

(a) *SFH price reduction.* SFH property will be appraised at any time additional market data indicates this action is warranted. If SFH inventory has not sold after being actively marketed, the price will be administratively reduced. An administrative price reduction will be made without changing the SFH appraisal. For ease in computing dates for administrative price reductions, each month is assumed to have thirty days. The following schedule of administrative price reductions will be followed:

(1) *Program property.* If program property has not sold after being actively marketed at the current appraised value for 45 days during which time program applicants have exclusive rights to purchase the property, plus an additional 30 days to any offeror, the price will be administratively reduced by 10 percent of the appraised value. During the first 45 days after the price reduction, the property will be actively marketed with program applicants having exclusive rights to purchase the property, and at the expiration of this 45-day period, the property may be sold to any offeror. If at the end of this 75-day period the property remains unsold, a second price reduction of 10 percent of the appraised value will be made. During the first 45 days after the second price reduction, the property will be actively marketed with program applicants having exclusive rights to purchase the property, and at the expiration of this 45-day period, the property may be sold to any offeror. If the property does not sell within 75 days of the second price reduction, further guidance is provided in §1955.114(a)(6) and Exhibit D (available in any FmHA or its successor agency under Public Law 103-354 office) of this subpart.

(2) *Nonprogram (NP) property.* If NP property has not been sold after being actively marketed for 45 days, the price will be administratively reduced by 10 percent of the appraised value. If the property remains unsold after an additional 45-day period of active marketing, one further price reduction of 10 percent of the appraised value will be made. If the property does not sell within 45 days of the second price reduction, further guidance is provided in

§1955.115(a)(1) and Exhibit D (available in any FmHA or its successor agency under Public Law 103-354 office) of this subpart.

(b) *MFH price reduction.* For multiple-family property, the sale price will only be reduced to the extent that the market value has decreased as shown in a current market appraisal. The District Director will not reduce the price without the prior written approval of the State Director. The State Director must request National Office authorization on reductions in price for multiple-family property if the inventory value at the time of acquisition exceeded the State Director's loan approval authority.

[53 FR 27831, July 25, 1988; 54 FR 6875, Feb. 15, 1989, as amended at 58 FR 38927, July 21, 1993]

**§1955.114 Sales steps for program property (housing).**

Program property will be sold by regular sale unless the Assistant Administrator, Housing, authorizes another method. If the State Director determines that program property has been given adequate market exposure and that diligent sales efforts including the use of real estate brokers has not produced purchasers, the State Director may request the Assistant Administrator, Housing, to authorize sale by sealed bid or public auction as specified in §1955.112(c) of this subpart.

(a) *Single family housing (SFH).* Sale prices will be established in accordance with §1955.113 of this subpart. The County Supervisor will either offer the property or list it with real estate brokers for regular sale under the provisions of §1955.112 of this subpart. See Exhibit D of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) which outlines chronologically the sales steps for program property.

(1) The following provisions apply to all offers to purchase SFH inventory property:

(i) Program property will be available for purchase only by program applicants for the first 45 days from the date of the initial offering or listing, and for the first 45 days following the date of any reduction in price. During these 45-day period(s), offers from others may be received and held until the

first business day following the 45-day period (the 46th day) when any such offer(s) will be considered as received on the 46th day along with offers received on that same (46th) day. After the expiration of each 45-day exclusive period for program applicants, program property may be purchased by offerors requesting credit on program terms, nonprogram (NP) terms or for cash in the order of priority set forth in paragraph (a)(3) of this section.

(ii) In regular sales, an acceptable offer *must* be for at least the sale price. No offer for less than the sale price will be considered, accepted or held. Offers will be considered as acceptable or unacceptable independent of any accompanying credit request (on program or NP terms).

(iii) All offers will be date-stamped when received. Selection of equally acceptable offers, considering offers in the category order outlined in paragraph (a)(3) of this section, received on the same business day will be made by lot by placing the names in a receptacle and drawing names sequentially. Drawn offers will be numbered and those drawn after the first drawn offer will be held as back-up offers pending sale to the successful offeror, unless the offeror has specifically noted on the offer that it may not be held as a back-up offer.

(iv) An offer may be submitted any time after the effective date the property is available for sale or any price reduction; however, it is not considered until five business days after the effective date. An offer received during the five business day period is considered on the 6th day, at the same time as any offer received on the 6th day.

(v) If an offer subject to FmHA or its successor agency under Public Law 103-354 financing is accepted, and the offeror's credit request is later denied, the next offer (if any) will be accepted regardless of whether the rejected applicant appeals the adverse decision (NP applicants do not receive appeal rights). In cases involving program property, if no back-up offers are on hand, the property will be reoffered/re-listed for sale utilizing the balance of any outstanding retention period. Property will not be held off the market pending the outcome of an appeal.

(2) *Effective date and method of offering.* When ready for sale, each property will be offered for sale by use of Form FmHA or its successor agency under Public Law 103-354 1955-43 unless FmHA or its successor agency under Public Law 103-354 has on hand a signed offer from a program applicant to purchase a specific program property or an offer from any offeror to purchase a specific NP property. The date the form is posted or mailed to real estate brokers is the effective date the offer for sale has begun.

Listings will provide for sales on program and NP terms, as appropriate.

(3) *Priority of offers.* For program properties, acceptable offers received after the 45-day retention period specified in paragraph (a)(1)(i) of this section have priority in the order given in paragraphs (a)(3) (i), (ii), (iii) and (iv) of this section. For NP properties, acceptable offers have priority in the order given in paragraphs (a)(3) (ii), (iii) and (iv) of this section. Program applicants may purchase NP property, however, credit may only be extended on NP terms.

(i) Offers with requests for credit on program terms. An offer from an applicant requesting credit on program terms in excess of the sale price will be considered as equally acceptable with other acceptable offers from program applicants and will be sold for the sale price.

(ii) Cash offers, in descending order from highest to lowest, provided the cash offer is higher than any other offer which falls into the parameters of paragraph (a)(3)(iii) of this section multiplied by the current cash preference percentage listed in exhibit B of FmHA or its successor agency under Public Law 103-354 Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103-354 office).

(iii) Offers with requests for credit on NP terms in descending order from highest to lowest, for *more* than the sale price. An offer with a request for credit in excess of the market value of the property will not be accepted. If an offer of this type is received, the offeror will be given the opportunity to reduce the credit request to the market

value (or lower) with no change to be made in the offered price.

(iv) Offers with requests for credit on NP terms for the sale price.

(4) *Back-up offers and notification to offerors.* Back-up offers will be taken in accordance with paragraph (a)(1)(iii) of this section. County offices utilizing the services of real estate brokers will advise the brokers of changes in the status of the property. County offices not utilizing real estate brokers will advise offerors of changes in the status of the property utilizing exhibit E of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) or similar format. Use of exhibit E is optional in offices utilizing real estate brokers.

(5) *Finalizing sales.* Credit sales on program terms will be made in accordance with §1955.117 of this subpart and 7 CFR part 3550. Cash sales will be handled in accordance with §1955.118 of this subpart and credit sales on NP terms will be made in accordance with subpart J of part 1951 of this chapter.

(6) *Unsold property.* If program property remains unsold after eight months of active marketing, the case file, with documentation of all marketing efforts, will be forwarded to the State Office for review with a recommendation of future sales efforts. The State Director will determine whether a request should be made to the Assistant Administrator, Housing, to sell the property by sealed bid or auction, or whether additional guidance such as, but not limited to advertising, reappraisal, offering a special effort sales bonus, or 20-year amortization factor (with balloon after 10 years) on NP financing may facilitate a sale.

(b) *Multiple family housing.* The sale price will be established in accordance with §1955.113 of this subpart. Notification of known interested prospective offerors and advertising should be handled as set forth in §1955.146 of this subpart. The sale information will include a sale price, any restrictive-use provisions the project will be subject to and made part of the title, a date/time/location when offers will be drawn, and require all offerors to submit an application package comparable to that required by the respective loan program, which will be reviewed by the State Di-

rector or designee. The sale/time/location will be established by the District Director and will allow adequate time for advertising and review of applications to determine eligibility in accordance with MFH program requirements. Offerors whose applications are rejected by FmHA or its successor agency under Public Law 103-354 will be notified in writing by the approval official, and for program applicants, given appeal rights in accordance with subpart B of part 1900 of this chapter. If an application is rejected, the sale will continue regardless of whether the rejected applicant appeals the adverse decision. Property will not be held pending the outcome of an appeal. An offeror may withdraw an offer prior to the sale date, but not on the sale date. All offers from applicants determined eligible for the type loan being offered will be considered. The District Director, or delegate, and one other FmHA or its successor agency under Public Law 103-354 employee will conduct the drawing at which time the public may be present. Offers will be placed in a receptacle and drawn sequentially. Drawn offers will be numbered and those drawn after the first drawn will be held as back-up offers, unless the offeror has indicated that the offer may not be held as back-up. Award will be made to the first offer drawn provided the offer is acceptable as to the terms and conditions set forth in the sale notice. The successful offeror will be notified immediately in writing by the approval official, return receipt requested, that the successful offeror's offer has been accepted even if the successful offeror was present at the sale. The remaining offerors will each be notified by letter, return receipt requested, that their offer was not successful, but will be held as a back-up offer. The selection of the offeror was by lot and is therefore not appealable. If an unsuccessful offeror was not present at the sale and requests the name of the successful offeror, the name may be released. If the MFH property has been listed with real estate brokers after receiving authorization from the Assistant Administrator, Housing, Form FmHA or its successor agency under Public Law 103-354 1955-

40, or another appropriate form designated for MFH property, will be used and the property sold to the first eligible program applicant. Any other method of sale must receive prior written authorization from the Assistant Administrator, Housing. Cash sales of program property will remain subject to restrictive-use provisions determined needed and included in the advertisement. The deed will contain the applicable restrictive-use provisions. Tenants and prospective tenants will receive the applicable protections for the specific restrictive-use provision contained in 7 CFR part 3560, subpart N.

(c) *Single family inventory converted to MFH.* Written offers by nonprofit organizations, public bodies or for-profit entities, which have good records of providing low income housing under section 515, will be considered by FmHA or its successor agency under Public Law 103–354 for the purchase of multiple SFH units for conversion to MFH. Section 514 credit sale mortgages may contain repayment terms up to 33 years and section 515 credit sale mortgage terms may be up to 50 years.

(1) The price provisions of § 1955.113 and the processing provisions for MFH in § 1955.117 of this subpart apply to such a conversion.

(2) The provisions of § 1955.130 of this subpart pertaining to real estate brokers apply, as applicable, and a commission will be due in the normal manner on units which were listed with the broker(s).

(3) Prior approval of the National Office is required before issuance of Form AD–622, “Notice of Preapplication Review Action.” A preapplication with documentation as required by the Agency, along with the State Director’s recommendation, will be forwarded to the National Office, Attention: Assistant Administrator, Housing, for a determination and further guidance.

(4) A credit sale for this purpose will be made according to the provisions of 7 CFR part 3560, as modified by § 1955.117 of this subpart, except the units need not be contiguous, but they must be located in close enough proximity so that management costs are

not increased nor management capabilities diminished because of distance.

(5) An additional loan may be made simultaneously with the credit sale, or later, only when the property involved meets the requirements of 7 CFR part 3560, subpart K.

(d) *CONACT residential property suitable for the SFH program.* When a single family house acquired under the CONACT is determined to be suited for the SFH program, it may be offered for sale as a SHF unit as though it had been acquired under the SFH program. It may, however, be sold in this manner to a program RH applicant on *program terms only*—not for cash or on NP terms. When a house is offered for sale under this paragraph, the listing notices and any advertising (whether being sold by FmHA or its successor agency under Public Law 103–354 or through real estate brokers) must state this restriction.

[53 FR 27832, July 25, 1988, as amended at 55 FR 3942, Feb. 6, 1990; 56 FR 2257, Jan. 22, 1991; 58 FR 38927, July 21, 1993; 58 FR 38949, July 21, 1993; 58 FR 52652, Oct. 12, 1993; 67 FR 78329, Dec. 24, 2002; 69 FR 69106, Nov. 26, 2004]

**§ 1955.115 Sales steps for nonprogram (NP) property (housing).**

The appropriate FmHA or its successor agency under Public Law 103–354 office will take the following steps after repairs, if economically feasible, are completed. The appraisal will be updated to reflect changes in market conditions, repairs and improvements, if any. Form FmHA or its successor agency under Public Law 103–354 1955–43 for SFH and 1955–40 for MFH will be completed to offer the property for sale. The advertising requirements and deed restrictions in § 1955.116 of this subpart apply if the property does not meet FmHA or its successor agency under Public Law 103–354 DSS standards.

(a) *Single Family Housing.* Sales steps will be the same as for program properties as provided in § 1955.114(a) of this subpart, except that sales must be for cash in accordance with § 1955.118 or credit on NP terms as provided in subpart J of part 1951 of this chapter. See exhibit D of this subpart (available in any FmHA or its successor agency under Public Law 103–354 office) which