

grant is disapproved or if adverse action is taken, the reasons for such action will be shown on the original Form FmHA or its successor agency under Public Law 103-354 1944-51. Form FmHA or its successor agency under Public Law 103-354 1944-51 will be initialed and dated. The District Director will notify the applicant in writing of the disapproval of or adverse action on the loan or grant and the reasons therefore and advise them of their right to appeal in accordance with subpart B of part 1900 of this chapter. The disapproved docket will then be handled in accordance with Form FmHA or its successor agency under Public Law 103-354 Instruction 2033-A which is available in any FmHA or its successor agency under Public Law 103-354 office. Any appeals as a result of disapproval or adverse action will be handled in accordance with subpart B of part 1900 of this chapter.

[45 FR 47655, July 16, 1980, as amended at 50 FR 8591, Mar. 4, 1985]

§ 1944.174 Distribution of loan and/or grant approval documents.

For a loan to an organization, or in special cases, the approved loan or grant docket, including any title evidence, will be sent to OGC by the State Office for preparation of closing instructions and any special legal documents required for closing. The original executed, witnessed loan and grant resolution, or a certified copy of the required loan and grant resolution must be supplied by the applicant in time to be included in the loan or grant docket. If applicable, the docket will also include the proposed grant agreement for OGC review. No docket will be considered which fails to include such a required resolution or proposed agreement. OGC will route the docket, including closing instructions and any such legal documents, to the District Office through the State Office for review and for inclusion of any further instructions needed in closing the loan.

[45 FR 47655, July 16, 1980, as amended at 47 FR 54423, Dec. 3, 1982]

§ 1944.175 Actions subsequent to loan and/or grant approval.

(a) *Interim financing from commercial sources.* Interim financing may be used

when a loan or combination loan and grant exceeds \$50,000 provided funds can be borrowed at reasonable interest rates from commercial sources for the construction period. When interim commercial financing is used:

(1) The docket will be processed to the stage where the FmHA or its successor agency under Public Law 103-354 loan or combination loan and grant would normally be closed. FmHA or its successor agency under Public Law 103-354 loan or combination loan and grant funds will be obligated before the applicant proceeds with the final arrangements for interim commercial financing.

(2) The State Director or District Director may deliver a copy of Form FmHA or its successor agency under Public Law 103-354 1944-57 as evidence of FmHA or its successor agency under Public Law 103-354 commitment, if necessary, or a letter stating that funds in specified amounts have been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions. See exhibit I of this subpart for a sample letter that may be used.

(3) FmHA or its successor agency under Public Law 103-354 will undertake similar functions as if FmHA or its successor agency under Public Law 103-354 funds had been advanced from the standpoint of approving construction contracts and the monitoring of construction.

(4) The supervised bank account will normally not be used for funds obtained through interim commercial financing. However, the District Director will approve Form FmHA or its successor agency under Public Law 103-354 1924-18, "Partial Payment Estimate," to insure that funds are used for authorized purposes.

(5) When the interim financing funds have been expended, the FmHA or its successor agency under Public Law 103-354 loan or combination loan and grant will be closed and permanent instruments will be issued to evidence the FmHA or its successor agency under Public Law 103-354 indebtedness. The FmHA or its successor agency under Public Law 103-354 loan or combination loan and grant proceeds will be used to

retire the interim commercial indebtedness.

(6) Before the FmHA or its successor agency under Public Law 103-354 loan or combination loan and grant is closed, the applicant will be required to provide the district Director with statements from the contractor(s), engineer, and attorney that they have been paid in full in accordance with their contracts or other agreements and that there are no unpaid obligations outstanding in connection with the construction of the project. See in addition §1924.6 of subpart A of part 1924.

(b) *Multiple advances of LH loan and/or grant funds.* In the event FmHA or its successor agency under Public Law 103-354 provides grant only assistance, or if interim commercial financing is not available for a loan or combination loan and grant in excess of \$50,000, multiple advances will be used subject to the following:

(1) When relatively large amounts of funds are to be expended for purchases of real estate or for other reasons at the time of closing, separate checks for such purposes may be ordered and endorsed by the borrower to the seller or other appropriate party. This will preclude the necessity for depositing such funds in the supervised bank account and reduce the amount of required collateral.

(2) Except as indicated in paragraph (b)(1) of this section, advances will be made only as needed to cover disbursements required by the borrower for a 30-day period. Normally, the advances should not exceed 24 in number or extend longer than 2 years beyond loan closing. The retained percentage withheld from the contract or to assure that construction will be completed in accordance with the contract documents will ordinarily be included in the last advance. Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, land purchase, legal, engineering, or architectural costs, interest when authorized, and other expenses, as needed. The borrower will prepare Form FmHA or its successor agency under Public Law 103-354 440-11, "Estimate of Funds Needed for 30-day Period Commencing _____,"

modified as needed, to show the amount of funds required during the 30-day period. This form will be approved by the District Director. After the District Director determines that the estimates prepared by the borrower are adequate, the District Director will indicate the amount on Form FmHA or its successor agency under Public Law 103-354 1944-57 in accordance with the FMI and request the amount through field office terminals in accordance with MFH User Procedures. As an example, for a loan and/or grant of \$100,000, the advances may be made as follows: Assuming that the loan and/or grant will be closed on July 1, the borrower will complete Form FmHA or its successor agency under Public Law 103-354 440-11 in sufficient time so that the funds will be available on, the day of loan closing. The estimates should be broken down for the first advance in a manner similar to the following:

Construction	\$30,000
Land acquisition	5,000
Architectural	4,000
Legal	1,000
Total	40,000

An advance in the amount of \$40,000 would then be available on July 1, the date of loan closing. The second advance will also be based on the borrower's estimate prepared on Form FmHA or its successor agency under Public Law 103-354 440-11, and will be prepared in sufficient time so that the estimate of funds might be broken down as follows:

Construction	\$20,000
Architectural	1,000
Total	21,000

The amount will be indicated on Form FmHA or its successor agency under Public Law 103-354 1944-57 and requested through field office terminals. The same procedure will be followed for each advance until the project is completed.

(3) Any deviation from the multiple advance procedure must have the prior approval of the National Office.

(c) *Requesting a check.* When loan approval conditions can be met, including any real estate lien required, and a date for loan closing has been agreed

upon, the District Director will determine the amount of funds needed in accordance with either paragraphs (a) or (b) of this section. The District Director's delegate will then order the loan and/or grant check through the field office terminal so that it will be available on or just before the date set for loan closing.

(d) *Increase or decrease in the amount of the loan.* If it becomes necessary for the amount of the loan and/or grant to be increased or decreased before loan closing, the loan approval official or District Director will request that all distributed docket forms be returned to the District Office. The loan docket will be revised accordingly and reprocessed.

(e) [Reserved]

(f) *Handling the loan or grant check.* The loan or grant check will be handled in accordance with FmHA Instruction 2018-D, which is available in any FmHA or its successor agency under Public Law 103-354 office and subpart A of part 1902 of this chapter.

(g) *Property insurance.* Buildings will be insured in accordance with subpart A of part 1806 of this chapter (FmHA Instruction 426.1).

[45 FR 47655, July 16, 1980, as amended at 47 FR 36414, Aug. 20, 1982; 50 FR 8592, Mar. 4, 1985; 52 FR 8036, Mar. 13, 1987; 53 FR 26590, July 14, 1988; 54 FR 39728, Sept. 28, 1989; 56 FR 67482, Dec. 31, 1991; 59 FR 54788, 54789, Nov. 2, 1994; 68 FR 61331, Oct. 28, 2003]

§ 1944.176 Loan and/or grant closing.

(a) *Applicable instructions.* LH loans and/or grants will be closed in accordance with applicable provisions of subpart B of part 1927 of this chapter and State supplements. Loan dockets for an organization and loan dockets for an individual in special cases will be sent to OGC for additional closing instructions. A family farm corporation or partnership or an association of farmers applicant may use its attorney to close the loan in accordance with applicable loan closing instructions provided the attorney is not a member, officer, director, trustee, stockholder, or partner of the applicant entity. Non-profit organizations may use an attorney who is a member of their organization. The cost incurred by the organi-

zation for legal services must be reasonable and competitive for the area.

(b) *LH grant agreement.* An LH grant agreement, prepared and authorized as provided in §1944.164(e), will be dated and executed by the applicant on the date of grant closing. The executed agreement will be filed with the mortgage or other security instrument in the County Office case file.

(c) *LH loan agreement.* A LH loan agreement, prepared and authorized as provided in §1944.164 (g) of this subpart will be dated and executed by the applicant on the date of loan approval. The executed agreement will be filed with the mortgage or other security instrument in the District Office case file.

(d) *Mortgage.* Unless the OGC determines the Form to be inappropriate, real estate mortgage Form FmHA or its successor agency under Public Law 103-354 1927-1 (state), "Real Estate Mortgage for _____," will be used. For loans and/or grants to organizations, Form FmHA or its successor agency under Public Law 103-354 1927-1 will be modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, style of execution, acknowledgement, and any other provisions.

(1) The mortgage or other instrument will contain the following covenant:

"The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer."

(2) For all LH loans, the restrictive-use provisions contained in exhibit A-1 of subpart E of part 1965 of this chapter will be included in the mortgage.

(3) When a loan resolution or loan agreement is used, an additional paragraph will be included in the mortgage to read as follows:

"This instrument also secures the obligations and covenants of Borrower set forth in Borrower's Loan Resolution (Loan Agreement) of (Date), which is hereby incorporated herein by reference."