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HAC

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October __, 2018

Joel C. Baxley, Administrator
U.S. Department of Agriculture, Rural Housing Service
c/o Branch Chief, Regulations and Paperwork Management Branch
STOP 0742
1400 Independence Avenue SW
Washington, DC 20250-0742

RE: RIN 0575-AD13, Proposed Rule, Single Family Housing Direct and Guaranteed Loan Programs.

Dear Administrator Baxley:

The Housing Assistance Council (HAC) appreciates the opportunity to comment on the subject Proposed Rule by the Rural Housing Service (RHS), United States Department of Agriculture (USDA).

The proposed rule seeks comments on the Agency's plan to amend its regulations to implement a two-tier income limit structure and revise the methodology to determine area loan limits for its Single Family Housing direct loan and grant programs and make other changes. The proposed change to the income limit structure is intended to minimize the impact of varying minimum wages among states and territories and the observed disconnect between minimum wages and the low median income in many areas. The proposed change to the methodology is intended to streamline the process and improve the reliability of the data set used to establish the area loan limits. HAC agrees that minimum wage earning households should not be disqualified from homeownership based on income limits and that streamlining processes is a desirable goal. However, we are concerned that the proposed solutions will divert limited program resources to applicants with much higher incomes. HAC strongly urges the Agency to take positive steps to assure the program continues to serve those who are most in need.

The Housing Assistance Council is a national nonprofit organization that helps build homes and communities across rural America. HAC has been assisting local communities build in rural areas since 1971. The Housing Assistance Council is deeply interested in and supportive of the rural housing programs administered by USDA Rural Development. For years HAC has collected, analyzed, and disseminated data on USDA's housing programs to better inform our rural housing partners and the public at large. With nearly 50 years of service to public, nonprofit, and private organizations throughout the rural United States, the Housing Assistance Council is uniquely positioned to provide comments and insights on this Proposed Rule to amend the income limits and the area loan limits for the Single Family Housing direct loan and grant programs.

Proposed Two Tier Income Limit

USDA proposes to revise the definition of very low-, low- and moderate-income to allow for a two-tier income limit structure for the single family direct loan and grant programs. The Agency's primary rationale for modification is that under current rules, the income of a two-person household earning minimum wage from two full time jobs may be considered too high to qualify for a direct loan in "39 to 93 percent of the counties in 16 states and territories." State minimum wages run from $7.25 per hour to $11.50 across all 50 states ($6.55 in Puerto Rico.) [1] Two-person households, both employed full time at minimum wage, could have incomes ranging from $30,160 to $47,840. Under a pilot program, the Agency tested the two-tier income limit structure in 23 states.

For comparison purposes, HUD's low-income limits for a two-person household are 80 percent of the four-person household limits.[2] The proposed two-tier income limit raises the median household income limit for two persons from $42,800 to $53,500 based on FY 2018 income limits. Single person households also benefit from this change. Single person household income limits are 70 percent of the four-person limits, and the proposed median single person household limit increases from $37,450 to $53,500. This results in a significant expansion of income eligible households. To address the issue of a two-person household where both members earn minimum wages in some counties in 16 states, the Agency proposes to make a wholesale change that dramatically expands income eligibility for all the Single Family Housing direct loan and grant programs. Not only are the income limits expanded to address minimum wage earners but the eligibility for Section 504 loans and grants is also expanded.

Higher income households can afford larger loan amounts, are less likely to have credit history problems, and can qualify for a wider range of homes than can lower income households. Appropriation levels for the program crept up slightly but they are nowhere near large enough to meet the need before expanding the pool of income eligible applicants. We are concerned that the overall expansion of income eligible households will divert limited resources away from those most in need.

In its analysis, USDA states that its pilot program showed that more borrowers can be served. However, the data does not support that conclusion. No information was provided regarding the number and income level of two-person, minimum wage earner households served over the demonstration period. HAC notes that program funding increased over the demonstration period. Furthermore, the larger impact of income banding is difficult to assess because approximately half of the states in the income pilot also participated in the area loan limit pilot.

Table 1: USDA Section 502 Direct Loan Obligations (in nominal dollars)

Year	Appropriations	Obligations in Dollars	Number of Obligations
2015	$900,000,000	$899,814,129	7,064
2016	$900,000,000	$958,259,532	7,089
2017	$1,000,000,000	$999,991,165	7,167
2018	$1,100,000,000	$1,100,796,383	7,199

Some of the increase in borrowers served may have come from the demonstration, but the agency has not shown that to be the case. While expanding the program to serve more people is a worthy goal. this mistaken conclusion is leading the agency toward a program change that will hurt rural families in the most need.

[1] https://www.dol.gov/whd/minwage/mw-consolidated.htm. Visited 9/28/2018. Washington DC has a higher minimum wage but has no eligible rural areas.
[2] https://www.huduser.gov/portal/datasets/il//il18/IncomeLimitsMethodology-FY18.pdf. Visited 9/28/2018.

Net Family Assets

USDA proposes to exclude net family assets from repayment income calculations because repayment income focuses on the income of those who sign the promissory note, whereas net family assets considers the finances of other family members. Net family assets will still be considered for annual income and down payment purposes. The Agency also proposes to revise the regulation so that the list of net family assets considered for annual income and down payment purposes would exclude amounts in voluntary savings accounts such as retirement accounts, life insurance policies, tax advantaged college savings plans, the value of tax advantaged health or medical savings or spending accounts.

HAC generally agrees with the Agency's proposal to remove net family assets from repayment ability. Excluding retirement, education, and health savings accounts from consideration for down payment and annual income also makes sense.

The Agency also proposes removing from net family assets the value, in excess of the consideration received, of any business or household assets disposed of for less than the fair market value (FMV) during the two years preceding the income determination. The Agency states "that it is not productive or meaningful to consider assets which have been disposed of in the past." HAC disagrees. Assets disposed of for less than FMV may indicate that an applicant has attempted to hide an asset to qualify for payment subsidy assistance or to reduce their required contribution to the home purchase. This provision is included to prevent an applicant from transferring assets to qualify for the program. This is a fraud prevention mechanism and we believe that the program integrity is not well served by removing it.

Area Loan Limits

USDA proposes to revise its methodology to determine the area loan limits which set the maximum loan amount for each county. The current process bases the area loan limit on an estimate of the cost to build a home on a modest lot. The proposed change uses a percentage of the FHA Forward One-Family mortgage limits (formerly known as the HUD 203(b) limit). The Agency states that the current process uses overly restrictive nationalized parameters and requires a significant amount of staff time on all levels (field, state, and national). However, the Agency does not explain how the current process is overly restrictive. This may be the case but without explanation of how the current method restricts loan making, it is difficult to understand how this should be changed.

The Agency tested its proposed alternate methodology. Under the pilot, 80 percent of the FHA Forward One-Family loan limit was used. It should be noted that the FHA loan limits are based on housing costs only in high cost areas. FHA's "low cost" area loan limits are based on a "national conforming limit"[3] and bear little relationship to local housing costs.[4] HAC questions how this is more reliable data for establishing area loan limits for a subsidized loan program.

The Agency notes that the pilot states generally experienced increases in their area loan limits but suggests that the increases were not significant, in part because an applicant's qualification amount continues to be limited based on repayment ability, property eligibility criteria (for example, properties financed through the program are currently subject to 2,000 square feet), and other factors. Average loan amounts in the pilot states increased 13.4 percent from Fiscal Year 2015 to 2017, while average loan amounts in the non-pilot states increased 5.4 percent during the same period. Since 2012, the year over year increase in average loan amount ranged from 2.3 to 6.1 percent for the Section 502 Direct loan

[3] The conforming limit is the loan limit for GSE (Freddie Mac and Fannie Mae) loans.

[4] https://www.hud.gov/sites/dfiles/OCHCO/documents/17-16ml.pdf Visited 10/11/2018

program. The range over the same period was -0.7 to 3.6 percent for the Section 502 Guaranteed loan program. Average loan amounts are increasing faster under the Direct loan program than the Guaranteed loan program. As of the end of August 2018, the average direct loan was $152,290, significantly higher than the average guaranteed loan (which is not a subsidized loan) of $145,169. The average direct loan to a low-income borrower was $163,374 while the average loan to a very low-income borrower was $133,975.

The Agency provided no information on number of new homes financed, how that compares to previous years or why the FHA Forward loan limits are more appropriate (other than that the amounts are higher) for new construction than the existing methodology. While it may be that the higher percent increase in the pilot states is acceptable because the alternate methodology makes new construction under the program more feasible, the existing method was already based on the cost of building a modest home.

HAC reviewed the FY 2018 FHA Forward loan limits. The limits range from $294,515 (the national loan limit) to a maximum of $679,650. The FHA Forward loan limit tables also include median home sale prices for single unit dwellings. HAC notes that the average of the median sale prices in the table is $167,933 and the median of the sale prices in the table is $132,500. The HUD loan limits are substantially higher than the county median sale price and the "national loan limit" has no relationship to median sale price in non-high cost counties.

Given that the national loan limits for the FHA Forward program are not based on housing sale prices except for high cost counties, this methodology is not the optimum basis for determining loan limits on a subsidized loan program. HAC also questions whether it is appropriate to draw conclusions on the impact of the area loan limit change when both the income banding pilot and the area loan pilot ran in 11 of the 23 states. HAC does not object to changing the method for determining loan limits but we question whether the FHA Forward loan limits are the appropriate and reliable means to do so.

Below are HAC-generated examples of the maximum loan an applicant could qualify for in higher and lower income counties. The example applicant was assumed to have minimal total debt ($500 per month). Taxes and insurance were estimated at 1.5 percent of the home value (based on a $235,612 house for the lower income county (Example 1) and 3 percent for the higher income county (Example 2). These tables reflect the maximum loan an applicant could qualify for based on these assumptions regardless of the area loan limit. It is recognized that lower or higher cost homes would likely have different tax and insurance costs, but these examples serve to illustrate the maximum loan for which households at various income levels could qualify. Higher income borrowers qualify for larger loans at higher subsidy costs while lower income borrowers qualify for significantly lower loan amounts.

Example 1
Lower Income County
(Median Income = $53,700 for 4 person Household)
Estimated Taxes and Insurance $3,514 (1.5 percent of $235,612)

Very Low-Income Households	Maximum Loan Amt	Subsidy per Month	Low-Income Households:	Maximum Loan Amt	Subsidy per Month[5]
$26,850	$118,670	$286	$42,950	$298,580	$430
$25,850	$111,900	$161	$41,950	$290,230	$418
$24,350	$97,480	$140	$40,450	$276,320	$398
$21,850	$68,680	$99	$37,950	$253,140	$364
$19,350	$39,880	$57	$35,450	$224,790	$324
$16,850	$7,463	$0	$32,950	$196,550	$283

Example 2
Higher Income County
(Median Income = $69,650 for 4 person Household)
Estimated Taxes and Insurance $7,068 (3 percent of $235,612)

Very Low-Income Households	Maximum Loan Amt	Subsidy per Month	Low-Income Households:	Maximum Loan Amt	Subsidy per Month
$34,650	$82,930	$119	$55,450	$314,620	$453
$33,650	$75,590	$109	$54,450	$306,280	$441
$32,150	$63,370	$91	$52,950	$292,370	$421
$29,650	$43,000	$62	$50,450	$269,190	$388
$27,150	$22,630	$33	$47,950	$246,010	$354
$24,650	$1,080	$2	$45,450	$222,830	$321

USDA states that while pilot states generally experienced increases in their area loan limits, the increases were not significant, in part because an applicant's qualification amount continues to be limited to repayment ability and other factors. The analysis is presented to illustrate that repayment ability is a limiting factor only at lower incomes. Most low-income borrowers qualify for significantly more than the lowest area loan limit ($235,612) for most counties. The current payment assistance formula provides that applicants pay 24 percent of their income towards principal, interest, taxes and insurance or the equivalent of a 1 percent loan, whichever results in less subsidy. HAC concludes that repayment ability is only a limiting factor for the lowest income borrowers because of the payment assistance subsidy formula.

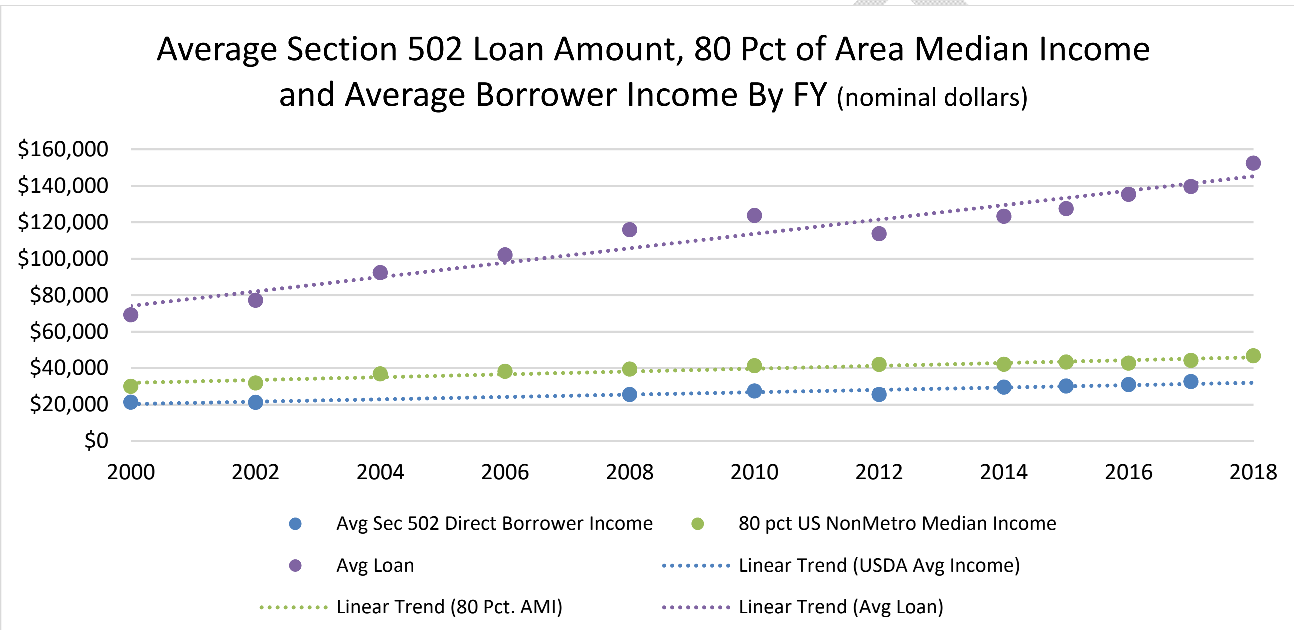
Higher loan amounts reduce the number of applicants who can be served by the program as funds are limited by appropriations. Applicants who qualify for higher loan amounts receive more payment assistance subsidy. In the long run, this will increase the cost of the program. As illustrated by the tables above, higher income applicants could qualify for bigger loan amounts than the $235,612 loan limit for most counties. Repayment ability is not a limiting factor in these instances. One way to mitigate this is to change the payment assistance subsidy formula to develop an additional limit on the amount of subsidy for higher income applicants. This could be done with a third factor limiting the total subsidy based on a

[5] In most cases, subsidy per month was based on a 1 percent equivalent interest rate which is the limiting factor for payment assistance.

dollar amount or a percentage of the total payment. Further study is required to determine an appropriate formula or amount for this.

Very Low-Income Requirement

While not explicitly presented in the proposal, USDA's Section 502 Direct loan program is subject to a statutory requirement that 40 percent of the funds be set aside for Very Low-income applicants. Meeting this requirement has been a challenge in recent years because average home costs have increased faster than income. The chart below compares the average loan amounts (in nominal dollars) for USDA Section 502 Direct loans, the average borrower income, and 80 percent of the US nonmetropolitan median income.



HAC's analysis indicates the average Low-income loan amount has been increasing at a much faster rate than the average Very Low-income (VLI) loan amount. This trend suggests increased challenges for meeting the VLI requirement. It may be time to reassess the requirement in Section 502 (d) (1) that "not less than 40 percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons… "of the Housing Act of 1949, as amended. HAC believes it is important that the program continue to serve VLI households. One alternative is to change the way USDA meets the requirement to numbers of loan applicants served rather than funds obligated.

Average Section 502 Direct Loan (in nominal dollars)

Year	Average Loan Amount	Average Low-Income Loan	Average Very Low-Income Loan	Percent of Funds for VLI	Percent of VLI Loan Obligations
2015	$127,380	$131,381	$111,192	31.8%	35.7%
2016	$135,176	$141,510	$122,932	37.6%	41.1%
2017	$139,527	$147,612	$126,060	38.1%	42.0%
2018	$152,290	$164,496	$133,615	32.5%	37.2%

Other Federal Programs

Certain Federal Housing programs that serve low- and very low-income households also rely upon the HUD income limits. The HUD Self-Help Homeownership vvOpportunity Program (SHOP) is one such program. Loan applicants who qualify as low-income borrowers under the Section 502 Direct loan program under income banding rules may exceed the low-income household threshold under SHOP rules. This causes an unnecessary disconnect and HAC urges USDA to work closely with HUD to address this issue if the proposed rule is implemented.

The Housing Assistance Council appreciates the opportunity to comment on the Proposed Rule to implement a two-tier income limit structure and other changes to the USDA's Direct Single Family Housing loan and grant programs. Please do not hesitate to contact me if you need additional information or clarification on our comments.

Sincerely,

David Lipsetz
Chief Executive Officer