

§ 3550.102

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section 504(a) of title V of the Housing Act of 1949, as amended. Section 504 loans and grants are intended to help very low-income owner-occupants in rural areas repair their properties. This subpart also covers Water and Waste Disposal (WWD) Grants to individuals authorized by Section 306C(b) of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926c).

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78331, Dec. 24, 2002]

§ 3550.102 Grant and loan purposes.

(a) *Grant funds.* Grant funds may be used only to pay costs for repairs and improvements that will remove identified health and safety hazards or to repair or remodel dwellings to make them accessible and useable for household members with disabilities. Unused grant funds must be returned to the Rural Housing Service (RHS).

(b) *Loan funds.* Loan funds may be used to make general repairs and improvements to properties or to remove health and safety hazards, as long as the dwelling remains modest in size and design.

(c) *Eligibility of mobile and manufactured homes.* Repairs necessary to remove health and safety hazards may be made to mobile or manufactured homes provided:

(1) The applicant owns the home and site and has occupied the home prior to filing an application with RHS; and

(2) The mobile or manufactured home is on a permanent foundation or will be put on a permanent foundation with section 504 funds.

(d) *Eligible costs.* In addition to construction costs to make necessary repairs and improvements, loan and grant funds may be used for:

(1) Reasonable expenses related to obtaining the loan or grant, including legal, architectural and engineering, title clearance, and loan closing fees; and appraisal, surveying, environmental, tax monitoring, and other technical services.

(2) The cost of providing special design features or equipment when necessary because of a physical disability of the applicant or a member of the household.

(3) Reasonable connection fees, assessments, or the pro rata installation

costs for utilities such as water, sewer, electricity, and gas for which the borrower is liable and which are not paid from other funds.

(4) Real estate taxes that are due and payable on the property at the time of closing and for the establishment of escrow accounts for real estate taxes, hazard and flood insurance premiums, and related costs.

(5) Fees to public and private non-profit organizations that are tax exempt under the Internal Revenue Code for the development and packaging of applications.

(e) *Restrictions on uses of loan or grant funds.* Section 504 funds may not be used to:

(1) Assist in the construction of a new dwelling.

(2) Make repairs to a dwelling in such poor condition that when the repairs are completed, the dwelling will continue to have major hazards.

(3) Move a mobile home or manufactured home from one site to another.

(4) Pay for off-site improvements except for the necessary installation and assessment costs for utilities.

(5) Refinance any debt or obligation of the applicant incurred before the date of application, except for the installation and assessment costs of utilities.

(6) Pay fees, commission, or charges to for-profit entities related to loan packaging or referral of prospective applicants to RHS.

§ 3550.103 Eligibility requirements.

To be eligible, applicants must meet the following requirements:

(a) *Owner-occupant.* Applicants must own, as described in § 3550.107, and occupy the dwelling.

(b) *Age (grant only).* To be eligible for grant assistance, an applicant must be 62 years of age or older at the time of application.

(c) *Income eligibility.* At the time of loan or grant approval, the household's adjusted income must not exceed the applicable very low-income limit. Section 3550.54 provides a detailed discussion of the calculation of adjusted income.

(d) *Citizenship status.* The applicant must be a U.S. citizen or a non-citizen

who qualifies as a legal alien, as defined in § 3550.10.

(e) *Need and use of personal resources.* Applicants must be unable to obtain financial assistance at reasonable terms and conditions from non-RHS credit or grant sources and lack the personal resources to meet their needs. In cases where the household is experiencing medical expenses in excess of three percent of the household's income, this requirement may be waived or modified. Elderly families must use any net family assets in excess of \$10,000 to reduce their section 504 request. Non-elderly families must use any net family assets in excess of \$7,500 to reduce their section 504 request. Applicants may contribute assets in excess of the aforementioned amounts to further reduce their request for assistance. The definition of assets for this purpose is net family assets as described in § 3550.54 of subpart B of this part, less the value of the dwelling and a minimum adequate site.

(f) *Legal capacity.* The applicant must have the legal capacity to incur the loan obligation or have a court appointed guardian or conservator who is empowered to obligate the applicant in real estate matters.

(g) *Suspension or debarment.* Applications from applicants who have been suspended or debarred from participation in federal programs will be handled in accordance with FmHA Instruction 1940-M (available in any Rural Development office).

(h) *Repayment ability (loans only).* Applicants must demonstrate adequate repayment ability as supported by a budget.

(1) If an applicant does not meet the repayment ability requirements, the applicant can have another party join the application as a cosigner.

(2) If an applicant does not meet the repayment ability requirements, the applicant can have other household members join the application.

(i) *Credit qualifications.* Applicants must be unable to secure the necessary credit from other sources under terms and conditions that the applicant could reasonably be expected to fulfill. Loan applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations.

An applicant with an outstanding judgment obtained by the United States in a federal court, other than the United States Tax Court, is not eligible for a loan or grant from RHS.

(1) Indicators of unacceptable credit include:

(i) Payments on any account where the amount of the delinquency exceeded one installment for more than 30 days within the last 12 months.

(ii) Payments on any account which was delinquent for more than 30 days on two or more occasions within a 12-month period.

(iii) Loss of security due to a foreclosure if the foreclosure has been completed within the last 36 months.

(iv) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.

(v) A court-created or court-affirmed obligation or judgment caused by non-payment that is currently outstanding or has been outstanding within the last 12 months, except for those excluded by paragraphs (i)(2)(i) and (i)(2)(ii) of this section.

(vi) Outstanding collection accounts with a record of irregular payment with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last 6 months.

(vii) Non-agency debts written off within the last 36 months or paid in full at least 12 months ago.

(viii) Agency debts that were debt settled within the last 36 months or are being considered for debt settlement.

(ix) Delinquency on a federal debt.

(2) The following will not be considered indicators of unacceptable credit:

(i) A bankruptcy in which debts were discharged more than 36 months prior to the date of application or where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application.

(ii) A non-foreclosure judgment satisfied more than 12 months before the date of application.

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(3) When an application is rejected because of unacceptable credit, the applicant will be informed of the reason and source of information.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78331, Dec. 24, 2002]

§ 3550.104 Applications.

(a) *Application submissions.* All persons applying for section 504 loans or grants must file a complete written application in a format specified by RHS. Applications will be accepted even when funds are not available.

(b) *Application processing.* (1) Incomplete applications will be returned to the applicant specifying in writing the additional information that is needed to make the application complete.

(2) An applicant may voluntarily withdraw an application at any time.

(3) RHS may periodically request in writing that applicants reconfirm their interest in obtaining a loan or grant. RHS may withdraw the application of any applicant who does not respond within the specified timeframe.

(4) Applicants who are eligible will be notified in writing. If additional information becomes available that indicates that the original eligibility determination may have been in error or that circumstances have changed, RHS may reconsider the application and the applicant may be required to submit additional information.

(5) Applicants who are ineligible will be notified in writing and provided with the specific reasons for the rejection.

(c) *Processing priorities.* When funding is not sufficient to serve all eligible applicants, applications for assistance to remove health and safety hazards will receive priority for funding. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veterans preference. After selection for processing, requests for assistance are funded on a first-come, first-served basis.

§ 3550.105 Site requirements.

(a) *Rural areas.* Loans may be made only in rural areas designated by RHS. If an area designation is changed to nonrural an existing RHS borrower may receive 504 assistance.

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(b) *Not subdividable.* The site must not be large enough to subdivide into more than one site under existing local zoning ordinances.

§ 3550.106 Dwelling requirements.

(a) *Modest dwelling.* The property must be one that is considered modest for the area, must not be designed for income producing purposes, have an in-ground pool, or have a market value in excess of the applicable maximum loan limit, in accordance with § 3550.63.

(b) *Post-repair condition.* Dwellings repaired with section 504 funds need not be brought to the agency development standards or thermal performance standards of 7 CFR part 1924, subpart A, nor must all existing hazards be removed. However, the dwelling may not continue to have major health or safety hazards.

(c) *Construction standards.* All work must be completed in accordance with local construction codes and standards. When potentially hazardous equipment or materials are being installed, all materials and installations must be in accordance with the applicable standards in 7 CFR part 1924, subpart A.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78331, Dec. 24, 2002]

EFFECTIVE DATE NOTE: At 72 FR 70222, Dec. 11, 2007, § 3550.106(b) was amended by removing the words "or thermal performance standards", effective Jan. 10, 2008.

§ 3550.107 Ownership requirements.

The applicant must have an acceptable ownership interest in the property as evidenced by one of the following:

(a) *Full fee ownership.* Acceptable full fee ownership is evidenced by a fully marketable title with a deed vesting a fee interest in the property to the applicant.

(b) *Secure leasehold interest.* A written lease is required. For loans, the unexpired portion of the lease must not be less than 2 years beyond the term of the promissory note. For grants, the remaining lease period must be at least 5 years. A leasehold for mutual help housing financed by U.S. Department of Housing and Urban Development (HUD) on Indian lands requires no minimum lease period and constitutes acceptable ownership.