

## CHAPTER 8: APPLICANT CHARACTERISTICS

### 7 CFR 3555.151

#### 8.1 INTRODUCTION

Applicants seeking the assistance of a 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 applicant's income, credit, and ratio qualifications.

#### 8.2 APPLICANT ELIGIBILITY REQUIREMENTS

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

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

An applicant who owns a dwelling to which they will retain ownership may be eligible for a guaranteed loan. It is not the intent of the SFHGLP to assist borrowers in building an investment portfolio. The loan applicant is 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 applicant is financially qualified to own more than one house;
- The applicant 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.

Paragraph 8.2 Applicant Eligibility Requirements

- 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 rental income guidance.

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 rental income guidance.

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 of this Handbook for additional information surrounding documentation requirements of rental income. Guidance on the process of entering rental income into GUS is available by viewing the GUS "Real Estate Page" training posted to the following resource site: <https://www.rd.usda.gov/page/usda-linc-training-resource-library>.

## B. Obtaining Credit

Form RD 3555-21, *Request for Single Family Housing Loan Guarantee*, requires both the lender and the applicant to certify that the applicant is unable to secure credit from other sources upon terms and conditions which the applicant can reasonably fulfill. The certification can be made if the applicant 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 applicant has 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 applicant can, in addition to the 20% down payment, pay all their closing costs associated with the loan;
- The applicant can meet qualifying ratios of no more than 28% PITI and 36% TD when applying the 20% down payment; and
- The applicant demonstrates 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 applicant meets the cumulative criteria of traditional conventional credit, as defined by the Agency above; the applicant is 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 applicant's ineligibility for conventional credit in their permanent case 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 applicant's 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.

### **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 applicant's 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 applicant must express intent to meet occupancy requirements upon his/her discharge from the service. A military serviceperson 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 serviceperson's family will continue to occupy the property as their principal residence. See Chapter 9 for additional information 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)]**

The applicant must be considered an adult under State law and must have the legal capacity to incur the loan obligation. An applicant with a court-appointed guardian or conservator, who is empowered to obligate the applicant in real estate matters, is eligible for a loan. An applicant is 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. The approved lender, or their agent, is responsible for screening the applicant(s) and all others who are parties to the transaction such as:

- Seller(s)
- Listing or selling real estate agent

- Loan Officer
- Loan Processor
- Underwriter
- Appraiser
- Property Inspector, or
- Builder

on the U.S. General Services Administration's (GSA) System for Award Management ([SAM.GOV](https://sam.gov)) website as part of their eligibility determination of the applicant. 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 file. Additionally, during submission of the application the lender will ensure a SAM check was performed by documenting the date in GUS and/or on Form RD 3555-21, *Request for Single Family Housing Loan Guarantee*. The 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 an applicant upon request of a loan guarantee.

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

USDA has issued a temporary waiver for individuals with a valid social security number and work authorization, as evidenced by documentation such as an Employment Authorization Document (EAD), Form I-766, issued by the U.S. Department of Homeland Security, to participate in the SFHGLP. Unless extended, this waiver will expire on May 2, 2023.

Under the waiver, the lender will be responsible for securing acceptable documentation confirming the non-U.S. citizen meets the citizenship status for the SFHGLP eligibility and retain in their permanent loan file. The evidence confirming the applicant's eligibility status may be obtained after the lender has received an application. The lender should obtain the non-U.S. citizen's identification number with copies of any supporting documents, which will be maintained in the lender's permanent case loan file. In all cases, non-U.S. citizens legally admitted into the United States will have a USCIS number. In the rare occasion where a number is not available or known, the applicant should contact the USCIS.

The applicant 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 and the Agency must determine whether the applicant for a guaranteed loan is a U.S. citizen, a U.S. non-citizen national, or a “qualified alien”. The Agency has access to the Systematic Alien Verification for Entitlements (SAVE) Program. SAVE is administered by U.S. Citizenship and Immigration Services, a component of the Department of Homeland Security.

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 or through the SAVE Program may be unavailable.

To establish the applicant(s) is a qualified alien, 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 U.S. driver license.

Under the waiver, the lender will be responsible for securing acceptable documentation confirming the non-U.S. citizen meets the citizenship status for the

SFHGLP eligibility and retain in their permanent loan file. The evidence confirming the applicant's eligibility status may be obtained after the lender has received an application. The lender should obtain the non-U.S. citizen's identification number with copies of any supporting documents, which will be maintained in the lender's permanent case loan file. In all cases, non-U.S. citizens legally admitted into the United States will have a USCIS number. In the rare occasion where a number is not available or known, the applicant should contact the USCIS.

For GUS file submissions, lenders will have the ability to obtain SAVE results to validate the applicant's eligibility status. Lenders will enter the requested applicant's information into the "Additional Data" tab in GUS and, in most cases, will receive an instant result of the applicant's eligibility status. A second and third check may be required if an immediate response is not received. Specific guidance on utilizing GUS to obtain the applicant's eligibility status is available by viewing the GUS "Additional Data" training posted to the following resource site: <https://www.rd.usda.gov/page/usda-linc-training-resource-library>.

For file submissions unsupported by GUS, the lender will submit **all** applicant's non-U.S. citizens documentation with the complete application submission and the Agency will verify eligibility status via SAVE.

### **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 issue 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 his or her application 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.