

This includes, but is not limited to, being employed by or contracting with any approved insurance provider that sells, services, or adjusts policies offered under the authority of the Act. FCIC may waive this provision if it is satisfied that the person who employs the suspended or debarred person has taken sufficient action to ensure that the suspended or debarred person will not be involved, in any way, with FCIC or receive any benefit from any program under the Act.

7. Amend § 400.456 as follows:

- A. Remove paragraph (a).
- B. Redesignate paragraphs (b) through (d) as paragraphs (a) through (c).
- C. Revise newly redesignated paragraphs (a) and (b) to read as follows:

§ 400.456 Governmentwide debarment and suspension (nonprocurement).

* * * * *

(a) FCIC will proceed under 7 CFR part 3017 when taking action to suspend or debar persons involved in non-procurement transactions.

(b) Any person suspended or debarred under the provisions of 7 CFR part 3017, will not be eligible to contract with FCIC or the Risk Management Agency and will not be eligible to participate in or receive any benefit from any program under the Act during the period of ineligibility. This includes, but is not limited to, being employed by or contracting with any approved insurance provider, or its contractors, that sell, service, or adjust policies either insured or reinsured by FCIC. FCIC may waive this provision if it is satisfied that the approved insurance provider or contractors have taken sufficient action to ensure that the suspended or debarred person will not be involved in any way with the Federal crop insurance program or receive any benefit from any program under the Act.

* * * * *

8. Amend § 400.457 by adding a new paragraph (d) to read as follows:

§ 400.457 Program Fraud Civil Remedies Act.

* * * * *

(d) Civil penalties and assessments imposed pursuant to this section are in addition to any other remedies that may be prescribed by law or imposed under this subpart.

§ 400.458 [Amended]

9. Amend § 400.458 by removing paragraph (b)(2), adding an “or” at the end of paragraph (b)(1) and redesignating paragraph (b)(3) as paragraph (b)(2).

§ 400.459 [Removed]

10. Remove § 400.459 from subpart R.

Signed in Washington, DC, on May 10, 2007.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E7-9418 Filed 5-17-07; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utility Service

Farm Service Agency

7 CFR Part 1944

Rural Housing Service

7 CFR Part 3551

RIN 0575-AC20

Streamlining of the Section 523 Mutual and Self-Help Housing Program

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes to replace the Mutual and Self-Help Housing Program’s (MSH) administration under 7 CFR part 1944, Subpart I with 7 CFR part 3551. This rule will apply to grants executed after the effective date of the final rule. The Rural Housing Service (an agency within the Rural Development mission area) proposes to streamline and clarify its regulations for MSH. This action is taken to reduce regulations, improve customer service and enhance efficiency, flexibility, and effectiveness in managing the program.

DATES: Written or e-mail comments must be received on or before July 17, 2007. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through July 17, 2007.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- *Agency Web Site:* <http://www.rurdev.usda.gov/regs>. Follow instructions for submitting comments on the Web Site.
- *E-Mail:* comments@wdc.usda.gov. Include “RIN No. 0575-AC20” in the subject line of the message.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork

Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742.

- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at 300 7th Street, SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT:

Debra S. Mangrum, Senior Loan Specialist, Special Programs and New Initiatives Branch, Single Family Housing Direct Loan Division, RHS, Stop 0783, Room 2209, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250-0783, telephone (202) 720-1366.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been determined not to be significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) Unless otherwise specifically provided, all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) the appeal procedures of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the

Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of the Agency that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect both small and large entities in the same manner. This rule proposes no significant changes in information collection or regulatory requirements that would have a negative impact on either small or large entities in an economic way.

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.420, Rural Self-Help Housing Technical Assistance.

Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice to 7 CFR part 3015, Subpart V, this program is subject to Executive Order 12372 which requires intergovernmental consultation with

State and local officials. The Agency has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J (available in any RD office).

Paperwork Reduction and E-Government Sections

In accordance with the Paperwork Reduction Act of 1995, the Agency will seek Office of Management and Budget (OMB) approval of reporting and recordkeeping requirements contained in this proposed regulation.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4.60 hours per response.

Respondents: Public or private non-profit organizations or state or political subdivisions.

Estimated number of respondents: 230.

Estimated number of responses: 4,063.

Estimated Number of Responses per Respondent: 17.67.

Estimated Total Annual Burden on Respondents: 18,698 hours.

There have been no new paperwork requirements, however; the reporting burden and associated costs have increased consistent with the growth of the program.

Copies of this information collection can be obtained from Brigitte Sumter, Regulations and Paperwork Management Branch, Support Services Division, Rural Development, at 202–692–0042.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Background Information

The Mutual and Self-Help Housing (MSH) program is authorized by Section 523 of Title V of the Housing Act of 1949 ("Act"). Under the Act, the Secretary of Agriculture is authorized to make MSH grants to, or contract with, public or private non-profit corporations, agencies, institutions, organizations, Indian tribes, and other associations, to pay part or all of the cost of developing, conducting, administering, or coordinating programs of technical and supervisory assistance to aid needy very-low and low-income families in carrying out self-help housing efforts. One of the primary benefits of MSH is to fund organizations that are willing to locate and work with families that otherwise do not qualify as homeowners. Generally, these are families with incomes below 50 percent of the median income, living in substandard housing, and/or lacking the skills to be a homeowner.

The number of MSH families participating in the Single Family Housing Direct loan program has grown from 518 families in 1968 to more than 41,000 families in 2006. Since 1996 the funding level has more than tripled from \$11 million to the current funding level of approximately \$34 million. Both the numbers of families obtaining homeownership through MSH and the number of grantees participating have increased since the program's inception. The rapid growth of interest in this program has necessitated a change in how the program is being delivered. Therefore, this rule proposes to implement a competitive process for application processing and awarding of grant funds. This process will ensure fairness, increase efficiency, and minimize the negative impact to the customers we serve. Greater accountability will be realized for rural residents resulting in greater investments that enhance rural competitiveness, improve and diversify community services, and enable rural residents to have a better quality of life. These proposed revisions are consistent with efforts to streamline Government

functions, improve efficiency and the effectiveness of Government activities.

Enhancements To Improve Program Success

Streamlined Regulation

The proposed changes will provide more flexibility for both grantees and Agency staff. Errors will be reduced because the proposed guidelines and requirements will be clearer and items can be found in reduced and better-organized regulations. This will enable the Agency to deliver the program with fewer staff resources. The Agency believes that streamlining of the regulations to make them simpler and more direct will enhance the use of the program and encourage grantee participation. The ultimate benefits are increased activity resulting in better living standards for residents of rural communities.

This rule proposes policy changes consistent with the existing statutory authority, clarifies certain requirements that have multiple interpretations, and amends others that have led to unintended consequences as discussed below. This streamlining will reduce the program's administrative burden not only for the Agency but also for applicants and grantees. The following contains more detailed information for areas in which changes are proposed to streamline the program, reduce the burden, and make needed policy changes:

Technical Enhancements

(a) *Definitions*: This rule proposes to make changes to the definitions of agreement (now Grant agreement) and Mutual self-help (now Mutual self-help method of construction) to be more consistent with 7 CFR part 3550 and for program clarity. New definitions for the following terms are added for clarity: Administrator, Applicant, Board of Directors, Borrower, Bylaws, Close out, Colonias, Completed units, Custodial account, Debarment, Environmental review, Environmental due diligence, existing grantee, EZ/EC/REAP areas, Family labor contribution, Final grantee evaluation, Grantee, High risk, household, Housing Act of 1949 as amended, HUD, Indian reservation, Leveraged assistance, Low-income, Member's agreement, Modest housing, Multi-funded applicants, Notice of Funding Availability, Program requirements, Production based, Reasonable costs, Rural area, Rural Development, Section 502 loan program, Self-help construction cost, Specialty tools, Substitute labor, Supervised bank account, Technical and

management assistance provider, Tribe, very-low income, and Workout agreement. Definitions for the following are removed as unnecessary: Date of completion, Direct costs, Disallowed costs and Termination of a grant.

(b) *Eligibility*: This rule proposes to clarify or expand several current eligibility requirements and to add new requirements (§ 3551.51) as discussed below.

The current regulation does not specify that organizations that have been suspended, debarred, or excluded from participation in Federal programs based on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs," are not eligible for this program. This proposed rule includes that requirement in 7 CFR 3551.51(e). This change is necessary to prevent the award of grant funds to unreliable organizations and to comply with existing Federal Non-Procurement Debarment and Suspension regulations and USDA regulations at 7 CFR Part 3017.

Under the current regulation, grantees applying for additional funding must have received or will receive at least an acceptable rating on their current grant. However, the State Director has authority to grant an exception to this requirement if the grantee has removed or will remove the factor that caused the unacceptable rating (§ 1944.421). The proposed rule requires that an exception under this section must be requested through the national office and only the Administrator can approve such an exception (§ 3551.51(f)(1)). This change is being proposed to eliminate funding of unsuccessful grantees and in an effort to assure that only highly qualified applicants receive funding.

The current regulation (§ 1944.404(d)(2)) considers only organizations classified under section 501(c)(3) of the Internal Revenue Code of 1986 as eligible private nonprofit corporations. The proposed rule adds a new source of eligibility (§ 3551.51(a)(3)(iii)) for organizations that are classified as tax exempt under 501(c)(4) of the Code. There are considerable overlaps between the two and many organizations could qualify for exempt status under either. The major difference in the two types of organizations affecting their qualifications with Rural Development, is that the § 501(c)(4) classification allows organizations the right to lobby. However, all organizations applying for assistance in the MSH program must certify and disclose their lobbying activities in accordance with 7 CFR part 3018 and § 3551.55(b)(10)(iv). Adding this additional source of eligibility will

expand the pool of applicants and assure the Agency of highly qualified grantees.

The current regulation also requires the organization to have a board of directors that consists of not less than five members but does not detail requirements of those board members (§ 1944.404(d)(4)). The proposed rule requires that at least one-third of these members be very-low or low income, their elected representatives, or residents of a low income community and no more than one-third from the public sector (§ 3551.51(3)(v)). This change will ensure that the customers are being fairly represented by the organization.

Under the current regulation, applicants must provide information to exhibit financial, legal and administrative capacity to carry out the requirements of this program (§ 1944.404(b)). One of the requirements includes submitting a staffing plan that reflects they have qualified people to carry out the responsibilities of administering this program or can be hired or contracted. This rule proposes to change that requirement and states the applicant must have experienced staff on board prior to grant approval or provide documentation that a paid or volunteer consultant is secured with similar experience to assist and train key staff members (§ 3551.51(b)(3)). This change will eliminate steps in monitoring the grantee and taking any needed enforcement action after the grant is closed to ensure required staffing levels are reached.

Under the current regulation, grantees must also submit a narrative statement detailing the number of homes to be constructed, that low income families are being served, and those families are willing to contribute their labor (§ 1944.410(a)(4)). The proposed rule expands that requirement to specifically require the applicant to propose that no fewer than five homes will be built simultaneously per participating family group, that at least 40 percent of the participating families are very low income, that all of the participating families are either low or very low income, and that participating family members are willing to contribute at least 50 percent of the labor required on their home (§ 3551.51(c)). The proposed rule also requires applicants to document that upon completion of each participating family's home, they will have at least 10 percent equity, based on the appraised market value at completion (§ 3551.51(c)(3)). These additional requirements will ensure that family members are receiving a quality product and the goal to provide

affordable housing to very low and low income families is being met. Greater specificity of expectations will improve consistency in grantee success in meeting their goals.

Under the current regulation, grantees are generally expected to close out grants with all the homes proposed for the grant cycle as completed units. This method of operation, for the purpose of MSH, is considered as "grant based". In recognition of existing practices, however, the proposed rule adds flexibility to allow certain grantees that operate on an ongoing, "production line" basis, to close out grants with incomplete units and continue to operate without major lapses between funding cycles (§ 3551.51(g)). In such case, the grantee must: (1) Have the demonstrated capacity to close out the grant with incomplete homes and continue to meet all program requirements; (2) have successfully closed out at least two technical assistance grants with the Agency; (3) have received at least a satisfactory rating on their most recent final grantee evaluation and not currently be designated "High Risk" or operating under a workout agreement; (4) be a multi-funded applicant (with funding from a resource other than the Agency); and (5) propose that no more than 10 percent of the homes to be constructed will be incomplete at grant close out and that all incomplete homes will be completed during the next grant cycle. The Agency cannot guarantee that successive grants will be made. The production line method of operation is currently being used by some grantees without a negative impact on the families. Under this method, no construction is begun, on homes within a group, unless the grantee is certain there will be sufficient funds to complete the group project. Therefore, no family's home is left unfinished with the uncertainty of completion.

(c) *Authorized Grant Uses:* Under the current regulation no reference is made to expenses that might be incurred by the applicant regarding environmental reviews (§ 1944.405). The proposed rule includes as an authorized grant use the payment of costs the applicant may incur to obtain information necessary for the Agency to complete an environmental review, when necessary (§ 3551.52(b)(10)). The proposed rule also permits payment of other reasonable costs the applicant may incur associated with the execution of a MSH program not covered in this part but only when prior written approval by Rural Development is obtained (§ 3551.52(b)(12)). The Agency believes such inclusion of incidental costs

associated with a grant application will encourage highly qualified MSH applicants.

(d) *Technical Assistance Grant Ceilings:* The proposed rule streamlines the method by which technical assistance grant ceilings are calculated. While the current regulation lists four different methods in which grant ceilings are calculated (§ 1944.407), the proposed rule establishes a single, consistent method (§ 3551.54(b)(1)). In addition, the proposed rule establishes some flexibility to permit exceptions by the State Director and the Administrator only under specific circumstances.

Under the current regulation, grantees generally opt for the method of calculating technical assistance that produces the highest cost. An even higher cost can be approved by the State Director with few additional requirements and no maximum percentage limit. This has resulted in many exceptions being made at the state level, inconsistent technical assistance costs among states, and the depletion of funds more rapidly. The proposed rule limits technical assistance cost to no more than 15 percent of the equivalent value of a comparable modest home in the subject area for each home that is to be constructed. This amount, when added to the self-help construction cost, shall not exceed the equivalent value of a comparable modest home in the area. Self-help construction cost is defined under proposed § 3551.10. The amount is calculated as the total debt to the participating family, subtracting land costs, closing costs, and impact fees, and adding any additional financing such as grants that reduce the total debt to the participating family. The method enables the Agency to make fair and consistent comparisons of construction costs among grantees in an area to determine whether a particular requested amount per unit is reasonable.

The proposed rule allows for an exception to this grant ceiling by the State Director, but only up to 20 percent of the equivalent value of a modest home in the area. Special conditions must also exist in the marketplace or locality, the participant's situation or labor rates must require the additional cost, or no Agency-built homes must have been built in the past 12 months and the cost to construct a modest home is obtained by the Agency from a nationally recognized residential cost provider (§ 3551.54(b)(2)). These changes should greatly reduce the number of exceptions being made and maintain an acceptable technical assistance cost among the states.

The proposed rule also permits for an Administrator's exception to the grant

ceiling to allow a higher technical assistance cost under exigent circumstances set out in a notice published in the **Federal Register**. Such circumstances should be beyond the grantee's control, and might affect market prices such as natural disasters, strikes, fuel prices, etc. This proposal is necessary to maintain continuity in the program, expand the use of grant dollars, and establish more accountability for the grantees while continuing to provide flexibility. The Agency understands that the calculation of technical assistance grant ceilings is a particularly important issue and is especially interested in receiving comments on this issue. The Agency encourages parties providing comments to suggest alternative methods for calculating grant ceilings if they feel the proposed method may not be effective.

(e) *Grant Application Process:* Under the current regulation, grant applications are received and processed on a first come-first served basis until funding is exhausted (§ 1944.410(b)(4)(i)). The number of applications received has far exceeded the limited amount of grant funds available. Therefore, this rule proposes a revised grant application process (§ 3551.55 and 3551.205) to award grants by a competitive process. The Agency will publish a "Notice of Funding Availability" (NOFA) in the **Federal Register** that lists the specific amount of grant funds available, establishes deadlines for the submission and review of applications, and lists the criteria by which the Agency will evaluate applications (§ 3551.55(a)) for that grant cycle. The NOFA may also contain any special criteria designated by the Administrator to encourage innovation, ensure geographic diversity, respond to emergency situations, etc. Applications will be scored and ranked in accordance with the criteria outlined in the NOFA, and grants will be awarded to those most qualified to the extent of funding availability.

The current regulation requires applicants to provide information at three separate stages: Preapplication (§ 1944.410(a), (b), and (c)), application (§ 1944.410(a), (b), and (c)), and grant approval (§ 1944.411). The proposed rule eliminates the preapplication stage, requires more documentation for the eligibility/approval determination (§ 3551.55(b)), and minimizes the documents required for grant approval/closing (§ 3551.55(d) and (e)) as discussed below. These proposed changes will reduce the grantees' workload overall and provide the Agency a more simplified review process. These changes are also

beneficial to establish a competitive application and award process.

In addition, the proposed rule eliminates other unnecessary application requirements that will reduce the paperwork burden on existing grantees. Existing grantees who are not designated as high risk and who received at least a satisfactory rating on their most recent final grantee evaluation will no longer be required to resubmit documentation they have the demonstrated capacity to carry out the objectives of the MSH program (§ 3551.55 (c)(2)) or organizational documents that have not changed in the interim (§ 3551.55(c)(3)). That information is readily available to the Rural Development staff and, therefore, is an unnecessary requirement.

The current regulation requires applicants to submit a Form RD 1940–20, “Request for Environmental Information” (§ 1944.410(b)(1)(ii)). This rule proposes to remove that requirement in order to conform with the requirements of 7 CFR part 1940, subpart G which states this action is considered as a categorical exclusion. However, the Agency will continue to complete the Form RD 1940–22, “Environmental Checklist for Categorical Exclusions” with each application. If the Agency determines an Environmental Impact Analysis is necessary despite the categorical exclusion, the applicant must obtain and/or assist the Agency in acquiring any additional information needed (7 CFR 3551.55(d)(11)). Such information may include delineating wetland areas or performing an archeological survey, for example. This requirement will help to minimize unsuitable properties being obtained by grantees for use under this program and assist the Agency in meeting the environmental requirements of 7 CFR part 1940, subpart G.

The proposed rule will add the requirement for applicants to submit a credit report fee to the Agency to obtain a commercial credit report on their behalf (§ 3551.55(b)(9)). This report will be used as a tool in determining the financial capacity of the applicant and may be waived by the State Director if the applicant is an existing grantee or if the Agency already obtained a report for a predevelopment grant. This will assist the Agency in assuring that only highly qualified applicants are funded.

(f) *Grantee Responsibility and Performance:* The proposed rule places more focus on and clarifies the eligibility requirements and standards for evaluating grantee performance as discussed below. These changes will improve program management and

oversight, improve the ability of grantees to comply with program requirements, and ensure the success of the MSH program.

The current regulation does not require grantees to provide counseling to participating family members. This proposed rule will require grantees to provide family members with counseling throughout the project (7 CFR 3551.101(b)). Counseling will include direct or indirect homeownership education in accordance with new Single Family Housing loan regulations which was published on February 5, 2007 at 72 FR 51537 CFR 3550.11(c) and 3550.53(i) of this proposed rule. This rule proposes for grantees to counsel family members in selecting suitable and modest housing designs and assisting them in determining contracting and material cost estimates. These rule changes will ensure that the family receive a quality product at minimal cost, provide the families with life skills necessary to become successful homeowners, and minimize any loss to the government.

The current regulation permits amendments to the grant agreement but does not clearly define the purpose of the amendment (7 CFR 1944.420). Consistent with the increased emphasis on grantee performance, the proposed rule provides that the Agency will approve grant agreement amendments only to modify the grant amount or grant period (7 CFR 3551.151(a)) and if other listed criteria are met. The proposed rule specifies that the Agency will no longer approve grant agreement amendments to lower the number of homes to be completed (7 CFR 3551.151(b)(2)). The need must be due to circumstances beyond the grantee's control and consistent with the goals of MSH. Adequate funds must be available, if requested.

Under the current regulation, the State Director may designate a grantee “High Risk” based on quarterly reports and comments received from Agency field staff (7 CFR 1944.417(b)). Under the proposed rule, greater emphasis is being placed on better monitoring at the early stages of a grantee's project (7 CFR 3551.153). This rule proposes that at any time it appears the grantee is not meeting performance goals or is not complying with program requirements, counseling must be initiated by Rural Development or its agent. This counseling must advise the grantee of problems or concerns noted and provide the grantee with a reasonable time to return to a satisfactory rating. A “High Risk” designation cannot be made until this process has taken place and only if the grantee did not address the issue

satisfactorily within the specified time period. This change is necessary to identify problems early and eliminate the possibility of project extensions and budget shortfalls by the grantee.

The current regulation does not clearly define the process of classifying a grantee as “High Risk”. The proposed rule establishes a step by step procedure that leaves little room for flexibility. This change will establish a simple, fair and consistent process, help to minimize the negative impact on grantees, and reduce unnecessary workload for Rural Development staff.

The proposed rule more clearly delineates the performance goals that grantees must meet based upon their proposal at the time of application and agreed upon by the grant agreement (7 CFR 3551.152(a)). The grantee's commitment would include, but not limited to: The number of homes to be complete and/or incomplete at the end of the grant cycle, the average per unit cost of technical assistance, and the completion date of the project. At the end of the grant period, the Agency will evaluate grantees to see if they have attained these goals (7 CFR 3551.152(c)). Grantees who receive an unsatisfactory rating on their performance evaluation are ineligible for subsequent grants as outlined in the eligibility requirements (7 CFR 3551.51). This increased emphasis on performance means that grantees must deliver the results that they have committed to in their grant agreement.

The current regulation allows for a self-evaluation by the grantee to be submitted as a part of the grantee's performance evaluation (7 CFR 1944.427). This rule proposes to remove this requirement as unnecessary for the grantee and an unproductive tool for the Agency. The elimination of this requirement will reduce both the grantee and the Agency's workload.

(g) *Family Labor Contribution:* The current regulation (7 CFR 1944.403), “participating family” requires participating families to contribute at least 65 percent of the labor of the construction tasks as outlined in Exhibit B–2 of 7 CFR part 1944. This method of measurement is open to a wide variety of interpretation by grantees, meaning that the amount of labor actually contributed by participating families may vary greatly from grantee to grantee. The proposed rule changes the family labor contribution to meet a minimum of at least 50 percent of the total 100 percent labor required (7 CFR 3551.7(b)(1)). This percentage was derived from surveying non-profit organizations that currently participate in this type of program and participating

families. It is extremely difficult for participating families to work a regular forty hour work week and then be required to perform 65 percent of the labor requirements, which calculates to approximately thirty hours per week. We have determined this is too burdensome on the participating families and difficult for the non-profit organizations to accurately record. The required 100 percent labor task list will be provided in the agency handbook available in any Rural Development office. This task list will be more detailed than the current Exhibit B-2 contained in 7 CFR part 1944, subpart I. Each individual task will be assigned a percentage and will clearly identify the labor that can be completed by the family under that task in order to receive that percentage of work completed. The changes proposed in this rule will provide a more objectively measurable labor requirement and establish more consistency among grantees.

(h) *Pre-development Grants*: The current regulation sets a pre-development grant limit at \$10,000 (7

CFR 1944.410(d)). The proposed rule increases the pre-development grant limit from \$10,000 to \$15,000 (7 CFR 3551.206(a). This increase better reflects the costs required for pre-development grantees to plan and prepare for the operation of a MSH program in all rural areas.

(i) *Audits*: Under the current regulation (7 CFR 1944.422(a) and (b)), State and local governments, Indian tribes, and nonprofit organizations that receive less than \$25,000 a year in Federal financial assistance are exempt from the Federal annual audit requirement. The proposed rule makes a technical correction to amend the threshold for exemption from \$25,000 to \$300,000 a year (7 CFR 3551.103(c)(3)) consistent with the Departmental requirements of 7 CFR part 3052. Other monitoring requirements of 7 CFR parts 3015, 3016, and 3019 continue to apply.

(j) *Rehabilitation Projects*: The current regulation includes rehabilitation of homes as an eligible activity (7 CFR 1944.407(d)). The proposed rule eliminates any type of rehabilitation as an eligible activity. Existing

rehabilitation grants will continue to be honored according to their existing grant agreements. This change will not have a significant impact on applicants because similar programs are available to accommodate the requests, and there has been little to no demand for this service under the MSH program.

(k) *Site Option Loans*: The current regulation includes authority for site option loans to grantees to establish revolving funds to obtain options on land for families participating in the MSH program (7 CFR part 1944, subpart I, Exhibit F). The proposed rule removes authority for site option loans as obsolete. These loans have not been funded and requests for this service have been nonexistent for several years, therefore; there will be no impact by this change. The Rural Development Section 524 Site Loan Program is still available.

Regulatory Crosswalk

The following is a crosswalk which indicates where subjects can be found under the current regulation and under the proposed 7 CFR part 3551.

Topic	Current location 7 CFR part 1944	Located in 7 CFR part 3551
General	Subpart I	Subpart A
Objective and Purpose	§ 1944.401 and § 1944.402	§ 3551.2
Construction Standards	§ 1944.424	§ 3551.7
Executive Order 12372	§ 1944.409	§ 3551.8
Definitions	§ 1944.403	§ 3551.10
Operating Grant		Subpart B
Eligibility requirements	§ 1944.404 and § 1944.421	§ 3551.51
Authorized use of funds	§ 1944.405	§ 3551.52
Prohibited use of funds	§ 1944.406	§ 3551.53
Technical assistance grant amounts	§ 1944.407	§ 3551.54
Application submission and processing	§ 1944.410; § 1944.411; § 1944.412; § 1944.413; § 1944.415; and § 1944.416.	§ 3551.55
Grantee Responsibility		Subpart C
Recruitment and education	Numerous	§ 3551.101
Construction supervision	None	§ 3551.101
Accounting for 502 loan funds	§ 1944.425	§ 3551.101
Request for payments	§ 1944.417	§ 3551.102
Audit requirements	§ 1944.422	§ 3551.103
Grant Servicing		Subpart D
Grant agreement amendment	§ 1944.420	§ 3551.151
Grantee monitoring	§ 1944.417	§ 3551.152
Grantee performance	§ 1944.417 and § 1944.419	§ 3551.153
Grant suspension and termination	§ 1944.426	§ 3551.154
Grant closeout	§ 1944.426	§ 3551.155
Predevelopment Grants		Subpart E
Eligibility requirements	§ 1944.404	§ 3551.202
Authorized use of funds	§ 1944.410 and § 1944.415	§ 3551.203
Prohibited use of funds	§ 1944.406	§ 3551.204
Application submission and processing	§ 1944.410; § 1944.412; § 1944.413; § 1944.415; and § 1944.416.	§ 3551.205
Grant terms	§ 1944.410; and § 1944.415	§ 3551.206

Topic	Current location 7 CFR part 1944	Located in 7 CFR part 3551
Predevelopment Grants		Subpart E
Grant close out	§ 1944.426	§ 3551.207

List of Subjects

7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile homes, Mortgages, Subsidies.

7 CFR Part 3551

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile homes, Mortgages, Subsidies.

For the reasons set forth in the preamble, Chapters XVIII and XXXV, title 7, Code of Federal Regulations are proposed to be amended as follows:

CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS-COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart I of Part 1944—[Removed]

2. Subpart I of part 1944 is removed and reserved.

CHAPTER XXXV—RURAL HOUSING SERVICE, DEPARTMENT OF AGRICULTURE

3. A new part 3551, consisting of subparts A through E, is added to read as follows:

PART 3551—MUTUAL AND SELF-HELP HOUSING PROGRAM

Subpart A—General

- Sec.
- 3551.1 Applicability.
 - 3551.2 Purpose.
 - 3551.3 Standards of conduct.
 - 3551.4 Civil rights and equal employment opportunity.
 - 3551.5 Reviews and appeals.
 - 3551.6 Environmental requirements.
 - 3551.7 Construction requirements.
 - 3551.8 Compliance with other Federal, State and local requirements.
 - 3551.9 Exception authority.
 - 3551.10 Definitions.
 - 3551.11–3551.49 [Reserved]
 - 3551.50 OMB Control number [Reserved]

Subpart B—Technical Assistance Grant Application and Approval

- 3551.51 Eligibility requirements.
- 3551.52 Authorized technical assistance grant uses.
- 3551.53 Unauthorized technical assistance grant uses.
- 3551.54 Technical assistance (TA) grant amounts.
- 3551.55 Application submission and processing.
- 3551.56–3551.99 [Reserved]
- 3551.100 OMB Control number [Reserved]

Subpart C—Technical Assistance Grantee Responsibilities

- 3551.101 Provision of technical assistance.
- 3551.102 Request for payment.
- 3551.103 Audit requirements.
- 3551.104–3551.149 [Reserved]
- 3551.150 OMB Control number [Reserved]

Subpart D—Technical Assistance Grant Servicing

- 3551.151 Grant agreement amendment.
- 3551.152 Grantee monitoring.
- 3551.153 Grantee performance.
- 3551.154 Grant suspension and termination.
- 3551.155 Grant close out.
- 3551.156–3551.199 [Reserved]
- 3551.200 OMB Control number [Reserved]

Subpart E—Predevelopment Grants

- 3551.201 General.
- 3551.202 Eligibility requirements.
- 3551.203 Authorized predevelopment grant uses.
- 3551.204 Unauthorized predevelopment grant uses.
- 3551.205 Application submission and processing.
- 3551.206 Terms of the predevelopment grant.
- 3551.207 Predevelopment grant close out.
- 3551.208–3551.249 [Reserved]
- 3551.250 OMB Control number [Reserved]

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart A—General

§ 3551.1 Applicability.

This part contains the policies and the requirements for applicants, grantees, and contractors who participate in the Mutual and Self-Help Housing program as authorized under Section 523 of the Housing Act of 1949, as amended (42 U.S.C. 1490c). Copies of applicable regulations, Rural Development Instructions, Handbooks (HB), Department Regulations (DR), and forms referenced in this part are available in any Rural Development office.

§ 3551.2 Purpose.

The Mutual and Self-Help Housing program funds organizations to assist very-low and low-income families in obtaining home financing and building their new homes, located in rural areas, using the mutual self-help method of construction as described in 7 CFR part 1924, subpart A. To achieve this purpose, Rural Development may make available:

(a) Technical assistance (TA) grant funds to support programs of technical and supervisory assistance.

(b) Predevelopment grant funds to support the development of a technical assistance grant application package.

(c) Grant or contract funds to Technical and Management Assistance providers for the following services:

(1) Disseminate information about the Mutual and Self-Help Housing program;

(2) Assist prospective grantees with their organizational and grant application efforts;

(3) Assist predevelopment grantees with the development of their technical assistance grant application packages;

(4) Assist technical assistance grantees in achieving the goals of the Mutual Self-Help Program; and

(5) Assist Rural Development in reviewing predevelopment grant and technical assistance grant applications, evaluating grantee performance, and performing other financial and administrative responsibilities.

§ 3551.3 Standards of conduct.

(a) *Prohibition on lobbying.* Grantees must comply with all restrictions on lobbying in accordance with 7 CFR part 3018 and Rural Development Instruction 1940–Q.

(b) *Conflict of interest restrictions.* (1) Applicants must identify any known relationship or association with an employee of Rural Development.

(2) Unless Rural Development grants a waiver, grantees must not hire any person in a staff position/contractor or work with anyone as a participating family if that person or a member of that person's household is employed by Rural Development.

(c) *Identity of interest.* (1) Grantees' board members and employees and their immediate households must not directly or indirectly participate, for financial gain, in any transactions involving the

grantee organization or participating families.

(2) Grantees' board members must not be compensated by the grantee as employees, consultants, or independent contractors.

(d) *Financial transactions with participating families.* With the following exceptions, any savings realized by the grantee on behalf of a participating family, such as through bulk purchases, must be passed on to the participating family.

(1) Grantees may sell lots to participating families at a price up to the fair market value of the lot as determined by independent appraisal.

(2) Grantees also may pass on to a participating family any holding costs related to the purchase, acquisition, and development of a participating family's lot, so long as those costs do not result in land costs that exceed the fair market value of a comparable site.

(3) Grantees may provide small tools for family's use in construction at a reasonable cost to the families. The cost may not exceed fair market value of the tools plus a 10% (ten percent) fee for handling.

(e) *Gifts and gratuities.* Grantees' board members, officers, employees, or agents must neither solicit nor accept gratuities, favors, or any item of monetary value from suppliers, contractors, or others doing business with the grantee.

§ 3551.4 Civil rights and equal employment opportunity.

(a) *Civil rights.* Grantees must comply with all applicable civil rights laws and USDA regulations found in 7 CFR parts 15, 15a, and 15b.

(b) *Equal employment opportunity.* (1) In all hiring or employment made possible by or resulting from funding provided by Rural Development, the grantee must:

(i) Not discriminate against any employee or applicant for employment because of race, religion, color, sex, marital status, national origin, age, or mental or physical disability; and

(ii) Take affirmative action in employing applicants and ensure that employees are treated during employment without regard to their race, religion, color, sex, marital status, national origin, age, or mental or physical disability.

(2) If the grantee signs a contract with another person or firm and the contract is covered by an Executive Order, law, or regulation prohibiting discrimination, the grantee must include in the contract the Equal Opportunity Clause published at 41 CFR 60-1.4(a) and (b).

§ 3551.5 Reviews and appeals.

Whenever Rural Development makes a decision that is adverse to a participant, Rural Development will provide the participant with written notice of such adverse decision and the participant's rights to a USDA National Appeals Division hearing in accordance with 7 CFR part 11. Any adverse decision, whether appealable or non-appealable, may be reviewed by the next level Rural Development supervisor.

§ 3551.6 Environmental requirements.

(a) All processing and servicing actions provided under this part are subject to the appropriate level of environmental review conducted in accordance with the requirements of 7 CFR part 1940, subpart G, or successor regulation.

(1) Rural Development also will review scattered sites and sites in existing subdivisions individually.

(2) Rural Development will also review building sites located in a new subdivision in which five or more lots will be used for this program with an environmental review in accordance with 7 CFR part 1940, subpart G that covers all available lots in the subdivision. If more than one subdivision meeting this criterion is involved, each will be subject to the same level of environmental review.

(b) Environmental due diligence will be used on all properties by evaluating for potential contamination from hazardous wastes, hazardous materials, petroleum products or other materials having potential for a detrimental effect on valuation or usability of the property.

§ 3551.7 Construction requirements.

(a) Homes constructed under the Mutual and Self-Help Housing program must be modest and meet the following requirements:

(1) The construction must be performed in accordance with 7 CFR part 1924, subpart A, including the model building code adopted by the Rural Development State Office under this part;

(2) The design and construction must meet the dwelling requirements of 7 CFR part 3550, subpart B;

(3) The sites and site development work must conform to 7 CFR part 1924, subpart C;

(4) The construction must meet all applicable State and local construction requirements. The more restrictive standard shall govern in the case of conflicts between local, State, and Rural Development requirements; and

(5) All work by contractors and subcontractors must be warranted in

compliance with the requirements of 7 CFR part 1924, Subpart A.

(b) Participating families must agree to work together to perform labor on their homes in a mutual effort.

(1) Each family in the group must contribute labor on each other's homes to accomplish a minimum of 50 percent of the total 100 percent labor required. The labor task list is available in any Rural Development office.

(2) A participating family may use substitute labor to perform their required 50 percent labor only when a participating family member is physically or mentally incapable of performing the required labor and with prior written approval by the grantee and Rural Development.

(3) Volunteer labor is permissible in conjunction with the family labor but cannot replace the 50 percent family labor requirement.

§ 3551.8 Compliance with other Federal, State and local requirements.

The grantee must comply with all applicable Federal, State and local requirements, including the following:

(a) *Intergovernmental review.* For the reasons set forth in 7 CFR part 3015, Subpart V, the Mutual and Self-Help Housing program is subject to Executive Order 12372 which calls for an intergovernmental partnership with state and local officials. Under RD Instruction 1940-J, the Agency will provide opportunities for consultation by elected officials of those state and local governments that would provide the non-Federal funds for, or that would be directly affected by this program.

(b) *Federal assistance regulations* 7 CFR parts 3015, 3016, and 3019. 7 CFR part 3015 applies to all Mutual and Self-Help Housing program applicants. In addition, public agencies must comply with 7 CFR part 3016, and private nonprofit organizations must comply with 7 CFR part 3019, as applicable.

§ 3551.9 Exception authority.

A Rural Development official may request, and the Administrator or designee may make, an exception to any requirement of this part if it does not conflict with applicable statutes and the Administrator or designee determines that application of the requirement or provision, or failure to take action in the case of an omission, would adversely affect the Government's interest.

§ 3551.10 Definitions.

Administrator. The official of the Rural Housing Service within the Rural Development mission area (or official of its successor agency) delegated authority by the Secretary of the U.S.

Department of Agriculture (USDA) to administer the Agency and its programs.

Applicant. An organization that submits an application for a section 523 technical assistance grant or predevelopment grant.

Approving Official. The approving official for the purposes of this part will be the Rural Development State Director.

Board of directors. The governing body of an organization and its members.

Borrower. An applicant who has received a loan from Rural Development.

Bylaws. Rules adopted by an organization to govern the conduct of its affairs.

Close out. The process of taking final action connected with a completed or terminated grant, including closing of grantee accounts, auditing grantee expenditures, and completing final reports.

Colonias. A community that meets the criteria established in 7 CFR part 1940, subpart L, exhibit C, or successor regulation.

Completed unit(s). A home in which 100 percent of construction has been completed and a final inspection has been made or a Certificate of Occupancy has been issued.

Custodial account. A bank account controlled by a grantee on behalf of a participating family.

Debarment. A determination that a party is ineligible to participate in, or receive assistance under Federal programs in accordance with 7 CFR part 3017.

Environmental review. The environmental analysis required by the National Environmental Policy Act and 7 CFR part 1940, subpart G (or successor regulation).

Environmental due diligence. The process of evaluating real estate for potential contamination by hazardous wastes, hazardous materials, petroleum products or other materials having a detrimental effect on valuation or use of a property.

Equivalent unit(s). Equivalent units are useful in measuring progress during the period of the grant and are not a measurement of actual accomplishments or completed units. Equivalent units represent the "theoretical number of units" arrived at by adding the equivalent percentage of construction complete for each family in the self-help program together at any given date during construction. The sum of the percentage complete for all participating families represents the total number of "theoretical units" completed at any point in time. The

number of equivalent units for any group can never exceed the number of planned or completed units for that group.

Equivalent value of a modest house. The typical cost of a recent contractor-built modest home in the area financed by Rural Development plus the actual or projected costs of an acceptable site including site development. If Rural Development has not financed a contractor-built house during the last 12 months, the value is established by using data obtained from a nationally recognized residential cost provider. Rural Development will establish the equivalent value of a modest house to calculate maximum technical assistance grant amounts in accordance with § 3551.54(b).

Existing grantee. Unless otherwise specified, a grantee that is currently operating a technical assistance grant from Rural Development.

EZ/EC/REAP areas. Empowerment Zones, Enterprise Communities, and Rural Economic Area Partnership areas are designated areas in which communities are targeted for opportunities for growth and revitalization, including economic opportunity, sustainable community development, community-based partnerships, and strategic planning in accordance with 7 CFR part 25.

Family labor contribution. The amount of labor a participating family provides for construction of homes within a group. The amount of labor a family contributes to the construction of their home assists in determining the amount of equity in the home at the time of closing.

Final grantee evaluation. An evaluation performed by Rural Development at the end of the grant period to determine whether the grantee met its projected performance goals and complied with program requirements.

Grant agreement. The contract signed by the grantee and Rural Development, on the appropriate Agency form, that contains the terms and conditions under which technical assistance funds are being made available.

Grantee. An organization with which Rural Development has closed a section 523 technical assistance or predevelopment grant.

High risk. A designation that may be placed on a grantee for noncompliance with the grant agreement and/or failure to meet requirements of this part.

Household. All persons expected to be living in the dwelling, except for live-in aids, foster children, and foster adults.

Housing Act of 1949, as amended. The Act which provides the authority

for the direct single family housing programs. It is codified at 42 U.S.C. 1471, *et seq.*

HUD. The U.S. Department of Housing and Urban Development.

Indian reservation. All land located within the limits of any Indian Reservation under the jurisdiction of the United States notwithstanding the issuance of any patent and including rights-of-ways running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments, the titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian tribe.

Indirect costs. Those costs that are incurred for common or joint objectives and therefore, cannot be readily identified with a particular project or activity.

Leveraged assistance. Non-Rural Development financial assistance such as grant or loan funds, from a recognized source, which is combined with Rural Development financial assistance to accomplish a Mutual and Self-Help housing program purpose.

Low-income. An adjusted income that is greater than the HUD established very low-income limit, but that does not exceed the HUD established low-income limit (generally 80 percent of median income adjusted for household size) for the county or Metropolitan Statistical Area where the property is or will be located.

Members' Agreement. The Rural Development form that serves as a written contract signed by the grantee and the participating families to establish each party's responsibilities and obligations in the construction of the participating families' homes.

Modest housing. See 7 CFR 3550.10.

Multi-funded applicants. Applicants who receive some type of funding from Rural Development and other funding sources.

Mutual self-help (MSH) method of construction. A group of families working together to provide mutual labor in constructing their homes under the direction of a construction supervisor.

Notice of Funding Availability (NOFA). An announcement published in the **Federal Register** announcing that funds are available for specific programs and outlining the process for submission and processing of applications.

Organization. A state or political subdivision, public nonprofit corporation, tribes or tribal

corporations, or private nonprofit corporations.

Participating family. A household that has executed a Members' Agreement pertaining to a Mutual and Self-Help Housing program and, thereby, committed itself to joining with other households to build each other's homes and uphold the requirements of the program.

Program requirements. Requirements set forth in any loan or grant document, agreement, statute, or regulation applicable to the Mutual and Self-Help Housing program.

Production based. When a grant is approved based on technical assistance cost for a proposed number of equivalent units to be started during the grant cycle.

Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. To be considered reasonable, costs must meet all of the following conditions:

(1) The cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the Federal award.

(2) The cost meets the restraints or requirements imposed by such factors as sound business practices; arms-length bargaining; Federal, State, and other laws and regulations; and terms and conditions of the award.

(3) Market prices for similar goods or services are comparable.

(4) The individuals concerned acted with prudence in the circumstances considering their responsibilities to the organization, its members, employees, clients, the public at large, and the Federal Government.

(5) In incurring the cost, the organization did not deviate significantly from its established practices and, thereby, unjustifiably increase the award's cost.

Rural area. The definition of rural area provided in § 520 title V of the Housing Act of 1949, as amended, (42 U.S.C. 1490) applies to this part.

Rural Development (RD). A mission area within the USDA that includes Rural Housing Service (RHS), Rural Utilities Service (RUS), and Rural Business-Cooperative Service (RBS).

Section 502 loan program. A Rural Development single family housing loan program. (See 7 CFR part 3550)

Self-Help construction cost. The cost of constructing a home under the Mutual and Self-Help Housing program. This cost is calculated as the total debt to the participating family, subtracting land costs, closing costs and impact

fees, and adding any additional financing such as grants which reduces the total debt to the participating family.

Specialty tools. Specialty tools are those tools needed to complete the construction of a home, not including hand tools that are commonly needed to maintain a home, such as hammers, screwdrivers, tape measures, pliers, and wrenches. Specialty tools include, but are not limited to, power saws, electric drills, saber saws, ladders, and scaffolds.

Sponsor. An existing entity that is willing and able to assist an applicant, with or without charge, in applying for a grant and in carrying out responsibilities of the grant agreement.

Substitute labor. A person(s) who substitutes their labor for a participating family member's labor.

Supervised bank account. A bank account established through deposit agreements between the borrower, Rural Development, and the financial institution. Rural Development monitors and maintains control of the account in accordance with 7 CFR part 1902, subpart A.

Technical and management assistance provider. An organization which receives Rural Development funding to provide services to Rural Development and training and management assistance to grantees and prospective grantees.

Technical assistance. The organizing and supervising of groups of families in the construction of their own homes. Supervision includes counseling and assisting families in decision making and providing training as needed.

Tribe. Any Federally-recognized tribe, band, pueblo, group, community, or nation of American Indian or Alaska natives in accordance with § 501 of the Housing Act of 1949 as amended.

Very low-income. An adjusted income that does not exceed the HUD-established very low-income limits (generally 50 percent of the median income adjusted for household size) for the county or Metropolitan Statistical Area where the property will be located.

Workout agreement. A written agreement between a grantee and Rural Development describing actions to be taken over a period of time to correct a program compliance violation or problem identified by Rural Development or the grantee.

§§ 3551.11–3551.49 [Reserved]

§ 3551.50 OMB Control number. [Reserved]

Subpart B—Technical Assistance Grant Application and Approval

§ 3551.51 Eligibility requirements.

To be eligible for a Mutual Self-Help technical assistance grant, an applicant must meet all of the following requirements:

(a) Be an organization that qualifies as one of the following:

(1) A state or a political subdivision thereof;

(2) A public nonprofit corporation, including tribes or tribal corporations, that is in good standing with the State or States in which it operates; or

(3) A private nonprofit corporation that is organized and operated for purposes other than making gains or profits for the corporation; and that

(i) Does not distribute any gains or profits to its founders, members, or contributors;

(ii) Is properly organized under state and local or Tribal laws;

(iii) Is qualified under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

(iv) Has the production of affordable housing as one of its purposes, as evidenced by its charter, articles of incorporation, resolutions, or by-laws;

(v) Has a board of directors with at least five members, one-third of whom are very low or low income, their elected representatives, or residents of a low-income community; and no more than one-third of whom are from the public sector; and

(vi) Is in good standing with the state or states in which it operates.

(b) Have the financial, legal and administrative capacity to carry out the relevant program requirements. An organization may satisfy this requirement by:

(1) Demonstrating that the organization currently has this capacity or will be sponsored by an organization that does meet these requirements;

(2) Receiving an acceptable commercial credit report obtained by Rural Development as a determining factor of financial capacity; and

(3) Documenting that the organization has experienced staff members who have successfully completed similar projects or has secured a consultant with similar experience who will assist and train appropriate key staff members of the organization.

(c) Agree to administer a Mutual and Self-Help Housing program in which:

(1) No fewer than five homes are simultaneously built by participating families in a mutual effort;

(2) At least 40 percent of the participating families are very low-income and all of the participating families are either low-or very low-income;

(3) The participating families will have equity in their homes of at least 10 percent of the appraised market value of their homes at completion;

(4) The participating families meet the minimum family labor contribution requirement of at least 50 percent of the total 100 percent labor required;

(5) The grantee obtains general liability insurance coverage, in an amount sufficient to cover the proposed projects, for activities associated with the Mutual and Self-Help Housing program; and

(6) All requirements of this part are met.

(d) Propose to serve a rural area which is not currently being served by an existing grantee other than the applicant.

(e) Not be suspended, debarred, or excluded from participation in Federal programs based on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs."

(f) In addition to the requirements of this section, existing grantees must meet the following eligibility criteria:

(1) Have received at least a satisfactory rating on the most recent final grantee evaluation performed by Rural Development; and

(2) Be operating successfully on the current grant, or is designated as "High Risk" but is successfully operating under a workout agreement at the time of the application and closing.

(g) If operating under a "production based" method and proposing to close out the grant with incomplete homes, the applicant must also meet all of the following requirements:

(1) Have the demonstrated capacity to close out the grant with incomplete homes and continue to meet all program requirements;

(2) Have closed out at least two technical assistance grants with Rural Development;

(3) Have received at least a satisfactory rating on their most recent final grantee evaluation, and are not currently designated "High Risk" or operating under a workout agreement;

(4) Be a multi-funded applicant; and

(5) Propose that no more than 10 percent of the homes to be constructed will be incomplete at grant close out and that all incomplete homes will be completed during the new grant cycle.

§ 3551.52 Authorized technical assistance grant uses.

(a) All grant funds must be used for reasonable costs and in accordance with

the cost principles outlined in 7 CFR parts 3015 and 3016, as applicable.

(b) The following expenses are authorized technical assistance grant uses:

(1) Payment of salaries for consultants and personnel to carryout required functions as authorized by this part and provided in the Grant Agreement;

(2) Payment of employee benefit costs including, but not limited to, worker's compensation, employer's share of Social Security, health benefits, and a tax-deferred pension plan for permanent employees;

(3) Payment of office expenses such as office rental, office utilities, and office equipment, including computers and computer software. Office equipment may be purchased rather than rented if the grantee determines that the cost of purchasing is less than the cost of renting equipment for the duration of a single grant period;

(4) Purchase of office supplies necessary to function as an organization, such as paper, pens, and pencils;

(5) Payment for the cost of establishing an accounting system and obtaining audits in accordance with § 3551.103;

(6) Payment of fees for training grantee personnel for skills directly related to the execution of a Mutual and Self-Help Housing activity;

(7) Payment of board members' travel expenses to attend board meetings;

(8) Purchase, lease, or maintenance of equipment or power or specialty tools used for home construction. Power or specialty tools may be purchased rather than rented if the grantee determines that the cost of purchasing is less than the cost of renting power and specialty tools for the duration of a single grant period;

(9) Payment of general liability insurance for the grantee organization for activities associated with Mutual and Self-Help Housing;

(10) Payment of costs associated with assisting Rural Development in obtaining necessary information to complete an environmental review for a group of participating families, such as delineating wetland areas or performing an archeological survey, when necessary;

(11) Payment of legal costs, with prior Rural Development approval, to resolve legal issues that are directly impeding or delaying the Mutual and Self-Help Housing construction effort, excluding any legal fees associated with any action against the Federal government; and

(12) Payment of other reasonable costs that are associated with the execution of a Mutual and Self-Help Housing program objective and not specifically

excluded by § 3551.53. Written approval for any other such costs must be obtained in writing from Rural Development prior to expenditures.

§ 3551.53 Unauthorized technical assistance grant uses.

Grantees must repay any funds that are used for unauthorized purposes. Unauthorized technical assistance grant uses include:

(a) Payment of any cost that is not directly related to the purposes of the Mutual and Self-Help Housing program;

(b) Payment of any personnel hired to perform any of the construction work that is the responsibility of the participating families as specified in the approved Member's Agreement;

(c) Purchase of real estate or property of any kind for the participating families;

(d) Purchase of any building materials for the participating families;

(e) Payment of any expense associated with the administrative appeal of an adverse decision by the grant applicant or grantee;

(f) Payment of any obligations that were incurred prior to the date of the execution of the grant agreement or after the grant termination date; and

(g) Payment of any expenses not authorized by § 3551.52.

§ 3551.54 Technical assistance (TA) grant amounts.

(a) Rural Development will award only technical assistance grants that:

(1) Are based on the proposed number of homes to be completed;

(2) Reflect a reasonable self-help construction cost based on a proposed budget;

(3) Cover authorized grant uses; and

(4) Comply with paragraph (b) of this section.

(b) Rural Development will limit TA cost to:

(1) No more than 15 percent of the equivalent value of a modest house in the subject area, comparable in size and design, for each home that is to be constructed. This TA grant amount, when added to the Self-Help cost of construction, shall not exceed the equivalent value of a comparable modest home in the area.

(2) The State Director may consider approval of a TA cost that exceeds 15 percent but is not greater than 20 percent, when at least one of the following conditions exist: (i) No Rural Development contractor built homes have been built in the past 12 months in the area and the cost to construct a modest home is obtained by Rural Development from a nationally recognized residential cost provider.

(ii) Special conditions in the marketplace, locality, participant situations or labor rates require additional costs. Such conditions will be documented in writing by the grantee prior to Rural Development approval.

(c) The Administrator may revise these grant ceilings in exigent circumstances through a prior notice published in the **Federal Register**.

§ 3551.55 Application submission and processing.

Rural Development will award technical assistance grants through a competitive process in accordance with the following procedure:

(a) *Notification of funding.* Rural Development will publish a Notice of Funding Availability (NOFA) in the **Federal Register** each year that provides the following information:

- (1) Notice of funding availability;
 - (2) Guidance for obtaining and submitting application packages;
 - (3) How existing and new grantees will be awarded points and ranked on various criteria;
 - (4) Application deadlines, which will be no earlier than 30 days after publication of the notice;
 - (5) How selections will be made in the event of a tie between applicants; and
 - (6) If applicable, any special scoring criteria, funding limitations, or other requirements designated by the Administrator for the grant cycle.
- (b) *Application requirements.* The applicant must submit a complete application that meets Rural Development requirements set forth in this part and the NOFA. At a minimum, the following documentation is required:

(1) The applicant must submit an Application for Federal Assistance as specified by Rural Development. The application must be signed and dated.

(2) The applicant must provide evidence of its ability to carry out the objectives of the Mutual and Self-Help Housing program both on an organizational and staff member basis. The applicant need not provide this item if demonstrated capacity was established through a predevelopment grant awarded within the previous grant cycle, or if the grantee is an existing grantee with at least a satisfactory rating on the most recent final grantee evaluation.

(3) The applicant must provide the following organizational documents unless the applicant is an existing grantee and the item has not been changed since last submitted to Rural Development:

(i) A copy of, or accurate reference to, the specific provisions of state law under which the applicant is organized;

(ii) A certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence, if the applicant is a corporation;

(iii) If not a public body, a certificate of incorporation;

(iv) If not a public body, a tax exempt certification under IRS 501(c)(3) or 501(c)(4);

(v) Current (no more than 90 days old) certification that the organization is in good standing from the state or states in which the grant is to be awarded;

(vi) The names and addresses of the applicant's members, directors, and officers and evidence of those authorized by the board to execute legal documents including the grant agreement;

(vii) A dated and signed financial statement for the organization no more than 12 months old.

(4) The applicant must provide evidence of need and demand for the program and income-eligible families who wish to participate in the program.

(5) The applicant must provide evidence that it controls suitable land for the first group of participating families and has access to land for the remaining families who will be served under the grant.

(6) The applicant must provide a program budget, in a format and form approved by the Agency, detailing how they plan to spend the technical assistance grant funds.

(7) The applicant must provide architectural plans, specifications, and an estimate of reasonable costs to build the house.

(8) The applicant must provide a monthly activities schedule that describes how the program will be implemented, including when the participating families are expected to be qualified and the construction schedule.

(9) The applicant, other than a Tribe or public body, must submit the necessary fee to Rural Development for completion of a commercial credit report. The credit report will be used as a tool in determining the applicant's financial capacity. If a credit report was obtained with an awarded predevelopment grant application, or by an existing grantee, this requirement may be waived by the State Director.

(10) The applicant must provide the following certifications:

(i) Compliance with civil rights statutes and regulations;

(ii) That a Statement of Activities describing the proposed Mutual and Self-Help Housing activity has been submitted to the state single point of contact in accordance with Executive Order 12372 on intergovernmental consultation;

(iii) Whether there is any known relationship or association between the applicant and a Rural Development employee;

(iv) Certification and disclosure of any lobbying activities on the appropriate Agency forms;

(v) That final drawings and specifications are in conformance with the applicable development standard in accordance with 7 CFR part 1924, subpart A, or any successor regulation;

(vi) On the appropriate Agency form, that the organization meets drug-free workplace requirements; and

(vii) On the appropriate Agency form, that the organization has not been debarred and/or suspended from Government assistance.

(11) A multi-funded applicant must provide its best estimate of its indirect cost rate or a cost allocation plan in accordance with 7 CFR parts 3015 and 3016, as applicable.

(12) The applicant must include a brief narrative that:

(i) Specifies the number of homes to be completed and a proposed technical assistance cost which reflects reasonable costs for the area, and

(ii) Describes the extent to which the application meets the criteria for preference established in this section or any NOFA.

(13) If the grantee is using a sponsor, they must provide the sponsor's name, address, experience, ability, and a written agreement to assist.

(14) An applicant must provide a comprehensive plan for outreach to very-low income families.

(15) An applicant must provide a copy of the organization's standard personnel practices and procedures.

(c) *Scoring and ranking:* Rural Development will select applications for funding in rank order until the available funds are no longer sufficient to fund an eligible application. Only applications that meet the eligibility requirements of § 3551.51 and contain all the necessary information required by this section and the NOFA will be accepted. Complete and timely submitted applications will then be awarded points and ranked based on the criteria listed in the NOFA. The criteria that will be considered may include any or all of the following:

(1) Will serve areas with special needs such as state designated targeted counties, tribal lands, colonias, or EZ/EC/REAP areas that are not in a state designated targeted county;

(2) Will provide an equal amount of technical assistance at a lesser cost per unit relative to other applications;

(3) Will serve states that have had no MSH grants within the past five years;

(4) Obtained a satisfactory performance evaluation in the last grant cycle;

(5) Will have leveraged assistance home financing for participating families;

(6) Will have leveraged assistance to provide the technical assistance provided under this part;

(7) Will exceed the minimum family labor contribution requirement; and

(8) Meets other criteria that the Administrator designates, such as those that encourage innovation, ensure geographic diversity, or respond to emergency situations.

(d) *Grant closing conditions.* Rural Development will notify the otherwise eligible applicant in writing of any conditions that must be met prior to the closing of the grant. Such conditions include, but are not limited to, the following:

(1) The applicant must meet its staffing needs.

(2) The applicant must agree in writing to comply with all Federal statutes and the requirements of 7 CFR parts 3015, 3016, and 3019, as applicable, such as:

(i) Fidelity bonding,

(ii) Worker's compensation insurance,

(iii) General liability insurance, and

(iv) Accounting and recordkeeping.

(3) The applicant must be authorized by its Board of Directors to execute the Grant Agreement with Rural Development.

(4) The applicant must establish an interest-bearing checking account that requires the signatures of at least two bonded officials to sign all checks which comply with 7 CFR part 3019 and Departmental Regulation 2120-1.

(5) The applicant and the participating families must develop a Members' Agreement that describes the responsibilities of the grantee and the participating families, including a description of the tasks that will be performed by each of the participating families.

(6) The applicant must show evidence that the first group of participating families has qualified for mortgage financing.

(7) The applicant must provide a schedule of how payments will be drawn upon. Generally, this is done on a monthly basis.

(8) The applicant must provide Rural Development with a complete set of certified building specifications for each model home to be built.

(9) The applicant must provide an Affirmative Fair Housing Marketing Plan (AFHMP) as required in 7 CFR part 1901, subpart E, or successor regulation. The AFHMP shall be approved by the appropriate Rural Development official.

(10) The applicant must assist Rural Development to adequately address any findings in the Civil Rights Impact Analysis Certification prepared by Rural Development.

(11) Grantee must address any environmental issues found by the Agency during an environmental review, if required, and take the necessary steps to correct them.

(12) The applicant must provide an Assurance Agreement indicating their obligation to follow all civil rights requirements of the Civil Rights Act of 1964 and regulations of the Agency.

(13) The applicant must meet any other closing conditions specified by the Agency as needed to meet the requirements of this part or other applicable laws.

(e) *Grant Closing.* When all the conditions for grant closing have been met, the grantee and Rural Development will execute the Grant Agreement. The grant term will be for a 24 month period and will begin on the date of the first transfer of funds to the grantee. The State Director is authorized to approve grants in the amount of \$300,000 or less. Grant requests exceeding \$300,000 must be submitted to the National Office for approval.

§§ 3551.56–3551.99 [Reserved]

§ 3551.100 OMB Control number. [Reserved]

Subpart C—Technical Assistance Grantee Responsibilities

§ 3551.101 Provision of technical assistance.

Grantees are responsible for organizing and supervising groups of participating families in the mutual construction of their homes by performing the following activities:

(a) *Recruitment and education.* (1) Conduct outreach activities to recruit participating families, with preference being given to applicants with very low income;

(2) Provide information to potential applicants fully explaining the Mutual and Self-Help Housing program; and

(3) Assist families in applying for home financing, including obtaining and assisting in the completion of the necessary loan application package.

(b) *Counseling.* (1) Homeownership education must be provided to the participating families with certification of completion submitted to the Agency in accordance with 7 CFR part 3550;

(2) Counsel and assist participating families in selecting suitable and modest housing designs; and

(3) Counsel and assist participating families in determining their contracting

and construction material cost estimates.

(c) *Construction supervision.* (1) Ensure that the participating families' homes meet the construction requirements of § 3551.7;

(2) Ensure that participating families have adequate insurance protection that includes liability coverage;

(3) Provide construction supervision and training for families;

(4) Ensure that the participating families perform the mutual labor to which they agreed in the Members' Agreement;

(5) Ensure that all homes constructed by a group of participating families have been completed before any of those homes are occupied;

(6) Ensure that all permits for construction are obtained from appropriate local and state agencies;

(7) Conduct a preconstruction meeting that includes grantee's construction supervisor, all major contractors and the family participants to ensure that all are aware of the contractual requirements, schedules, responsibilities and working relationships on the job site. Rural Development will be provided notice of the meeting(s) and may attend at their option;

(8) Ensure that all inspections required by applicable building codes and local agencies are called for in a timely manner; and

(9) Conduct periodic inspection of the work with the families and subcontractors to ensure that all work is completed properly.

(d) *Financial supervision for participating families with section 502 loans.* (1) Monitor participating families' section 502 loan funds in supervised bank accounts. Rural Development may approve the use of custodial accounts for existing grantees. In either case, debits and credits must be tracked separately for each participating family's account; and

(2) Ensure that contractors and material suppliers are paid by the participating families.

(e) *Post-closing meeting.* Hold at least one post-closing meeting with participating families to ensure they understand the responsibilities of homeownership including the loan payment process, escrowing of taxes and insurance and home maintenance.

(f) *Environmental requirements.* The applicant will assist Rural Development, as necessary, in the gathering of information for the environmental review of applications filed by the participating families.

§ 3551.102 Request for payment.

(a) The grantee must request funding disbursements from Rural Development

on the appropriate Agency form, prior to the end of the month to obtain funds for the upcoming month.

(b) The grantee must provide Rural Development with documentation of projected and actual costs to justify the requested payment.

(c) By the tenth of the month, the grantee must provide financial information and a progress report for the previous month. The progress report will be gathered from an approved Rural Development tracking system used by grantees to track their progress. Progress will be based on equivalent units as outlined in the grant agreement.

(d) The grantee must provide documentation that the previous month's payments were disbursed appropriately.

(e) If the payment request varies from the proposed draw schedule, the grantee must provide a written statement explaining the reasons for the discrepancy.

§ 3551.103 Audit requirements.

(a) The grantee must submit an annual audit for each year of the grant period within 90 days of the grantee's fiscal year end. Rural Development may authorize a state or local government that conducts less frequent audits to submit a biennial audit. In such a case, the grantee must submit a biennial audit until each year of the grant period has been covered in an audit submitted to Rural Development. The audit must be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS).

(b) The grantee must submit an audit of the accounts of participating families' section 502 loan funds if requested by Rural Development.

(c) Audits will be conducted as follows:

(1) State and local governments and Indian tribes will be audited in accordance with 7 CFR parts 3015 and 3016, and this subpart.

(2) Nonprofit organizations will be audited in accordance with 7 CFR parts 3015, 3019, and this subpart.

(3) State and local governments, Indian tribes, and nonprofit organizations that receive less than \$300,000 a year in federal financial assistance are exempt from annual audits.

(4) Final audits are required as part of grant closeout under § 3551.155.

(d) Auditors must promptly notify Rural Development in writing of any indication of fraud, abuse, or illegal acts in a grantee's use of grant funds or in the handling of participating families' accounts.

§ 3551.104–3551.149 [Reserved]

§ 3551.150 OMB Control number [Reserved]

Subpart D—Technical Assistance Grant Servicing

§ 3551.151 Grant agreement amendment.

(a) Rural Development may approve a grantee's written request for a Grant Agreement amendment only to modify the grant amount and/or the grant period.

(b) Rural Development may approve such an amendment only when:

(1) The request is consistent with the goals of the program and will not adversely affect the participating families;

(2) The request is within the original budget for the Grant Agreement, including the original number of homes proposed. Amendments will not be approved to reduce the number of homes;

(3) The request is made due to circumstances beyond the grantee's control; and

(4) Adequate funds are available, if requested.

§ 3551.152 Grantee monitoring.

Rural Development will monitor the grantee's performance in meeting grant goals and complying with program requirements throughout the grant period. The grantee must assist Rural Development as necessary to permit the following monitoring activities:

(a) *Quarterly review of progress.* At a minimum, each quarter Rural Development will meet with the grantee to review their progress in meeting the performance goals of the grant as specified in the Grant Agreement and monitor compliance with program requirements of this part.

(b) *Physical inspections of construction.* (1) Rural Development will inspect the construction sites to verify job progress and conditions, information provided by the grantee, and the mutual labor contributed by the participating families.

(2) A final inspection of the work will be conducted by all parties to the work: grantee, contractors, participating families and Rural Development. This inspection should be done by all parties simultaneously, however, if this is not practicable the inspection may be separately conducted. In all cases, all parties will acknowledge satisfactory completion by signing off on the final inspection in accordance with 7 CFR part 1924, subpart A.

(c) *Final grantee evaluation.* At the end of the grant period, Rural Development will perform a final

grantee evaluation to determine the following:

(1) If the grantee met the commitments made in the initial application upon which the grant was awarded;

(2) If the grantee met the performance goals of the grant agreement; and

(3) If the grantee complied with program requirements under this part.

§ 3551.153 Grantee performance.

If it is determined by Rural Development, at any time during the grant cycle, that a grantee is not meeting the performance goals specified in the Grant Agreement or is not complying with program requirements the following procedure must be followed:

(a) Counseling must be initiated by Rural Development or its agent. At a minimum, counseling will:

(1) Identify the problems and/or concerns noted by Rural Development, the contractor, and/or the grantee; and

(2) Give the grantee a reasonable time to correct any deficiencies noted and return to satisfactory performance.

(b) If after counseling and a reasonable time to correct the problems identified, the grantee continues not to meet performance goals or comply with program requirements, Rural Development will designate the grantee as "High Risk" and require the grantee to develop a workout agreement with Rural Development. The notice to the grantee of "High Risk" designation will specify the remaining deficiencies that must be corrected, provide proposed remedies, and provide a deadline to complete the workout agreement.

(c) Upon expiration of the workout agreement, the grantee shall be reevaluated and one of the following will occur:

(1) If the deficiencies have been corrected, the "High Risk" designation will be removed and the grantee so notified; or

(2) If the deficiencies have not been corrected, the grantee will be considered for suspension or termination as described in § 3551.154.

§ 3551.154 Grant suspension and termination.

(a) Rural Development may approve a grantee's written request for a Grant Agreement suspension or termination, if it is in the best interest of the Agency and does not negatively impact the participating families.

(b) Rural Development may, upon written notice, suspend a Grant Agreement for up to 90 days if the following exists:

(1) Grantee has failed to comply with the terms of the Grant Agreement or meet program requirements;

(2) Grantee has been designated as "High Risk";

(3) A workout agreement was implemented and has expired; and

(4) The additional time under a suspension will allow the grantee to correct deficiencies specified in the workout agreement.

(c) Rural Development may terminate a Grant Agreement for cause in whole or in part at any time if Rural Development determines that the grantee has failed to comply with terms of the agreement or meet program requirements. The State Director will notify the grantee in writing of the action and advise them of their right to appeal. Any unused grant funds must be returned to Rural Development.

(d) Rural Development or the grantee may terminate the Grant Agreement for convenience in whole or part when both parties agree that the continuation of the grant would not produce beneficial results. Both parties will agree in writing to the conditions of termination, including the effective date. Any unused grant funds must be refunded to Rural Development.

§ 3551.155 Grant close out.

In order to close out the grant cycle, the grantee must perform the following actions within 90 days following the Grant Agreement expiration or termination date:

(a) Provide documentation of the extent to which the goals in the Grant Agreement were met;

(b) Provide a financial status report on an Agency approved form that reflects all information (Federal and non-Federal) relating to obligations and expenditures of Rural Development grant funds;

(c) Provide a list of all equipment and supplies purchased for the project;

(d) Must return any unused grant funds to Rural Development with the financial status report;

(e) Must ensure the participating families' section 502 supervised bank accounts are closed out and any residual funds returned to the Agency; and

(f) Provide a final audit.

§ 3551.156–3551.199 [Reserved]

§ 3551.200 OMB Control number [Reserved]

Subpart E—Predevelopment Grants

§ 3551.201 General.

The objective of predevelopment grants is to enable applicants to obtain the technical and financial assistance necessary to complete a technical assistance grant application under this part. Award of a predevelopment grant

does not guarantee the award of a technical assistance grant.

§ 3551.202 Eligibility requirements.

In order to be eligible for a predevelopment grant, an applicant must meet all the eligibility requirements for a technical assistance grant contained in § 3551.51.

§ 3551.203 Authorized predevelopment grant uses.

The predevelopment grant must be used for developing an application for a technical assistance grant. Authorized predevelopment grant uses include:

(a) Recruiting and disseminating information to prospective participating families, and gathering their names and addresses for future contact;

(b) Performing a need and demand study for the proposed type and amount of Mutual and Self-Help housing in the proposed community;

(c) Attending a self-help or housing related training session;

(d) Visiting another grantee to obtain training or guidance in successful project management and similar purposes, with prior Rural Development approval; and

(e) Performing other activities necessary to complete a technical assistance grant application under this part, when prior written approval is obtained from Rural Development.

§ 3551.204 Unauthorized predevelopment grant uses.

Predevelopment grant funds must not be used for any of the unauthorized purposes listed in § 3551.53, or either of the following purposes:

(a) Payment of any expenses incurred towards completing a technical assistance grant activity, such as obtaining home financing for participating families; or

(b) Payment of any costs incurred for land development.

§ 3551.205 Application submission and processing.

Rural Development will award predevelopment grants through a competitive process in accordance with the following procedure:

(a) *Notification of funding.* Rural Development will publish at least one NOFA in the **Federal Register** each year that provides the following information:

(1) Notice of funding availability;

(2) Guidance for obtaining and submitting application packages;

(3) Application deadline, which will be no earlier than 30 days after the publication of the notice;

(4) How selections will be made in the event of a tie between applicants; and

(5) If applicable, any special scoring criteria, funding limitations, or other

requirements designated by the Administrator for the grant cycle.

(b) *Application requirements.* The applicant must submit a complete and timely application that meets Rural Development requirements set forth in this part and the NOFA. At a minimum, the following documentation is required:

(1) The applicant must submit an Application for Federal Assistance on the appropriate Agency form. The application must be signed and dated;

(2) The applicant must provide evidence of its ability to carry out the objectives of the Mutual and Self-Help Housing program both on an organizational and staff member basis.

(3) The applicant must provide the following organizational documents:

(i) A copy of, or accurate reference to, the specific provisions of state law under which the applicant is organized;

(ii) A certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence, if the applicant is a corporation;

(iii) If not a public body, a certificate of incorporation;

(iv) If not a public body, a tax exempt certification under IRS 501(c)(3) or 501(c)(4);

(v) Current certification (no more than 90 days old) that the organization is in good standing from the state or states in which the grant is to be awarded;

(vi) The names and addresses of the applicant's members, directors, and officers and evidence of those authorized by the board to execute legal documents for the grant; and

(vii) A dated and signed financial statement for the organization no more than 12 months old.

(4) The applicant must provide evidence of need and demand for the program and a list that contains the names and addresses of families who have expressed an interest in the program;

(5) The applicant must provide evidence that there is available land suitable for the construction of single family homes;

(6) The applicant must provide a program budget, in a format and form approved by the Agency, detailing how they plan to spend the predevelopment grant funds;

(7) The applicant must provide a monthly activities schedule that describes how the funds will be used.

(8) The applicant, other than a Tribe or public body, must submit the necessary fee to Rural Development for completion of a commercial credit report. The credit report will be used as a tool in determining the applicant's financial capacity;

(9) The applicant must provide the following certifications:

(i) Compliance with civil rights statutes and regulations;

(ii) Whether there is a known relationship or association between the applicant and a Rural Development employee;

(iii) That no person or organization has been employed or retained to solicit or secure the grant for a commission, percentage, brokerage, or contingent fee;

(iv) That the applicant has not been debarred or suspended by the Government, on the appropriate Agency form; and

(v) That the organization meets drug-free workplace requirements, on the appropriate Agency form.

(c) *Scoring and ranking.* Rural Development will select applications for funding in rank order until the available funds are no longer sufficient to fund an eligible application. Only timely applications that meet the eligibility and application requirements of this part and the NOFA will be accepted. These applications will then be awarded points and ranked based on the criteria in the NOFA. The criteria may include any or all of the following:

(1) Will serve areas with special needs, such as state designated targeted counties or tribal lands, colonias, or EZ/EC/REAP areas;

(2) Will serve states that have never received grants under this part; and

(3) Meets other criteria that the Administrator designates, including those that encourage innovation, ensure geographic diversity, or respond to emergency situations.

§ 3551.206 Terms of the predevelopment grant.

(a) The maximum predevelopment grant amount is \$15,000.

(b) The predevelopment grant term will be 12 months.

(c) The 12-month term will begin on the date of the first transfer of funds.

(d) The grantee may request an amendment to the predevelopment grant agreement to extend the term, however, no additional funds will be provided.

§ 3551.207 Predevelopment grant close out.

(a) Twelve months after the date of the first transfer of funds, Rural Development will close out the predevelopment grant. The grantee may not incur any further costs to the grant after close out.

(b) Within 30 days of grant close out, the grantee must submit a final accounting of the predevelopment grant funds to Rural Development.

§§ 3551.208–3551.249 [Reserved]

§ 3551.250 OMB Control number [Reserved]

Dated: April 20, 2007.

Russell T. Davis,

Administrator, Housing and Community Facilities Program.

[FR Doc. 07–2406 Filed 5–17–07; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27863; Directorate Identifier 2007–CE–037–AD]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited, Model 750XL Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

To prevent the rudder trim tab upper pivot hole in the rudder rib flogging out, which may lead to aerodynamic flutter and possible loss of aircraft control * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by June 18, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Fax:* (202) 493–2251.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2007–27863; Directorate Identifier 2007–CE–037–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://>