

In the Matter of the Proposed
Rules Relating to Accessibility
Deferred Loan Program and Local
Participation Home Improvement
Loans

Statement of Need
and Reasonableness

4900.0550

Subpart 1 This subpart specifies the items to be included in a local government's request for an allocation of funds to make local participation home improvement loans.

Paragraph B has been amended to require only a description of program requirements to be imposed by local government that are not set forth in parts 4900.0510 to 4900.0520. This amendment is necessary to restrict local participation to the home improvement loan program governed by the rules contained in parts 4900.0510 to 4900.0520. This amendment is reasonable because the Agency never intended for local participation to apply to the other parts cited in 4900.0550 Subpart 1, Paragraph B.

Statement of Need
and Reasonableness

Part 4900.0750

This Part sets forth definitions for the purposes of Parts 4900.0750 to 4900.0780.

Subpart 2. Accessibility Improvement is defined as an improvement to a residence that is necessary to enable a handicapped person to function in that residence. The definition is necessary to clarify the eligible uses of the funds to be expended under this program. The limitations imposed by this definition are reasonable because the purpose of the program is to demonstrate that handicapped persons can function in a residential setting if accessibility improvements are made.

Subpart 3. The definition of Deferred Loan is needed to provide a single word to describe the interest rate and the conditions under which loan repayment shall be required.

Subpart 4. Handicapped Person is defined as a person who has a permanent physical condition that is not correctable and which substantially reduces the person's ability to function in a residential setting. The definition is necessary to clarify who is to benefit from the program. The definition is reasonable because the purpose of the program is to demonstrate that handicapped persons can function in a residential setting if accessibility improvements are made.

4900.0760

This part establishes eligibility criteria for the loan recipient and the property.

Subpart 1. This subpart establishes two sets of standards by which loan recipient eligibility may be determined. It is necessary to establish two sets of standards because the Agency intends to make loans available to persons who have handicapped persons in their household and to persons who will provide foster care for handicapped adults and children.

Item A establishes the first set of standards which apply to loan recipients with handicapped household members. This paragraph requires that the loan recipient be a handicapped person, or have, or intend to have in residence in the property to be improved, at least one handicapped household member. This requirement is needed to ensure that handicapped persons will benefit from the improvements. The requirement is reasonable, given the previously stated purpose of the program.

Item A further requires that the loan recipient occupy or intend to occupy the dwelling unit to be improved as his or her primary residence. This requirement is necessary and reasonable to ensure that the accessibility improvements will facilitate the handicapped household member's ability to function in a residential setting.

Item A also requires that the loan recipient be of low or moderate income, as defined in Part 4900.0010, Subpart 23, Item E (Home Improvement Loan Program). This standard is necessary to ensure that low and moderate income homeowners have a source of affordable financing with which to make their homes accessible to handicapped household members. This standard is reasonable because persons with incomes over the standard generally have other financing resources available to them.

Item B provides eligibility criteria for loan recipients who themselves and whose household members are not handicapped. This paragraph establishes the standard that if there are no handicapped household members, the loan recipient must be licensed by the county to operate the property to be improved as a foster care residence, that the loan recipient enter into an agreement to accept handicapped foster care residents, and that the loan recipient occupy the unit to be improved as his or her primary residence. This is a necessary and reasonable standard to ensure that handicapped foster care recipients will benefit from improvements financed under this program.

Item B further establishes a requirement that the loan recipient be a person or family of low or moderate income, which is defined as a person or family whose adjusted income does not exceed \$38,000 for residences in the metropolitan area, or whose income does not exceed \$30,000 for residences outside the metropolitan area. These higher income limits are necessary to permit foster care providers to participate in the program. It is reasonable to set higher income limits for foster care providers because the ultimate beneficiaries of the accessibility improvements will be the low income individuals receiving the foster care and not the loan recipient. Although the income limits in Item B are higher than for those qualifying under Item A, they are consistent with the Agency's Single Family Mortgage Program's definition of low and moderate income.

Subpart 2. This subpart requires that loan recipients have a minimum ownership interest of at least a life-estate, or a one-third interest in the fee title or in a contract-for-deed with respect to the structure to be improved. This requirement is necessary to ensure that the loan recipient has the legal right to make improvements or modifications to the residence. This requirement is reasonable because it is the same requirement that applies to all the Agency's home improvement programs.

Subpart 3. This subpart specifies the eligibility standards that apply to the structure to be improved.

The structure is required to be an existing dwelling used for residential purposes. This is a statutory requirement.

The structure must also be located within the state of Minnesota. This requirement is reasonable and necessary to ensure that state funds are not spent for the benefit of persons who are not residents of the State of Minnesota.

The structure must contain no more than two dwelling units, and one of them must be occupied by the borrower. It is necessary for a unit to be occupied by the borrower because the intention of the program is to improve the accessibility of a residence occupied by a handicapped loan recipient, a handicapped member of the loan recipient's household, or a handicapped foster care resident living with the loan recipient.

4900.0770

This part sets limits on the availability of accessibility deferred loans.

Subpart 1. This subpart states that assistance received from this program shall be in the form of a deferred loan. This form of assistance is necessary to induce borrowers to participate in the program, because borrowers will generally either be elderly, and not have the capability to repay the loan over a period of time; or foster care providers, who would have no incentive to make accessibility improvements to their houses, since such improvements generally will not enhance the market value of real estate.

Subpart 2. This subpart requires that when an accessibility deferred loan is combined with assistance from other agency programs, the requirements of the other programs are also met. This requirement is necessary to ensure that other program standards continue to be met.

Subpart 3. This subpart limits the amount of accessibility deferred loans to \$10,000. It is necessary to limit the amount of assistance to ensure wide spread availability of funds. The limit of \$10,000 is reasonable as the Agency's experience demonstrates that houses can be made accessible at a cost of \$10,000 or less.

Subpart 4. This subpart prohibits providing an accessibility deferred loan to improve a property that was improved with an accessibility deferred loan within the previous 5 years, except in circumstances relating to damage to the property as a result of events beyond the control of the borrower. This requirement is necessary to ensure that the program will be available to as many people as possible, and to ensure that no one property receives more than \$10,000. The requirement is a reasonable means by which to limit total accessibility assistance to \$10,000.

4900.0780

This part sets forth the repayment provisions for accessibility deferred loans. There are two separate repayment provisions. This is necessary because the Agency intends to make loans to households which have a handicapped household member, and to households that will provide foster care to handicapped adults and children.

Subpart 1. This subpart requires, in the case of households with a handicapped member, that the accessibility deferred loan be repaid if the improved property is conveyed or ceases to be the recipient's principal residence within 5 years after the application for the loan was approved. The agreement for repayment is to be secured by a lien. These requirements are reasonable to ensure that the recipient has an intention to occupy the property for a reasonable length of time so that the maximum benefit from the improvements can be realized. The requirements are necessary because they permit the Agency to recapture funds which are used to finance improvements not utilized for a reasonable period of time, and enable the Agency to utilize the recaptured funds for additional accessibility improvements.

Subpart 2. This subpart requires in cases where the loan recipient does not have a handicapped household member, but provides foster care, that the loan be repaid if the recipient voluntarily withdraws the improved property from use as a foster care residence, or refuses to accept handicapped foster care residents, within 5 years after the loan application was approved. Agreements for repayment under this subpart need not be secured by a lien. These requirements are necessary and reasonable for the reasons stated above for Subpart 1. It is reasonable that repayment by foster parents not be secured by a lien, because to do so would create a major disincentive to their participation in the program.

The Agency is cognizant of the provision of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking, however, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Further, to the extent the proposed rules may have an indirect effect on small businesses, the effect is to make funds available for the creation of foster parent housing more readily available, and, as a result, the proposed rule has no negative effect on small businesses. Therefore, the provisions contained in Minn. Stat. § 14.115 (1983 Supp.) do not apply to the proposed rules discussed herein.