

**CHAPTER 8: LOAN APPROVAL AND CLOSING**


**8.1 INTRODUCTION**

Once the Loan Originator has completed all of the procedures described in Chapters 3 through 7 and has decided based on the qualifications of the applicant, the characteristics of the property, and the results of the underwriting analysis that the loan should be made, the case file is submitted to the Loan Approval Official for final review and approval. Section 1 of this chapter describes the procedures used to notify the applicant of the Loan Approval Official’s decision and to obligate loan funds, if appropriate. Section 2 describes the steps the Loan Originator and the closing agent must take to prepare the loan for closing. Section 3 describes the steps required to actually obtain funds for the closing and ensure that the closing is accomplished. Section 4 describes the process for administering construction loans.

**SECTION 1: LOAN APPROVAL AND OBLIGATION**

**8.2 THE LENDING DECISION**

If the underwriting analysis indicates that the loan should be approved, the Loan Originator must submit a complete case file to the Loan Approval Official. The Loan Approval Official should review all of the documents contained in the case file to ensure that they are completed properly, and must confirm that the Loan Originator’s underwriting decision is sound. The Loan Approval Official must approve or reject the loan within 30 days of receiving a complete case file.

 Prior to approval, the loan Approval Official must review the applicant and loan information entered into loan origination and servicing systems to ensure that it is accurate and complete. For 502 Direct Loans, this review should be done using the 502 Direct Loan Data Check Query, located in Hyperion’s canned report section.

**A. Rejection**

If the loan is rejected, the Loan Originator should speak to the applicant directly to explain the reasons for the rejection. This conversation offers an opportunity to counsel the applicant about specific actions the applicant can take to permit the Agency to approve a loan in the future. Handbook Letter 15 (3550), Standardized Adverse Decision Letter, will be sent as a follow-up to the conversation, or as notification of the rejection if the applicant cannot be

reached. Whenever applicants are denied credit, they must be advised of their review and appeal rights, as described in Paragraph 1.9.

## **B. Approval**

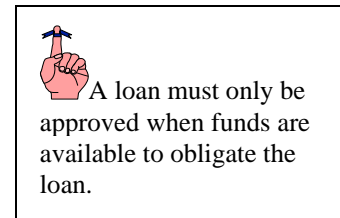
If the loan is approved, the Loan Originator must notify the applicant, and typically will set up an in-person meeting to discuss the loan. The meeting provides an opportunity for the applicant to sign *Form RD 3550-7, Funding Commitment and Notification of Loan Closing*, to hold the applicant orientation described in Paragraph 8.6 A.1, and to remind the applicant that documentation of the homeownership education requirement must be submitted prior to closing on the loan. *Form RD 3550-7* must be signed and returned to the Loan Originator within 15 days.

### **8.3 OBLIGATING FUNDS**

#### **A. Initial Obligation**

A loan must be approved and obligated the same day.

*Form RD 3550-7* must be signed and dated by the Loan Official at the time of loan approval and obligation. Therefore, *Form RD 3550-7* or any approval letter must not be issued to the applicant unless the loan has been approved and obligated.



As soon as the Loan Approval Official approves the loan, the Loan Originator will obligate funds through MortgageServ. If, after 15 days *Form RD 3550-7* is not signed and returned, the Loan Originator must deobligate the loan. Once the loan has been deobligated, the application is withdrawn. Should the applicant express interest in another loan, a new application must be filed, and would be processed based on the new application date.

#### **B. Changing the Loan Amount**

If the loan amount must be increased or decreased prior to loan closing, any paperwork that reflects or is affected by the loan amount must be revised. The closing agent and the applicant must return any loan closing forms that have already been distributed so that they can be revised appropriately. Exhibit 8-1 illustrates the steps for making changes to the loan amount.

If a loan amount must be increased or decreased for a prior fiscal year, the field office should contact the Centralized Servicing Center (CSC) Disbursement Unit. All requests to increase the obligation amount for a direct loan with prior fiscal year funds are subject to the

Paragraph 8.3 Obligating Funds

availability of funds at the time for the request. The CSC Disbursement Unit will make the required corrections to the obligation amount. **NOTE: Although it is understandable that errors sometimes occur when obligating and closing loans, field offices are required to make every effort to adhere to the guidelines outlined in this handbook for correctly obligating loans.**

<b>Exhibit 8-1</b>	
<b>Steps for Changing the Loan Amount</b>	
<b>Increase Amount of Loan</b>	<b>Decrease Amount of Loan</b>
Verify availability of funds.	If the check has not yet been sent to the Field Office, cancel the request. If the check has already been sent, void the check and return it to the CSC.
If the check has not yet been sent to the Field Office, cancel the request. If the check has already been sent, void the check and return it to the CSC.	Amend the original obligation in MortgageServ.
Cancel the obligation for the loan in MortgageServ.	Update the new loan information in UniFi.
Update the new loan information in UniFi.	Request a new check through MortgageServ.
Reobligate the loan for the correct amount and request a new check through MortgageServ.	

**C. Canceling a Loan**

To cancel the entire loan prior to loan closing, the Loan Originator must deobligate the loan and cancel the check request in MortgageServ. If the check has already been sent to the Field Office, it must be voided and returned to CSC with the completed Forms RD 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation," and RD 3550-17, "Funds Transmittal Report." The Agency's or applicant's decision to cancel the loan must be documented carefully. The following instructions are to be followed for returning checks to CSC for cancellation:

Return Checks via FED-EX overnight to:

USDA, Centralized Servicing Center  
 ATTN: FC-243 (Disbursement Unit)  
 4300 Goodfellow Blvd., Bldg 105E  
 St. Louis, MO 63120-1703

The required information for this packet is:

- 1) Form RD 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation;"
- 2) Form RD 3550-17, "Funds Transmittal Report;" and
- 3) Check



After the check has been returned, the Loan Originator must notify the applicant and closing agent of the loan cancellation using Handbook Letter 15 (3550), Standardized Adverse Decision Letter. In situations where the cancellation is not the applicant's choice, the Loan Originator must indicate on Handbook Letter 15 (3550) any action that can be taken to correct or appeal the decision. It is the applicant's responsibility to notify the seller and any contractors of the cancellation.

## SECTION 2: PREPARING FOR CLOSING

### 8.4 TITLE INSURANCE AND CLOSING AGENTS

For most loans, the Agency requires title insurance, and requires that the loan closing be conducted by a closing agent who meets the Agency's standards. This paragraph summarizes the Agency's requirements for title insurance and closing agents, and the procedures for approving the individuals and firms that provide those services. Details about these procedures can be found in RD Instruction 1927-B.



#### A. Title Insurance

Title insurance is required for most loans unless the State Director determines that the use of title insurance is not possible, is not economically feasible for the type of loan involved, or in the area of the State where the loan will be made. In these cases, an attorney's opinion can be accepted. If the total outstanding balance of any combination of any unsecured Section 502 and 504 loans that is less than \$7,500 title insurance is not required. Title insurance is required on Section 504 loans only when the total outstanding balance is \$7,500 or greater.

#### B. Closing Agents

An attorney or title company may act as a closing agent and close Agency real estate loans, provide necessary title clearance services, and perform other closing-related duties prescribed by the Agency. A closing agent approved by the Agency is required for all section 502 and 504 loans of \$7,500 or greater.

#### C. Approvals

State Offices maintain a list of title insurance companies that are authorized to provide title insurance in the State. Each approved title insurance company may provide a master list of title companies and attorneys that are covered by its closing protection letter and are thereby authorized to perform closings on behalf of that title insurance company. The State Office determines which title insurance companies will be authorized to issue title insurance policies for Agency loans based on RD Instruction 1927-B.



Since a title insurance company is not regulated by the State, the approval process will be repeated at least every 5 years, or more often if adverse information becomes available, to insure continued compliance by the title insurance company.

If an applicant selects a title company or attorney that is on the State Office list, no further verifications are necessary. If the attorney or title company selected is not on the list, they should provide an acceptable closing protection letter from an approved title insurance company.

Alternatively, title companies may submit *Form RD 1927-20, Certification of Title Insurance Company* and attorneys may submit *Form RD 1927-19, Certification of Attorney*, to request Agency approval.

#### **D. Procedures**

If the applicant selects a title company or attorney that is not on the State Office list, the Loan Originator must send the title company or attorney *Form RD 1927-20* or *Form RD 1927-19*, whichever is appropriate. The title company or attorney must return *Form RD 1927-20* or *Form RD 1927-19* to the Loan Originator for review. Standards for evaluating a title company or attorney's qualifications are contained in RD Instruction 1927-B.



To notify a title company or attorney of their selection and approval, the Loan Originator should send *Form RD 1927-4, Transmittal of Title Information* and attach *Form RD 1927-9, Preliminary Title Opinion* if an attorney is performing loan closing.

### **8.5 RESPONSIBILITIES OF THE CLOSING AGENT/ATTORNEY**

The Loan Originator must provide *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement* to the Closing Agent/Attorney. This form provides information about the amount of personal funds required from the applicant, the appropriate disbursement of funds, any remaining requirements that the applicant must meet, and the instruments and forms required for loan closing. The Loan Originator also should attach all forms needed for loan closing as well as copies of other documents to facilitate the Closing Agent's/Attorney's review (e.g., tax bills, legal descriptions, or surveys). Closing documents may be sent via e-mail **“IF THE E-MAIL ATTACHMENT IS ENCRYPTED WITH A SECURITY PASSOWRD TO PROTECT THE APPLICANT’S/BORROWER’S SENSITIVE INFORMATION WHICH INCLUDES THE SOCIAL SECURITY NUMBER, ADDRESS, DATE OF BIRTH, etc.”** *Form RD 3550-25* need not be executed until loan closing, and must be returned, along with the other closing documents.

## Paragraph 8.5 Responsibilities of the Closing Agent/Attorney

The Closing Agent/Attorney is required to perform a number of tasks, including:

- Provide a title insurance binder (or prepare *Form RD 1927-9, Preliminary Title Opinion*) within 10 days of the date of the transmittal letter;
- Secure a title insurance policy within 60 days of loan closing or a final title opinion within 14 days of loan closing;
- Establish a mutually convenient date for the loan closing;
- Assess whether, after closing, the borrower will have an ownership interest in the property that is of the priority required by the Agency and subject only to those exceptions approved by the Agency;
- Ensure that the applicant provides a copy of an acceptable hazard insurance policy or insurance binder, and evidence that 1 year's premium has been paid;
- Confirm that the applicant has flood insurance, if applicable;
- Collect any other information the Agency has instructed the applicant to provide;
- Ensure that the applicant is aware of any funds that must be brought to closing; and
- ***On the day of the loan closing***, confirm that the applicant has no outstanding judgments. If any additional entries of record are identified, the loan cannot be closed until these entries are cleared or approved.

The Closing Agent/Attorney must complete *Form RD 1940-59, Settlement Statement*, which itemizes the costs to be paid by the applicant and seller at closing. UniFi will provide much of the information needed for *Form RD 1940-59*, including the amount of the initial deposit to the escrow account. The Closing Agent/Attorney must pro rate real estate taxes between the seller and borrower using *Form RD 1940-59* to determine the actual payment amount.

The Closing Agent/Attorney also must ensure that there are no outstanding demands for payment from a contractor or supplier for construction or repair work. If required by State Supplement, *Form RD 1927-5, Affidavit Regarding Work of Improvement*, must be signed at closing by the seller or, in the case of a subsequent loan, by the borrower, to certify that there are no outstanding claims.

## 8.6 RESPONSIBILITIES OF THE LOAN ORIGINATOR

The Loan Originator is responsible for coordinating all aspects of the process so that the required pieces come together on the day of closing. Between the time the loan is approved and the day of closing, the Loan Originator must: (1) work with applicants to be sure they understand and carry out their obligations; (2) work closely with the closing agent and review his or her work, as appropriate; (3) re-verify income, eligibility and validate the interest rate; and (4) prepare the documents that the Agency must provide for closing.

### A. Prepare the Applicant

Most applicants have never purchased a home before, and are unfamiliar with the details of the Agency's loan requirements. The Loan Originator must work with applicants to ensure that they understand the steps required to reach closing successfully, and that they are fully aware of the responsibilities they will assume when the loan closes.

#### 1. Applicant Orientation

When the loan is approved, the Loan Originator typically sets up an in-person meeting, as described in Paragraph 8.2 B. for the applicant to sign *Form RD 3550-7, Funding Commitment and Notification of Loan Closing*, and to hold the applicant orientation.

The applicant orientation is an opportunity for the Loan Originator to introduce the applicant to the Agency's loan closing and servicing guidelines, and to discuss the Agency's expectations of their borrowers. The Loan Originator must follow *Form 3550-23, Applicant Orientation Guide*, to ensure that all relevant topics are covered, including paper check processing through electronic funds transfer (EFT) as required by Check 21. The applicant must initial each item in Part II, and sign and date the document. Should the applicant want more information than *Form 3550-23* offers, the Loan Originator can provide additional information. In unusual cases where a face-to-face meeting cannot occur, the orientation can take place over the telephone. However, *Form 3550-23* must be sent to the applicant for initials and signature. Loan closing cannot take place unless *Form 3550-23* has been completed. The orientation should take place as soon after loan approval as possible.



Under no circumstances can a loan be closed without signed evidence that the applicant orientation took place.

#### 2. Notification of Loan Closing

The Loan Originator must notify the applicant of the conditions to be met and



Paragraph 8.6 Responsibilities of the Loan Originator

information to be provided at or before loan closing using *Form RD 3550-7, Funding Commitment and Notification of Loan Closing*. The applicant must review, sign, and return *Form RD 3550-7* to the Loan Originator within 14 days from the date of the form. The loan cannot be closed unless *Form RD 3550-7* has been signed and all obligations listed on the form have been met.

**3. Closing Costs**

The applicant may be required to bring funds to closing for a variety of purposes, including assets that must be contributed as a down payment, funds to pay for closing costs, or resources to fund the initial deposit to the escrow account. Borrowers receiving a subsequent loan may be required to prepay interest at closing. An estimate of the required amount, determined by the Loan Originator, is provided on *Form RD 3550-7*. The Closing Agent/Attorney makes the final determination of the actual amount required from the applicant.


**B. Review Title Insurance Binder (or Preliminary Title Opinion)**

Upon receipt of a title insurance binder (or *Form RD 1927-9, Preliminary Title Opinion*), the Loan Originator must carefully review it and consider the issues identified in Exhibit 8-2. The Loan Originator should review any exceptions listed to determine if the lien position is in jeopardy. If the exceptions will adversely affect the property’s title, suitability, or security value, the loan cannot be closed.

If prior liens will be present as part of a leveraging strategy, *Form RD 1927-8, Agreement with Prior Lien holder*, must be executed by the lien holder and recorded in the appropriate real estate mortgage records.

If any required information is omitted, or if the title insurance binder (or *Form RD 1927-9*), is not satisfactory, the Loan Originator should return it to the Closing Agent/Attorney for corrections.

**Exhibit 8-2**



**Reviewing the Title Insurance Binder  
(or Preliminary Title Opinion)**

- After closing, the borrower must become the owner of record of the real property.
- Any liens or recorded claims that would prevent the Agency from obtaining an enforceable mortgage must be removed.
- Outstanding judgments, bankruptcy, insolvency, or probate proceedings must be resolved.
- All property rights intended to be taken as security must be available.
- If wetlands easements or other conservation easements have been placed on the property, they must be acceptable to the Agency.
- If there are any exceptions of record, they must be acceptable to the Agency.

### C. Re-verifying Employment and Income

The Loan Originator must obtain an oral verification of employment (VOE) within 10 business days prior to the closing date. A written verification of employment, also dated within 10 business days prior to settlement, may be accepted in lieu of a oral VOE. Documentation to re-verify the applicant's income must be updated before loan closing if: (1) the closing will occur more than 120 days after the date on the employment verification documents; (2) there is evidence to indicate a change in financial status; or (3) the applicant's employment status had changed within 4 months prior to submission of the application. All re-verification activity should be documented carefully.



If the income re-verification indicates a significant change in income, the Loan Originator should take the following steps:

- Verify that the applicant is still income-eligible. A program loan cannot be granted if the applicant's adjusted income exceeds the moderate-income level at closing. Regardless of whether the applicant's income decreases or increases to change their status from very-low or low income, no changes are needed on the loan obligation. (There are no income restrictions for non-program applicants.)
- Determine whether the applicant is eligible for payment subsidy. Payment subsidy may be granted if the applicant's adjusted income is at or below the applicable moderate-income limit.
- Consider whether the applicant could obtain 100 percent private financing and refer the applicant to a private lender, if appropriate.
- Confirm that the applicant has adequate repayment ability.

#### **D. Re-verify Eligibility**

The applicant's circumstances may have changed since loan approval/obligation and must be reviewed as part of closing preparations. *Form RD 3550-7, Funding Commitment and Notification of Loan Closing*, should be reviewed to be sure all obligations are included on the most recent Eligibility Summary. After all re-verifications have been completed, the Loan Originator will print out and sign a new UniFi Eligibility Summary and place it in position 3 of the applicant case file.

#### **E. Validate the Interest/Note Rate**

Before preparing the loan closing documents, the Loan Originator must validate the note rate. The validation process involves reviewing the information in UniFi and MortgageServ to ensure that both systems have the same and correct interest rate.

The Loan Originator should use the following process to validate the note rate.

- Review the interest rate history to determine if an interest rate change occurred between loan approval/obligation and loan closing.
- Determine which of the interest rates is lower. **The Loan Originator must use the applicable interest rate in effect at loan approval or loan closing, whichever is lower.**
- If the interest rate at closing is lower than the one in effect at the loan obligation/approval date, both UniFi and MortgageServ must be updated to reflect the lower rate.
- Ensure that documents printed from UniFi, especially those affected by the interest rate such as the Promissory Note, Truth-in-Lending and Form RD 410-4, are accurate, consistent with the information in MortgageServ, and in compliance with program guidelines.

## Paragraph 8.6 Responsibilities of the Loan Originator

**F. Prepare Loan Documents**

The Loan Originator should assemble the forms needed for closing, and forward them to the Closing Agent/Attorney with *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement*. Closing documents may be sent via e-mail “**IF THE E-MAIL ATTACHMENT IS ENCRYPTED WITH A SECURITY PASSWRD TO PROTECT THE APPLICANT’S/BORROWER’S SENSITIVE INFORMATION WHICH INCLUDES THE SOCIAL SECURITY NUMBER, ADDRESS, DATE OF BIRTH, etc.**” The Closing



Agent/Attorney is responsible for completing the appropriate forms, preparing the security instruments, and obtaining signatures at closing, as needed. Attachment 8-A lists the documents needed for loan closing.

In unusual circumstances, changes must be made to the text of a security instrument or promissory note. For example, in the case of a non-program borrower, the clauses relating to refinancing to other credit and prohibition on leasing will be stricken. The Loan Originator should draw a line through only the specific language to be deleted, and alert the Closing Agent/Attorney of the deletions. All persons signing the security instrument or promissory note must initial the changes in the margin.

### ***1. Special Documents for Assumptions***

Whether new funds are obligated or existing loan funds are recycled through an assumption is primarily an accounting function, and is largely transparent to the purchaser and seller. However, there are 3 procedural differences that will affect the purchaser and the seller. First, the purchaser must sign *Form RD 3550-22, Assumption Agreement Single Family Housing* at closing. Second, the original note is not returned to the seller. Instead, the note is amended to indicate that it has been assumed. The original Promissory Note, with a copy of *Form RD 3550-22* attached, is kept in a locked fire-proof file. Copies are placed in the purchaser's case file. Third, *Form RD 3550-16, Release from Personal Liability* is provided to the seller at closing. The agreement is executed to release the seller from all personal liability for the amount of debt being assumed. In cases where the debt is not being assumed in full, CSC will handle the settlement of the remaining debt and any release of liability for that portion of the debt not being assumed.

### ***2. Special Documents for Subsequent Loans***

Applicants who are obtaining a subsequent loan have a legal right to cancel the loan within 3 business days from whichever of the following activities occurs last: (1) execution of the mortgage or deed of trust; (2) receipt of *Form RD 1940-41, Truth in Lending Statement*; or (3) receipt of *Form RD 1940-43, Notice of Right to Cancel*. The Loan Originator or Closing Agent/Attorney cannot disburse funds to the applicant until the 3 business days have passed, unless a hardship exists and the applicant waives his or her right to cancel the loan in writing.

## SECTION 3: CLOSING

### 8.7 OBTAINING FUNDS FOR CLOSING

The Agency utilizes an automated process for the electronic disbursement of loan funds known as the Automated Clearing House (ACH) network. This process pertains only to initial disbursements on section 502 loans. At the appropriate time, funds are released via ACH into the Closing Agent's/Attorney's account in order to close the loan. Under no circumstances will the loan closing proceeds be transferred from one Closing Agent's/Attorney's bank account to another. In the event the funds were sent to the wrong Closing Agent/Attorney, call CSC at the Field Support/ACH Help Desk.

The ACH process is **not** utilized for subsequent disbursements on construction loans, section 504 Loan and Grant combos, 504 grants, and 504 loans. Subsequent disbursements on construction loans, section 504 Loan and Grant combos, 504 loans, and 504 grants only are requested via the MortgageServ system.

Any loan that is closed in the Field Office will use a paper check, i.e. Native American loans closed via Office of General Counsel (OGC) and section 502/504 Note only loans. Checks are generated the day they are requested and are dated for 3 days later.

### 8.8 ESTABLISHING THE DISBURSEMENT SCHEDULE

Some borrowers will be able to occupy their dwellings immediately, while others will need to remain in other housing until construction or rehabilitation is complete. To avoid requiring borrowers to repay an Agency loan while continuing to pay other housing costs, borrowers who cannot occupy the property within 30 days are permitted to defer loan payments.


#### A. Permanent Loans

If the loan funds are used to purchase an existing dwelling or newly built house, or to complete minor repairs, such as painting or carpeting, the borrower should be able to occupy the property within 30 days. In these situations, a permanent loan is made and the borrower's repayment obligation begins immediately. Funds for permanent loans are requested in a single advance. In general, the loan funds are disbursed in full at closing. If funds for repairs are not fully disbursed at loan closing, the undisbursed loan proceeds are deposited into an escrow account supervised by the Closing Agent/Attorney, or into a supervised bank account and disbursed in accordance with RD Instruction 1902-A.



## B. Construction Loans

If loan funds are to be used to build a new dwelling or to undertake repairs that will prevent the borrower from occupying the dwelling for more than 30 days, the loan is made as a construction loan. Funds for construction loans are disbursed in multiple advances that begin to accrue daily simple interest as of disbursement at the borrower's Subsidized Rate and will not exceed the note rate. When activating the construction loan, and to ensure that interest accrues at the subsidized rate during construction, the Loan Originator must enter the subsidized rate into MortgageServ.

 Interest will always accrue at the subsidized rate during the construction period.

The Loan Originator will post each disbursement into MortgageServ. MortgageServ will calculate and record the amount of the interest accrual during the construction period. The Loan Originator must generate the Eligibility Summary from UniFi and place it in the borrower's case file when the construction loan is activated. The construction loan is converted into a permanent loan in MortgageServ when the final disbursement is made.

## 8.9 ESTABLISHING A REPAYMENT SCHEDULE

### A. Monthly Installments

The Loan Originator must indicate the appropriate monthly payment schedule on *Form RD 1940-16, Promissory Note*. **Under no circumstances** will a new loan be scheduled with an annual installment.

Borrowers with existing loans specifying annual payments may request conversion to monthly payments, and must convert to a monthly payment schedule before any subsequent loan or new payment subsidy is approved.

### B. Housing Assistance Program (HAP)

HAP payments made from the Housing Choice Voucher-Homeownership Program should be handled in the following manner. The Loan Originator should:

- Encourage the Public Housing Authority (PHA) to send the HAP (principal, interest, taxes and insurance portion only) directly to Rural Development (via the appropriate lockbox) or to the leveraged lender versus sending it directly to the family.
- Notify the PHA of the appropriate lockbox address and inform the PHA that the check **must** include the borrower's name and account number at a minimum.

Paragraph 8.9 Establishing a Repayment Schedule

- If the PHA elects to use any other payment method, field offices will be responsible for monitoring these accounts, which will require coordination with CSC to ensure they remain current.
- Accounts that use the Housing Choice Voucher should be designated a “Yes” in the field called “Section 8 Vouchers” in the “New Application Additional Set Up Screen” in UniFi.

**8.10 ORIGINAL EQUITY**

Original equity is calculated using the market value at the time of loan approval/obligation for both new and existing properties. Original equity is the difference between current market value and the total of all Agency and leveraged assistance (including subordinate affordable housing products and/or grants). Prepaid taxes and insurance are not considered original equity, nor are contributions toward closing costs. *Form RD 3550-12, Subsidy Repayment Agreement*, contains the original equity amount. Only one agreement should be executed by the subject borrower for the subject property. A new agreement should not be completed when extending additional financing (i.e. subsequent loans) to an existing borrower with an active agreement.

When an applicant is purchasing a program Real Estate Owned (REO) property and the purchase price is less than the market value due to an administrative price reduction, the equity to be credited to the borrower (if any) is any difference between the actual purchase price and the loan amount. Administrative price reductions do not affect original borrower equity.


**8.11 LOAN CLOSING**

The Closing Agent/Attorney should review the information provided during the applicant orientation with the applicant again at loan closing. The Closing Agent/Attorney also must review each closing document with the applicant, obtain signatures, as appropriate, and collect and disburse all required funds. Attachment 8-A provides a list of the documents that may be required at closing.

**A. Loan Closing Document Submission**

Many of the legal documents and other information used in underwriting the loan must be provided to CSC in order to assist with quality assurance and servicing.

Prior to loan closing the Loan Originator must complete the following items to be submitted to the Closing Agent/Attorney:

	<p><b>Special Loan Closing Requirements</b></p> <ul style="list-style-type: none"> <li>• See Chapter 9 for condominiums, community land trusts, planned unit developments, or manufactured homes.</li> <li>• See Chapter 10 for leveraged loans.</li> </ul>
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1. *Form RD 3550-19, Transmittal – Closing Documents*, with the appropriate documents as indicated on the transmittal.
2. *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement*, which includes the required forms to be signed by the borrower(s) at loan closing.

Once loan closing has occurred the Closing Agent/Attorney will send to CSC via overnight mail:

1. *Form RD 3550-17, Funds Transmittal Report*, and
2. A check for total fees collected as shown on Form RD 3550-17.

Clear signed copies of all pages of the applicable loan closing documents will be faxed to CSC by the Closing Agent/Attorney within **1 working day** from loan closing or by the Rural Development Field Office within **3 working days** of loan closing, using Form RD 3550-19, “Transmittal-Closing Documents,” as the fax cover sheet.

The Closing Agent/Attorney should return all original documents to the loan originator to be retained in the case file. However, the original Promissory Note must be retained in a separate, secured storage area. The title insurance policy (or final title opinion) will be sent only to the Loan Originator and applicant by separate envelope. CSC does not receive a copy of the Final Title Policy.

The loan docket for construction loans should not be sent to CSC until the loan is converted to a permanent loan and the Promissory Note is amended.

## **B. Review Closing Documents**

The Loan Approval Official must review the closing documents to verify that the Agency has received the proper lien priority. The Loan Approval Official also should check *Form RD 3550-7, Funding Commitment and Notification of Loan Closing* to confirm that the applicant submitted all required information. The Loan Approval Official then signs *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement* to certify that the loan was closed in accordance with the instructions provided.

## **C. Activate the Loan**

The Loan Originator activates the loan in MortgageServ after loan closing to signal CSC that the loan has been closed, and that servicing should begin. CSC does not begin to service construction loans until they are converted to permanent.

**D. Record Mortgage or Deed of Trust**

The Closing Agent/Attorney must record *Form RD 3550-14* after loan closing. The Closing Agent/Attorney should submit an unrecorded copy to the Loan Originator along with the other closing documents. The recorded copy should be provided to the Loan Originator as soon as it is completed. If the original is retained by the filing official, a conformed copy showing the date and place of recordation must be provided.

**E. Secure Title Insurance Policy**

The Closing Agent/Attorney must secure the title insurance policy and deliver it to the Loan Originator and applicant. A copy of the binder/commitment letter must be faxed to CSC with other closing documents.

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## SECTION 4: CONSTRUCTION LOANS

### 8.12 ADMINISTER CONSTRUCTION FUNDS

When funds are used for construction or rehabilitation, the Loan Originator must supervise their use. The Loan Originator and the borrower must each inspect the work when the contractor wishes to receive payment. If applicable, proper implementation of mitigation measures required by the environmental assessment also should be reviewed. If the work is acceptable, the Loan Originator must write “Pay to the Order of (insert name of Contractor)” on the back of the check, and provide it to the borrower for endorsement and payment to the contractor. The inspection and payment process can be expedited if the Loan Originator, borrower, and contractor meet at the dwelling for the inspection.

The amount of each disbursement for construction loans is determined by the draw schedule, which is developed based on the value of the work, according to Marshall and Swift guidelines. To ensure that all work will be completed satisfactorily, the Agency holds back 40 percent of each payment to the contractor, unless the contractor has obtained a Surety Bond, Performance Bond, or Payment Bond, in which case only 10 percent is held back. Holdbacks are released with the final payment.



### 8.13 CONVERT CONSTRUCTION LOANS

When a construction loan is made, the promissory note is written at the promissory note rate; however when the loan is activated, the subsidized rate the borrower will receive is entered in MortgageServ as the note rate. This causes interest during the construction period to accrue at the subsidized rate.

A construction loan is converted to a permanent loan once the house passes the final inspection. When the loan is converted to a permanent loan, the Loan Originator must change the note rate in MortgageServ to the note rate that was in effect when the construction loan was made, so that it matches the borrower’s note.

Loan conversion and the final inspection can occur on the same day provided the local office receives a copy of the final occupancy permit or other equivalent inspection report prior to the date of final inspection and funds have been fully disbursed.

**A. Modify Note and MortgageServ**

On the conversion date, the Loan Originator updates *Form RD 1940-16, Promissory Note*, to reflect the new principal amount of the loan, including the interest generated during the construction period. The borrower should initial the note to acknowledge the change. The Loan Originator then amortizes the new principal amount over the remaining term of the loan. The Loan Originator also must change the note rate in MortgageServ, which was entered at the applicable subsidized rate, to reflect the note rate in effect when the construction loan was made, and change the account number, as directed by CSC, to reflect the conversion from a construction loan to a permanent loan. Conversion to the permanent loan number will signal CSC to take over servicing responsibilities.

**B. Update Payment Subsidy**

If the borrower is eligible for payment subsidy, the Loan Originator must reverify income if more than 120 days have passed since the last verification of employment or there is evidence to indicate a change in financial status since the construction loan was made. Written verifications may be valid for an additional 60 days with oral reverifications at the end of the 120 days. The Loan Originator must generate *Form RD 1944-14, Payment Assistance/Deferred Mortgage Assistance Agreement* or *Form RD 1944-6, Interest Credit Agreement* and *Form RD 3550-12, Subsidy Repayment Agreement* and obtain the appropriate signatures. The appraisal obtained in connection with the loan approval/obligation must be used to determine market value on *Form RD 3550-12, Subsidy Repayment Agreement*, regardless of the length of the construction process.

**ATTACHMENT 8-A**

**DOCUMENTS TO BE SIGNED OR SUBMITTED AT LOAN CLOSING**

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<i>RD 410-4</i>	<i>Uniform Residential Loan Application (printed from UniFi)</i>
<i>RD 3550-14</i>	<i>Real Estate Mortgage or Deed of Trust for (State)</i>
<i>RD 1940-16</i>	<i>Promissory Note</i>
<i>RD 1927-9</i>	<i>Preliminary Title Opinion or Title Insurance Binder</i>
<i>Document</i>	<i>Evidence of Completion of Homeownership Education (if applicable)</i>
<i>RD 3550-7</i>	<i>Funding Commitment and Notification of Loan Closing</i>
<i>RD 1940-41</i>	<i>Truth in Lending Statement (if applicable)</i>
<i>RD 1940-43</i>	<i>Notice of Right to Cancel (if applicable)</i>
<i>RD 1940-59</i>	<i>Settlement Statement (or equivalent form)</i>
<i>RD 1944-6</i>	<i>Interest Credit Agreement (if applicable)</i>
<i>RD 1944-14</i>	<i>Payment Assistance/Deferred Mortgage Assistance Agreement (if applicable)</i>
<i>RD 3550-12</i>	<i>Subsidy Repayment Agreement (if applicable)</i>
<i>Document</i>	<i>Evidence of Insurance and receipt for 1<sup>st</sup> year premium</i>
<i>RD 3550-15</i>	<i>Tax Information</i>
<i>RD 3550-9</i>	<i>Initial Escrow Account Disclosure Statement</i>
<i>RD 1927-5</i>	<i>Affidavit Regarding Work of Improvement (within 45 days)</i>
<i>RD 1927-8</i>	<i>Agreement with Prior Lienholder (if applicable)</i>
<i>RD 3550-22</i>	<i>Assumption Agreement - Single Family Housing (if applicable)</i>
<i>RD 3550-16</i>	<i>Release from Personal Liability (if applicable)</i>
<i>RD 3550-17</i>	<i>Funds Transmittal Report</i>
<i>RD 3550-19</i>	<i>Transmittal-Closing Documents and Attachments listed on Form (if applicable)</i>
<i>RD 1955-49</i>	<i>Quitclaim Deed or Warranty Deed (if applicable)</i>
<i>RD 3550-10</i>	<i>Condominium Rider (if applicable)</i>
<i>RD 3550-11</i>	<i>Planned Unit Development Rider (if applicable)</i>

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<i>RD 3550-25</i>	<i>Loan Closing Instructions and Loan Closing Statement</i> <i>Authorization Agreement for Preauthorized Payments (if applicable)</i>
<i>RD 3550-29</i>	<i>Document Errors and Omissions Agreement</i> First payment coupon generated from UniFi

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## ATTACHMENT 8-B

### UNLIQUIDATED OBLIGATION REVIEW

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Obligation of funds should not occur until the loan or grant has been fully underwritten in accordance with the procedures described in Chapters 3 thru 7 of this handbook. Once funds are obligated, they must be disbursed in a timely manner. Loan approval and obligation implies that the Agency has determined the applicant has an immediate need for and will promptly use the funds. Therefore, it is imperative that unliquidated obligations are monitored to ensure that the funds are still needed and will be used by the applicant.

Periodic reviews of obligations are important to the Agency in order to properly report and certify the validity of obligation balances, prevent the loss of loan funds that expire at the end of a fiscal year, make funds available that otherwise would not be used and reduce the risk of fraud, waste and abuse.

#### 1. State Office Monitoring

RD Instruction 2009-B requires a review of obligations twice a year. In addition to this review, the State Office should conduct a review of unliquidated obligations at the end of each quarter. The review official may review Report Code 205, "Status of Loan and Grant Obligations Allotments or Distributions" prepared by the Finance Office, or utilize Hyperion to obtain a detailed report of unliquidated obligations. The Hyperion report is titled "Undisbursed Obligations" and provides a detailed listing of all unliquidated obligations that are more than 180 days old. The report of unliquidated obligations will contain a close code of "1, 4 or 9". An obligation with a close code of "4" is classified as an application, indicating the loan has not yet closed, while obligations with a close code of "1 or 9" are classified as active accounts, signifying a closed loan.

The review official's sample must consist of all unliquidated obligations that have been inactive for twelve months or more. In addition, at least half of the unliquidated obligations that have been inactive for less than 12 months must be reviewed. Obligations selected shall be reviewed to determine whether the intended purpose of the loan or grant is expected to occur. The following review guide entitled, "Single Family Housing Unliquidated Obligations" must be utilized for completion of the review. After completion of the review guide, the review official will inform the Field Office if the obligation may remain outstanding or if de-obligation is required.



This review is intended to disclose unliquidated obligations for loans or grants:

- (a) That do not have a legal basis, or are not properly authorized and supported by appropriate documentation;
- (b) Which have been completed and have not been closed out; and
- (c) Under which no future expenditures are expected.

Once a determination is made that an obligation can be deobligated, the Loan Originator will take the applicable action as per the instructions in HB-1-3550, Chapter 8, paragraph 8.3 B or C as appropriate.

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**Single Family Housing Unliquidated Obligation Review**

State Office Reviewer STATE\_\_\_\_\_

Title Review Date\_\_\_\_\_

Applicant's Name: \_\_\_\_\_ Account Number: \_\_\_\_\_

Date of Obligation: \_\_\_\_\_

1. Has the loan/grant closed? Yes\_\_\_ No\_\_\_
2. If the loan/grant has not closed, has the applicant provided all the necessary information and does the file contain documentation as to why the loan has not closed? Yes\_\_\_ No\_\_\_  
NA\_\_\_  
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3. Are legal or construction issues preventing disbursement of funds or the loan from closing?  
Yes\_\_\_ No\_\_\_ NA\_\_\_
4. Has the planned construction period expired? Yes\_\_\_ No \_\_\_ NA \_\_\_
5. Have funds been spent consistent with percentage of construction completion?  
Yes\_\_\_ No\_\_\_ NA\_\_\_
6. Has the customer received any supplemental or subsequent loans or other additional funds?  
Yes\_\_\_ No\_\_\_
7. If the answer above is yes, is there justification for increase in funding levels?  
Yes\_\_\_ No \_\_\_ NA \_\_\_
8. Is there a period of inactivity? Yes\_\_\_ No\_\_\_

If yes, explain and document the reasons below.

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HB-1-3550

Attachment 8-B

Page 4 of 5

9. Is the undisbursed obligation justified?            Yes\_\_\_ No\_\_\_

If yes, explain justifications and basis to continue with loan below..

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10. Should the obligation be canceled?            Yes\_\_\_\_\_ No\_\_\_\_\_

If no, establish a completion date for closing out the obligation below,.

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2. National Office Monitoring

The National Office will periodically request loan/grant files to conduct reviews of undisbursed obligations. The results of the review will be shared with the State Offices. If the National Office review concludes the unliquidated obligation is not justified, the State Office must inform the Field Office to de-obligate the funds and follow-up to ensure that it is accomplished in a timely manner.