

## Rural Housing Service, USDA

## § 3565.254

determination of undue risk. If any of the Agency guaranteed loans in the market are experiencing vacancy rates in excess of 15% and the vacancy is due to market conditions, the Agency will invoke this provision and not guarantee the loan.

### § 3565.214 [Reserved]

### § 3565.215 Special conditions.

(a) *Use of third party funds.* As a condition of receiving a guaranteed loan, the Agency, or the lender if designated by the Agency, must review the terms and conditions of any secondary financing or funding of projects, including loans, capital grants or rental assistance.

(b) *Recourse.* If required by the lender, loans guaranteed under this program may be made on a recourse or nonrecourse basis, or with any personal or special borrower guarantees on collateralization.

### §§ 3565.216–3565.249 [Reserved]

### § 3565.250 OMB control number.

According to the Paperwork Reduction Act of 1995, no party is required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0174.

## Subpart F—Property Requirements

### § 3565.251 Eligible property.

To be eligible for a guaranteed loan, a property must be used primarily for residential dwelling purposes and must meet the following requirements or the requirements of this subpart:

(a) *Property location.* All the property must be located in a rural area.

(b) *Minimum size of development.* The property must consist of at least five rental dwelling units.

(c) *Non-contiguous sites.* For a loan secured by two or more non-contiguous parcels of land, all sites must meet each of the following requirements:

- (1) Located in one market area;
- (2) Managed under one management plan with one loan agreement or resolution for all of the sites; and
- (3) Consist of single asset ownership.

(d) *Compliance with statutes.* All properties must comply with the applicable requirements in section 504 of the Rehabilitation Act of 1973, the Fair Housing Act, the Americans with Disabilities Act, and other applicable statutes.

### § 3565.252 Housing types.

The property may include new construction or rehabilitation of existing structures. The units may be attached, detached, semi-detached, row houses, modular or manufactured houses, or multifamily structures. Manufactured housing must meet Agency requirements contained in 7 CFR part 1924, subpart A or a successor regulation. The Agency will guarantee proposals for new construction or acquisition with moderate or substantial rehabilitation of at least \$6,500 per dwelling unit. The portion of guaranteed funds available for acquisition with rehabilitation may be limited in the annual Notice of Fund Availability.

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### § 3565.253 Form of ownership.

The property must be owned in fee simple or be subject to a ground lease or other legal right in land acceptable to the Agency.

### § 3565.254 Property standards.

(a) *Housing quality and site and neighborhood standards.* The property must meet the site and neighborhood requirements established by the state or locality, and those standards contained under 7 CFR part 1924, subparts A and C or any successor regulations.

(b) *Third party assessments.* As part of the application for a guaranteed loan, the lender must provide documentation of qualified third parties' assessments of the property's physical condition and any environmental conditions or hazards which may have a bearing on the market value of the property. These assessments must include:

- (1) An acceptable property appraisal.
- (2) A Phase I Environmental Site Assessment (American Society of Testing and Materials).
- (3) A Standard Flood Hazard Determination.

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(4) In the case of the purchase of an existing structure, rehabilitation or refinancing, a physical needs assessment.

**§ 3565.255 Environmental requirements.**

Under the National Environmental Policy Act, the Agency is required to assess the potential impact of the proposed actions on protected environmental resources. Measures to avoid or at least mitigate adverse impacts to protected resources may require a change in site or project design. A site will not be approved until the Agency has completed the environmental review in accordance with 7 CFR part 1940, subpart G or successor regulation.

**§ 3565.256 Architectural services.**

Architectural services must be provided for the project in accordance with 7 CFR part 1924, subpart A or successor regulation, including plan certifications.

**§ 3565.257 Procurement actions.**

All construction procurement actions, whether by sealed bid or by negotiation, must be conducted in a manner that provides maximum open and free competition.

**§§ 3565.258–3565.299 [Reserved]**

**§ 3565.300 OMB control number.**

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**Subpart G—Processing Requirements**

**§ 3565.301 Loan standards.**

An approved lender must originate and underwrite the loan and appraise the subject property in accordance with prudent lending practices and Agency criteria addressing the following factors:

- (a) Borrower qualifications and creditworthiness;
- (b) Property, vacancy, market vacancy or collection loss;

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- (c) Rental concessions and rent levels;
- (d) Tenant demand and housing supply;
- (e) Property operating and maintenance expense;
- (f) Property requirements as contained in subpart F of this part;
- (g) Debt coverage ratio;
- (h) Operating and long-term capital requirements;
- (i) Loan-to-value ratio;
- (j) Return on borrower equity; and
- (k) Estimated long-term marketability of the project.

**§ 3565.302 Allowable fees.**

(a) *Lender fees.* The lender is authorized to charge reasonable and necessary fees in connection with a borrower's application for a guaranteed loan.

(b) *Agency fees.* The Agency will charge one or more types of fees deemed appropriate as reimbursement for reasonable and necessary costs incurred in connection with applications received from lenders for monitoring or annual renewal fees. These fees will be published in NOFA. Agency fees may include, but are not limited to the following:

- (1) *Site assessment and market analysis or preliminary feasibility fee.* A fee for review of an application for a determination of preliminary feasibility.
- (2) *Application fee.* A fee submitted in conjunction with the application for a loan guarantee.
- (3) *Inspection fee.* A fee for inspection of the property in conjunction with a loan guarantee.
- (4) *Transfer fee.* A fee in connection with a request for approval of a transfer of physical assets or a change in the composition of the ownership entity.
- (5) *Extension or reopening fees.* A fee to extend the guarantee commitment or to reopen an application when a commitment has expired.

**§ 3565.303 Issuance of loan guarantee.**

(a) *Preliminary feasibility review.* During the initial processing of a loan, the lender may request a preliminary feasibility review by the Agency when required loan documentation is submitted.