

Loan Specialist or Chief may also participate in the inspections.

3. Cost overruns, if any, and how they will be met. State Directors may approve cost overruns for projects in any amount or percentage within their loan approval authority not to exceed 10 percent in loan amounts between \$1 million and \$10 million.

4. Basic credit requirements of all loans.

B. In all cases, the Program Chief or the B&I Loan Specialist will conduct a preguarantee review before issuance of the Loan Note Guarantee and Loan Agreement have been met including the required certifications using language specified by the regulations, and will provide such verification in the loan file, including arrangements for annual audit reports. In the conduct of this review, all requirements of §1980.60(a) of Subpart A of this part will be reviewed and special attention should be paid to reviewing current financial statements of the borrower to assure that no adverse change has taken place. The District Director may participate in the review.

C. The State Director or any other FmHA or its successor agency under Public Law 103-354 personnel shall not sign any documents other than those specifically provided for in Subparts A or E of this part. No certificates shall be signed except the "Certificate of Incumbency and Signature" as set forth as Appendix B of this subpart.

D. *Par (a) Transfer of Lender.* The State Director will analyze all requests for substituted lenders including the servicing capability, eligibility and experience of the new lender before the request is approved. If approved, notify the Finance Office of the change using Form FmHA or its successor agency under Public Law 103-354 1980-42. Do not deobligate and reobligate the loan if the Form FmHA or its successor agency under Public Law 103-354 449-14 was issued in a previous fiscal year.

E. *Par (b) Substitution of borrowers.* The State Director will review any request for exceptions to substitution of borrowers and forward such requests with a memorandum of facts and recommendations to the National Office for a decision. The National Office will not approve any request where the legal entity is changed, such as from a corporation to a partnership, etc., or if the ownership changes more than 20 percent.

F. *Par (c) Changes in terms and conditions in Form FmHA or its successor agency under Public Law 103-354 449-14.* The State Director will review any request for changes to Form FmHA or its successor agency under Public Law 103-354 449-14. Only those changes which do not materially affect the project, its capacity, employment, original projections or credit factors may be approved. Changes in legal entities or where tax considerations are

the reason for change will not be approved when modifying any loan guarantee or conditions of guarantee. State Directors may approve these changes in terms and conditions if the loan is within the State Director's loan approval authority and the change will not result in a major change in the scope of the project. Changes in terms and conditions for loans in excess of the State Director's loan approval authority, must be submitted to the National Office with a memorandum of facts and recommendations for review and concurrence.

In order to identify the number and types of action taken, the following procedures are to be followed when requests of this type are approved by FmHA or its successor agency under Public Law 103-354.

1. Start with the number 1 when the first modification is approved and enter this number in the upper right hand corner of the Letter of Concurrence and on the related "Modification or Administration Action" sheet.

2. Next to the modified wording on the work copy of the Conditional Commitment for Guarantee and the Term Loan Agreement or any form which has been modified, pencil in a short cross reference to the modification and identify the number given it.

3. File the copies of the "Modification or Administrative Action" sheet and related Letters of Concurrence numerically in the docket directly on top of the affected original documents of conditions.

4. This order of recordkeeping should include any requests which were declined by the National Office.

[52 FR 6501, Mar. 4, 1987, as amended at 53 FR 26413, July 12, 1988; 57 FR 4359, Feb. 5, 1992; 61 FR 18495, Apr. 26, 1996]

§§ 1980.455-1980.460 [Reserved]

§ 1980.461 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement.

[See §1980.61 of Subpart A, of this part]

Administrative

A. *Par (a) of Subpart A, §1980.61.* The original Form FmHA or its successor agency under Public Law 103-354 449-35 will be retained in the FmHA or its successor agency under Public Law 103-354 loan file.

B. *Par (b)(1) of Subpart A, §1980.61.* Copies of all issued Loan Note Guarantees will be kept in the FmHA or its successor agency under Public Law 103-354 loan file.

C. *Par (b)(2) of Subpart A, §1980.61.* The State Director will approve all substitutions of Loan Note Guarantee or Contracts of Guarantee.

§§ 1980.462–1980.468

D. It is imperative that the original loan covered by a Contract of Guarantee is current.

E. *The Registered Holder will transmit to the State Director:* 1. Request for substitution together with the original Contract of Guarantee.

2. Copies of the notes with lender's identification numbers. (All requirements of the Lender's Agreement will be complied with before any new notes are issued.)

3. Certification that the loan is current and in good standing.

4. Certification of outstanding principal amount of the loan.

5. Executed Lender's Agreement. (FmHA or its successor agency under Public Law 103-354 provides form to Lender).

6. Executed Form FmHA or its successor agency under Public Law 103-354 1980-19. (See § 1980.21 of Subpart A of this part for calculation of fee due).

7. Payment for appropriate guarantee fee.

F. *State Director will:* 1. Review all the requirements of Paragraph E of this section.

2. Verify the submitted request and if in order, send the guarantee fee and Form FmHA or its successor agency under Public Law 103-354 1980-19 to Finance Office with a notation of the date the new Loan Note guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for recordkeeping purposes).

3. Complete the Loan Note Guarantee (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated ____." The State Director will transfer from the Contract of Guarantee all information pertaining to the Loan Note Guarantee.

4. Execute Lender's Agreement.

5. Cancel the original Contract of Guarantee.

6. Transmit to the lender the original Loan Note Guarantee and a copy of executed Lender's Agreement and retain in the loan file copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, a copy of Form FmHA or its successor agency under Public Law 103-354 1980-19 and the original Lender's Agreement.

All applicable provisions of this subpart and Subpart A of this part apply to the loan when the Loan Note Guarantee is signed.

G. *Alternate Procedure:* If the Registered Holder does not want to deliver the original contract of Guarantee with his/her request for substitution, the State Director will accept a copy of the Contract of Guarantee and proceed as above. However, the Loan Note Guarantee will be delivered only upon receipt of the original Contract of Guarantee.

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H. *Par (b)(3) of Subpart A, § 1980.61.* For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

I. *Par (b)(4) of Subpart A, § 1980.61.* The State Director will notify the Finance Office of the transaction.

J. *Par (d) of Subpart A, § 1980.61.* A copy of Form FmHA or its successor agency under Public Law 103-354 449-36 will be kept and a copy of executed Lender's Agreement retained in loan file along with copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, copy of Guarantee Fee Report and the original Lender's Agreement.

K. *Par (e) of Subpart A, § 1980.61.* State Director signs all Forms FmHA or its successor agency under Public Law 103-354 449-13, "Denial Letter."

L. *Par (g) of Subpart A, § 1980.61.* The State Director will: 1. Review Form FmHA or its successor agency under Public Law 103-354 1980-19 for completeness.

2. Deposit the guarantee fee through concentration banking and include the amount in the total collections on the Daily Activity Report.

3. Submit Form FmHA or its successor agency under Public Law 103-354 1980-19, Guaranteed Loan Closing Report with the Daily Activity Report and other attachments to Finance Office in the salmon envelope marked "CR". This form is used *in lieu* of the 451-2, "Schedule of Remittance."

4. On the Daily Activity Report, Form 1980-19 will be counted as one in the item count as if it were a card or coupon.

5. Ascertain that originals or copies, as appropriate, are retained in the FmHA or its successor agency under Public Law 103-354 Loan file.

§§ 1980.462–1980.468 [Reserved]

§ 1980.469 Loan servicing.

The lender is responsible for loan servicing and for notifying the FmHA or its successor agency under Public Law 103-354 of any violations in the Lender's Loan Agreement. (See Paragraph X of Form FmHA or its successor agency under Public Law 103-354 449-35).

(a) All B&I guaranteed loans in the lender's portfolio will be classified by the lender as soon as it is notified by the State Office to do so and again whenever there is a change in the loan which would impact on the original classification. The State Director will notify the lender of this requirement for all existing loan guarantees, when