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plans approved by the Administrator, FmHA or its successor agency under Public Law 103-354.

(l) Modifications to approved plans shall be approved by the Administrator of FmHA or its successor agency under Public Law 103-354 following the above procedure.

(m) The Governor's modification to the State Investment Strategy for Energy Impacted Areas may be approved by the FmHA or its successor agency under Public Law 103-354 State Director provided the modification is consistent with FmHA or its successor agency under Public Law 103-354 approved plans.

**§ 1948.83 Performance of site development work.**

Site development work will be done in accordance with §1942.18 of FmHA Instruction 1942-A.

**§ 1948.84 Application procedure for site development and acquisition grants.**

(a) For those projects for which Federal funding is sought in excess of \$100,000 the applicant shall file SF 424.2, "Application for Federal Assistance (For Construction)" with the appropriate FmHA or its successor agency under Public Law 103-354 office. For those projects for which Federal funding is sought for less than \$100,000, the applicant shall file SF 424.2 with the appropriate FmHA or its successor agency under Public Law 103-354 office. A copy should also be filed with the Governor's office of the appropriate State.

(b) The FmHA or its successor agency under Public Law 103-354 office receiving a SF 424.2 shall reply to the applicant within 45 calendar days regarding the applicant's eligibility to compete for funding under this program using Form AD-622. (FmHA or its successor agency under Public Law 103-354 District offices will send each preapplication to the FmHA or its successor agency under Public Law 103-354 State Offices for review before replying to the applicant. FmHA or its successor agency under Public Law 103-354 District offices will send a copy of Form AD-622 to the FmHA or its successor agency under Public Law 103-354

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State Office at the time the AD-622 is sent to the applicant.)

(c) Intergovernmental consultation should be carried out 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.

(d) Applicants shall file an original and one copy of SF 424.2, with the appropriate FmHA or its successor agency under Public Law 103-354 office. Local governments and councils of local government shall submit applications to the FmHA or its successor agency under Public Law 103-354 District Office and State governments to the FmHA or its successor agency under Public Law 103-354 State Office. Applications shall include:

(1) Evidence of applicant's legal existence and authority to undertake the proposed project;

(2) Evidence of ownership of or lease on a site to be developed or "Options to Purchase Real Property," Form FmHA or its successor agency under Public Law 103-354 440-34, (Lease on a site for a public facility will be in accordance with FmHA Instruction 1942-A and lease on a site for housing will be in accordance with 7 CFR part 3550);

(3) Description of project and relationship to approved growth management and housing plan. Applicant must cite pages and section of the approved plan;

(4) A plat of the area including elevations;

(5) Preliminary plans and specifications on proposed development which will contain an estimate of the projected cost of site development prepared by independent qualified appraisers or architects/engineers;

(6) The amount of Federal grant needed;

(7) The amount and source of applicant's financial contribution to the project;

(8) An original and one copy of Form FmHA or its successor agency under Public Law 103-354 1940-20;

(9) An original and one copy of Forms FmHA or its successor agency under Public Law 103-354 400-1 and Form

FmHA or its successor agency under Public Law 103-354 400-4;

(10) Evidence that the land is stable if the land has been previously mined (include relevant data on soil and analysis);

(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.

(12) Specific concurrence of the Governor if the proposed applicant is neither a council of local governments nor a general purpose political subdivision of a State;

(e) District and State FmHA or its successor agency under Public Law 103-354 Offices receiving applications shall:

(1) Determine if the project is in accordance with a FmHA or its successor agency under Public Law 103-354 approved growth management and/or housing plan covering the approved designated area;

(2) Comply with environmental requirements set forth in subpart G of part 1940 of this chapter;

(3) Prepare a Historic Preservation Assessment in accordance with part 1901, subpart F, of this chapter;

(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;

(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;

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(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 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