United States Department of Agriculture
Rural Development
Texas State Office

OCT 0 1 2004

Texas USDA Rural Development Administrative Notice (AN) No. 586
(1900-B & HB-1-3550)

TO: All Offices
USDA Rural Development, Texas

FROM: Bryan Daniel
State Director
USDA Rural Development, Temple

SUBJECT: USDA Rural Development Instruction 1900-B
Adverse Decision Guide Letters for All Programs

PURPOSE/INTENDED OUTCOME: The purpose of this Texas USDA Rural Development AN provides guidance to field offices for adverse decision notifications for all programs.

COMPARISON WITH PREVIOUS AN: This replaces Texas AN No. 580.

IMPLEMENTATION RESPONSIBILITIES: Texas USDA Rural Development employees will process adverse decisions in the following manner. **The guide letters may be inserted or used as an attachment to the adverse decision letter.**

All programs will use the Direct Single Family Housing Field Office Handbook (HB-1-3550) to address all adverse decisions. The guide letters are found in HB-1-3550, Appendix 3, Letter 15 and Attachments 1-A through 1-I. This AN revises and eliminates some of the Attachments, since Texas USDA Rural Development is a USDA Certified Mediation State. The following is a list of each letter and attachment:

HB-1-3550 Appendix 3 - Handbook Letter 15 is still in effect (attached).
HB-1-3550 Attachment 1-A is still in effect (attached).
HB-1-3550 Attachment 1-B will be replaced with HB-1-3550 Texas Attachment 1-B (attached).
HB-1-3550 Attachment 1-C is still in effect (attached).
HB-1-3550 Attachment 1-D will be replaced with HB-1-3550 Texas Attachment 1-D (attached).
HB-1-3550 Attachment 1-E through 1-H will not be in effect.
HB-1-3550 Attachment 1-I will be replaced with HB-1-3550 Texas Attachment 1-I (attached).

EXPIRATION DATE:
September 30, 2005

FILING INSTRUCTIONS: Following RD Instruction 1900-B & preceding HB-1-3550, Chapter 1, Appendix 3, & Appendix 7

101 South Main • Suite 102 • Temple, TX 76501
Phone: (254) 742-9700 • Fax: (254) 742-9709 • TDD: (254) 742-9712 • Web: http://www.rurdev.usda.gov

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD).

If you have any questions, please contact Carolyn E. Turner, ADR Coordinator, at 254-742-9747.

Attachments

Handbook Letter 15 (3550)

REFERENCE: Field Office Handbook Chapter 1

SUBJECT: Standardized Adverse Decision Letter

Date: *insert today's date*

insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)
insert borrower(s) street/post office address
insert city, state, and zip code

Re: *Type/Amount of Assistance Requested*

Dear *insert borrower last name(s) (Mr., Mrs., Ms.)*:

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

The following items should be included in each adverse decision letter and can be presented in different formats depending upon the type of assistance requested and reasons for denial:

- Specific reasons for the decision;
- Regulatory basis (CFR citation) for the decision;
- If applicable, a statement of any evidence considered in making the decision such as credit reports, financial statements, etc.;
- If applicable, a statement of any issues presented by the customer such as those discussed during any meetings or phone conversations.

If you believe our decision is incorrect, or the facts used in this case are in error, you may challenge our decision. Please see the attached document.

Sincerely,

insert name of RD Official
insert title of RD Official

Attachment [insert TX Attachment 1-B or 1-C, as appropriate from Chapter 1]

ATTACHMENT 1-A

EQUAL CREDIT OPPORTUNITY ACT

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

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

TEXAS ATTACHMENT 1-B

ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF AN ADVERSE DECISION THAT IS APPEALABLE

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

Option 1 — Informal Review

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

Option 2— Mediation as a Type of Alternative Dispute Resolution (ADR)

You have the right to request mediation for the issues that are available for mediation. The purpose of mediation is to resolve disputes through the use of a neutral, third party mediator. A mediator will listen to all parties involved in the dispute and work with all parties to achieve a resolution that all parties are in agreement with. However, a mediator cannot change the Agency decision. **You will have to pay 50 percent of the cost of mediation.** USDA Rural Development will pay the other 50 percent of the cost. If you need information to assist you in deciding whether to seek mediation, contact The Dispute Resolution Center (DRC).

If you elect to seek mediation, your **written** request for this service must be sent to DRC at the address below and must be postmarked within 30 calendar days from the date you receive [*the attached letter or this letter*].

The Dispute Resolution Center
Texas Rural Mediation Services
P. O. Box 10536
Lubbock, Texas 79408
(866) 329-3522 or (806) 775-1720
drc@co.lubbock.tx.us
FAX: (806)-775-1729

You will be advised directly by DRC if they can mediate your case. Once you request mediation, it stops the running of the 30-day period in which you may request an appeal (described in Option 3). If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth in Option 3.

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

Option 3— Request an Appeal

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

National Appeals Division
Attn: Western Regional Assistant Director
755 Parfet Street, Suite 494
Lakewood, Colorado 80215-5599

Your request for an NAD hearing must state the reasons why you believe the decision is wrong, be personally signed by you, and must include a copy of the attached letter. A copy of your request must also be sent to the Texas USDA Rural Development State Director at:

State Director
USDA Rural Development
Attn: Texas ADR Coordinator
101 South Main Street, Suite 102
Temple, Texas 76501

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

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

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

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

ATTACHMENT 1-C

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

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

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

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

National Appeals Division
Attn: Western Regional Assistant Director
755 Parfet Street, Suite 494
Lakewood, Colorado 80215-5599

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TEXAS ATTACHMENT 1-D

ATTACHMENT TO LETTER NOTIFYING CUSTOMERS OF UNFAVORABLE DECISION REACHED AS A RESULT OF AN INFORMAL REVIEW

We appreciated the opportunity to review the facts relative to your request for assistance. From our review of the facts, we were unable to [*grant the assistance you requested or we must terminate or reduce the assistance you are currently receiving*]. If you believe our determination is in error, you may pursue any or all of the following two options:

Option 1 — Mediation as a Type of Alternative Dispute Resolution (ADR)

You have the right to request mediation for the issues that are available for mediation. The purpose of mediation is to resolve disputes through the use of a neutral, third party mediator. A mediator will listen to all parties involved in the dispute and work with all parties to achieve a resolution that all parties are in agreement with. However, a mediator cannot change the Agency decision. **You will have to pay 50 percent of the cost of mediation.** USDA Rural Development will pay the other 50 percent of the cost. If you need information to assist you in deciding whether to seek mediation, contact The Dispute Resolution Center (DRC).

If you elect to seek mediation, your **written** request for this service must be sent to DRC at the address below and must be postmarked within 30 calendar days from the date you receive [*the attached letter or this letter*].

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FAX: (806)-775-1729

You will be advised directly by DRC if they can mediate your case. Once you request mediation, it stops the running of the 30-day period in which you may request an appeal (described in Option 3). If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth in Option 3.

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

Option 2 - Request an Appeal

You may request an appeal hearing by the NAD rather than an informal review or mediation. There is no cost for an appeal. Your request for an appeal must be postmarked no later than 30 calendar days from the date you receive [*the attached letter or this letter*]. You must write the Assistant Director of NAD, for your region at the following address:

National Appeals Division
Attn: Western Regional Assistant Director
755 Parfet Street, Suite 494
Lakewood, Colorado 80215-5599

The request for an NAD hearing must state the reasons why you believe the decision is wrong, be personally signed by you, and must include a copy of the attached letter. A copy of your request must also be sent to the Texas USDA Rural Development State Director at the following address:

State Director
USDA Rural Development
Attn: Texas ADR Coordinator
101 South Main Street, Suite 102
Temple, Texas 76501

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

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

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

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TEXAS ATTACHMENT 1-I

ATTACHMENT FOR NOTIFYING CUSTOMERS THAT MEDIATION AS A TYPE OF ALTERNATIVE DISPUTE RESOLUTION (ADR) DID NOT RESULT IN RESOLUTION OF ISSUES

We regret that we are unable to [*grant the assistance you requested or that we must terminate or reduce the assistance you are currently receiving*]. Mediation did not result in resolution of the issues.

If you believe the decision or facts used in the case are in error, you may pursue your right to an appeal by the National Appeals Division (NAD). **There is no cost for an appeal.** The number of days in which you have to request an appeal depends upon whether you previously requested an appeal to NAD prior to entering into mediation. **Please follow the guidance in the paragraph indicated with an "X".**

_____ You requested an appeal hearing to NAD prior to entering into mediation. You must write to the Assistant Director of NAD, at the following address to schedule the appeal hearing:

National Appeals Division
Attn: Western Regional Assistant Director
755 Parfet Street, Suite 494
Lakewood, Colorado 80215-5599

_____ You did not request an appeal hearing to NAD prior to entering into mediation. You must write to the Assistant Director of NAD, at the following address. Your request must be postmarked within _____ days from receipt of this letter. This represents the difference between the 30-day period to respond and the number of days you took to respond, after receipt of the USDA Rural Development adverse decision letter.

National Appeals Division
Attn: Western Regional Assistant Director
755 Parfet Street, Suite 494
Lakewood, Colorado 80215-5599

Information Regarding Appeals

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

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

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cc: NAD Assistant Director