

**A GUIDE TO APPEALING
RURAL HOUSING SERVICE/
RURAL DEVELOPMENT
DECISIONS**

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RURAL DEVELOPMENT
DECISIONS**

Housing Assistance Council

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HAC, founded in 1971, is a nonprofit corporation which supports the development of rural low-income housing nationwide. HAC provides technical housing services, seed money loans from a revolving fund, housing program and policy assistance, research and demonstration projects, and training and information services.

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I. INTRODUCTION

A. *About the Appeal Process*

This guide describes the appeal procedure of the U.S. Department of Agriculture (USDA) National Appeals Division (NAD), as it relates to the Rural Housing Service (RHS)/Rural Development housing programs. When an application for a housing loan or grant is not approved, or when RHS/Rural Development only partially approves a request, in most cases the applicant has the right to challenge (appeal) the decision(s). The same right extends after the loan is approved. Borrowers have the right to challenge agency decisions to deny requests for further assistance, or agency steps that will adversely affect the borrower's situation. Applicants and borrowers may be offered an informal review, mediation or other form of alternative dispute resolution, and referral to the NAD.

RHS/Rural Development officials often make decisions based on an interpretation (their own or that of someone in the chain of command) of agency regulations. In the course of making such judgments, employees may err, and that mistake can adversely affect the applicant or borrower. The appeal procedure is intended to institutionalize that right to seek relief and to ensure due process for all applicants for, and users of, USDA's programs.

Not all RHS/Rural Development decisions are appealable. Section III of this guide describes which decisions are appealable and which are not.

RHS assistance is not discontinued pending the outcome of an appeal. In the rural housing programs, this is particularly important for the self-help technical assistance and housing preservation grant programs, and for agency decisions to deobligate previously approved loans and grants.

B. *About This Guide*

This guide is intended to provide an introduction and basic information about the RHS/Rural Development appeal process. Complete details on the appeal procedure are found in agency regulations. No one should enter into the appeal process without reading the regulations. See Section I.D below for information about obtaining a copy.

C. *About RHS and Rural Development*

This guide refers to RHS (the agency responsible for USDA's rural housing programs at the national level) and Rural Development (the designation for field and state offices and staff administering the programs). USDA's rural housing programs were formerly administered by the Farmers Home Administration (FmHA) and then by the Rural Housing and Community Development Service (RHCD). FmHA has been eliminated through USDA restructuring. The FmHA farmer programs and about 30 percent of its staff were transferred to the Farm Service Agency (FSA), as part of a "one stop" center for farmers. The remaining FmHA programs were transferred to three small agencies: the Rural Business-Cooperative Service, the Rural Utility Service and the Rural Housing Service (originally named the Rural Housing and Community Development Service). Field staff and most program support staff for all three agencies became

Rural Development staff. The latter are directly responsible to the Under Secretary of Agriculture for Rural Development.

Appendix 13 to this guide provides some further general information about RHS housing programs, the agency's service area, and the organization of the agency's program staff. Information about the National Appeals Division is in Section IV in this guide.

D. Applicable Regulations

The process for appealing adverse decisions is documented in Title 7, Part 11 of the Code of Federal Regulations (CFR), referred to as 7 CFR Part 11 (National Appeals Division Rules of Procedure). These regulations are included as Appendix 4 in each of the RHS/Rural Development handbooks for single-family programs, and the process is summarized in Chapter 1 of HB-1-3550. The handbooks, which provide procedural guidance to Rural Development employees to supplement the single-family program regulations that are set out in 7 CFR Part 3550, are HB-1-3550, the "Direct Single Family Housing Programs Field Office Handbook," and HB-2-3550, the "Direct Single Family Housing Loans and Grants Centralized Servicing Center Handbook." They are not published in the *Federal Register* or the Code of Federal Regulations, but are available from the agency (see ordering information below).

Agency program regulations, known as Instructions, can also be found in Title 7 of the Code of Federal Regulations (CFR). For example, RD Instruction 1924-A is located in 7 CFR Part 1924 Subpart A. While perhaps convenient, the published CFR volumes are updated annually only, and may not reflect key changes or revisions made during the interim. Therefore it is generally advisable to obtain instructions from Rural Development offices, as described below.

Some of the agency's basic instructions (regulations) are still titled as FmHA or RHCDS Instructions, but within the agency and in this guide they are called RD Instructions.

E. Ordering Instructions

Agency regulations are available in any Rural Development office for members of the public to read. In addition, public entities and nonprofit organizations can obtain one copy of a limited number of instructions free. Others can obtain a copy or copies for a copying charge. Instructions may be ordered from Rural Development State or Field Offices by requesting the instruction by name and number. If the needed instruction is unavailable from those offices, write to:

Rural Development
FC-313
1520 Market Street
St. Louis, MO 63103

- (1) Note you are a nonprofit or public organization.
- (2) Note the instruction number, such as Part 3550.

- (3) To subscribe for instruction changes, on a calendar year basis, send a check for \$40.00 payable to the “Treasury of The United States.”

RHS regulations and the Part 3550 handbooks can also be downloaded from <http://www.rdinit.usda.gov/regs>.

F. History of the Appeal Process

Public Law 95-557 (the Housing and Community Development Amendments of 1978) first mandated that the Farmers Home Administration (FmHA) provide written reasons for denial of assistance and an opportunity to appeal an adverse decision. The law also provided that information not available at the time of the adverse decision could be used in the appeal. FmHA, to its credit, began working on an appeal procedure in 1977 and published it prior to passage of the 1978 legislation.

FmHA’s first attempt (in 1977) to provide an appeal process for the public utilized the chain of command for hearings and review of appeal determinations. It was a good faith start, but unsatisfactory over the long term. The Agriculture Credit Act of 1987 provided a mandate that led to the creation of a separate appeal structure, employing separate staff to conduct the appeals hearing and review the decisions made therein.

Pursuant to Public Law 103-354 (the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994), these functions were transferred by law to the Office of the Secretary of Agriculture.

RHS and Rural Development are public agencies which provide credit and financial assistance to rural individuals, organizations and communities. The appeal procedure is an effort to ensure full consideration of public rights—an acknowledgment that employees can err and their decision can be overturned or modified without malice toward the appellant or the employee.

II. AN OVERVIEW OF THE APPEAL PROCESS

A. Notice to Applicant/Borrower

RHS/Rural Development officials are required to explain clearly, in writing, the specific reasons for an adverse action. Specific language that must be included in various types of adverse action letters is contained in Attachments 1-A through 1-E to the RHS/Rural Development Field Office Handbook. These Attachments are included as Appendices 2-6 in this HAC guide. Appendix 1 is a copy of the general notification letter. Appendix 4 is a form used exclusively for loan underwriting decisions.

The RHS/Rural Development notice must also explain the options available to the applicant, and the applicable time lines.

B. Alternatives Available

The basic appeal process can be classified into five parts:

- (1) An informal meeting with the decision maker (reconsideration). A request for reconsideration must be made within 15 calendar days from the date of the notification letter. It can be accomplished by telephone or face to face, at the discretion of the agency. It can also be conducted by a representative of the decision maker. Appellants are not required to use this process. HAC recommends its use, since it can serve to avoid other time-consuming and costly alternatives.

Those who wish to use this process must request it, in writing, within 15 days of the agency's adverse decision letter. The review must be completed within 45 days of the request.

- (2) Mediation or alternative dispute resolution (ADR). A request for mediation must be made within 30 calendar days from the date of receipt of the notification letter. Appellants must be advised of the opportunity to seek mediation or ADR prior to a hearing with NAD. Appellants may skip this process and appeal for a hearing with NAD. If an appellant requests a hearing without utilizing mediation or ADR, s/he automatically waives the right to mediation or ADR.

Mediation may occur through a USDA-sponsored program in states where that exists. ADR is not applicable in those states. Contact the RD State Director to find out if USDA-sponsored mediation exists in your state. Appellants may utilize alternative mediation sources when they are readily available at a lower cost, and where the state follows the guidance for states without a USDA-sponsored program and includes USDA's mediation program in its list of acceptable providers. In other states, Rural Development offices maintain a list of mediators or alternative dispute resolution providers.

Mediators resolve disputes by negotiating a resolution by mutual agreement. Arbitrators make binding decisions and are not used in the appeal process.

Many disputes do not lend themselves to mediation. Mediators usually utilize a pre-mediation conference or telephone conference to determine if the adverse decision can be mediated. However, the agency cannot refuse mediation if it is requested by the appellant.

Usually there is a charge for mediation or ADR. The cost will be shared equally by the appellant and the agency if agency funds are available. The agency will participate even when funds are not available if requested by the appellant. Rural Development/RHS will notify the appellant in advance of the estimated cost and how much, if any, the agency will pay. State directors may pay up to 100 percent of the cost when the appellants have incomes below the poverty level.

- (3) A hearing conducted by a hearing officer from the National Appeals Division. A request for a hearing must be made within 30 calendar days of the date of the notification letter. A mediation request stops the 30 calendar day clock on appeals. These requests are made to the NAD Assistant Director for the appropriate region; see the map with addresses in Section IV of this guide, below. The appellant has a right to a hearing within 45 days of receipt of his/her request. The appellant or his/her representative may contact the local Rural Development office within 10 days of the appeal request to examine copies of non-confidential materials. The appellant should provide written authorization to Rural Development for representatives or counsel.
- (4) A request by the customer (appellant) that NAD review the agency's determination that an adverse decision is not appealable.
- (5) A review of the hearing officer's decision(s) requested by the appellant, or by the RHS Administrator when either party has reason to believe the hearing officer's decision may be in conflict with published regulations or the law.

Key components of the process are listed in the chart on pages 7-9 below, but this guide is not intended to be a reproduction of 7 CFR Part 11.

C. Burden of Proof

The burden to prove that Rural Development/RHS decisions are wrong belongs to the appellant, which means the customer must provide a preponderance (more than 50 percent) of evidence to establish proof. Suggestions on how to accomplish this are in Section V of this guide, below.

D. File Review

The appellant or his/her representative has the right to review his/her files, and to photocopy portions of them.

E. RHS/RD Instructions Review

The appellant has the right to read RD instructions in any Rural Development office.

F. Evidence, Witnesses, Hearing Conduct

If the appellant elects to request an NAD hearing, s/he has the right to provide written and/or oral evidence and to present witnesses at the hearing.

FmHA formerly included within Instruction 1900-B an Exhibit entitled “Guide to Conducting a Hearing.” Although it was eliminated from Instruction 1900-B, and this instruction is now obsolete, it is reproduced as Appendix 12 to this guide so that would-be appellants have a reasonable idea as to how the hearings proceed.

G. Hearing Record

NAD will tape the hearing, if requested by the appellant, and provide him/her with a copy.

On request, and for a cost-based fee, the appellant will be provided with a transcript of the hearing proceedings.

H. Representation

NAD hearings are informal, but the appellant may be represented by an attorney or someone else.

I. Hearing Officer’s Decision

The decision of the hearing officer, including specific reasons, will be made in writing and is binding on all parties (subject to the review authority).

PARTIAL OUTLINE OF THE RHS/RD/NAD APPEAL PROCESS

No.	Initiator	Action Item and Description	Field Office Handbook Format Utilized⁽¹⁾	Time Lines⁽²⁾
1	Decision Maker	Sends written notification to affected party (customer) of adverse action that is not appealable.	Chapter 1: 1.9A and Attachment 1-C	10 calendar days after action
2	Affected Party (customer)	Requests NAD review of decision that adverse action is not appealable.	Attachment 1-C	Within 30 days of receipt of letter
3	NAD Director	Notifies agency and affected party of appealability. If a reversal of agency, provides affected party with notice of right to proceed with appeal.	7 CFR Part 11 (11.6)	

No.	Initiator	Action Item and Description	Field Office Handbook Format Utilized⁽¹⁾	Time Lines⁽²⁾
4	Decision Maker	Sends written notification to affected party of adverse action, with reasons. Invites party to reconsideration review and provides alternatives (mediation, alternative dispute resolution, or appeal to NAD).	Form 3550-3. Chapter 1: 1.9A, Exhibit 1-2, and Attachments 1-A and 1-B	10 calendar days after action
5	Affected Party	Responds to informal reconsideration review invitation.	Attachment 1-B and Chapter 1: 1.9C	15 calendar days from receipt of letter
6	Decision Maker or Next Level Supervisor	Schedules reconsideration review.	Chapter 1: 1.9C	Review completed within 45 calendar days from affected party's request
7	Decision Maker or Supervisor	Notice of unfavorable conclusion from reconsideration review. Invitation to appeal to NAD or mediate.	Attachment 1-D	7 calendar days from review meeting
8	Affected Party	Requests mediation or alternative dispute resolution.	Attachment 1-D	30 calendar days from receipt of reconsideration letter

9	State Director	Letters relative to mediation request.	Chapter 1: 1.9D Attachments 1-E, F and G	
10	Decision Maker	If mediation did not resolve issue, advises affected party of right to appeal to NAD.	Attachment 1-I	30 calendar days from receipt of adverse decision or 30 calendar days from receipt of reconsideration letter minus the time used for mediation
11	Affected Party	Requests an appeal hearing in writing to NAD Assistant Regional Director.	Attachment 1-D	30 calendar days from reconsideration notice, less mediation time
12	Decision Maker	Written notification to affected party of full or partial adverse action to which there is no appeal.	Attachment 1-C	10 calendar days after action
13	Assistant Regional Director, NAD	Assigns a hearing officer to conduct an appeal hearing.	7 CFR Part 11	See No. 14
14	Hearing Officer	Schedules hearing. Arranges location convenient to all parties.	7 CFR Part 11	14 days prior to hearing and within 45 calendar days of the affected party's request
15	Affected Party/ Appellant	Examines and/or photocopies relevant and non-confidential file material in the RD office. Authorized (in writing) representatives may also do so.	Attachment 1-B	10 calendar days following receipt of request for a hearing
16	Authorized Representative or Appellant	Files a written declaration with NAD in accordance with 28 U.S.C. 1746.	7 CFR Part 11	Prior to the hearing
17	Hearing Officer	May issue subpoena for witnesses at the request of RD or appellant.	7 CFR Part 11	14 days prior to hearing
18	Hearing Officer	Conducts hearing.	7 CFR Part 11	Within 45-day period (see No. 14)

No.	Initiator	Action Item and Description	Field Office Handbook Format Utilized⁽¹⁾	Time Lines⁽²⁾
19	Hearing Officer	Makes determination to uphold, reverse or modify adverse action.	7 CFR Part 11	30 days after hearing
20	Appellant or RHS Administrator	Requests NAD Director review of hearing officer's determination.	7 CFR Part 11	For request by appellant, 30 days after receipt of notice from hearing officer; for request by Administrator, 15 days after receipt of notice for NAD
21	NAD Director	Upholds, reverses or modifies hearing officer's determination.	7 CFR Part 11	For request by Administrator, 10 days; for request by appellant, 30 days
22	Appellant or RHS	Request reconsideration of the NAD Director's decision.	7 CFR Part 11	10 days after receipt of determination
23	Appellant	Judicial review in U.S. District Court, i.e., Chapter 7 of Title V U.S. Code.	7 CFR Part 11	Only after receipt of final determination by NAD

(1) Includes reference to 7 CFR Part 11 when applicable.

(2) Up to number of calendar days cited.

III. APPEALABLE AND NON-APPEALABLE DECISIONS

Program administrative decisions, made either by RHS or Rural Development, involving loans, loan guarantees and grants, that directly and adversely affect applicants, borrowers or grantees are usually appealable. These include decisions relating to housing loans sold to the Rural Housing Trust.

A. Appealable “Adverse Decision”

NAD’s rules state that an “adverse decision” is appealable. An adverse decision is:

an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant within timeframes specified by agency program statutes or regulations or within a reasonable time if timeframes are not specified in such statutes or regulations. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

B. Appraisals

Applicants or borrowers who contest property appraisals should first request a review by the Rural Development State Director. If there is no resolution they may then exercise their right to appeal.

C. Non-Appealable Decisions

A number of decisions are not covered by the NAD appeals procedure, including:

- △ Freedom of Information releases
- △ Civil rights and discrimination complaints
- △ Purchases of goods and services under federal contracting laws and regulations
- △ Suspension and debarment disputes
- △ Decisions made by other agencies and organizations
- △ Tenant appeals
- △ Provisions of the Administrative Procedure Act.

There are separate appeal provisions for the above exclusions. That for tenant appeals involving RHS-financed multifamily housing is found in RD Instruction 1944-L (7 CFR Part 1944, Subpart L).

Some other decisions about RHS/Rural Development housing programs cannot be appealed. When denial is based on both appealable and non-appealable reasons, that which is appealable can be separated out. The customer retains the right to challenge the agency’s decision that specific decisions cannot be appealed.

The following are some examples of specific non-appealable decisions:

- △ Denial of Section 504 grant to an applicant less than 62 years of age.
- △ Denial of loan and/or grant to an individual or organization in an ineligible area.
- △ Denial of loan and/or grant to a type of organization not identified as an eligible applicant by the regulations.
- △ Denial of loan because of confirmed income that is above Rural Development/RHS published

limits.

- ⊞ Interest credit or payment assistance reduction that is the result of an income increase confirmed by the customer and the agency.
- ⊞ Denial of compensation for construction defects when it has been determined that the contractor is willing and able to correct the deficiencies.
- ⊞ Decisions made by parties outside the agency, even when those decisions are used as a basis for agency decisions. For example:
 - (1) Requirements and conditions designated by law to be developed by agencies other than RHS. They include, but are not limited to Davis-Bacon wage rates, flood plain determinations, archeological and historical areas preservation requirements, and designation of areas that have been determined to be inhabited by endangered species.
 - (2) Applicable state development standards for construction and other development. An appeal may be made only when the appellant claims RHS/Rural Development is misapplying the written standards.
- ⊞ Interest rates as set forth in RHS procedure, except application of an incorrect interest rate.
- ⊞ A rent increase rejection when the borrower fails or refuses to apply for rental assistance according to Exhibit C of Subpart C of part 1930 of agency regulations.
- ⊞ A State Director's refusal to request an administrative waiver (exception authority) as provided for in various program regulations.
- ⊞ Denials of assistance due to lack of funds or authority to guarantee.

IV. USDA NATIONAL APPEALS DIVISION

RHS/Rural Development appeals are handled by the National Appeals Division, which is located within the office of the Secretary of Agriculture and consists of employees whose sole function involves the adverse decisions and administrative appeal process. They schedule and conduct hearings, and have the authority to overrule, uphold or modify decisions made by RHS or Rural Development officials.

There are three regions and three National Appeals Division regional offices. Within those broad geographic regions are hearing officers situated in dispersed locations. The intent of this dispersal is to facilitate reasonable access for the public.

Regional office addresses, telephone numbers and jurisdictional boundaries are found in the map on the next page.

Appeal hearings are usually held in the state of the appellant's residence except:

- ⊞ Elsewhere, with the appellant's consent, when it is more convenient for all concerned (appellant, hearing officer and program officials).
- ⊞ Appeals can be acted on without a hearing in some circumstances in Alaska, Western Pacific areas, and Guam.
- ⊞ Telephone hearings can be utilized by request of any of the parties and when generally agreed upon.

[page for map]

V. TIPS FOR APPEALS

Every appellant should do the following before appealing:

- △ Read the Instruction on adverse decisions and administrative appeals (7 CFR Part 11 and HB-1-3550 Chapter 1);
- △ Read the program instruction governing the reason(s) for the adverse decision; and
- △ If possible, read the applicable governing law (it should be within Title V of the Housing Act of 1949, as amended).

Remember that the burden of proof is on the appellant.

Having become familiar with the governing documents, the appellant should be in a better position to be confident of his/her position. This confidence is important because an appeal is a time-consuming and costly process for all concerned—the appellant, the decision maker and the National Appeals Division.

The second phase of the appeal is to thoroughly prepare and document evidence that the RHS decision was wrong. In addition to documentation, based on RHS regulations, consider the following:

- △ Find experts in the program area who will testify on your behalf.
- △ Find experts who can produce a written document that is helpful to your case.
- △ If possible, interview or question RHS/Rural Development officials not connected with your case and document their answers.
- △ Research RHS/Rural Development handling of cases similar to yours, especially if adverse action was not taken against them.
- △ Assemble any other evidence germane to your case.

Prior to requesting a hearing the customer should (1) ask for an informal review of the decision and (2) consider mediation or alternative dispute resolution (ADR). RHS/Rural Development experience indicates that many disputes can be resolved at the informal review stage. This saves time and money for both parties.

The next phase is preparing for the hearing. If possible, obtain the services of an attorney, or of someone very familiar with administrative appeals, to lead your case, introduce and question you and your own witnesses, and cross examine the decision maker(s). The most important aspect of this preparation is to make sure that your case zeroes in on the specific reasons for the adverse action. A chronology of events leading to your situation may get to the specific reasons

for denial and may not. The hearing officer will probably confine your oral presentation to the specific reasons at issue, and not permit you to digress.

Once you have all of the evidence and players together and have devised your strategy, a rehearsal of roles is advisable. The evening prior to the hearing is a good time to do this. The hearing is informal, but each side will be trying to convince the hearing officer that it is right. Rehearsal helps ensure that nothing important will be withheld or overlooked.

Our final advice involves decorum in the hearing room. The hearing officer will want quiet from all who are not testifying or answering questions. S/he is also taping the proceedings and extra conversations interfere. When you or your colleagues need to confer, either ask for a very brief recess or leave the immediate area. The means for conducting these brief conferences is best discussed in advance with, and decided by, the hearing officer.

All of these recommendations are important. The appeal process is built on the assumption that USDA employees may err from time to time. Never lose sight of the fact that you, too, can err.

APPENDICES

Exhibit 1-2**Sample Adverse Decision Letter**

Mr. and Mrs. John Doe
1 Main Street
Anytown, Anywhere 01234

Re: Application for \$84,000 Direct
Single Family Housing Loan

Dear Mr. & Mrs. Doe,

Thank you for the opportunity to consider your request for Rural Development assistance. In reviewing your request, we considered all information submitted to the Agency and the regulations that govern the assistance for which you applied. After careful review, we regret to inform you that we were unable to take favorable action on your request. The specific reasons for our decision are as follows:

1. Your income exceeds the maximum income to qualify for our direct single family housing program. 7 CFR Part 3550.53(a) requires that an applicant's income must not exceed the applicable low-income limit for the area. In Any County, the maximum income limit is \$29,500. Based upon verification of the income sources listed on your application, your income was calculated at \$32,250. Unfortunately, this income exceeds the applicable limits. At the time of your loan interview, Mr. Doe indicated that he worked substantial overtime last year, and did not anticipate overtime income for this year. According to a verification of employment, overtime income has recently been earned this year, and your employer anticipates that you will earn at least the same amount of overtime this year as you have earned in the past. Overtime income must be considered if it is reasonable to anticipate it will continue. We reverified with your employer that, because of recent workforce changes, overtime will continue this year in an amount at least equal to last year. This was further confirmed by copies of paystubs which you recently submitted to this office for review.
2. Your credit history was not acceptable. 7 CFR Part 3550.53(h) requires that an applicant must have an acceptable credit history to obtain program assistance. The regulation provides, in part, that a delinquency on any debt owed to the Federal Government is an indicator of unacceptable credit. Your credit report reflected that you are in default on your student loan which is guaranteed by the Federal Government.

Your credit report was obtained from the ABC Credit Report Company, 100 Main Street, Anytown, Anywhere 01234, telephone 1-800-123-4567. You may obtain a free copy of your credit report from ABC Credit Report Company, and may dispute the accuracy or completeness of the report directly with ABC Credit Report Company. Please note that the decision to deny your request for assistance was made by this Agency and not ABC Credit Report Company.

If you believe our decision is incorrect, or the facts used in this case are in error, you may pursue your rights to challenge our decision. Please see the attached for your rights.

Sincerely,

ATTACHMENT 1-A

EQUAL CREDIT OPPORTUNITY ACT

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this assistance is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

ATTACHMENT 1-B

ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF AN APPEALABLE ADVERSE DECISION

The decision described in the attached letter did not grant you the assistance you requested or will terminate or reduce the assistance you are currently receiving. If you believe this decision or the facts used in this case are in error, you may pursue any or all of the following three options.

Option 1 – Request an Informal Administrative Review

If you have questions concerning this decision or the facts used making it and desire further explanation, you may write this office to request an informal administrative review. ***There is no cost for an informal administrative review.*** This written request must be received no later than 15 calendar days from the date of the attached letter. You must present any new information, evidence, and possible alternatives along with your request. You may also have a representative or legal counsel participate in the process, at your cost. The informal administrative review will be conducted by telephone. Please include a day time phone number in your request to arrange for the review. You may skip this step in the informal process and select one of the following two options. If you do, you will automatically waive your right to an informal administrative review.

Option 2 – Request Mediation

You have the right to request mediation for the issues that are available for mediation. ***You will have to pay for at least 50 percent of the cost of mediation.*** Rural Development will pay for the other 50 percent of the cost, provided the Agency has sufficient resources from its appropriated funds. If the Agency does not have sufficient resources, you will be advised how much, if any, the Agency can contribute to the cost of mediation. If you need the information to assist you in deciding whether to seek mediation, you may contact the Rural Development State Director listed below.

If you elect to seek mediation, your written request for this service must be sent to the Rural Development State Director listed below and must be postmarked no later than 30 days from the date of the attached letter. The Rural Development State Director will advise you of the estimated cost of mediation, the extent to which the Agency can contribute to the cost, and the process and procedures for this service. In States with a USDA-funded mediation

program, you will generally be referred to such service. In States without a USDA-funded mediation program, you will be provided with the name or names of mediators. You will be advised directly by the mediation source if they can mediate your case. Once you request mediation, it stops the running of the 30-day period in which you may request an appeal (described in Option 3). If mediation or ADR does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth in Option 3.

When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. If you request mediation prior to filing for an appeal, the number of days you will have to request an appeal will be 30 days from the adverse decision minus the number of days you took to request mediation. Mediation does not take the place of, or limit your rights to, an appeal to the National Appeals Division (NAD); however, an NAD appeal hearing would take place after mediation. You may skip mediation and request an appeal hearing. However, in doing so, you will automatically waive your rights to an informal meeting or mediation.

Rural Development State Director address: (A copy must also be sent to the Centralized Servicing Center)

Option 3 - Request an Appeal

You may request an appeal hearing by the National Appeals Division (NAD) rather than an informal administrative review or mediation. *There is no cost for an appeal.* Your request for an appeal must be made no later than 30 days from the date you receive the attached letter. You must write the Assistant Director, NAD, for your region at the following address:

NAD Assistant Director address: (A copy must also be sent to the Centralized Servicing Center)

Your request for an NAD hearing must state the reasons why you believe the decision is wrong, be personally signed by you, and must include a copy of the attached letter.

You have the right to an appeal hearing within 45 days of the receipt of your request. You or your representative or counsel may contact this office anytime during regular office hours in the 10 days following the receipt of your request for a hearing to examine or copy relevant non-confidential material in your file. Photocopies will be provided to you. Your representative or counsel should have your written authorization to represent you and review your file.

The NAD Hearing Officer will contact you regarding a time and place for the hearing. You may also request a teleconference hearing in lieu of the face to face hearing. Rural Development intends to participate in any appeal hearing in writing, by teleconference, or both. At any time before the scheduled hearing you may also request that the Hearing Officer make a decision without a hearing. If you do, the Hearing Officer's decision will be based on the Rural Development file, any written statements or evidence you may provide and any additional information the Hearing Officer thinks necessary.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this assistance is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms of conditions of such a transaction, race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

**NOTIFICATION AND STATEMENT OF
REASONS FOR CREDIT DENIAL, TERMINATION OR CHANGE**

TO:

DATE: _____, _____

ACCOUNT NUMBER:

(Each Section Must Be Appropriately Completed)

I. DESCRIPTION OF ACCOUNT, TRANSACTION OR REQUESTED CREDIT

- Application for new credit
- Application for additional credit
- Other: _____

II. DESCRIPTION OF ADVERSE ACTION TAKEN

- We regret that we cannot approve your application at this time.
- It was necessary to modify your loan request for \$ _____ for _____ years to \$ _____ for _____ years.
- Other: _____

III. PRINCIPAL REASONS FOR ADVERSE ACTION CONCERNING THIS CREDIT

- | | |
|--|--|
| <input type="checkbox"/> Unable to verify employment | <input type="checkbox"/> No credit file in consumer reporting agency |
| <input type="checkbox"/> Insufficient credit references | <input type="checkbox"/> Insufficient credit file |
| <input type="checkbox"/> Unable to verify credit references | <input type="checkbox"/> Slow, delinquent repayment history |
| <input type="checkbox"/> Excessive obligations | <input type="checkbox"/> Inadequate collateral |
| <input type="checkbox"/> Unable to verify income | <input type="checkbox"/> Delinquent on non tax federal debt |
| <input type="checkbox"/> Insufficient income | <input type="checkbox"/> Federal judgment (non tax) |
| <input type="checkbox"/> Income exceeds agency eligibility limits | <input type="checkbox"/> Bankruptcy (within past 36 months) |
| <input type="checkbox"/> Unable to verify residence | <input type="checkbox"/> Garnishment, attachment, foreclosure, repossession, or suit |
| <input type="checkbox"/> Credit application incomplete | <input type="checkbox"/> We do not grant credit to any applicant on the terms and conditions you request. |
| The following information must be submitted for your application to be considered complete:
_____ | |
| | <input type="checkbox"/> Application withdrawn - Reconfirmation of interest not received within specified timeframe. |
| | <input type="checkbox"/> Other, specify _____ |

IV. DISCLOSURE OF USE OF INFORMATION OBTAINED FROM AN OUTSIDE SOURCE

- | | |
|--|--|
| <input type="checkbox"/> No information from outside source. | <input type="checkbox"/> Information obtained from an outside source other than a consumer reporting agency. Under the Fair Credit Reporting Act, you have the right to make a written request, within 60 days of receipt of this notice, for disclosure of the nature of the adverse information. |
| <input type="checkbox"/> Information obtained in a report from the following consumer reporting agency:
Name: _____
Street Address: _____
City/State/Zip: _____
Telephone: _____ | |

If you have any questions concerning the decision or the facts used in making our decision and desire further explanation, you may call _____ or write this office at _____ to request a meeting and informal review within 30 calendar days of receipt of this notification. You should present any new information or evidence along with possible alternatives for our consideration. You may also bring a representative or legal counsel with you. Regardless of whether or not you request this informal review, you also have the right to appeal this decision and request a hearing from the National Appeals Division (NAD). If you wish to appeal to NAD, a request for a hearing must be received by our NAD Regional Office indicated below within 30 calendar days of receipt of this notification. Please include a copy of this notification with your request for appeal to NAD at the following address: NAD Regional Office, _____, City _____, State _____ ZIP _____

By _____
(Authorized Signature)

Unlawful discrimination. The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person on the basis of race, color, religion, sex, age, handicap, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin. If you believe you have been discriminated against for any of these reasons, you can write the Secretary of Agriculture, Washington, D.C. 20250. You also cannot be denied a loan because you in good faith exercised your rights under the Consumer Credit Protection Act. If you believe you were denied a loan for this reason, you should contact the Federal Trade Commission, Washington, D.C. 20580.

ATTACHMENT 1-C

**ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF
AN ADVERSE DECISION THAT CANNOT BE APPEALED**

The decision described in the attached letter did not grant you the assistance you requested or will terminate or reduce the assistance you are currently receiving.

If you have questions concerning this decision or the facts used in making it and desire further explanation, you may write this office to request an informal administrative review. This written request must be received no later than 15 calendar days from the date of the attached letter. You must present any new information, evidence, and possible alternatives along with your request. You may also have a representative or legal counsel participate in the process, at your cost. The informal administrative review may be conducted by telephone or in person at the discretion of the agency. Please include a day time phone number in your request to arrange for the review.

Applicants and borrowers generally have a right to appeal adverse decisions, but decisions based on certain reasons cannot be appealed. We have determined that reasons for the decision cannot be appealed under Agency regulations. You may, however, write the Assistant Director, National Appeals Division (NAD) for a review of the accuracy of our finding that the decision cannot be appealed. Your request must be made no later than 30 days from the date you receive the attached letter.

NAD Assistant Director address: (A copy must Also be sent to the Centralized Servicing Center)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this assistance is the Federal Trade Commission. If a person believes he or she was denied assistance in violation of this law, they should contact the Federal Trade Commission, Washington, D.C. 20580.

The Fair Housing Act prohibits discrimination in real estate related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. The federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

ATTACHMENT 1 - D

**ATTACHMENT TO LETTER NOTIFYING CUSTOMER
OF
UNFAVORABLE DECISION REACHED AS A RESULT
OF AN INFORMAL ADMINISTRATIVE REVIEW**

We appreciated the opportunity to review the facts relative to your [*request for assistance, or reduction or termination of benefits, or foreclosure*]. We regret that the decision in the attached letter did not [*grant the assistance you requested or will terminate or reduce the assistance you are currently receiving, or will give you relief from foreclosure*]. If you believe that facts used in this case are in error, you may pursue either or both of the following two options.

Option 1- Request Mediation

You have the right to request mediation. The purpose of mediation is to resolve disputes through the use of a certified, neutral mediator. In most cases, the mediator is not a Federal employee. A mediator will listen to all parties involved in the dispute and work with all parties to achieve a mutually agreeable resolution. Many cases that go to mediation are resolved without further action, extended delays, or the cost of formal litigation. You have 30 days to request mediation, 10 days to select a mediator, and then 45 days to complete mediation.

There may be a cost for mediation. If so, Rural Development will pay 50 percent of the reasonable cost for mediation. Where there is a cost, it is your responsibility to pay the other 50 percent. Every effort, however, is made to keep any cost to a minimum, and in some cases, the mediator will waive the customer's 50 percent share.

If you elect to seek mediation, your written request for this service must be sent to the Rural Development State Director and ***must be postmarked no later than 30 days from the date of the attached letter***. Once you request mediation, it stops the running of the 30-day period in which you may request an appeal hearing (described in Option 3) but does not waive your right to an appeal.

Once you have requested mediation, the Rural Development State Director will advise you of the mediation service provider, the estimated cost of mediation, the amount the Agency will contribute, and the process and procedures for this service:

- 1) In states with a USDA-funded mediation program, you will be referred to that service.
- 2) In states without a USDA-funded state mediation program, you will be either directed to a local community mediation service; or, you will be provided with the names of mediators from which to select one.
- 3) Also, you may suggest a mediator subject to the Agency's approval.

Once a mediation service provider has been identified, they will contact you and you will have **10 days to contact the mediator**: Following the 10 days that you are allowed to select the mediator, you will be advised directly by the mediation source if they can mediate your case.

Once you have been referred to a mediator, you have **45 days to complete the mediation**. The Agency can agree to an extension. If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth in Option 2.

When mediation is concluded, you will be notified of the result and your right, if applicable, to request an appeal hearing.

If you request mediation prior to filing for an appeal, the number of days you will have to request an appeal will be 30 days from the adverse decision minus the number of days you took to request mediation. Mediation does not take the place of, or limit your right to, an appeal to the NAD; however, a NAD appeal hearing would take place only after mediation. You may skip mediation and request an appeal hearing. However, in doing so, you will automatically waive your right to an informal meeting. Once the appeal hearing begins, you also waive your right to mediation.

Option 2 - **Request an Appeal Hearing**

Following your mediation, you may request an appeal hearing by NAD, as long as there are days remaining from the original 30 days to request mediation as outlined in the original adverse decision letter. You must immediately contact the NAD Assistant Director for your region (at the following address) to determine if you can file for an appeal hearing.

[NAD Assistant Director Address]

There is no cost for an appeal hearing. Your request must state the reasons why you believe the decision is wrong, be personally signed by you, and include a copy of the attached letter. A copy of your request must also be sent to the Rural Development State Director:

[Rural Development State Director Address]

You, or your representative or counsel, may contact this office anytime during regular office hours to examine or copy the Agency's record relative to this adverse decision. Photocopies will be provided to you. Your representative or counsel must have your written authorization to represent you and review your file. The NAD Hearing Officer will contact you regarding a time and place for the hearing.

Equal Credit Opportunity Act

[Enclose Exhibit B-1.]

Attachments (2)

Copies for: State and/or National Office Program Director
CSC St. Louis for SFH cases

ATTACHMENT 1-E

**NOTIFICATION TO CUSTOMERS WHO HAVE REQUESTED MEDIATION
OF
THE ASSIGNMENT OF THEIR CASE TO:
A USDA-FUNDED STATE MEDIATION PROGRAM
OR
A COMMUNITY-BASED MEDIATION CENTER
OR
CERTIFIED MEDIATION PROVIDER
FOR
MEDIATION**

TO: [CUSTOMER]

FROM: Rural Development State Director

SUBJECT: Request for Mediation Services

This replies to your request for the mediation of your adverse decision. Your request has been referred to a [*USDA-funded state mediation program*] [*Community Based Mediation Center*] or [*you must select from the attached list of certified mediation providers*].

As indicated in our adverse decision letter, there may be a cost for the mediation. The following is an estimate, but you will be advised by the mediation service provider if there will be a cost. Rural Development policy is to pay 50 percent of the reasonable cost for mediation.

\$ _____ USDA-funded state mediation program [*and address*]

\$ _____ Community-Based Mediation Center [*and address*]

Attached is an alphabetical list of certified mediators to select a mediator, or subject to our concurrence you may request the use of another mediator.

Within 10 days of the date of this letter, you must provide this office, in writing, with the concurrence/selection of the mediator. If you do not, you will waive your right to mediation. Rural Development will then contact the mediator, who in turn will contact you to determine if they can mediate the issues in your case. You will then have 45 days to complete the mediation.

When the mediation is concluded, you may file an appeal of the original adverse decision by immediately contacting the National Appeals Division (NAD):

[NAD Assistant Director Address]

Once you have been contacted by the mediation provider and if you decide not to pursue mediation, you must immediately contact this office (address at the top of this letter). You are responsible for all costs incurred by the mediation provider from the time of selection until your cancellation.

Mediation, or the cancellation of mediation, does not affect your rights to seek an appeal with NAD.

Equal Credit Opportunity Act

[Enclose Exhibit B-1.]

Copies for: State and/or National Office Program Director
CSC St. Louis for SFH cases
State ADR Coordinator

ATTACHMENT 1-F
ASSIGNMENT BY RURAL DEVELOPMENT/USDA OF A CUSTOMER MEDIATION
REQUEST
TO
A MEDIATION SERVICE PROVIDER

TO: [Mediation Service Provider]

FROM: Rural Development State Director

SUBJECT: Request for Mediation

CUSTOMER: [Name of the Rural Development customer requesting mediation]
[Customer contact information]

The above Rural Development customer has received an adverse decision from our Agency and has requested mediation. Attached is a copy of the adverse decision letter and the customer's request for mediation.

Informal Administrative Review

- _____ The Customer was provided with the opportunity for an informal administrative review with the Agency; however, the customer chose not to exercise this option.
- _____ An informal administrative review was conducted; however, the Agency did not reverse its decision.

Jurisdiction of the Case

The adverse decision in this case was made by the following office. You should contact this office for further information on the case:

[Agency contact:] USDA, Rural Development
 Centralized Servicing Center
 Appeals Coordinator
 ATTN: FC-244
 1520 Market Street
 St. Louis, MO 63103
 (800) 349-5097, extension 2086

Payment for Service

The Rural Development policy is to pay 50 percent of the reasonable cost of the mediation service and the customer will pay 50 percent. In addition, we encourage the mediation service to consider the customer's ability to pay. The customer is solely responsible for their portion of the cost of this service and should be billed directly. The bill for the Agency's portion should be submitted to this Rural Development State Office:

[State ADR Coordinator Name and Address]

Mediation must be completed within 45 days from the date of this letter, unless both parties agree to an extension. We also request a teleconference prior to your acceptance of this case to determine whether the adverse decision lends itself to mediation by your service.

Equal Credit Opportunity Act

[Enclose Exhibit B-1.]

Copies for: State and/or National Office Program Director
CSC St. Louis for SFH cases
State ADR Coordinator

Enclosure (2): Adverse decision letter
Customer's request for mediation

ATTACHMENT 1-G
NOTIFICATION TO CUSTOMER
OF
EXPIRATION OF THE 10 DAYS TO SELECT A MEDIATION SERVICE PROVIDER

TO: [CUSTOMER]
FROM: [State Director]
SUBJECT: Expiration of Selection of Mediation Service Provider

On [date], you requested mediation of the adverse decision as outlined in the attached letter which did not [*grant the assistance you requested or will terminate or reduce the assistance you are currently receiving, or will give you relief from foreclosure*]. You were also informed that you had 10 days from [date] to either concur in the mediation service assigned by Rural Development to your case, or name another mediation service for our consideration.

The 10 days to acknowledge the selection of the mediation service provider has expired. Your request for mediation therefore has expired, and Rural Development will begin to process the initial adverse decision as outlined in the attached letter.

Request an Appeal Hearing

Your request for mediation did not take the place of, or limit your right to request an appeal to the National Appeals Division (NAD). You may request an appeal hearing by NAD as long as there are days remaining from the original 30 days to request an appeal as outlined in the original adverse decision letter. You must *immediately* contact the NAD Assistant Director for your region (at the following address) to determine if you can file for an appeal hearing.

[NAD Assistant Director Address]

There is no cost for an appeal hearing. Your request must state the reasons why you believe the decision is wrong, be personally signed by you, and include a copy of the attached original decision letter. A copy of your request must also be sent to the Rural Development State Director:

[Rural Development State Director Address]

You, or your representative or counsel, may contact this office at anytime during regular office hours to examine or copy the Agency's record relative to the adverse decision. Photocopies will be provided to you. Your representative or counsel must have your written authorization to represent you and review your file. The NAD Hearing Officer will contact you regarding a time and place for the hearing.

Equal Credit Opportunity Act

[Enclose Exhibit B-1.]

Attachments (2)

Copies for: State and/or National Office Program Director
CSC St. Louis for SFH cases
State ADR Coordinator

ATTACHMENT 1-H
CUSTOMER NOTIFICATION
OF
UNRESOLVED RESULT OF THE MEDIATION OF THE ADVERSE DECISION

TO: [CUSTOMER]
FROM: [State Director]
SUBJECT: Unresolved Result of the Requested Mediation

Your request for mediation has been completed. We regret that mediation did not result in resolution of the issues. [*We are unable to grant the assistance you requested, or will terminate, or will reduce the assistance you requested*]

If you believe the decision or facts used in the case are in error, you may continue to pursue your right to an appeal by the National Appeals Division (NAD). There is no cost for an appeal. Please follow the guidance in the paragraph indicated with an "X."

____ You requested an appeal hearing to NAD prior to entering into mediation. You must immediately write to the Assistant Director of NAD at the address below to determine the number of days remaining, if any, to schedule the appeal hearing.

[NAD Regional Assistant Director Address]

____ You did not request an appeal hearing to NAD prior to entering into mediation. If you wish to schedule an appeal hearing, you must immediately write to the Assistant Director of NAD at the address below to determine the number of days remaining, if any, to schedule the appeal hearing. Your appeal request must be received within the remaining days, as determined by NAD, from the date when you requested mediation.

[NAD Regional Assistant Director Address]

Information Regarding Appeals

If NAD determines that you have appeal rights and you want to exercise those appeal rights, you, or your representative or counsel, may contact this office at anytime during regular office hours to examine or to have copied the Agency's record relating to the original adverse decision. Photocopies will be provided. Your representative or counsel must have your written authorization to represent you and review your file.

The NAD Hearing Officer will contact you regarding a time and place for the hearing. You may also request a teleconference hearing in lieu of the face-to-face hearing. At any time before the scheduled hearing, you may also request that the Hearing Officer make a decision without a hearing.

Equal Credit Opportunity Act

[Enclose Exhibit B-1.]

Copies for: State and/or National Office Program Director
CSC St. Louis for SFH cases
State ADR Coordinator

**GUIDE TO CONDUCTING A HEARING
(Obsolete)**

- A. Upon receipt of the file, the hearing officer will become familiar with the case to be sure that pertinent information is presented at the hearing.
- B. The hearing office personnel will arrange a hearing at a place convenient to the appellant, decision making official, and hearing officer in the state of residence of the appellant, unless the appellant consents to holding the hearing in another state. The hearing officer should make arrangements when necessary for the hearing and/or sight impaired.
- C. The hearing officer must be an unbiased presiding officer.
 - 1. The hearing officer should have no preconceived opinion concerning the issues.
 - 2. To preserve this unbiased atmosphere–
 - a. It is preferable that the hearing not be held in an FmHA office. Places such as Conference Room - Agricultural Service Center, SCS, ASCS, Extension Service, etc. should be first considered. This may not be possible, but an attempt should be made to hold the hearing at a neutral place.
 - b. The hearing officer should not fraternize with the decision maker or other FmHA personnel before, during, or after the hearing. The hearing officer should be seated separate from the others at the hearing.
- D. The hearing proceedings should be conducted informally.
 - 1. The appellant has the responsibility of showing why the initial decision should be reversed.
 - 2. The hearing officer may receive evidence without regard to whether that evidence could be employed in judicial proceedings, but evidence clearly unrelated to the issues being appealed need not be accepted.
 - 3. The hearing must be conducted in a manner to get facts on the record. Therefore, the hearing must deal in facts and professional opinions.
 - 4. The hearing officer should keep control over the hearing and not allow any of the participants, including counsel for the appellant or the decision maker, to unduly attempt to set the tone of the hearing. If any person(s) become uncontrollable,

they may be requested to leave. If they refuse to leave, the hearing may be terminated or postponed.

5. As a fact-finder, the hearing officer may question any witness, request additional witnesses to appear, and/or request further information if this information is necessary to reach a proper decision. If the hearing officer is going to request additional witnesses, these witnesses should be given adequate notice of the time and place of the hearing.

E. Order of presentation. The order listed below should be followed:

1. The opening statement by appellant setting forth why original decision was erroneous. This is an outline of how appellant plans to proceed.
2. The opening statement by decision maker to show why the decision is correct.
3. The appellant presents evidence including documents, witnesses, and arguments supporting the appellant's position. The decision maker can be questioned at this time by the appellant. Any witnesses presented by the appellant can be questioned by the decision maker or other Government representative.
4. The decision maker or other government representative then has an opportunity to rebut appellant's arguments and/or evidence by presenting evidence including witnesses. Any witnesses may be questioned by appellant.
5. The hearing should be concluded with a summary by both sides.
6. The appellant may arrange to have a transcript of the hearing made at the appellant's expense.
7. The appellant may request a copy of the hearing tape.

F. The hearing officer will make a decision based on the following:

1. Facts and materials presented at the hearing.
2. Appropriate FmHA files.
3. Applicable statutes and regulations.
4. The hearing officer's general knowledge of FmHA program functions.

G. After reaching a decision, the hearing officer must prepare the appropriate letter setting out the decision and forward it to the appellant, with a copy to the decision maker or any other official servicing the account.

1. This letter must set out specific reasons for the decision, and the facts on which the decision is based.
2. The decision will be normally communicated by letter to the appellant within 30 calendar days of the hearing.
 - a. If the initial decision is reversed, the letter will so inform the appellant and the decision maker, giving the reasons and action to be taken.
 - b. If the initial decision is upheld or modified, the letter will contain a statement set out in the regulations that the appellant may have the decision reviewed further if the appellant files a request for review within 30 calendar days of the date of the letter.

BACKGROUND INFORMATION ABOUT RHS RURAL HOUSING PROGRAMS

A. *Using RHS Rural Housing Programs*

RHS rural housing programs are relatively easy to use. While land and housing development are complicated processes with complex governmental involvement, use of the RHS programs as financing vehicles should not add roadblocks to a project's success. They are very close to "do it yourself" programs for which the informed person or organization can apply without extensive use of expensive consultants.

There are five "basics" to understanding and properly using RHS housing programs:

1. Know what they do. Know the programs' purposes, as defined by law.
2. Know how they do it. Know the programs' processing procedures, as established by RD Instructions, which are used by Rural Development and RHS loan processing and approval officials.
3. Know why they do it a particular way. Know how much authority Rural Development officials have. Variations from national instructions may occur because of state or local law or because of misinterpretation by individual officials.
4. Follow RD instructions. Provide what is asked for in the manner requested. Consult with the RD office prior to developing an application.
5. Obtain information on the current and future availability of funds. This has become essential recently as funds for RHS programs have been reduced. One should also obtain information on priority for accessing those funds.

Given a working knowledge in these basics, anyone can become reasonably proficient in using the RHS programs.

B. *RHS Service Area*

RHS rural housing programs are available to eligible applicants (see RD regulations and handbooks, or HAC's guides, regarding eligibility for each program) in places considered to be "rural areas" under the agency's unique statutory definition of "rural." The definition is explained below, but the easiest way to know whether a particular place is "rural" is to consult the map on display in each Rural Development Field Office showing eligible rural areas within its jurisdiction. Political boundaries (boundaries of counties, incorporated towns, and the like) are not necessarily relevant.

"Rural" areas include open country that is not part of or associated with an urban area. Also included are any town, village, city or place, including places which are not part of or associated with an urban area but immediately adjacent to densely settled areas, with a population not in excess of 10,000 and rural in character. Areas with populations in excess of 10,000 but not in excess of 20,000 that are not contained within a Metropolitan Statistical Area (MSA), and have a serious lack of mortgage credit as determined by the Departments of Agriculture and Housing and Urban Development, are eligible.

Areas presently classified as rural or areas classified as rural prior to October 1, 1990, and areas determined not rural in character as a result of the 1990 decennial Census will continue to be eligible if they have a population between 10,000 and 25,000, are rural in character, and have a serious lack of mortgage credit for low- and moderate-income families.

A determination that open country or any town, village, city, or place is not part of or associated with an urban area must include a finding that any densely populated section of the area in question is separated from the densely populated section of any adjacent urban area by open spaces. These open spaces must be undeveloped, agricultural, or sparsely settled. These spaces may not be due to physical barriers, commercial or industrial developments, public parks, areas reserved for recreation, or similar open spaces. This determination should also consider such other factors as the existence of known plans for development within the near future (three to five years) of a substantial portion of the intervening land between the area in question and an urban area. The latest official Bureau of the Census data or more recent official population counts (U.S. Census of Population or other governmental official counts) are used in determining population.

Two or more towns, villages, cities, and places may have contiguous boundaries and still be considered separately provided they are not otherwise associated with each other and their densely populated areas are not contiguous. The Rural Development State Director is responsible for determining boundaries of rural areas and will issue an appropriate State Supplement to identify such areas by list and maps. Areas in excess of 10,000 population will be identified as "rural areas" in a State Supplement only after written authorization by the National Office.

When a change of designation from rural to nonrural is anticipated, the general public in the affected area is notified. If any area designation is changed from rural to nonrural, loans may be made there only in the following instances: applications received by Rural Development prior to the designation change may be processed; new conditional commitments may be issued and existing conditional commitments will be honored only in conjunction with the approval of loan applications received prior to the date the area was designated nonrural; credit sales and transfers with assumptions may be processed; and subsequent loans may be made on property in an area where the designation was changed from rural to nonrural after the initial loan was made where the subsequent loan will be used to make necessary repairs, or to pay equity in connection with an assumption and transfer of a Section 502 direct loan.

C. *RHS/Rural Development Organization*

RHS is a federal agency and is part of the Rural Development mission area within the U.S. Department of Agriculture. Most of its loan programs are processed directly by Rural Development or RHS employees. Its organization is as follows:

1. The RHS National Office sets policy and develops regulations.
2. Rural Development State Offices administer programs in a state or multistate area.
3. Rural Development Regional Offices provide administrative supervision for a number of local offices. They process and service organizational loan and grant applications.
4. Rural Development Field or Local Offices receive and process RHS housing applications, provide counseling and supervision, and provide back-up service to the central servicing center for single-family loans. They also provide assistance to the Regional Offices with organizational loans and grants.

Recently, Rural Development State Directors have been given considerable authority and discretion on organizational make-up and location of offices.

The field office staffing situation was also affected during Fiscal Year 1997 by Rural Development/RHS's implementation of a new computerized centralized servicing system, known as DLOS, which will include escrow for taxes and insurance. Establishing DLOS involved transfer of 600 staff from field positions to

DLOS positions.

The decentralization of authority often provides local (including Regional) offices with the flexibility to consider unique local factors. The best way to insure success with RHS programs is to be well informed.

D. Locating Rural Development Field Offices

Rural Development maintains more than 1,000 Field Offices serving all rural areas of the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Western Pacific Territories. Offices are usually located in county seats, with many offices serving several counties. Field Offices serving large areas may maintain sub-offices in other locations, where Rural Development staff interview applicants during scheduled office hours.

To locate the Rural Development Field Office serving a particular area:

- △ Look for the local Rural Development office in the telephone book under U.S. Government, Department of Agriculture, Rural Development. If not under Rural Development, it may still be listed under the Farmers Home Administration.
- △ Contact the local Cooperative Extension Service.
- △ Write or call the Rural Development State Office.
- △ Contact the National RHS Office for the current office address of any Rural Development office in the nation. Write to Rural Housing Service, U.S. Department of Agriculture, Washington, DC 20250, or call 202-720-9725.

A borrower using a U.S. Department of Agriculture (USDA) Rural Housing Service (RHS)/Rural Development housing program has the right to challenge some adverse agency decisions. This guide explains what decisions can be appealed and describes the appeal procedure of USDA's National Appeals Division.

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