

FmHA or its successor agency under Public Law 103-354 credit. If credit is not being extended in these instances (a cash sale), a commission will be paid. Under an exclusive broker contract, if a cooperating broker purchases the property and is receiving FmHA or its successor agency under Public Law 103-354 credit, one-half the respective commission will be paid to the exclusive broker. Commissions will be paid at closing if sufficient cash to cover the commission is paid by the purchaser. Otherwise, the commission will be paid by the appropriate FmHA or its successor agency under Public Law 103-354 official by completing Form AD-838 and processing Form FmHA or its successor agency under Public Law 103-354 838-B for payment in accordance with the respective FMI's, and charged to the inventory account as a nonrecoverable cost.

(g) *Nondiscrimination.* Brokers who execute listing agreements with FmHA or its successor agency under Public Law 103-354 shall certify to nondiscrimination practices as provided in Form FmHA or its successor agency under Public Law 103-354 1955-42. In addition, all brokers participating in the sale of property shall sign the nondiscrimination certification on Form FmHA or its successor agency under Public Law 103-354 1955-45.

[53 FR 27836, July 25, 1988, as amended at 55 FR 3943, Feb. 6, 1990; 62 FR 44401, Aug. 21, 1997; 68 FR 61332, Oct. 28, 2003]

§ 1955.131 Auctioneers.

The services of licensed auctioneers, if required, may be used to conduct auction sales as described in §1955.148 of this subpart and procured by competitive negotiation under the contracting authority of Exhibit C to 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).

(a) *Selection criteria.* The auctioneer should be selected by evaluating criteria such as proposed sales dates, location, advertising, broker cooperation, innovations, mechanics of sale, sample advertising, personal qualifications, financial capability, private sector financing and license/bonding.

(b) *Commission.* FmHA or its successor agency under Public Law 103-354 may not set the commission rate in an auctioneer solicitation/contract. The rate of commission will be one of the evaluation criteria in the solicitation. However, any offeror that submits an offer with a commission rate lower than the typical rate for such services in the area must include documentation that they have successfully sold properties at the lower rate with no compromise in services. The solicitation/contract will explicitly detail this policy. Commissions will be paid at closing if sufficient cash to cover the commission is paid by the purchaser. Otherwise, the commission will be paid by the appropriate FmHA or its successor agency under Public Law 103-354 official completing Form AD-838 and processing Form FmHA or its successor agency under Public Law 103-354 838-B for payment in accordance with the respective FMI's, and charged to the inventory account as a nonrecoverable cost.

(c) *Auctioneer restriction.* The auctioneer, his/her sales agents, cooperating brokers or persons living in his, her or their immediate household are restricted from bidding or from subsequent purchase of any property sold or offered at the auctioneer's sale for a period of one year from the auction date.

[50 FR 23904, June 7, 1985, as amended at 53 FR 27837, July 25, 1988]

GENERAL

§ 1955.132 Pilot projects.

FmHA or its successor agency under Public Law 103-354 may conduct pilot projects to test policies and procedures for the management and disposition of inventory property which deviate from the provisions of this subpart, but are not inconsistent with the provisions of the authorizing statute or other applicable Acts. A pilot project may be conducted by FmHA or its successor agency under Public Law 103-354 employees or by contract with individuals, organizations or other entities. Prior to initiation of a pilot project, FmHA or its successor agency under Public Law 103-354 will publish notice in the FEDERAL