USDA Rural Development
U.S. DEPARTMENT OF AGRICULTURE

Mediation and Appeals

Single Family Housing Guaranteed Loan Program (SFHGLP)

December 2020

Welcome to the Mediation and Appeals training module presented by USDA's Single Family Housing Guaranteed Loan Program.

There may be times when an applicant disagrees with an adverse decision made by USDA Rural Development. In some cases, an applicant may appeal an adverse decision and in other cases, the decision may not be appealable.

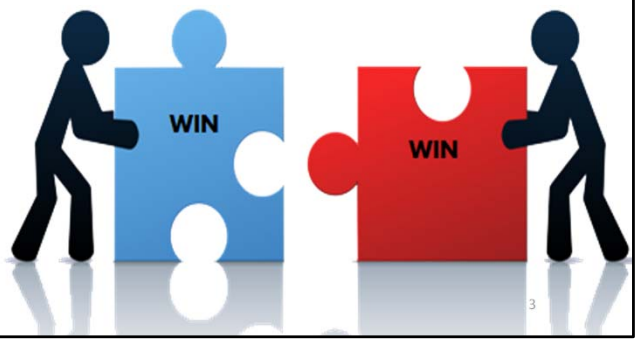
This training module will highlight the key requirements of mediation and appeals.

Mediation and Appeals

7 CFR 3555.4 and HB-1-3555, Chapter 1.7 and Appendix 3

An adverse decision made by Rural Development may be:

1. Reviewed in an informal meeting.
2. Attempted to be resolved through Mediation.
3. Appealed to National Appeals Division (NAD).



Whenever Rural Development makes a decision that will adversely affect a participant, the participant has three options:

1. request an informal review of the adverse decision
2. proceed with alternative dispute resolution including mediation
3. a USDA National Appeals Division hearing in accordance with 7 CFR parts 1 and 11.

Except when the adverse decision applies to a loss claim, the applicant or borrower and the lender may participate in the appeal process.
Adverse decisions made by the lender cannot be appealed unless concurrence by Rural Development was required by this subpart and obtained by the lender.

The denial letter sent by USDA RD will provide the outline of these options and the steps to take for any one or all three options.

Mediation and Appeals

7 CFR 3555.4 and HB-1-3555, Chapter 1.7 and Appendix 3

Reviews and Appeals

Opportunity to:

- Review facts about loan file.
- Ask questions regarding decision.
- Present evidence from regulation to support alternate decision.
- If applicable, NAD official will review and determine outcome.

The Review and Appeal process is an opportunity to:
• Review the facts of the loan file,
• Ask questions regarding the Agency decision,
• Present evidence from the regulation to support an alternate decision, and
• If applicable, request a National Appeals Division review where one of their representatives will review the information and determine a final decision.

Each participant bears the burden of evidence to support their position. The process should ensure that all parties leave with a full understanding of why the decision can or cannot be justified by program regulation.

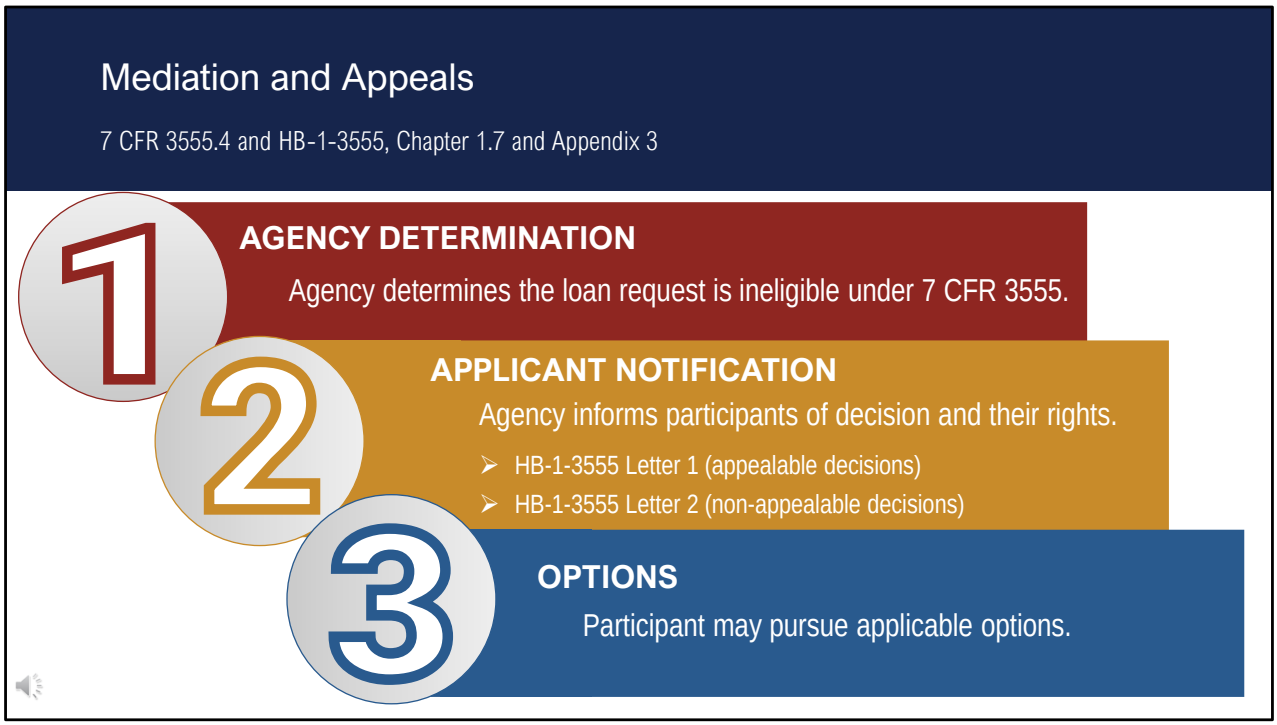
Agency decisions that adversely affect a participant require written notification of the participant's following options:

Option 1: Informal Administrative Review by Agency Decision-Maker. Program participants have the right to request that any adverse decision be reviewed by the Agency staff member who made the adverse decision.

Option 2: Mediation as a Form of Alternative Dispute Resolution (ADR). Adverse decisions which are appealable to NAD require the participant be given the opportunity to seek ADR prior to a hearing with NAD. There may be a cost for Mediation. If so, RD will pay 50% of the reasonable cost for mediation. The Applicant/Borrower is responsible for paying the other 50%. In mediation, a decision is not rendered as to the correctness of RD's decision based on its regulations. Rather, Mediation seeks to have the Appellant understand why the decision was rendered and/or reach an understanding between the 2 parties.

Option 3: Appeal Request to National Appeals Division (NAD). Qualifying adverse decisions may be appealed to NAD. Unlike Mediation, when NAD hears a case, it determines whether RD's adverse decision was appropriate and in accordance 7CFR Regulation. NAD may uphold or overturn RD's adverse decision. There is no cost for an Appeal Hearing.

NOTE: Once an Applicant/Borrower completes a higher option, they forego the ability to complete a lower numbered option.



This is an example of the Mediation and Appeals process:

1) USDA determines a loan request is ineligible under 7CFR, Part 3555,
2) USDA informs the applicant(s) and the approved lender of the decision and their rights. One of two applicable Handbook Letters may be used. Letter 1 is most common, which is for appealable decisions. Letter 2 is for non-appealable decisions and is not used very often as there are very few decisions that not open for discussion.
3) The participant may pursue the applicable options if they choose to appeal the Agency decision.

Mediation and Appeals

7 CFR 3555.4 and HB-1-3555, Chapter 1.7 and Appendix 3

Most decisions by Rural Development are appealable. However, the following are not appealable:

- Decisions made by parties not employed by the Agency.
- Refusal to request an administrative waiver.
- Decisions made in accordance with statue (such as rural area designations).
- Denial of loan commitment due to lack of program funds.

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- Certain decisions made by the Agency are not appealable and participants can request an informal administrative review.
- The participant will be informed through Handbook Letter 2 that they may request an informal administrative review for a review of the accuracy of the Agency's determination that the case cannot be appealed.
- Decisions that cannot be appealed can include:

- Decisions made by parties not employed by the Agency;
- Refusal to request an administrative waiver;
- Decisions made in accordance with statue (such as rural area designations); and
- Denial of loan commitment due to lack of program funds.

Mediation and Appeals

7 CFR 3555.4 and HB-1-3555, Chapter 1.7 and Appendix 3

- The Lender will notify Applicant if the Lender declines the Applicant's request.
- Denial of loan requests or servicing actions by the Lender are not subject to Rural Development's review or appeal rights.

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The Lender will notify Applicants if the Lender declines the Applicant's request.

Denial of loan requests or servicing actions by the Lender are not subject to RD's review or appeal rights.

LEARNING CHECKS

7 CFR Part 3555 / HB-1-3555

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The best way to learn information is to test your knowledge!

QUESTION

Training Topic

- Question will be bulleted with scenario, or
- Include a statement/question

TRUE/FALSE or other answer options will be displayed

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The following question slides will list:

- The topic,
- A question or scenario, and
- potential responses

ANSWER

Training Topic

7 CFR Part 3555 and HB-1-3555 references provided

X. Correct Response

- Additional guidance for clarification provided

The answer slides will list:

- The topic,
- the reference to the answer from the regulation and handbook,
- the correct response, and
- any additional clarification that may be helpful.

Ready?

LET'S GET STARTED!

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Let's get started!

QUESTION

Mediation and Appeals

- The Lender must give their consent for an applicant to appeal an adverse decision made by USDA.

A. TRUE B. FALSE

Read the question on the slide and select a response.

ANSWER

Mediation and Appeals

3555.4, HB 1.7 and Appendix 3 (A. Review and Appeal Options)

B. FALSE

- The Lender, Applicant, or both may appeal adverse decisions, as applicable.
- Exception: Adverse loss claim decisions made by the National Financial and Accounting Operations Center (NFAOC) may only be appealed by the approved USDA Lender.

False

Any participant that is adversely affected by the USDA decision may decide to appeal the decision. A participant is defined as the Lender, Applicant, or both.

There is an exception: Loss claim payments made to an approved lender by the National Financial and Accounting Operations Center (NFAOC) may only be appealed by the approved USDA Lender.

The Borrower would not be a party to a loss claim payment.

QUESTION

Mediation and Appeals

- USDA approved Lender denies a Guaranteed loan application.
- No loan application is submitted to USDA for review.
- The applicant may appeal the Lender's decision.

A. TRUE B. FALSE

Read the question on the slide and select a response.

ANSWER

Mediation and Appeals

3555.4 and HB 1.7

B. FALSE

- Adverse decisions made by the Lender are not appealable.

False.
If the approved Lender does not approve a USDA Guaranteed loan application, the Applicant has no appeal rights against USDA.

USDA did not render the adverse decision and did not even receive or review an application.

QUESTION

Mediation and Appeals

- A participant must attend a face-to-face Informal Administrative Review with the adverse decision maker prior to requesting an Appeal.

A. TRUE B. FALSE

Read the question on the slide and select a response.

ANSWER

Mediation and Appeals

3555.4 and HB 1.7 and Appendix 3 (D. Informal Administrative Review)

B. FALSE

- Participant may skip an informal review and request mediation or an appeal.
- If appeal is pursued first, participant waives the right to an Informal Administrative Review.

False.
The participant may request to skip an informal review and instead request to move forward to mediation of a full appeal.
If the appeal is pursued first, then the participant waives their right to an Informal Administrative Review.
Many issues can be discussed and resolved at the informal review, which is available more quickly to better serve the Applicant, Lender, and Agency. It is recommended to attempt to resolve the issue with an Informal Review first. These reviews can be face-to-face or by telephone.

QUESTION

Mediation and Appeals

- USDA denies a Guaranteed loan application.
- Reason for denial cited: HB-1-3555, Chapter 10, paragraph 10.8.
- Denial reason is incorrect.

A. TRUE B. FALSE

Read the question on the slide and select a response.

ANSWER

Mediation and Appeals

3555.4 and HB 1.7

A. TRUE

Adverse decisions must be based on and reference 7CFR Part 3555 (the Regulation, not the Handbook).

True.
Adverse decisions must be supported with citations from 7 CFR Part 3555.
The technical Handbook may be utilized to support the Regulation, but it should not contradict the Regulation. The regulation will always prevail.

QUESTION

Mediation and Appeals

- USDA denies a loan request.
- Denial reason: Household income exceeds the applicable Adjusted Annual Household Income Limit.
- The decision is non-appealable.

A. TRUE B. FALSE

Read the question on the slide and select a response.

ANSWER

Mediation and Appeals

3555.4 and HB 1.7 and Appendix 3 (C. Adverse decision that cannot be appealed)

A. TRUE

- Income limits are statutory and are not appealable.
- However, the calculation of the adjusted Annual Income is eligible for an Informal Administrative Review (and if the income had to be calculated, the decision may be appealable).

True.
The adjusted income limits that determine program eligibility are statutory, meaning they are governed by the Housing Act of 1949 as amended. Decisions made to support the statute are unable to be appealed.

However, the discussion regarding the calculation of the adjusted Annual Income is an eligible topic for an Informal Administrative Review between the approved Lender, Applicant and USDA and may be appealable.

QUESTION

Mediation and Appeals

Participants have ___ days to request an Informal Administrative Review.

A. 15 B. 45

Read the question on the slide and select a response.

ANSWER

Mediation and Appeals

3555.4 and HB 1.7 and Appendix 3 (D. Informal Administrative Review)

A. 15

- Request must be made within 15 days of the date of the USDA letter.
- Reviews may take place face-to-face or by telephone.
- Actual USDA decision maker or representative may attend.

A. 15 days
The request for an Informal Administrative Review must be made by the participant within 15 days of the date of the USDA-issued letter.
Reviews may be conducted face-to-face or by telephone.
The actual USDA loan approval official or decision representative may attend to review the loan file. Participants should be prepared to review USDA's calculations and documentation. They should also bring their documentation that supports the regulation.
The result of the informal review may be a reversal of the adverse decision by USDA with a Conditional Commitment to be issued to the Approved Lender, -or- the adverse decision may be determined to be accurate.

QUESTION

Mediation and Appeals

Participants have ___ days to request an Appeal from the National Appeals Division.

A. 30 B. 60

Read the question on the slide and select a response.

ANSWER

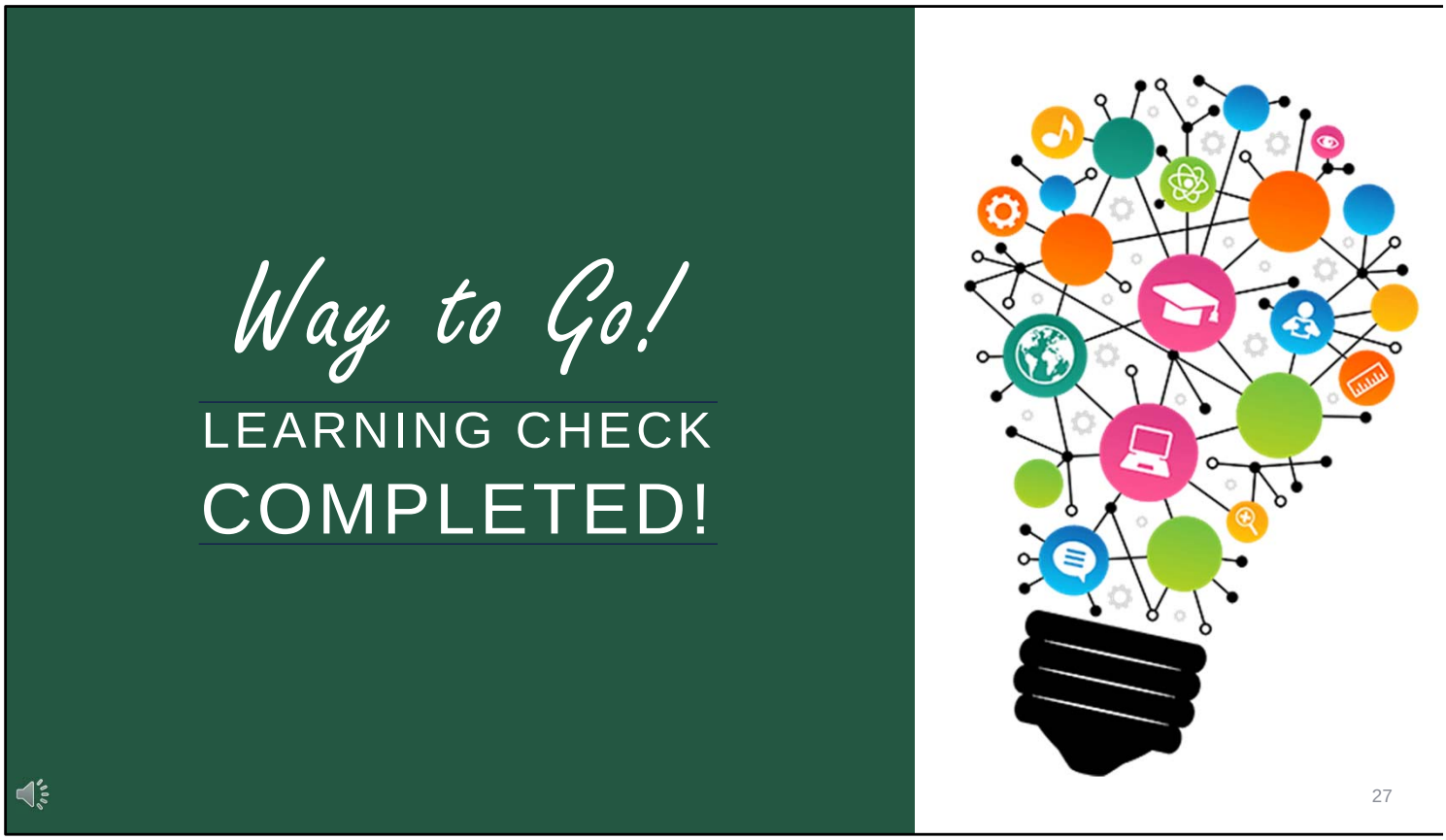
Mediation and Appeals

3555.4 and HB 1.7 and Appendix 3 (E. Mediation - Appeals)

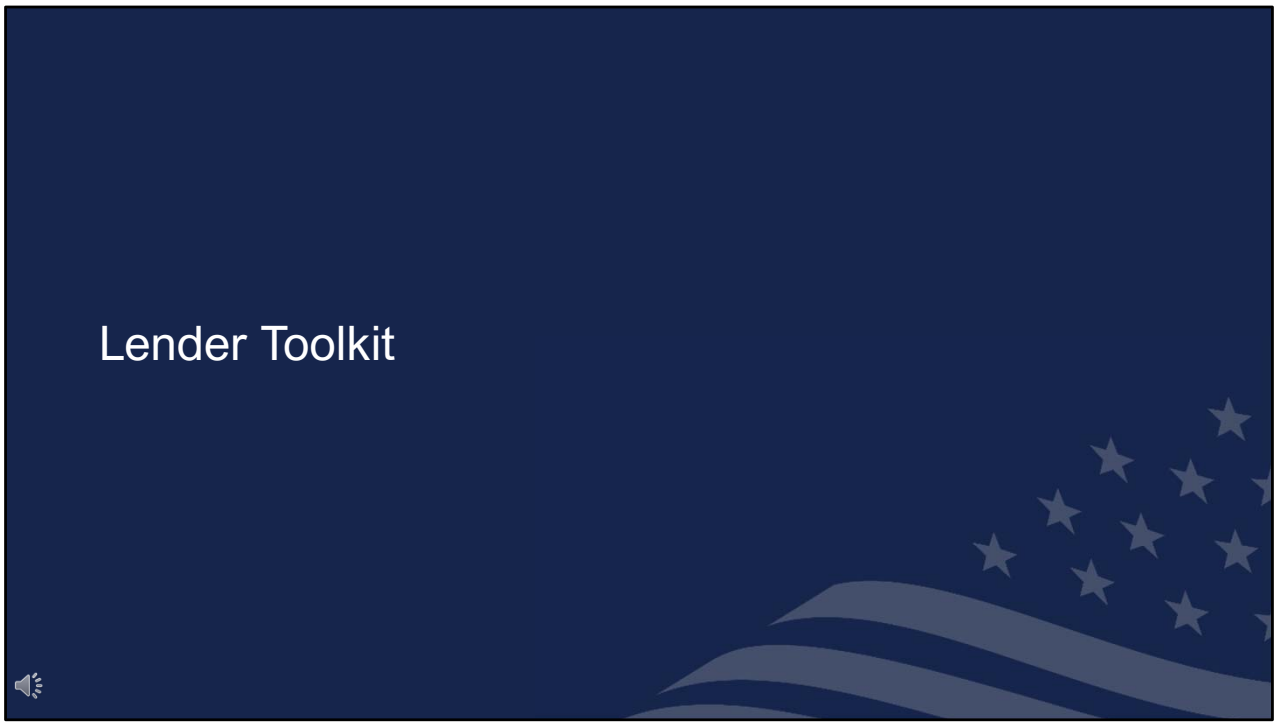
A. 30

- Written request must be signed by participant(s).
- Sent to NAD with:
  - Copy of USDA decision letter and
  - Reasons why the decision is believed incorrect
- Appeals may be face-to-face or by telephone.

Answer: 30 days
The written request for the appeal must be submitted to NAD with the signature of all participants.
NAD should receive a copy of the USDA denial decision and a statement of reasons as to why the decision is believed to be incorrect. Please include regulatory citations to support your determinations.
Appeals with NAD may also be conducted face-to-face or by telephone.
The NAD official is not an employee of USDA. Their final ruling may determine USDA did not act within the Regulations and the loan file may be resubmitted for review, -or- the NAD official may agree that USDA did accurately deny the loan application.



Way to go! You have completed the learning checks!



Rural Development has developed numerous tools and resources to assist lenders with originating, processing, and servicing guaranteed loans.

- This training module has provided you with an overview of the key requirements of Mediation and Appeals.
- Complete program requirements and guidance on this topic can be found in 7 CFR Part 3555, Subpart A, Section 3555.4 and Chapter 1 and Appendix 3 of HB-1-3555.
- Be sure to bookmark these references, save yourself valuable time by using Cntrl-F to quickly search and find answers, and always ensure you are referencing the most current publications.
- The “Program Overview Training” module will assist you in learning how to navigate through all the resources and tools Rural Development has created to assist you.

Have a question on POLICY?

Contact the PAC team!

Need TRAINING?

Contact the LPA team!

Have a question on a SPECIFIC FILE?

Contact the OPD!

USDA Rural Development
U.S. DEPARTMENT OF AGRICULTURE

Single Family Housing Guaranteed Loan Program (SFHGLP)
Contacts & Resources

TOPIC	CONTACT
File-Specific Questions Information to include in email: • Identify the state the application is located; if applicable; • Provide applicant's name and USDA borrower ID, if applicable; • GUS loan number, if applicable • Include contact information; and • Indicate if you would like a call back (otherwise you will receive an email reply)	Production Team One: SFHGLPONE@usda.gov AK, AL, AZ, CA, CO, GU, HI, IA, ID, KS, MT, NM, NV, OR, SD, TX, UT, WA, WI, WP, WY Production Team Two: SFHGLPTWO@usda.gov AR, KY, LA, MN, MO, MS, ND, NE, NJ, NY, OK Production Team Three: SFHGLPTHREE@usda.gov CT, DE, GA, IL, MA, MD, ME, MI, NC, NH, RI, SC, VT, WV Production Team Four: SFHGLPFOUR@usda.gov FL, IN, OH, PA, PR, TN, VA, VI
Lender Approval	sfhgld.compliance@usda.gov
Lender Recertification	
Program Training	sfhgld.lenderpartner@usda.gov
Program Marketing & Outreach	
General Loan Scenario Questions	sfhgld.program@usda.gov
Loan Policy/Regulation/Handbook	
Loan Servicing	sfhglpservicing@usda.gov
Technical Issues: e-Authentication	eAuthHelpDesk@ftc.usda.gov 800-457-3642, option 1 (USDA e-Authentication Issues)
Technical Issues: GUS	RD.HD@STL.USDA.GOV 800-457-3642, option 2 (USDA Applications); then option 2 (Rural Development)
Loss Claims	guarantee.svc@stl.usda.gov
Monthly & Quarterly Status Reporting	rd.nfaoc.hsb@stl.usda.gov
GUS User Agreements	

TOOLS & RESOURCES

Regulation and Handbook: https://www.rd.usda.gov/resources/directives

Lender Webpage—Turn times, contact information, and helpful links: https://www.rd.usda.gov/page/sfh-guaranteed-lender

USDA LINC—Training modules, user guides, and more useful resources: https://www.rd.usda.gov/programs-services/lenders/usda-linc-training-resource-library

GovDelivery—Receive notifications regarding origination, servicing, and GUS updates: https://public.govdelivery.com/accounts/USDARD/subscriber/new

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- Users should first look for answers to their questions in the regulation and handbook, but if you still have a question after reviewing your resources, we're here to help.
- All policy and regulation questions regarding the topic we just covered should be sent to our Policy, Analysis, and Communications Branch and
- If you would like to request additional program training, contact our Lender and Partner Activities Branch.

The Single Family Housing Guaranteed Lender webpage was specifically designed for our lending partners and includes information such as:

- Current turn times on new loan applications
- Contact information, and
- Links to program resources such as our 3555 Handbook and the USDA LINC website.
- Also, don't forget to sign up for our GovDelivery email notifications. Rural Development sends out origination, GUS, and servicing messages to alert lenders of new publications, clarifications, and additional program updates.

Thank you for supporting the USDA Single Family Housing Guaranteed Loan Program and America's rural homebuyers!

This will conclude the training module. Thank you and have a great day!