

RD AN No.4414 (1980-D)  
January 5, 2009

TO: All State Directors  
Rural Development

ATTENTION: Rural Housing Program Directors,  
Guaranteed Rural Housing Specialists,  
Rural Development Managers, and  
Community Development Managers

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

SUBJECT: Single Family Housing Guaranteed Loan Program Requirements  
Related to:  
• New Construction  
• Homes in Planned Unit Developments

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) clarifies:

1. Regulatory requirements dealing with lender loan file documentation requirements for newly constructed homes.
2. Regulatory requirements when the guaranteed loan is used to purchase a home in a Planned Unit Development.

COMPARISON WITH PREVIOUS AN:

This AN replaces AN 4313 (1980-D) dated October 31, 2007.

EXPIRATION DATE:  
December 31, 2009

FILING INSTRUCTIONS:  
Preceding RD Instruction 1980-D

## **Lender Responsibilities and Agency Responsibilities for New Construction**

Single Family Housing Guaranteed Loan Program (SFHGLP) loans are originated by several thousand approved lenders working through the USDA Rural Development offices nationwide.

Questions often arise regarding roles and responsibilities, or specifically, what are “lender responsibilities” and what are “agency responsibilities” as they apply to new construction.

In general, the lender has the primary responsibility for all loan origination activities. The Agency has primary responsibility to review lenders’ actions and monitor participants’ compliance with program requirements.

The Agency should not assume the lender’s responsibilities, nor require the Lender to routinely submit certifications or documentation not specified in program regulations or not essential to the Agency’s review under the lender’s agreement (Form RD 1980-16). Similarly, the Lender should not request the Agency to perform its responsibilities.

The SFHGLP regulations recognize the trust the Agency places in approved lenders. The Agency will balance its monitoring responsibilities with the burden placed on Lenders to provide documentation.

The Agency will not require the lender to routinely submit documentation maintained in the lender’s file regarding new construction that is not required to be submitted by program regulations, such as:

- Copies of plans, drawings and specifications
- Certifications regarding the plans, drawings and specifications (Although lenders may voluntarily elect to use Form RD 1924-25, *Plan Certification*, this form is not a required form for the guaranteed program. The certification may be on the plans and drawings, a separate form, or on any document that conveys the necessary information.)
- Building permits
- Copies of new construction inspections
- Occupancy certificates
- Copies of the construction warranties.

However, the Agency has the option to request this information in appropriate situations such as when:

- The Agency is performing a processing review for a new Lender.
- The Agency is performing a periodic review of the Lender’s compliance with program regulations.
- The Agency believes that the Lender is not fulfilling the obligations of the Lender Agreement and/or program regulations.
- The Agency is reviewing a loss claim.

The two following charts were developed to guide Agency staff regarding:

- Building drawings, plans and specifications and the related documentation requirements.
- New construction inspections and the related documentation requirements.

## NEW CONSTRUCTION BUILDING PLANS, SPECIFICATIONS, AND INSPECTIONS

### **Certified Plans and Specifications**

RD Instruction 1980.340(b)(1)

The Lender's file must contain evidence that the plans and specifications comply with all applicable development standards\* applicable to the new construction. Acceptable evidence includes:

1. Copy of the certification from a qualified individual or organization that the reviewed documents comply with applicable development standards. Form RD 1924-25 "Plan Certification" is an acceptable format, but may not be required by the Agency for guaranteed loans.

-OR-

2. Certificate of Occupancy issued by a local jurisdiction.\*\*

-OR-

3. Building Permit (or equivalent) issued by local jurisdiction.\*\*

The lender may accept certifications only from individuals or organizations trained and experienced in the compliance, interpretation or enforcement of the applicable development standards\* for drawings and specifications. Plan certifiers may be any of the following:

- (1) Licensed architects,
- (2) Professional engineers,
- (3) Plan reviewers certified by a national model code organization,
- (4) Local building officials authorized to review and approve building plans and specifications, or
- (5) National codes organizations.

\* Applicable Development Standard The current edition of any of the model building, plumbing, mechanical, and electrical codes listed in exhibit E of RD Instruction 1924-A are applicable to single family residential construction, or other similar codes adopted by the Agency for use in the State.

\*\* If this method is used, the State Director must determine whether local communities or jurisdictions qualify to use this form of "acceptable evidence" under RD Instruction 1924-A, section 1924.5(f)(1)(iii)(C)(2).

### **Evidence of construction inspections.**

RD Instruction 1980.341(b)(2)

The Lender's file must contain copies of the documents described in one of the following three options:

1. Certificate of Occupancy issued by a local jurisdiction that performs at least 3 construction phase inspections, including those prescribed in RD Instruction 1980-D § 1980.341(b)(2) and a 1-year builder warranty plan acceptable to Rural Development, or;

2. Three construction inspections performed when:

- Footings and foundation are ready to be poured and prior to back-filling.
- Shell is complete, but plumbing, electrical and mechanical work is still exposed.
- Final inspection of completed work prior to occupancy.
- A 1-year insured builder warranty plan acceptable to Rural Development, or;

3. Final inspection and a 10-year insured builder warranty plan acceptable to Rural Development.

## **Dwellings Served by a Homeowners Association (HOA)**

RD Instruction 1980-D, section 1980.311(c) states, in part:

- A dwelling served by a homeowners association (HOA) may be accepted when the project has been approved by HUD, Veterans Affairs (VA), Fannie Mae, or Freddie Mac.

Dwellings served by a homeowners association typically are either:

- A home (attached or detached) in a Planned Unit Development (PUD), or;
- A unit in a condominium project.

On January 22, 2003, the Department of Housing and Urban Development (HUD) issued a mortgagee letter 2003-02, announcing the elimination of PUD approval requirements. Based on Federal Housing Administration's (FHA) extensive experience with PUDs, FHA no longer requires approval of a PUD as a precondition for placing FHA mortgagee insurance on a dwelling located in the development. Also, FHA no longer maintains a list of approved PUDs.

Lenders participating in the Guaranteed Loan program, therefore, may rely on FHA's general acceptance of PUDs for compliance with the requirement in RD Instruction 1980-D, section 1980.311(c) when the subject dwelling is in a PUD. All other appraisal and property requirements still apply.

Condominium projects and other non-PUD projects served by an HOA must still be approved or accepted by HUD, VA, Fannie Mae, or Freddie Mac in order to meet the requirements of RD Instruction 1980-D, section 1980.311(c).

Please direct questions concerning this Administrative Notice to David Chaput or Joaquín Tremols at (202) 720-1452. Their respective email addresses are [david.chaput@wdc.usda.gov](mailto:david.chaput@wdc.usda.gov) and [joaquin.tremols@wdc.usda.gov](mailto:joaquin.tremols@wdc.usda.gov).