RD AN No. 4551 (1980-D)
February 3, 2011

TO: State Directors
Rural Development

ATTENTION: Rural Housing Program Directors,
Guaranteed Loan Coordinators,
Area Directors and Area Specialists

FROM: Tammye Treviño
Administrator
Housing and Community Facilities Programs

SUBJECT: Single Family Housing Guaranteed Loan Program
Implementation of Annual Fee and Decreased Upfront Fee Effective
October 1, 2011

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to plan for the implementation of authorities granted the Secretary of the United States Department of Agriculture (USDA), via Public Law (P.L.) 111-212, Section 102 (July 29, 2010), in which the Secretary may collect from the lender an annual fee not to exceed 0.5 percent of the outstanding principal balance of the loan for the life of the loan. The intent of the annual fee is to make the Single Family Housing Guaranteed Loan Program (SFHGLP) subsidy neutral, thus eliminating the need for taxpayer support of the program. For Fiscal Year (FY) 2012, an annual fee of 0.3 percent of the outstanding principal balance will be required in order that the SFHGLP may maintain subsidy neutrality. Rural Development is in the process of adopting a rule effective with loans obligated on or after October 1, 2011, under which all loan transactions will be subject to the annual fee. This anticipated policy change is being announced now to allow affected lenders time to make needed systems adjustments.

COMPARISON WITH PREVIOUS AN:

There are no previous AN issued on this subject.

EXPIRATION DATE:
February 29, 2012

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

BACKGROUND:

P. L. 111-212, "Supplemental Appropriations Act, 2010," enacted on July 29, 2010, Section 502(h)(8) of the Housing Act of 1949 (42 U.S.C. 1472 (h) (8)), was amended to read as follows: "(8) Fees. – Notwithstanding paragraph (14) (D), with respect to a guaranteed loan issued or modified under this subsection, the Secretary may collect from the lender – "(A) at the time of issuance of the guarantee or modification, a fee not to exceed 3.5 percent of the principal obligation of the loan; and "(B) an annual fee not to exceed 0.5 percent of the outstanding principal balance of the loan for the life of the loan."

The annual fee provision of P.L. 111-212, will be applicable to purchase and refinance loan transactions.

Implementation of an annual fee of 0.30 percent of the outstanding principal balance, will allow the Agency to reduce the up-front guarantee fee. Therefore under the new rule, effective October 1, 2011, the up-front guarantee fee for purchase transactions will decrease from 3.5 percent to 2 percent for purchase loans transactions. The up-front guaranteed fee for refinance loans transactions will remain at 1 percent.

Future updates to both the up-front and annual fee will be published in Exhibit K, of RD Instruction 440.1, available in any Rural Development office or on the Rural Development website as follows: http://www.rurdev.usda.gov/regs/regs_toc.html. The annual fee and upfront guarantee fee are subject to change annually to maintain a subsidy neutral program.

IMPLEMENTATION RESPONSIBILITIES:

Beginning October 1, 2011, it is anticipated that all purchase loans transactions will be charged (1) an up-front guarantee fee equal to 2 percent of the loan amount, and (2) **an annual fee of 0.3 percent of the unpaid principal balance**. The annual fee will be calculated and collected as follows:

1. The initial fee, for the first year of the loan will be determined and calculated based on the loan amount. For remaining year of the loan, the annual fee will be charged on the scheduled amortized unpaid principal balance (UPB) of the loan, not the actual UPB.

2. The fee will be calculated annually and the lender will be notified of the annual fee for the next 12 month period and billed to the lender each year on the anniversary date of the loan. Thus, the initial annual fee will be calculated when the loan is closed and the bill to collect the annual fee from the lender will be 12 months after the closing date of the loan. The annual fee for the next year will also be calculated at that time.

3. The initial annual fee will be calculated based on the closing date of the loan.

4. Lenders will be billed annually, initially 12 months after the closed and commencing annually for the life of the loan.

5. The payment will be due to Rural Development by the 15th calendar day after the bill is generated.

6. The bill for each year will be retroactive for the prior year period.

7. A late fee of 4 percent of the annually billed amount will be assessed on the 15th calendar day after the bill is generated.

8. If the fee for a loan is still unpaid after 30 days, an additional late fee may be accessed on the unpaid fee amount.

9. The first payment due will begin at the end of the first 12 months after closing and will be for the prior 12 month period.

10. The annual fee, billed annually, will be collected through Pay.Gov, as follows:

    - Fully web-based for lenders with 3,000 or less loans; and
    - An overnight matching batch process for lenders with greater than 3,000 loans.

Rural Development is aware that lenders may need a minimum of 6 to 9 months lead time to configure their systems to support the annual fee. Since this notice is published approximately 8 months before the implementation date, it is anticipated that the lenders should be able to accommodate the annual fee by October 1, 2011. We will work closely with lenders and service bureaus to ensure they can support the annual fee requirement in the shortest possible timeframe. Supporting documentations for servicers as well as training materials for loan originators and servicers will be developed prior to the effective date of the annual fee.

Any questions concerning this AN should be addressed to the Single Family Housing Guaranteed Loan Division at, (202) 720-1452.