

(1) A legal opinion relative to the title to rights-of-way and easements. Lenders are responsible for ensuring that borrowers have obtained valid, continuous, and adequate rights-of-way and easements needed for the construction, operation, and maintenance of a facility. Ordinarily, an opinion of counsel relative to rights-of-way similar to Form FmHA or its successor agency under Public Law 103-354 442-22, "Opinion of Counsel Relative to Right-of-Way," is sufficient documentation for rights-of-way.

(2) A title report by the borrower's attorney showing ownership of the land and all mortgages or other lien defects, restrictions, or encumbrances, if any. It is the responsibility of the lender to obtain and record such releases, consents, or subordinations to such property rights from holders of outstanding liens or other instruments as may be necessary for the construction, operation, and maintenance of the facility and to provide the required security. For example, when a site is for major structures for utility-type facilities, such as a reservoir or pumping station, and the lender is able to obtain only a right-of-way or easement on such a site rather than a fee simple title, such a title report should be requested.

(f) *Loan closing.* When loan closing plans are established, the lender will notify FmHA or its successor agency under Public Law 103-354.

(g) *Review by OGC.* After the conditional commitment for guarantee has been issued and proposed closing documents prepared by the lender and forwarded to FmHA or its successor agency under Public Law 103-354 with the lender's legal counsel's opinion but prior to issuing the loan note guarantee, the State Director will forward the loan docket to the Regional Attorney for review. After an administrative review, the State Director will include with the docket a letter with recommendations indicating any special items, documents or problems that need to be addressed specifically which may have a significant impact upon the loan or may be contrary to the regulation. Copies of the following documents should be submitted for OGC review:

(1) Letter from FmHA or its successor agency under Public Law 103-354 National Office authorizing loan guarantee containing conditions (if applicable);

(2) Form FmHA or its successor agency under Public Law 103-354 449-14, including any amendments;

(3) Loan agreement;

(4) Promissory notes and/or bond transcript;

(5) Security documents—real estate mortgage, security agreement, financing statements, and leases (if applicable);

(6) Proposed Forms FmHA or its successor agency under Public Law 103-354 449-34, 449-35, "Lender's Agreement," and 449-36 "Assignment Guarantee Agreement," if any;

(7) Proposed lender's certification (§1980.60 of Subpart A of this part); and

(8) Opinion of lender's counsel in form prescribed by OGC.

(h) *OGC advice.* The Regional Attorney will review the docket for legal sufficiency and furnish advice to FmHA or its successor agency under Public Law 103-354. Such advice is for the benefit of FmHA or its successor agency under Public Law 103-354 only and does not relieve the lender of its responsibilities under FmHA or its successor agency under Public Law 103-354 regulations. Upon receipt of the Regional Attorney's advice, the State Director will correct or cause to be corrected any noted deficiencies before issuing the Loan Note Guarantee.

[55 FR 11139, Mar. 27, 1990, as amended at 56 FR 29172, June 26, 1991]

§ 1980.857 Issuance of lender's agreement, loan note guarantee, contract of guarantee, and assignment guarantee agreement.

Compliance with §1980.61 of subpart A of this part is required for this subpart.

§§ 1980.858–1980.868 [Reserved]

§ 1980.869 Design and construction.

Specifications for design and construction provided at §1942.18(d), (j)(1) and (2), and (n)(1), (2), (4), (5), (6), and (11) of subpart A of part 1942 of this chapter also apply to this subpart. The