8: APPLICANT CHARACTERISTICS
7 CFR 3555.151

8.1 INTRODUCTION

Applicants seeking the assistance of a Single Family Housing Guaranteed Loan Program (SFHGLP) loan must meet the minimum applicant characteristics outlined in this chapter. Lenders must determine that the criteria have been met prior to analyzing the applicants' income, credit, and ratio qualifications.

8.2 APPLICANT ELIGIBILITY REQUIREMENTS

The lender must confirm the applicants meet the criteria for obtaining a SFHGLP guarantee prior to full analysis of the applicants' loan request.

A. Owning a Dwelling [7 CFR 3555.151 (e)]

Applicants who own an additional dwelling to which they will retain ownership may be eligible for a guaranteed loan. It is not the intent of the SFHGLP to assist applicants in building an investment portfolio. The loan applicants are limited to owning one single family housing unit, other than the house associated with the loan request.

Applicants may purchase another home if **all** the criteria below are met:

- The applicants are not financially responsible for another Agency guaranteed or direct home loan by the time the guaranteed home loan is closed;
- The applicants are financially qualified to own more than one house;
- The applicants will occupy the home financed with the guaranteed loan as their primary residence throughout the term of the loan; and
- The current home owned, whether adequate or inadequate, no longer meets the applicants' needs. Examples include, but are not limited to:
    - Relocation due to a new job opportunity.
    - Requires a larger home to provide for a growing family.
    - Obtaining a divorce and the ex-spouse will retain the dwelling.
    - Is a non-occupying co-owner or co-borrower on another mortgage loan and wants to purchase their own dwelling.

All documentation will be retained in the lender's permanent loan file and may be requested by the Agency upon review.

Repayment Income for rents received less than 24 months. Applicants retaining their existing dwelling must qualify for all mortgage liability payments. Rents received less than 24 months do not represent a stable continued source of income for repayment income and cannot be used when qualifying the loan request. The corresponding mortgage liability associated with the retained dwelling must be included in the debt ratio calculation. Refer to Chapter 9 for additional guidance on rental income.

Repayment Income for rents received 24 months or more. When applicants can demonstrate rental income is stable and dependable, as evidenced and documented with the most recent two years tax returns and a copy of the current written lease executed by the homeowner and the lessee, the net rental income can be considered for repayment ratios. IRS Form 1040 Schedule E is required to verify all rental income. Depreciation or depletion shown on Schedule E may be added back to the net income or loss for repayment income. Positive rental income is considered gross income for repayment income. Negative rental income must be treated as a recurring liability and included in the debt ratio calculation. Refer to Chapter 9 for additional guidance on rental income.

Annual Income Calculation. Any positive net rental income will be included in the calculation of annual income to determine eligibility of the household for the SFHGLP. Rental income must be considered in the annual income analysis regardless of its duration. Rental income, for annual income purposes, is considered the total rental real estate income amount reported on the most recent IRS Form 1040 Schedule E for the previous 12 months. In the absence of a Schedule E; canceled checks, money order receipts, bank statements, or other documentation may be used to support the amount of rents received for annual income purposes. Any negative net rental income is treated as zero for the purposes of calculating annual income.

Documentation. Refer to Chapter 9 for additional guidance on documentation requirements of rental income. Guidance on the process of entering rental income into the Guaranteed Underwriting System (GUS) is available at: https://www.rd.usda.gov/resources/usda-linc-training-resource-library, select GUS, Training, Real Estate Page.

B. Obtaining Credit [7 CFR 3555.151 (j)]

Form RD 3555-21, *Request for Single Family Housing Loan Guarantee*, requires both the lender and the applicants to certify that the applicants are unable to secure credit from other sources upon terms and conditions which the applicants can reasonably fulfill.

The certification can be made if the applicants will not meet the requirements to obtain a traditional conventional credit loan at loan closing. Traditional conventional credit is defined for Agency purposes as:

- The applicants have available personal non-retirement liquid verifiable asset funds of at least 20% of the purchase price that can be used as a down payment;

- The applicants can, in addition to the 20% down payment, pay all their closing costs associated with the loan;

- The applicants can meet qualifying ratios of no more than 28% PITI and 36% TD when applying the 20% down payment; and

- The applicants can demonstrate qualifying credit for such a loan. The conventional mortgage loan term is for a 30- year fixed rate loan term without a condition to obtain private mortgage insurance (PMI).

If the applicants meet the cumulative criteria of traditional conventional credit, as defined by the Agency above; the applicants are ineligible for the SFHGLP.

It remains the underwriter's responsibility to support the criteria of this Section. However, when the criteria identified in the first three bullet points above are met, documentation to support ineligibility for conventional credit should be submitted to the Agency as part of the complete loan application. In all cases, the lender will retain the documentation to support the applicants' ineligibility for conventional credit in their permanent loan file.

Liquid assets for conventional credit down payment purposes typically consist of cash or cash equivalents. Cash or cash equivalents include funds in the applicants' checking or savings accounts, sale proceeds from a real estate owned property, or investments in stocks, bonds, mutual funds, certificates of deposit, and money market funds, unless they are encumbered (pledged as collateral) or otherwise inaccessible without substantial penalty. Cash equivalents do not include funds in Individual Retirement Accounts, 401(k) accounts, Keogh accounts, or other retirement accounts that are restricted and may not be accessed without incurring substantial monetary penalties. Educational college savings plans, such as a 529 plan, which incur a penalty to withdraw, are not considered a cash equivalent. Owning land is not considered a liquid asset.

If the applicants have ownership in a business, or are self-employed, the lender should closely review the asset accounts to verify assets are not transferred between a personal account and a business account and vice versa. These accounts should function as two separate financial tools, one for personal transactions and one for business transactions. In the event the assets from the business account and personal account are co-mingled, the co-mingled assets would need to be included in the test for obtaining credit.

C. Occupying the Property [7 CFR 3555.151(c)]

Applicants must agree to personally occupy the dwelling as a principal residence throughout the term of the loan. Bona fide occupancy in the home as the applicants' principal residence within 60 days after signing the security instruments is required.

- **Active duty military applicants.** Active duty military applicants may be eligible for the SFHGLP. They must occupy the property as their principal residence. The military applicants must express intent to meet occupancy requirements upon his/her discharge from the service. A military service member who cannot physically reside in a property because they are on active duty will be considered to meet occupancy requirements defined in §3555.10 of 7 CFR 3555 if:

    - The service member's family will continue to occupy the property as their principal residence. Refer to Attachment 9-A, for additional guidance on calculating military income for repayment of the loan request.

- **Student applicants.** Due to the probability of relocation after graduation, full-time students cannot obtain loans unless they intend to make the home a permanent residence and there are reasonable prospects of securing employment in the area after graduation.

D. Having Legal Capacity [7 CFR 3555.151(f)]

Applicants must be considered an adult under State law and must have the legal capacity to incur the loan obligation. Applicants with a court-appointed guardian or conservator, empowered to obligate the applicant in real estate matters, are eligible for a loan. Applicants must be an individual, not a trust, corporation, or partnership.

E. Not Having a Suspension or Debarment [7 CFR 3555.151(g)]

Individuals who have been suspended or debarred from participation in Federal programs are not eligible for a guaranteed loan. Applicants that have been excluded from a non-housing federal program continue to be eligible to participate in the SFHGLP, unless the individual becomes suspended or debarred pursuant to 2 CFR Part 180 and 417. Applicants that are excluded from federal housing programs or excluded from all federal programs are ineligible to participate in SFHGLP.

The approved lender, or their agent, is responsible for screening the applicants and all others who are parties to the transaction such as:

- Loan Officer
- Loan Processor
- Underwriter
- Appraiser
- Surveyor
- Builder
- Title Company
- Closing Agent

on the U.S. General Services Administration's (GSA) System for Award Management at https://sam.gov/content/exclusions as part of their eligibility determination of applicants. The lender must use due diligence in determining if the applicants are suspended or debarred and eligible for the program. Lenders must retain documentation in their permanent loan file to support their decision. The above list is not all inclusive as the lender is responsible for determining all parties involved in the transaction.

Lenders who utilize an automated method that creates a report, similar to a watch list, which performs a check of the SAM website, will meet the criteria of this check. The results of the SAM check including date and screen print will be retained in the lender's permanent loan file. The SAM check should occur prior to the request for Conditional Commitment and no greater than 30 days prior to loan closing; otherwise, the lender will update their documentation by performing another check of SAM. Rural Development staff is not required to rescreen applicants upon request of a loan guarantee. During submission of the application, the lender will verify a SAM check was performed by documenting the date in GUS. For loan types not supported by GUS (manually submitted) the lender will provide the date the SAM check was completed and identify if the party to the transaction is debarred when submitting the file to Rural Development for issuance of a Conditional Commitment. Additional guidance on this process can be located following Step 3, "E-mail the Appropriate Production Team" of the Manual Submission Job Aid, located at https://www.rd.usda.gov/resources/usda-linc-training-resource-library, in the "Loan Origination" tab, "Documents and Resources", "Manual Submission Job Aid".

F. Having Acceptable Citizenship or Immigration Status [7 CFR 3555.151 (b)]

The applicants must be a U.S. citizen, a U.S. non-citizen national, or a qualified alien as identified in Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (8 U.S.C. Section 1611). Lenders must secure and retain acceptable documentation to determine whether the applicants for a guaranteed loan are U.S. citizens, U.S. non- citizen nationals, or "qualified aliens." In all cases, non-U.S. citizens legally admitted into the United States will have a United States Citizenship and Immigration Services (USCIS) number. In the rare occasion where a number is not available or known, the applicants should contact the USCIS.

For all file submissions, the lender is responsible for documenting the applicants' legal residency. The lender is responsible to collect any necessary documents needed to validate eligibility. By submitting the request for a Conditional Commitment to the Agency, the lender represents and warrants that the non-U.S. citizen applicant is legally present in the United States and meets the eligibility requirements of the SFHGLP.

This program is available to individuals who receive a loan note guarantee under the SFHGLP who:

- Reside as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, Federated States of Micronesia, and the Republics of the Marshall Islands and Palau; or,
- A non-citizen national who resides in one of the foregoing areas after being legally admitted to the U.S. for permanent residence or on indefinite parole.

The term "indefinite parole" is no longer a term used by the Citizenship and Immigration Service (CIS), formerly the Immigration and Naturalization Service (INS).

Generally, a U.S. non-citizen national is a person born in American Samoa or Swains Island or after the date the U.S. acquired American Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport. Persons who are non-citizen nationals are eligible for consideration.

Aliens must provide acceptable evidence that they are qualified aliens. A qualified alien is defined under PRWORA (8 U.S.C. Section 1641) as:

- An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA); or
- An alien who is granted asylum under section 208 of such Act; or

- A refugee who is admitted to the United States under section 207 of such Act; or
- An alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year; or
- An alien whose deportation is being withheld under sections 243(h) or 241(b)(3) of such Act, as amended; or
- An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980; or
- An alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980; or
- An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act.

In addition to the categories of qualified aliens described above, Native Americans born in Canada may also be eligible as lawfully admitted for permanent residence. The documentation described above may be unavailable.

To establish the applicants are qualified aliens, the Native American should provide **all** of the following documentation:

- A letter from their Native American tribe stating that the alien has at least 50 percent Native American or Aboriginal blood (also referred to as the blood quantum);
- Their Canadian "Certificate of Indian Status Card" with a red stripe along the top;
- Their birth certificate;
- If a Haudenosaunee, their Red I.D. Card;
- If an Inuit, an Inuit enrollment card from one of the regional Inuit lands claim agreements;
- Their social security card issued by the U.S. Social Security Administration; and
- Their Canadian or United States driver's license.

8.3 TRUTHFUL APPLICATION

The integrity of the information presented in the mortgage application process is of the utmost importance. Applicants and lenders should be aware that they will be held

responsible for the validity of the information submitted to the Agency. Applicants must provide truthful information when applying for a guaranteed loan. Applicants who provide false information, or who fail to disclose relevant information, will be denied a guaranteed loan. Falsification of information or disclosure can jeopardize any issuance of a Loan Note Guarantee or continued eligibility of the approved lender, depending on the severity of the action.

The types of information covered by this policy include all documentation and information submitted by the approved lender when requesting a Conditional Commitment, Loan Note Guarantee, or servicing action request. Fraud or other criminal misconduct in connection with loan applicants will be reported to the appropriate office or Agency as required by state or federal law. These include the Office of Inspector General, state agencies, or other entities that may take whatever action is required by law.

Any intentional or negligent misrepresentation of information contained in the application package may result in civil liability, including monetary damages, to any person who may suffer any loss due to reliance upon any misrepresentation made on the application and/or in criminal penalties including but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Sec. 1001, et seq.