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