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(4) Determine site stability if the land has been previously mined; and

(f) District FmHA or its successor agency under Public Law 103-354 Offices receiving applications shall also provide written comments reflecting site development and acquisition grant selection criteria (§1948.86) listed in this subpart.

(g) The FmHA or its successor agency under Public Law 103-354 District Office shall forward the original of the application and accompanying documents including those required in paragraph (e) of this section to the FmHA or its successor agency under Public Law 103-354 State Director within 10 working days of receipt of the application.

(h) Upon receipt of an application, the FmHA or its successor agency under Public Law 103-354 State Office shall:

(1) Review and evaluate the application and accompanying documents;

(2) Determine that the project is a part of and consistent with the State Investment Strategy for Energy Impacted Areas;

(3) Send a copy of the applicant's evidence of legal existence and authority to the USDA Regional OGC for review;

(4) If applicant is local government(s), consult with the Governor on funding recommendation of the project; and

(5) Respond to the applicant within 30 days of the date of receipt of the application.

(i) Upon receipt of an application by the FmHA or its successor agency under Public Law 103-354 State Office, a docket shall be prepared which shall include the following:

(1) Application SF 424.2 and enclosures;

(2) Any comments received in accordance with 7 CFR part 3015 subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities". See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 office.

(3) Evidence of ownership or lease of site to be developed;

(4) Evidence of applicant's legal existence and authority;

(5) OGC legal determination;

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(6) Preliminary plans and specifications concerning the proposed development;

(7) Grant agreement and scope of work;

(8) An estimate of projected cost of site development prepared by independent qualified appraisers or engineers/architects;

(9) A topographical map of the area;

(10) Form FmHA or its successor agency under Public Law 103-354 440-1;

(11) Form FmHA or its successor agency under Public Law 103-354 400-1;

(12) Form FmHA or its successor agency under Public Law 103-354 400;

(13) Form FmHA or its successor agency under Public Law 103-354 1940-20, if required by subpart G of part 1940 of this chapter;

(14) A copy of the appropriate FmHA or its successor agency under Public Law 103-354 environmental review required by subpart G of part 1940 of this chapter;

(15) Historic Preservation Assessment;

(16) A copy of the State Investment for Energy Areas; and

(17) District, where appropriate, and State FmHA or its successor agency under Public Law 103-354 written comments, assessments and analysis of the proposed project in accordance with the grant selection criteria.

[44 FR 35984, June 19, 1979, as amended at 46 FR 61991, Dec. 21, 1981; 48 FR 29121, June 24, 1983; 49 FR 3764, Jan. 30, 1984; 55 FR 13503 and 13504, Apr. 11, 1990; 67 FR 78329, Dec. 24, 2002]

§ 1948.85 [Reserved]

§ 1948.86 Site development and acquisition grant selection criteria.

The following criteria will be considered in the selection of site development and/or acquisition grant recipients:

(a) *Required criteria.* Each project must meet the following criteria:

(1) The area is covered by a FmHA or its successor agency under Public Law 103-354 approved plan;

(2) The FmHA or its successor agency under Public Law 103-354 approved plan specifically calls for the site development and/or acquisition;

(3) Other Federal funds that the community could receive for the project

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are inadequate or not available, and no State or local funds for site development are available to permit development on a timely basis;

(4) The site is to be developed and/or acquired and is to be used for housing, public facilities, or services;

(5) The applicant has title to the site, lease on site, or an option on the site and funds to purchase the site, or is applying for site acquisition funds;

(6) The site will comply with Executive Orders 11988, "Flood Plain Management" and 11990, "Protection of Wetlands;"

(7) An appraisal of the fair market value of the site must have been completed;

(8) Priority has been given in the selection of site to unoccupied or previously mined land;

(9) Class I or Class II farm land was included in the site only if other suitable land was not available;

(10) The land is stable if previously mined; and

(11) Assurance that the requirements set forth in title 7, subtitle A, part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) have been met.

(b) *Competitive criteria.* The following criteria will be considered in the selection of grantees:

(1) Priority assigned and recommended funding level by the Governor in the State Investment Strategy for Energy Impacted Areas;

(2) The increase in the number of new employees and the percentage of increase in employment in coal and/or uranium development activities in the year of designation within the approved designated area (years projected will be averaged and treated equally);

(3) The severity of need for housing, public facilities, services that has resulted from coal or uranium development activities in relation to available financial resources within the approved designated area covered by the plan calling for the project;

(4) Local priority for the project;

(5) The amount of effort by State and local government to meet the needs of the area covered by the application as called for in the State Investment Strategy for Energy Impacted Areas in

relation to available financial resources;

(6) An assessment of the environmental impacts of the project; and

(7) The nature of comments and recommendations of A-95 clearing-house(s).

§ 1948.87 [Reserved]

§ 1948.88 Direct land acquisition by FmHA or its successor agency under Public Law 103-354.

(a) FmHA or its successor agency under Public Law 103-354 may take action to acquire real property directly upon the written request of the Governor of the State in which the real property is located. FmHA or its successor agency under Public Law 103-354 will not acquire real property directly under this section without such a request.

(b) All requests for direct land acquisition should be submitted to the FmHA or its successor agency under Public Law 103-354 State Director. The following conditions must be met prior to the submission of a request for direct acquisition by FmHA or its successor agency under Public Law 103-354:

(1) The State or local government serving the area must lack power to condemn land of this type for this purpose and must supply an opinion by the State Attorney General that this authority is lacking;

(2) The real property is to be used as a site for needed housing, public facilities, or services;

(3) The site acquisition is called for in a FmHA or its successor agency under Public Law 103-354 approved plan;

(4) The site is specifically identified by a FmHA or its successor agency under Public Law 103-354 approved plan;

(5) State and local governments have been unable to obtain the real property for a price which does not substantially exceed its fair market value; and suitable alternate sites are not available;

(6) The land is not Indian Trust land;

(7) The land is not U.S. Forest Service land; and

(8) There is legal authority to undertake the proposed project.