

**§ 1980.844**

is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA or its successor agency under Public Law 103-354.

(b) Security must be of such a nature that repayment of the loan is reasonably assured when considered with the integrity and ability of project management, soundness of the project, and the applicant's prospective earnings. The security may include but is not limited to the following: General Obligation Bonds, pledge of taxes or assessments, facility revenue, land, easements, rights-of-way, water rights, buildings, machinery, equipment, accounts receivable, contracts, and cash or other accounts. Security may also include assignments of leases or leasehold interest.

(c) All security must secure the entire loan. The lender will not take separate security to secure only the unguaranteed portion of the loan. The lender will not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan.

**§ 1980.844 Appraisal reports.**

The borrower is responsible for the acquisition of all property rights necessary for the project and will determine that prices paid are reasonable and fair.

[64 FR 28336, May 26, 1999]

**§§ 1980.845-1980.850 [Reserved]**

**§ 1980.851 Processing applications.**

(a) *Preapplications.* (1) The County Office may handle initial inquiries and provide basic information about the program. They are to provide Standard Form (SF) 424.1 or 424.2, "Application for Federal Assistance." The County Supervisor will assist borrowers as needed in completing SF-424 and in filing written notice of intent and request for priority recommendations with the appropriate clearinghouse (except Federally recognized Indian tribes which will be dealt with in accordance with §1940.453(c) of subpart J of part 1940 of this chapter). The County Supervisor will inform the borrower that if credit for the project is available

from commercial sources without the guarantee at reasonable rates and terms, the borrower is not eligible for a loan guaranteed by FmHA or its successor agency under Public Law 103-354. Preapplications filed in the County Office will be forwarded immediately to the District Office. The applicant/borrower will be informed that further processing will be handled by the District Office. An information folder will be established and maintained by the County Office once a preapplication is received. In the event the preapplication is filed in the District Office, the District Director may assist the borrower in completing the preapplication requirements. The District Director will meet with the borrower/applicant, whenever appropriate, to discuss FmHA or its successor agency under Public Law 103-354 preapplication processing. The appropriate information to set up the County Office information file will be sent to the County Supervisor by the District Director. Guidance and assistance will be provided by the State Director, as needed, for orderly application processing. The District Director will determine that the preapplication is properly completed and fully reviewed. The District Director will then forward the preapplication package to the State Director. The preapplication package will contain:

- (i) Eligibility determination and recommendations.
- (ii) One copy of SF-424.
- (iii) State intergovernmental review comments and recommendations for the borrower's project (clearinghouse comments.)
- (iv) Priority recommendations.
- (v) Supporting documentation necessary to make an eligibility determination, such as financial statements, audits, or copies of organizational documents or existing debt instruments. The District Director will advise borrowers/applicants on what documents are necessary. Borrowers should not be required to expend significant amounts of money or time developing supporting documentation at the preapplication stage.
- (vi) Information on applicant.

(2) The State Director will review each SF-424 along with other information that is deemed necessary to determine whether financing from commercial sources at reasonable rates and terms is available without a guarantee. If credit elsewhere is indicated, the State Director will instruct the District Director to so inform the applicant.

(3) If preapplication information indicates the project is ineligible, does not have sufficient priority, or that funds or guarantee authority are not available for the project, FmHA or its successor agency under Public Law 103-354 will so inform the applicant. The applicant will be notified in writing with all reasons for the decision indicated. If it appears that the project is eligible, has sufficient priority, is economically feasible, and loan guarantee authority is available, FmHA or its successor agency under Public Law 103-354 will inform the applicant and borrower in writing and request that they complete the application. The applicant must be informed that an environmental review has not been conducted and no major commitment should be made that could affect the consideration of alternatives.

(b) *Applications*—(1) *Application conference*. When an applicant is notified to proceed with an application, the District Director should arrange for a conference with the applicant and borrower to provide copies of appropriate appendices and forms, and furnish guidance necessary for orderly application processing. The District Director will confirm decisions made at this conference by letter to the applicant and borrower. As the application is being processed, and the need develops for additional conference, the District Director will arrange with the applicant for such conferences.

(2) *Content of application package*. (i) Form FmHA or its successor agency under Public Law 103-354 1980-10, "Application for Loan and Guarantee."

(ii) Form FmHA or its successor agency under Public Law 103-354 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."

(iii) Form FmHA or its successor agency under Public Law 103-354 1940-

20, "Request for Environmental Information."

(iv) Preliminary architectural or engineering report as appropriate, in accordance with Guides 6, 7, and 8 of subpart A of part 1942 (available in any FmHA or its successor agency under Public Law 103-354 office).

(v) Cost estimates.

(vi) Appraisal reports (as appropriate).

(vii) Credit reports obtained by the lender or FmHA or its successor agency under Public Law 103-354 on the borrower.

(viii) Form FmHA or its successor agency under Public Law 103-354 400-1, "Equal Opportunity Agreement."

(ix) Copies of building permits, if applicable, and any necessary certifications and recommendations of appropriate regulatory or other agencies having jurisdiction over the project.

(x) Financial feasibility study, when required.

(xi) Proposed loan agreement.

(xii) Complete environmental review.

(xiii) Any additional information as may be required.

(3) *Review of decision*. If at any time prior to issuance of the conditional commitment, it is decided that favorable action will not be taken on a preapplication or application, the District Director will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by FmHA or its successor agency under Public Law 103-354 may be requested by the applicant under subpart B of part 1900 of this chapter. The following statement will also be made on all notifications of adverse action. "The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with this law is the Federal

## § 1980.852

Trade Commission, Equal Credit Opportunity, Washington, DC 20580.”

[55 FR 11139, Mar. 27, 1990, as amended at 56 FR 29171, June 26, 1991]

### **§ 1980.852 FmHA or its successor agency under Public Law 103-354 evaluation of application.**

(a) FmHA or its successor agency under Public Law 103-354 will complete Form FmHA or its successor agency under Public Law 103-354 1942-45, “Project Summary—Water and Waste Disposal and other Utility-type Projects,” or Form FmHA or its successor agency under Public Law 103-354 1942-43, “Project Summary Community Facilities (Other Than Utility-type Projects),” as appropriate. The application will be evaluated and a determination made as to whether the borrower is eligible, the proposed loan is for an eligible purpose, and there is reasonable assurance of repayment ability, sufficient collateral and equity, the proposed loan complies with all applicable statutes and regulations, and adequate funds are available. The FmHA or its successor agency under Public Law 103-354 Architect/Engineer will review the Preliminary Architect/Engineer reports and provide technical analysis and recommendations on the appropriate Project Summary. If FmHA or its successor agency under Public Law 103-354 determines it is unable to guarantee the loan, the lender will be informed in writing. Such notification will include the reasons for denial of the guarantee. If FmHA or its successor agency under Public Law 103-354 conditionally commits to guaranteeing the loan after the receipt of a completed application in accordance with §1980.47 of subpart A of this part, it will provide the lender and the borrower with Form FmHA or its successor agency under Public Law 103-354 449-14, listing all conditions for such guarantees. FmHA or its successor agency under Public Law 103-354 will include in the requirements of the Conditional Commitment for Guarantee a full description of the approved use of guaranteed loan funds as reflected in the Form FmHA or its successor agency under Public Law 103-354 1980-10.

(b) Within 30 days after the Form FmHA or its successor agency under

## 7 CFR Ch. XVIII (1-1-01 Edition)

Public Law 103-354 449-14 has been accepted, the State Director will send to the National Office, Attention: Community Facilities Division or Water and Waste Disposal Division, as appropriate, the following documents:

(1) A copy of Form FmHA or its successor agency under Public Law 103-354 1942-43 or FmHA or its successor agency under Public Law 103-354 1942-45.

(2) A copy of Form FmHA or its successor agency under Public Law 103-354 449-14 (with attachments) as accepted by the lender and borrower.

(3) A copy of the proposed loan agreement between the lender and the borrower.

(4) A copy of Form FmHA or its successor agency under Public Law 103-354 1980-10.

The cover memorandum should indicate whether the Form FmHA or its successor agency under Public Law 103-354 449-34 has been issued. If the Loan Note Guarantee has been issued, enclose a copy of the Lender Certification required by §1980.60(a) of subpart A of this part, and, if not, a proposed date for issuance of the Form FmHA or its successor agency under Public Law 103-354 449-34.

[56 FR 29172, June 26, 1991]

### **§ 1980.853 Loan approval and obligating funds.**

The State Director will prepare an original and two copies of Form FmHA or its successor agency under Public Law 103-354 1940-3, “Request for Obligation of Funds—Guaranteed Loans” for each loan to be obligated. Also, for each initial loan, Form FmHA or its successor agency under Public Law 103-354 1980-50, “Add, Delete, or Change Guaranteed Loan Borrower Information,” will be prepared. The State Director will sign the original and one copy and conform the second copy. Form FmHA or its successor agency under Public Law 103-354 1940-3 will not be mailed to the Finance Office. Notice of approval to lender will be accomplished by providing or sending the lender the signed copy of Forms FmHA or its successor agency under Public Law 103-354 1940-3 and 449-14 on the obligation date, unless the Administrator has given prior authorization to the Finance Office to obligate before the 6-