

of the presence of highly erodible land and wetlands on inventory property.

(b) *Surplus property and suitable property not sold to a beginning farmer or rancher.* Except where a lessee is exercising the option to purchase under the Homestead Protection provision of subpart S of part 1951 of this chapter, surplus property will be offered for public sale by sealed bid or auction within 15 days from the date of acquisition in accordance with §1955.147 or §1955.148. Suitable farm property which has been advertised for sale to a beginning farmer or rancher in accordance with paragraph (a) of this section, but has not sold within 135 days from the date of acquisition will be offered for public sale by sealed bid or auction to the highest bidder as provided in paragraph (b)(1) of this section. All prospective buyers will be notified in writing as part of the property advertisement of the presence of any highly erodible land, converted wetlands, floodplains, wetlands, or other special characteristics of the property that may limit its use or cause an easement to be placed on the property.

(1) *Advertising surplus property.* FSA will advertise surplus property for sale by sealed bid or auction within 15 days from the date of acquisition or, for those suitable properties not sold to beginning farmers or ranchers in accordance with this section, within 135 days of the date of acquisition.

(2) *Sale by sealed bid or auction.* Surplus real estate must be offered for public sale by sealed bid or auction and must be sold no later than 165 days from the date of acquisition to the highest bidder. Preference will be given to a cash offer which is at least *percent of the highest offer requiring credit. (*Refer to Exhibit B of RD Instruction 440.1 (available in any Agency office) for the current percentage.) Equally acceptable sealed bid offers will be decided by lot.

(3) *Negotiated sale.* If no acceptable bid is received through the sealed bid or auction process, the State Executive Director will sell surplus property at the maximum price obtainable without further public notice by negotiation with interested parties, including all previous bidders. The rates and terms offered for a credit sale through nego-

tiation will be within the limitations established in paragraph (b) (4) of this section. A sale made through negotiation will require a bid deposit of not less than 10 percent of the negotiated price in the form of a cashier's check, certified check, postal or bank money order, or bank draft payable to FSA. Preference will be given to a cash offer which is at least * percent of the highest offer requiring credit. [*Refer to Exhibit B of RD Instruction 440.1 (available in any Agency office) for the current percentage.] Equally acceptable offers will be decided by lot.

(4) *Rates and terms.* Subject to the availability of funds, rates and terms for Homestead Protection will be in accordance with subpart S of part 1951 of this chapter. Sales of suitable property offered to program eligible applicants will be on rates and terms provided in subpart A of part 1943 of this chapter. Surplus property and suitable property which has not been sold to program eligible applicants will be offered for cash or on ineligible terms in accordance with subpart J of part 1951 of this chapter. The State Executive Director will determine the loan terms for surplus property within these limitations. A credit sale made on ineligible terms will be closed at the interest rate in effect at the time the credit sale was approved. After extensive sales efforts where no acceptable offer has been received, the State Executive Director may request the Administrator to permit offering surplus property for sale on more favorable rates and terms; however, the terms may not be more favorable than those legally permissible for eligible borrowers. Surplus property will be offered for sale for cash or terms that will provide the best net return for the Government. The term of financing extended may not be longer than the period for which the property will serve as adequate security. All credit sales on ineligible terms will be identified as NP loans.

[62 FR 44399, Aug. 21, 1997, as amended at 64 FR 62569, Nov. 17, 1999; 68 FR 7700, Feb. 18, 2003]

§ 1955.108 Sale of (CONACT) property other than FSA property.

Program officials will immediately contact the National Office whenever

they acquire real property to obtain further instructions on the time frames and procedures for advertising and disposing of such property.

[62 FR 44401, Aug. 21, 1997]

§ 1955.109 Processing and closing (CONACT).

(a) *Determining repayment ability and creditworthiness.* If a credit sale is involved, the applicant must furnish necessary financial information to assist in determining repayment ability and creditworthiness. Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan," should be used for all eligible FSA applicants unless the applicant has furnished all required information in another acceptable format. Information regarding eligibility, planned development and total operations will be provided the same as for the respective type of FSA loan. Purchasers requesting credit on ineligible terms, except for C&BP, will be handled in accordance with subpart J of part 1951 of this chapter. For C&BP, information will be provided which is similar to an application including financial information required for the respective loan program to establish financial stability, creditworthiness and repayment ability.

(b) [Reserved]

(c) *Form of payment.* Payments at closing will be in the form of cash, cashier's check, certified check, postal or bank money order, or bank draft made payable to the Agency.

(d)-(e) [Reserved]

(f) *Earnest money.* Earnest money, if any, will be used to pay purchaser's closing costs with any balance of the costs being paid by the purchaser. Any excess earnest money will be credited to the purchase price or recognized as a part of the purchaser's downpayment.

(g) *Closing and reporting sales.* Title clearance, loan closing and property insurance requirements for a credit sale will be the same as for a program loan, except the property will be conveyed by Form FmHA or its successor agency under Public Law 103-354 1955-49, in accordance with § 1955.141(a) of this subpart.

(h) *Classification.* Credit sales on ineligible terms for C&BP will be classi-

fied as NP loans and serviced accordingly.

(i) [Reserved]

(j) *Form FmHA or its successor agency under Public Law 103-354 1910-11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts."* The County Supervisor or District Director must review Form FmHA or its successor agency under Public Law 103-354 1910-11 "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," with the applicant, and the form must be signed by the applicant.

[53 FR 35780, Sept. 14, 1988, as amended at 54 FR 29333, July 12, 1989; 58 FR 52652, Oct. 12, 1993; 60 FR 34455, July 3, 1995; 62 FR 44401, Aug. 21, 1997; 68 FR 61332, Oct. 28, 2003]

RURAL HOUSING (RH) REAL PROPERTY

§ 1955.110 [Reserved]

§ 1955.111 Sale of real estate for RH purposes (housing).

Sections 1955.112 through 1955.120 of this subpart pertain to the sale of acquired property pursuant to the Housing Act of 1949, as amended, (RH property). Single family units (generally which secured loans made under section 502 or 504 of the Housing Act of 1949, as amended) are referred to as SFH property. All other property is referred to as MFH property. Notwithstanding the provisions of §§ 1955.112 through 1955.118 of this subpart, § 1955.119 is the governing section for the sale of SFH inventory property to a public body or nonprofit organization to use for transitional housing for the homeless.

[55 FR 3942, Feb. 6, 1990]

§ 1955.112 Method of sale (housing).

(a) *Sales by FmHA or its successor agency under Public Law 103-354.* Sales customarily will be made by FmHA or its successor agency under Public Law 103-354 personnel in accordance with §§ 1955.114 and 1955.115 of this subpart (as appropriate) when staffing and workload permit and inventory levels do not exceed those outlined in paragraph (b) of this section. Adequate and timely advertising in accordance with § 1955.146 of this subpart is of utmost importance when this method is used.