

§ 1955.124

program approval authorities in exhibit E of FmHA or its successor agency under Public Law 103-354 Instruction 1901-A (available in any FmHA or its successor agency under Public Law 103-354 office.)

(b) *Receipt of payment.* Payment will be by cashier's check, certified check, postal or bank money order or personal check (not in excess of \$500) made payable to the agency. Cash may be accepted if it is not possible for one of these forms of payment to be used. Third party checks are not acceptable. If full payment is not received at the time of sale, the offer will be documented by Form RD 1955-45 or Form RD 1955-46 where the chattel is sold jointly with real estate by regular sale.

(c) *Transfer of title.* Title will be transferred to a purchaser in accordance with §1955.141(b) of this subpart.

(d) *Reporting sale.* Sales will be reported in accordance with §1955.142 of this subpart.

(e) *Reporting and disposal of inventory property not sold.* Refer to §§1955.143 and 1955.144 of this subpart for additional guidance in disposing of problem property.

[50 FR 23904, June 7, 1985, as amended at 58 FR 52653, Oct. 12, 1993; 58 FR 58650, Nov. 3, 1993; 68 FR 61332, Oct. 28, 2003]

§ 1955.124 Sale with inventory real estate (chattel).

Inventory chattel property may be sold with inventory real estate if a higher aggregate price can be obtained. Proceeds from a joint sale will be applied to the respective inventory accounts based on the value of the property sold. Form FmHA or its successor agency under Public Law 103-354 440-21 will be used to determine the value of the chattel property. The offer for the sale of the chattels will be documented by incorporating the terms and conditions of the sale of Form FmHA or its successor agency under Public Law 103-354 1955-45 or Form FmHA or its successor agency under Public Law 103-354 1955-46, and may be accepted by the appropriate approval official based upon the combined final sale price.

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

§§ 1955.125-1955.126 [Reserved]

USE OF CONTRACTORS TO DISPOSE OF INVENTORY PROPERTY

§ 1955.127 Selection and use of contractors to dispose of inventory property.

Sections 1955.128 through 1955.131 prescribe procedures for contracting for services to facilitate disposal of inventory property. FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (available in any FmHA or its successor agency under Public Law 103-354 office) is applicable for procurement of nonpersonal services.

[53 FR 27836, July 25, 1988]

§ 1955.128 Appraisers.

(a) *Real property.* The State Director may authorize the County Supervisor or District Director to procure fee appraisals of inventory property, except MFH properties, to expedite the sale of inventory real or chattel property. (Fee appraisals of MFH properties will only be authorized by the Assistant Administrator, Housing, when unusual circumstances preclude the use of a qualified FmHA or its successor agency under Public Law 103-354 MFH appraiser.) The decision will be based on the availability of comparables, the capability and availability of personnel, and the number and type of properties (such as large farms and business property) requiring valuation. For Farmer Programs real estate properties, all contract (fee) appraisers should include the sales comparison, income (when applicable), and the cost approach to value. All FmHA or its successor agency under Public Law 103-354 real estate contract appraisers must be certified as State-Certified General Appraisers.

(b) *Chattel property.* For Farmer Programs chattel appraisals, the contractor/appraiser completing the report must meet at least one of the following qualifications:

(1) Certification by a National or State appraisal society.

(2) If the contractor is not a certified appraiser and a certified appraiser is not available, the contractor may qualify or may use other qualified appraisers, if the contractor can establish that

he/she or that the appraiser meets the criteria for a certification in a National or State appraisal society.

(3) The appraiser has recent, relevant, documented appraisal experience or training, or other factors clearly establish the appraiser's qualifications.

[58 FR 58650, Nov. 3, 1993]

§ 1955.129 Business brokers.

The services of business brokers or business opportunity brokers may be authorized by the appropriate Assistant Administrator in lieu of or in addition to real estate brokers for the sale of businesses as a whole, including goodwill and chattel, when:

(a) The primary use of the structure included in the sale is other than residential;

(b) The business broker is duly licensed by the respective state; and

(c) The primary function of the business is other than farming or ranching.

§ 1955.130 Real estate brokers.

Contracting authority for the use of real estate brokers is prescribed in Exhibit D of FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (available in any FmHA or its successor agency under Public Law 103-354 office). Brokers who are managing custodial or inventory property may also participate in sales activities under the same conditions offered other brokers. Brokers must be properly licensed in the State in which they do business.

(a) *Type of listings.* The State Director may authorize use of exclusive listings during any calendar year. Since the Agency receives many more marketing services for its commission dollar and saves time listing the property with only one broker, it is strongly recommended that all County Offices be authorized the use of exclusive brokers.

(1) *Exclusive broker contract.* An exclusive broker contract provides for the selection of one broker by competitive negotiation who will be the only authorized broker for the FmHA or its successor agency under Public Law 103-354 office awarding the contract within a defined area and for specific property or type of property. Criteria will be

specified in the solicitation together with a numerical weighting system to be used (usually 1-100). Responses will be calculated on the basis of the criteria such as personal qualifications, membership in Multiple Listing Service (MLS), previous experience with FmHA or its successor agency under Public Law 103-354 sales, advertising plans, proposed innovative promotion methods, and financial capability. The responsibilities of the broker under an exclusive broker contract exceed those of the open listing agreement and therefore, an exclusive broker contract is the preferred method of listing properties.

(2) *Open listing.* Open listing agreements provide for any licensed real estate broker to provide sales services for any property listed under the terms and conditions of Form FmHA or its successor agency under Public Law 103-354 1955-42, "Open Real Property Master Listing Agreement." If this method is used, a newspaper advertisement will be published at least once yearly, or a notice sent to all real estate brokers in the counties served by the FmHA or its successor agency under Public Law 103-354 office, informing brokers that sales services are being requested. The advertising will be substantially similar to the example given in Exhibit B of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office). An open listing agreement may be executed at any time during the year, but must be effective prior to the broker showing the property. When this method is used, the FmHA or its successor agency under Public Law 103-354 office is responsible for ensuring that adequate advertising is performed to effectively market the property.

(b) *Listing notices.* Forms FmHA or its successor agency under Public Law 103-354 1955-40 or FmHA or its successor agency under Public Law 103-354 1955-43, as appropriate, will be used to provide brokers with notice of initial listing, withdrawal, price change, terms change, relisting, sale cancellation, restrictions on sale, etc.

(c) *Priority of offers.* All offers received during the same business day will be considered as having been received at the same time. The successful