

RD AN No. 4386 (1980-D)
August 8, 2008

TO: State Directors
Rural Development

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

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

SUBJECT: Single Family Housing Guaranteed Loan Program Lender Eligibility Review

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify guidance of the RD Instruction 1980-D when performing a review of new and previously approved lender eligibility files for the Single Family Housing Guaranteed Loan Program (SFHGLP). This AN also provides procedures for updating lender information in the Guaranteed Loan System (GLS).

The intended outcome of this AN is to ensure that eligibility information in the Agency's lender records are current, and to document the continued eligibility of approved lenders as meeting the requirements of RD Instruction 1980-D, section 1980.309(a).

State Offices should review the continuing eligibility of State-approved lenders as described in this AN. The review should be completed by February 27, 2009.

COMPARISON WITH PREVIOUS AN:

There is no previous AN issued on this subject.

EXPIRATION DATE:
August 31, 2009

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

BACKGROUND:

An increase in requests for new lender approvals and the ongoing Agency responsibility to ensure that the GLS lender master file is accurate remains an integral piece of portfolio risk management and the delivery of the SFHGLP. In a recent review by the National Office, it was found that some State-approved lenders did not meet or no longer met the requirements of RD Instruction 1980-D, section 1980.309(a). Accordingly, Agency staff should complete a review of all their existing lender eligibility files at this time. The review will ensure the approved lender's continued qualifications to participate in the SFHGLP, and the accurate authorization and designation in the GLS lender master file. This AN provides procedures to review and verify information submitted by the lender per RD Instruction 1980-D, section 1980.309(a); to verify existing lender eligibility under section 1980.309(b); and to maintain GLS lender master file.

Rural Development and the lender/servicer share the responsibility of maintaining current approval that meets qualification standards, as per section 1980.309(b) and Form RD 1980-16 "Agreement for Participation in Single Family Housing Guaranteed/Insured Loan Programs." The high occurrence in today's environment of lender mergers and other lender changes underscores the importance of confirming lender eligibility to originate, hold, or service Rural Development loans, and for the Agency to maintain accurate and current lender eligibility files.

The National Office will periodically review the eligibility of nationwide-approved lenders. State Offices are responsible for periodically reviewing the eligibility of State-approved lenders. This lender eligibility file review is in addition to lender/servicer compliance reviews outlined in 1980.309(g).

IMPLEMENTATION RESPONSIBILITIES:

State Offices should immediately review the eligibility of State-approved lenders. The review should be completed by February 27, 2009. The lender eligibility requirements of RD Instruction 1980-D are reiterated and clarified below.

Lender Qualification:

According to RD Instruction 1980-D, section 1980.309(a), the following lenders are eligible to participate in the SFHGLP:

- State housing finance agencies (SHFA);

Note: Evidence that a private sector lender is approved by a SHFA to participate in SFHA programs does not in itself represent automatic approval for participation in the SFHGLP.

- Lenders approved by HUD as a Title II supervised or non-supervised mortgagee for submission of one to four family housing applications for Federal Housing Mortgage Insurance or as an issuer of Ginnie Mae mortgage backed securities;

Supervised Mortgagee: A supervised mortgagee is an institution that is under the supervision of Federal Deposit Insurance Corporation (FDIC), Federal Reserve, or National Credit Union Administration (NCUA). HUD supervision requirements are minimal due to supervision by other Federal agencies;

Non-supervised Mortgagee: A non-supervised mortgagee is a financial institution that has as its principal activity in the lending or investment of funds in real estate mortgages. It is an institution that does not meet the requirements of a supervised mortgagee [member of the Federal Reserve System, or insured by the Federal Deposit Insurance Corporation (FDIC), or National Credit Union Administration (NCUA)]. Non-supervised mortgagees may originate, fund, hold, service, purchase, and sell FHA mortgage loans. Prior to obtaining Direct Endorsement authority, non-supervised mortgagees must submit all of their FHA mortgage loans to HUD for underwriting review. Non-supervised mortgagees obtain Direct Endorsement authority through the FHA/HUD field office in their area. In order to obtain Direct Endorsement authority, the non-supervised mortgagee must have in their employ a HUD/FHA approved underwriter and must process and underwrite a number of FHA mortgage loans under the supervision of their area field office;

- Lenders approved as a supervised or non-supervised mortgagee for the Veterans Affairs (VA),
- Lenders approved by Fannie Mae for participation in one to four family mortgage loans;
- Lenders approved by Freddie Mac for participation in one to four family mortgage loans;
- A Farm Credit Service (FCS) institution with direct lending authority; and
- Lenders participating in other guaranteed loan programs offered by Rural Business and Cooperative Development Service, Rural Utilities Service, and/or the Farm Service Agency.

Lenders who are not eligible for participation as an approved lender in the SFHGLP include:

- HUD Loan Correspondents: A mortgagee whose principal activity is the origination of HUD-insured mortgages for sale or transfer to HUD approved Sponsor(s). All FHA mortgage loans originated by a loan correspondent (typically mortgage brokers) must be underwritten and funded by a sponsoring Supervised or non-supervised mortgagee.
- VA Agents: A mortgagee whose principal activity is the origination of VA-guaranteed mortgages for sale or transfer to VA approved sponsor(s). All VA mortgage loans originated by an Agent (typically mortgage brokers) must be underwritten and funded by a sponsoring Supervised or Non-supervised mortgagee.
- Freddie Mac Third Party Originators (TPO): Lenders can register with Freddie Mac as a TPO, however, this type of lender must have a Freddie Mac seller/servicer underwrite files.
- Mortgage brokers: Any lender originating loans as a broker is not eligible for approval.

Lender Approval Confirmation

Once the Agency has confirmed a lender meets eligibility criteria to participate in the program as noted in above and in RD Instruction 1980-D, section 1980.309(a), Agency staff should review and verify information below, as described in section 1980.309(b)(1):

- Verify of the lender's tax identification number (TIN).
- Obtain and update the name and contact information of an official of the lender who will serve as a contact Rural Development guaranteed loans.

- Obtain an updated list of the lenders' principal officers including full names, titles and functional areas.
- Obtain an updated outline of the lenders' internal loan criteria for analyzing credit and repayment ability for SFHGLP loans.
- Obtain an updated copy of the lenders' quality control plan for monitoring production and servicing activities.

Issuance of the Form RD 1980-16:

Provided a lender is approved to participate in the SFHGLP, Agency staff should verify the lender record contains both a fully executed Form RD 1980-16 "Lender Agreement for Single Family Housing Guaranteed/Insured Loan Programs" and if applicable, Form AD 1047 "Certification Regarding Debarment, Suspension, or Other Matters - Primary Covered Transactions" (applicable to lender approvals prior to June 2006). Documents must bear original signatures. If the review of the lender file discloses the absence of either form, obtain a replacement Form RD 1980-16.

Note: With a change that occurred in June 2006, Form AD 1047 is now part of Form 1980-16 and is no longer required as part of the lender approval process.

Termination of Ineligible Lenders

- If the lender fails to provide evidence according to section 1980.309(a), written notice terminating the lender's participation will be mailed the lender including appeal rights in accordance with RD Instruction 1980.399. A sample termination notice is included at the end of this document.
- The Agency, immediately upon sending the termination notice, will update GLS by removing the lender designation and any authorizations.
- Notifications returned with a forwarding address will be sent to the new address with an additional 30 day timeframe for the lender to respond.
- If the notice is returned as "undeliverable" with no forwarding address, the returned envelope will be retained in the file as evidence that the lender was sent notice that they no longer met approved lender status.

Retention of Terminated Lender Files:

Closed lender eligibility files will be marked as "Closed on month day, year" and retained indefinitely.

Designation of Employees Authorized to Complete GLS Lender File Entries and Updates:

In an effort to efficiently and accurately update the GLS lender master file, each state will submit to the National Office up to two names along with ACF2 identification authorized to make lender record changes in GLS within 60 days from the date of this notice. The names should be submitted to the individuals listed below, to whom any questions should be addressed. Other employees should be blocked from updating lender records in GLS. States are responsible for notifying the National Office with any updates to this list as changes in staffing occur.

Reporting Changes to Lender Files:

Please report any lender agreements that are terminated or suspended to the National Office.

For Further Information:

Training, a Lender Eligibility Review User Guide, and correspondence templates are located at the Rural Development internal SharePoint Site.

Questions may be directed to Melvin Carroll, David Chaput, or Joaquin Tremols of the Guaranteed Loan Division. The telephone number is (202) 720-1452 or by email at melvin.carroll@wdc.usda.gov, david.chaput@wdc.usda.gov, or joaquin.tremols@wdc.usda.gov.

SAMPLE TERMINATION NOTICE

Dear :

USDA Rural Development has determined that (*insert lender name*) does not or no longer meets our lender qualification criteria as found at 7 C.F.R. 1980-D, section 1980.309(a). Consequently, we are terminating (*insert lender name*) as an approved or participating lender for the Rural Development Guaranteed Single Family Home Loan Program.

We will notify our State Directors that (*insert lender name*) ID # (*insert tax ID*) is no longer an approved lender for Rural Development guaranteed home loans. If you wish to appeal this decision, it must be in writing within 30 days from the date on this letter. See the attachment for the format of an appeal. You should mail or fax your written appeal to:

The National Appeals Division
Eastern Regional Office
8909 Purdue Road, Suite 240
Indianapolis, Indiana 46268
FAX: (317) 875-9674

Sincerely,

State Director
USDA Rural Development

Attachment

Appeal Format:

Appeal Request Form

I hereby request an administrative appeal regarding an adverse decision issued by the _____, agency, dated _____.

I have attached (1) a copy of the decision, and (2) a statement why I believe the agency determination is wrong. The date I received the determination was _____.

Signature: _____

Date: _____

REMINDER: You will lose your right to appeal if you do not file an Appeal within 30 days of the date of receipt of the adverse determination.