

(10) Mark West Springs, California Quadrangle, 7.5 Minute Series, edition of 1998, and

(11) Jimtown, California Quadrangle—Sonoma Co., 7.5 Minute Series, edition of 1993.

(c) *Boundaries.* \* \* \*

\* \* \* \* \*

(8) Proceed southeast along the Bohemian Highway, crossing over the Camp Meeker map, to the town of Freestone, where the Highway intersects at BM 214 with an unnamed medium-duty road (known locally as Bodega Road, section 12, T6N, R10W, on the Valley Ford map).

(9) Proceed 0.9 mile northeast on Bodega Road to its intersection, at BM 486, with Jonvive Road to the north and an unnamed light duty road to the south, (known locally as Barnett Valley Road, T6N, R9W, on the Camp Meeker map).

(10) Proceed 2.2 miles south, followed by east, on Barnett Valley Road, crossing over the Valley Ford map, to its intersection with Burnside Road in section 17, T6N, R9W, on the Two Rock map.

(11) Proceed 3.3 miles southeast on Burnside Road to its intersection with an unnamed medium duty road at BM 375, T6N, R9W, on the Two Rock map.

(12) Proceed 0.6 mile straight southeast to an unnamed 610-foot elevation peak, 1.5 miles southwest of Canfield School, T6N, R9W, on the Two Rock map.

(13) Proceed 0.75 mile straight east-southeast to an unnamed 641-foot elevation peak, 1.4 miles southwest of Canfield School, T6N, R9W, on the Two Rock map.

(14) Proceed 0.85 mile straight northeast to the intersection with an unnamed intermittent stream and Canfield Road; continue 0.3 mile straight in the same northeast line of direction to its intersection with the common boundary of Ranges 8 and 9, just west of an unnamed unimproved dirt road, T6N, on the Two Rock map.

(15) Proceed 1.8 miles straight north along the common Range 8 and 9 boundary line to its intersection with Blucher Creek, T6N, on the Two Rock map.

(16) Proceed 1.25 miles generally northeast along Blucher Creek to its intersection with Highway 116, also known as Gravenstein Highway, in section 18, T6N, R8W, on the Two Rock map.

(17) Proceed 0.2 mile straight southeast along Highway 116 to its intersection with an unnamed light duty road to the north in section 18, T6N, R8W, on the Two Rock map.

(18) Proceed 0.1 mile straight northwest along the unnamed light duty road to its intersection with an unnamed medium-duty road to the east, (known as Todd Road in Section 18, T6N, R8W, on the Two Rock map).

(19) Proceed 4.8 miles east, north, and east again along Todd Road, a medium-duty road, crossing over the Sebastopol map and then passing over U.S. Highway 101 and continuing straight east 0.1 mile to Todd Road's intersection with Santa Rosa Avenue, a primary road that is generally parallel to U.S. Highway 101, in section 2, T6N, R8W, on the Santa Rosa map.

(20) Proceed 5.8 miles generally north along Santa Rosa Avenue, which becomes Mendocino Avenue, to its intersection with an unnamed secondary road, known locally as Bicentennial Way, 0.3 mile north-northwest of BM 161 on Mendocino Avenue, section 11, T7N, R8W, on the Santa Rosa map.

(21) Proceed 2.5 miles straight north, crossing over the 906-foot elevation peak in section 35 of the Santa Rosa map, to its intersection with Mark West Springs Road and the meandering 280-foot elevation in section 26, T8N, R8W, of the Mark West Springs map.

(22) Proceed 4.8 miles north-northwest along Mark West Springs Road, which becomes Porter Creek Road, to its intersection with Franz Valley Road, a light-duty road to the north of Porter Creek Road, in section 12, T8N, R8W, on the Mark West Springs map.

\* \* \* \* \*

Signed: January 24, 2005.

**John J. Manfreda,**

*Administrator.*

[FR Doc. 05-1667 Filed 1-28-05; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

**RIN 2900-AK97**

#### Time Limit for Requests for *De Novo* Review

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** In a document published in the *Federal Register* at 67 FR 10866 on March 11, 2002, the Department of Veterans Affairs (VA) proposed to amend its adjudication regulations concerning the time a claimant has in which to request a *de novo* review of a decision at the Veterans Service Center

level after filing a Notice of Disagreement. This document withdraws that proposed rule.

**DATES:** The proposed rule is withdrawn as of January 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Maya Ferrandino, Consultant, Policy and Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Ave., NW., Washington, DC 20420, telephone (202) 273-7232.

**SUPPLEMENTARY INFORMATION:** Currently, a claimant who disagrees with a decision by a Veterans Service Center may appeal that decision by filing a notice of disagreement (NOD). Under 38 CFR 3.2600, a claimant who has filed a timely NOD may also obtain *de novo* review of the decision of the Veterans Service Center by requesting such review with the NOD or within 60 days after the date that VA mails notice of the availability of *de novo* review. We proposed reducing that 60-day period to 15 days. However, we have determined that revision of the *de novo* review process is unnecessary at this time. Therefore, we are withdrawing the proposal.

Approved: December 17, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

**RIN 2900-AK76**

#### Loan Guaranty: Prepurchase Counseling Requirements

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Department of Veterans Affairs (VA) published a proposed rule in the *Federal Register* on October 11, 2001 (66 FR 51893) to amend its loan guaranty regulations that set forth underwriting standards for VA guaranteed loans. We had proposed to require first-time homebuyers to complete homeownership counseling and to add a compensating factor for certain veterans who do not fully meet VA's underwriting standards. However, the proposed rule and comments have been superseded by recently-adopted requirements established by the Department of Defense mandating such counseling for all enlistees and by VA's decision to provide a link to the Government National Mortgage

Association (Ginnie Mae's) Homeownership Information Center, which provides a wide array of information for homebuyers pertaining to the homebuying process, mortgage affordability, loan calculators, credit counseling, etc. Accordingly, this document hereby withdraws the proposed rule.

**DATES:** The proposed rule is withdrawn as of January 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** R.D. Finneran, Assistant Director for Loan Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 273-7368.

Approved: December 17, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

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## POSTAL RATE COMMISSION

### 39 CFR Part 3001

[Docket No. RM2005-2; Order No. 1429]

#### Solicitation of Comments on First Use of Rules Applicable to Negotiated Service Agreements

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document addresses the solicitation of comments in a proceeding to consider potential changes to the Commission rules for considering functionally equivalent Negotiated Service Agreements. These comments will be used to evaluate whether improvements should be made to the rules to facilitate the Commission's review of future requests predicated on functionally equivalent Negotiated Service Agreements.

**DATES:** Initial comments: February 28, 2005; reply comments: March 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6818.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

68 FR 52552, September 4, 2003. 69 FR 7574, February 19, 2004.

On February 11, 2004, the Commission promulgated rules applicable to the review of Postal Service requests predicated on baseline and functionally equivalent Negotiated Service Agreements.<sup>1</sup> The Postal Service

<sup>1</sup> Order Establishing Rules Applicable to Requests for Baseline and Functionally Equivalent

first invoked the rules applicable to functionally equivalent Negotiated Service Agreements (39 CFR 3001.196) in requests filed on June 21, 2004, for proposed Negotiated Service Agreements with Discover Financial Services, Inc. (Discover) and Bank One Corporation (Bank One).<sup>2</sup> Both agreements were proffered as functionally equivalent to the recently recommended Negotiated Service Agreement with Capital One Services, Inc. (Capital One).<sup>3</sup> The Postal Service has not submitted a request for a new baseline agreement. Thus, the rules for new baseline Negotiated Service Agreements (39 CFR 3001.195) remain untested.

PRC Order No. 1391 at 48 explains the purpose of the rules applicable to functionally equivalent Negotiated Service Agreements:

The purpose of § 3001.196 is to provide an opportunity to expedite the review of a request for a functionally equivalent Negotiated Service Agreement by allowing the proponents of the agreement to rely on relevant record testimony from a previous docket. This potentially could expedite the proceeding by avoiding the need to re-litigate issues that were recently litigated and resolved in a previous docket.

Once the Commission determines that it is appropriate to proceed under rule 196, a procedural schedule is established to allow for issuing a decision within 60 days if no hearing is scheduled, or within 120 days if a hearing is scheduled. In both the Discover and the Bank One dockets, the participants requested hearings, the hearings were scheduled, and schedules were initially established to allow for a decision to be issued within 120 days.<sup>4</sup>

The Commission recommended that the Postal Service enter into the Negotiated Service Agreement with Discover 72 days after making the decision to hear the request under the rules for functionally equivalent Negotiated Service Agreements (101 days after the filing of the request).<sup>5</sup> This was well within the 120 day time

Negotiated Service Agreements, PRC Order No. 1391, February 11, 2004. The rules applicable to Negotiated Service Agreements are incorporated into the Commission's rules at subpart L.

<sup>2</sup> Request of the United States Postal Service for a Recommended Decision on Classifications, Rates and Fees to Implement Functionally Equivalent Negotiated Service Agreement with Discover Financial Services, Inc., June 21, 2004; Request of the United States Postal Service for a Recommended Decision on Classifications, Rates and Fees to Implement Functionally Equivalent Negotiated Service Agreement with Bank One Corporation, June 21, 2004.

<sup>3</sup> PRC Op. MC2002-2, May 15, 2003.

<sup>4</sup> In both instances, the requests for hearings were withdrawn before the hearings occurred.

<sup>5</sup> PRC Op. MC2004-4, September 30, 2004.

frame contemplated by the rules. The Commission found the Discover Negotiated Service Agreement functionally equivalent, albeit not identical, to the Capital One Negotiated Service Agreement, and recommended the request only with minor modification. Proceeding under the rules for functionally equivalent Negotiated Service Agreements successfully developed a sufficient record upon which to issue a decision and expedited the procedural schedule as envisioned when the rules were first developed.

Application of the rules for a functionally equivalent Negotiated Service Agreement in the Bank One docket also was successful. A sufficient record upon which to base a decision was developed, and the docket was expedited through reliance on record testimony from the previous Capital One docket. However, due to the complexity of the specific issues involved, procedural issues that arose, and more extensive than anticipated litigation and negotiation, issuing the decision exceeded the 120 day procedural schedule by 27 days. The Commission recommended that the Postal Service enter into the Negotiated Service Agreement with Bank One 147 days after making the decision to hear the request under the rules for functionally equivalent Negotiated Service Agreements (179 days after the filing of the request).<sup>6</sup>

A large number of unusual issues delayed a decision on the Bank One Negotiated Service Agreement. The testimony of Bank One witness Buc was filed seven days late, with no indication in the initial request that additional testimony was forthcoming. Potential intervenors were not alerted to important differences between the baseline and the proffered functionally equivalent agreement by less than full compliance with rule 196(b)(2). Within two weeks of the filing of the request, Bank One merged with J. P. Morgan Chase, requiring additional discovery efforts, and creating uncertainty over how to analyze the initial request. The Bank One Negotiated Service Agreement as proposed was not functionally equivalent to the Capital One Negotiated Service Agreement.<sup>7</sup> Participants

<sup>6</sup> PRC Op. MC2004-3, December 17, 2004.

<sup>7</sup> Significantly, the request did not provide for adequate protection of mailers not party to the agreement (for example, an equivalent to the stop-loss cap as recommended in the Capital One docket was not proposed even though similar risks were apparent). As recommended, after modification, the Bank One Negotiated Service Agreement is functionally equivalent to the Capital One Negotiated Service Agreement.