

§1955.148

under Public Law 103-354 notice is an element of the offer and FmHA or its successor agency under Public Law 103-354 disapproves the credit application, then the bid deposit will be returned to the otherwise successful bidder. Upon determination that the successful bidder will not close, the State Director may authorize either another sealed bid or auction sale of direct negotiations with the next highest bidder, all available unsuccessful bidders, or other interested parties.

(f) *No acceptable bid.* Where no acceptable bid is received although adequate competition is evident, the State Director may authorize a negotiated sale in accordance with §1955.108(d) of this subpart.

[50 FR 23904, June 7, 1985, as amended at 53 FR 27839, July 25, 1988; 54 FR 6875, Feb. 15, 1989; 55 FR 3943, Feb. 6, 1990; 68 FR 61332, Oct. 28, 2003]

§1955.148 Auction sales.

This section provides guidance on the sale of all inventory property by auction, except FSA real property. Before an auction, the State Director, with the advice of the National Office for organizational property, will determine and document the minimum sale price acceptable. In determining a minimum sale price, the State Director will consider the length of time the property has been in inventory, previous marketing efforts, the type property involved, and potential purchasers. Program financing will be offered on sales of program and property. For NP property, credit may be offered to facilitate the sale. Credit, however, may not exceed the market value of the property nor may the term exceed the period for which the property will serve as adequate security. For program property sales, no preference will be given to program purchasers. The State Director will also consider whether an Agency employee will conduct an auction or whether the services of a professional auctioneer are necessary due to the complexity of the sale. When the services of a professional auctioneer are advisable, the services will be procured by contract in accordance with RD Instruction 2024-A (available in any Agency Office). Chattel property may be sold at public auction that is widely

7 CFR Ch. XVIII (1-1-05 Edition)

advertised and held on a regularly scheduled basis without solicitation. Form RD 1955-46 will be used for auction sales. At the auction, successful bidders will be required to make a bid deposit. For program and suitable property, the bid deposit will be the same as outlined in §1955.130(e)(1) of this subpart. For NP property sales, a bid deposit of 10 percent is required. Deposits will be in the form of cashier's check, certified check, postal or bank money order or bank draft payable to the Agency, cash or personal checks may be accepted when deemed necessary for a successful auction by the person conducting the auction. Where credit sales are authorized, all notices and publicity should provide for a method of prior approval of credit and the credit limit for potential purchasers. This may include submission of letters of credit or financial statements prior to the auction. The auctioneer should not accept a bid which requests credit in excess of the market value. When the highest bid is lower than the minimum amount acceptable to the Agency, negotiations should be conducted with the highest bidder or in turn, the next highest bidder or other persons to obtain an executed bid at the predetermined minimum.

[62 FR 44404, Aug. 21, 1997, as amended at 68 FR 61332, Oct. 28, 2003]

§1955.149 Exception authority.

(a) The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon request of the State Director with recommendation of the appropriate program Assistant Administrator or upon request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in