

§ 1948.85

7 CFR Ch. XVIII (1-1-08 Edition)

(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

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.

(c) FmHA or its successor agency under Public Law 103-354 may acquire Federal real property not prohibited in paragraphs (b) (6) and (7) of this section for purposes contained in this subpart. Farm land (Class I and II) will not be considered unless there is no other suitable land available.

(d) If the State Director determines that no other suitable real property exists that can be obtained at a price which does not substantially exceed its fair market value, and if the appropriate State or local government lacks condemnation authority as evidenced by opinion from the Attorney General, and there is authority to undertake the proposed project, then the State Director shall follow the procedures set out in title 7, subtitle A, part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) and immediately open negotiations to directly acquire the real property through purchase or trade.

(e) The FmHA or its successor agency under Public Law 103-354 State Director may acquire real property by purchase to trade for other real property when FmHA or its successor agency under Public Law 103-354 has been requested to acquire real property by the Governor of the State in which the real property is located.

(f) The Governor shall submit, with this request, a commitment from the State to acquire real property, together with a plan of compensation to FmHA or its successor agency under Public Law 103-354 and evidence of the State's legal authority to enter into this agreement with FmHA or its successor agency under Public Law 103-354 to accept the real property and repay FmHA or its successor agency under Public Law 103-354 for the fair market value of the real property for the intended purpose.

(g) Real property acquired by FmHA or its successor agency under Public Law 103-354 shall be transferred to the State requesting by a quitclaim deed for a price equal to the fair market value in accordance with the terms of a transfer agreement.

(h) After obtaining title to the real property and prior to transfer to the State, the property shall be managed by FmHA or its successor agency under Public Law 103-354 in accordance with part 1955, subpart B of this chapter.

(i) The State Director shall inform the Governor that FmHA or its successor agency under Public Law 103-354 real property acquisition is not likely to occur by purchase or trade if negotiations have failed to produce acceptable results within 90 days of the request for FmHA or its successor agency under Public Law 103-354 acquisition of real property.

§ 1948.89 Land condemnation by FmHA or its successor agency under Public Law 103-354.

(a) If FmHA or its successor agency under Public Law 103-354 attempts to acquire real property at the request of a Governor through purchase or trade and is unable to do so, FmHA or its successor agency under Public Law 103-354 may take action to condemn the real property by the following procedures: