

RD AN No. 4335 (1980-D)  
February 28, 2008

TO: State Directors  
Rural Development

ATTENTION: Rural Housing Program Directors  
Guaranteed Rural Housing Specialists  
Area Directors and Area Specialists

FROM: Russell T. Davis (*Signed by Russell T. Davis*)  
Administrator  
Housing and Community Facilities Programs

SUBJECT: Single Family Housing Guaranteed Loan Program  
Refinancing of Section 502 Direct Loans with Section 502 Guaranteed  
Loans

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to renew instruction to field staff involved in the Single Family Housing Guaranteed Loan Program (SFHGLP) of the process used to refinance Direct loans to SFHGLP loans. A separate AN is being issued to address the requirements for refinancing an existing SFHGLP loan with a new SFHGLP loan.

COMPARISON WITH PREVIOUS AN:

This AN replaces AN No. 4238 (1980-D) dated February 2, 2007. The requirement to submit Form AD-1048 "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions" has been removed because the form contents have been combined in the revised Form RD 1980-21 "Request for Single Family Housing Loan Guarantee." Additionally, the provision that only refinancing transactions are eligible to exceed 100 percent Loan-To-Value (LTV) by the amount of the guaranteed fee has been removed because the same provision now applies for purchase transactions. The amount of the fee differs between refinance and purchase transactions.

EXPIRATION DATE:  
March 31, 2009

FILING INSTRUCTIONS:  
Preceding RD Instruction 1980-D

## IMPLEMENTATION RESPONSIBILITIES:

In accordance with RD Instruction 1980-D and section 502(h) of the Housing Act of 1949, the following summarizes the requirements for a Direct loan being refinanced:

### **Term**

Term of the loan will be 30 years.

### **Interest Rate**

- Interest rate of the new loan must be a fixed rate and cannot exceed the interest rate of the loan being refinanced. In addition, the interest rate of the new loan does not have to meet requirements established in RD Instruction 1980-D, section 1980.320.
- Funded buydown accounts, as defined in RD Instruction 1980-D, section 1980.392, are not permitted.

### **Security**

Loan security must include the same property as the original loan. The security property must be owned and occupied by the applicants as their principal residence.

### **Household Income**

Total adjusted income for the household cannot exceed the moderate level for the area as established in RD Instruction 1980-D, Exhibit C.

### **Approved SFHGLP Lender**

An approved SFHGLP lender must make the loan.

### **Section 502 Leveraged Loans**

The SFHGLP program may not be used to refinance Leveraged Loans. Leveraged Loans are loans from a non-Rural Development source closed simultaneously with a 502 direct loan. The private sector lender takes a first lien; Rural Development takes a second lien on the same property. Because the first lien is not funded or guaranteed by Rural Development, the Leveraged Loan may not be refinanced with a guaranteed section 502 loan.

### **Loan Amount Limitations**

- Maximum loan amount cannot exceed the balance of the loan being refinanced, plus the guarantee fee, and reasonable and customary closing costs, including funds necessary to establish a new tax and insurance escrow accounts.
- Applicants are not eligible to receive "cash out" from the refinancing transaction. However, applicants may receive reimbursement from loan proceeds at settlement for their personal funds advanced for eligible loan purposes that are part of the refinancing transaction, such as an appraisal fee or credit report fee. At loan closing, a nominal amount of "cash out" to the

applicants may occasionally result due to final escrow and interest calculations. This amount, if any, must be applied to a principal reduction of the new loan.

- Subordinate financing such as home equity seconds and down payment assistance “silent” seconds cannot be included in the new loan amount. Any existing secondary financing must be subordinated to the new first lien.

### **Rural and Non-Rural Areas**

SFHGLP refinance loans are permissible for properties in areas that have been determined to be non-rural since the existing loan was made.

### **Applicant Eligibility**

As part of the refinancing transaction, additional borrowers may be added to the new SFHGLP loan or existing borrowers may be deleted from the current Direct loan. All applicants that will be a party to the promissory note for the new loan must meet all eligibility requirements.

### **Processing Requirements**

The lender will process the refinancing loan package in accordance with RD Instruction 1980-D, except where provided otherwise in this AN.

When the Agency has determined that a 502 Direct borrower may be eligible to refinance with private credit, the option to attempt refinancing with a SFHGLP loan may be offered to the borrower. It will be the option of the borrower to contact a SFHGLP lender or pursue other refinancing credit.

### **Reservation of Funds**

After the lender has determined that a 502 Direct borrower will likely qualify for a SFHGLP refinance loan, the lender should request a reservation of funds to ensure that funds will be available at the time the loan is ready for final loan approval. Field staff will reserve funds upon receipt of Form RD 1980-86, “Request for Reservation of Funds” from the lender, and funds will remain reserved for 60 days.

### **Loan Application Documentation**

Application and verification requirements of RD Instruction 1980-D, section 1980.353(c) and (e) apply, except for that portion of paragraph (c)(4) that deals with maximum interest rate and paragraph (c)(16) (purchase agreement). The following items must be addressed or documented in the lender’s loan file in order for the application to be considered complete:

- Signed copy of the final loan application.
- Current credit report.
- Any late mortgage payments within the past 36 months on the existing 502 Direct loan must be addressed by the lender and taken into consideration in the underwriting decision.
- Lender verification of applicant’s current employment and income.

- Lender verification that the total adjusted income for the household does not exceed the current moderate income level established for the area.
- Lender’s underwriting analysis, including applicant’s qualifying ratios for the loan being refinanced. Ratios must meet requirements as stated in RD Instruction 1980-D, section 1980.345(c)(3). The monthly housing expense to income ratio may not exceed 29 percent and the total debt to income ratio may not exceed 41 percent. However, lenders may request a waiver of these ratio requirements with documentation of acceptable compensating factors. A satisfactory payment history for the existing mortgage is considered a strong compensating factor.
- Applicants sign all applicable RD forms including Form RD 1980-21, “Request for Single Family Housing Loan Guarantee”.
- Complete appraisal report. The appraisal report will be used to determine any recapture amount due and payable.
- No property inspections or thermal certifications are necessary. Although Rural Development does not require repairs to be completed for refinance transactions, the lender may require completion of repairs as a condition of loan approval. Expenses related to property inspections and repairs may not be financed into the new loan amount.

### **Using Guaranteed Underwriting System (GUS) for Processing of Refinancing Applications**

All loans are eligible for processing through GUS. Loans that receive an “accept” message will only require the following documents submitted to the Agency:

- A complete Federal National Mortgage Association (FNMA) Form 1004 or Freddie Mac Form 70, “Uniform Residential Appraisal Report” (URAR) or its equivalent for condominiums or manufactured housing if required under the documentation requirements of this Administrative Notice; and,
- Form RD 1980-21, “Request for Single Family Housing Loan Guarantee”. The form should be duly completed and executed by the lender and borrower.
- Loan which receive a “refer” or a “refer with caution” message will have full documentation submitted as outlined above (Loan Application Documentation).

### **Submission Process**

Once the lender has obtained all required documentation and completed underwriting and approval of the loan, the lender will submit the loan application package for Agency review. The Agency will review applications to determine that all program requirements have been met.

Use of SFHGLP funds for the sole purpose of refinancing an existing 502 Direct loan is considered a servicing action and a categorical exclusion under RD Instruction 1940-G, section 1940.310(e)(2). In accordance with RD Instruction 1940-G, section 1940.317(c)(4), completion of Form RD 1940-22, “Environmental Checklist for Categorical Exclusions,” will typically not be required because refinance transactions will not likely have the potential to adversely effect environmentally sensitive land uses or resources. However, in extraordinary circumstances, the

Agency loan approval official may be aware of an environmentally sensitive situation, such as reports of chemical spills in the area or hazardous material waste sites that have been developed in the community, that may impact the application and require further analysis as prescribed in RD Instruction 1940-G.

Following Rural Development approval, funds will be obligated and a Conditional Commitment issued.

### **Recapture**

As part of the Direct loan refinancing, arrangements must be made to either pay off or defer repayment of any subsidy recapture due. Any recapture amount owed as part of the 502 Direct loan payoff may be included into the amount being refinanced with the SFHGLP loan as part of the loan balance. Alternatively, any 502 Direct recapture amount owed at the time of refinancing may be deferred if the recapture amount takes a lien position subordinate to the new SFHGLP loan. A 25 percent discount on recapture may be offered if the customer does not defer recapture in accordance with 7 CFR, section 3550.162 or includes the recapture amount being refinanced with the SFHGLP loan.

### **Closing Costs and Lender Fees**

As stated in RD Instruction 1980-D, section 1980.324(a), the lender may establish charges and fees for the refinance loan, provided they are the same as those they charge other applicants for similar types of transactions. Lenders and the Agency should make every effort to insure that applicants are not being charged excessive fees as part of the new loan. Discount points are not eligible to be financed, except for low-income borrowers under RD Instruction 1980-D, section 1980.310(d). In such cases, discount points financed will not exceed two percentage points of the loan amount.

### **Guarantee Fee**

The guarantee fee for SFHGLP refinances will be 0.5 percent. The guarantee fee may be financed into any SFHGLP refinancing loan. As usual, applicants may finance closing costs and fees up to 100 percent of the current appraised value. However, it is possible that the LTV of the new loan could exceed 100 percent if the guarantee fee is financed. Loans may only exceed 100 percent LTV to the extent that the excess represents a financed guarantee fee.

### **Loan Note Guarantee Issuance Requirements**

Once the lender has closed the loan, closing documentation should be submitted to the Agency in accordance with RD Instruction 1980-D, Section 1980.361(a). The Agency should verify that the Section 502 Direct liability has been satisfied and that any recapture owed has been paid or deferred as a subordinate lien. Provided that the lender's closing documentation is adequate, a Loan Note Guarantee will be issued to cover the terms of the new loan. The Agency will process loan closings for SFHGLP refinance loans using the same procedures used for closing SFHGLP purchase loans.

## **Guaranteed Loan System (GLS) Reporting**

All SFHGLP refinance loans will be coded “326”, the same code currently used for SFHGLP purchase loans. This coding will permit funds to be obligated from one funding source through the remainder of the fiscal year.

## **Funding Limitations**

There will be no limit placed on the number of refinance loans made from the total allocation at this time. However, overall funding availability will be monitored closely to ensure that ample funds will be available for both purchase and refinance loans.

## **Summary:**

The intent of the refinance feature of the SFHGLP loan program is to give 502 Direct customers, who are ready to graduate into private credit, the opportunity to benefit from SFHGLP loan program parameters and lower interest rates or lower monthly mortgage payment. Applicants must meet all existing eligibility requirements as stated in RD Instruction 1980-D.

Questions regarding this AN may be directed to Michelle C. Corridon, [michelle.corridon@wdc.usda.gov](mailto:michelle.corridon@wdc.usda.gov) or Joaquín Tremols, [joaquin.tremols@wdc.usda.gov](mailto:joaquin.tremols@wdc.usda.gov) or at 202-720-1452.