

RD AN No. 4383 (1951-E)
July 30, 2008

TO: State Directors, Rural Development
ATTN: Business Programs Directors
SUBJECT: Rural Business Enterprise Grant Program
Servicing Clarifications

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to respond to frequently asked questions from the field staff concerning the Rural Business Enterprise Grant (RBEG) Program and to provide guidance in servicing RBEGs.

COMPARISON WITH PREVIOUS AN:

This AN updates and replaces RD AN No. 4203 (1951-E) dated August 9, 2006, which expired on August 31, 2007.

IMPLEMENTATION RESPONSIBILITIES:

Frequently asked questions from field offices are as follows:

1. How long should RBEG files be retained?

In accordance with 7 CFR part 3016.42 (public bodies) and 3019.53 (non-profits), in general, records shall be retained for 3 years from the date of the final expenditure report. Additional guidance on retaining RBEG case files can be found in RD Instruction 2033-A.

EXPIRATION DATE:
July 31, 2009

FILING INSTRUCTIONS:
Preceding RD Instruction 1951-E

If real or personal property has been purchased with grant supported funds, the grant case folder will be retained until all property is disposed of in accordance with regulations. All such acquired property is subject to Civil Rights laws including accessibility requirements established in Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

2. What is the file retention period for loans made from an RBEG Revolving Loan Fund (RLF)?

As stated above in Item 1, grant records shall be retained for 3 years from the date of the final expenditure report.

Under the RBEG program, an RLF continues in perpetuity; therefore, the grantee's obligations continue as long as the grantee continues to make loans under the grant agreement, notwithstanding the fact that all grant funds have been disbursed and lost their Federal character as the funds revolve. Loans made with "revolved" funds must continue to be made in accordance with RD Instruction 1942-G and the Scope-of-Work, Workplan, and Grant Agreement. When the last payment under a grant has been disbursed, the Agency continues to have an interest in the RLF after the last grant disbursement and must have the grant case folder available in the event requests for property disposition or other questions arise that require file data and Agency approval to resolve.

3. What are the reporting and monitoring requirements when all Federal funds have been loaned out and all subsequent loans are made from the RLF?

General guidance on the reporting and monitoring requirements are found in 7 CFR 3016.40 and 3016.41 (public bodies) and 3019.51 and 3019.52 (non-profits). These sections provide that the responsibility for managing and monitoring the day-to-day operation of grants and subgrants is that of the grantee. Recipients are required to monitor the performance of grant and subgrant supported activities to assure that performance goals are achieved. The recipient must monitor each program, function, or activity.

7 CFR 3016.40(b)(1) (public bodies) and 3019.51(b) (non-profits) provides that an awarding agency may require the recipient to submit a final performance report only upon expiration or termination of grant support under certain conditions. Performance reports can be required: (1) annually (at a minimum); (2) semi-annually; or (3) quarterly.

Rural Business-Cooperative Service has issued guidance for reporting and monitoring in RD Instruction 1942-G, Attachment 1, Section A, Subsection II, Paragraph J. In this provision, the recipient is required to submit Form SF-269, "Financial Status Report," and a Project Performance Activity Report on a quarterly basis (due 30 working days after the end of the quarter). A final Project Performance Report will be required with the last SF-269.

7 CFR 3016.40(b)(1) (public bodies) states that the final Financial Status Report is due 90 days after the expiration or termination of grant or agreement support, except where an extension has been granted.

Further guidance on the requirement for Agency monitoring is found in RD Instruction 1951-E, section 1951.215. This provision provides that “[No] monitoring action by the [Agency] is required after a grant closeout. Grant closeout is when all required work is completed, administrative actions relating to the completion of work and expenditure of funds have been accomplished, and the [Agency] accepts final expenditure information.” This provision does not distinguish between revolving loan fund grants and other grants, as it relates to grantee reporting.

The reporting requirements for a revolving loan fund established that grant proceeds end when the final grant disbursement is made and the Project Performance Report has been filed. However, the grant case folder will remain open until the personal property (revolving loan fund) is disposed of in accordance with instructions from the Agency. The Agency will make site visits under the provisions of 7 CFR 3016.40(e) (public bodies) and 3019.51(g) (non-profits), as frequently as practicable, to review program accomplishments, manage control systems, and provide technical assistance as the recipient may need. It is recommended that INITIALLY, site visits should be done at least on an annual basis to review program accomplishments and ensure that the scope of work is being followed. Once the funds lose their Federal identity, then site visits should be made at least every 3 years or more often if necessary.

RD Instruction 1901-E, section 1901.204(b)(2), establishes civil rights compliance and compliance review requirements. These requirements have to be satisfied until the last advance of grant funds.

4. How long after the grantee’s fiscal year ends does it have before the annual audit should be submitted to the Agency? Please clarify the Audit Requirements referenced in RD Instruction 1942-G, Attachment 1, Section A, Subsection II, Paragraph K, “Audit requirements,” as it pertains to OMB Circular A-133.

The Agency should receive an audit within 9 months after the end of the auditee’s fiscal year where \$500,000 or more in Federal awards are expended by the grantee. Audit requirements only apply to the year(s) in which Federal grant funds in excess of \$500,000 are expended. Grantees expending \$500,000 or more of Federal assistance per year must submit an audit in accordance with the requirements of 7 CFR part 3052. Grantees that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in 7 CFR part 3052.215, but records must be available for review or audit by appropriate officials of the Federal agency and General Accountability Office.

5. Can the Agency require a grant recipient to record liens or other appropriate notices to indicate the Agency's interest in real or personal property acquired or improved with Federal funds and that use and disposition conditions apply to the property?

For non-profits the Agency recommends that liens and notices be filed using language that your Office of General Counsel recommends as provided in 7 CFR 3019.37.

6. How often should field visits be done on grants?

RD Instruction 1901-E, section 1901.204, "Compliance reviews," contains guidelines on how often compliance reviews should be done. Grantees that received assistance from the Agency on or after January 3, 1965, will be reviewed for compliance in accordance with Title VI of the Civil Rights Act of 1964. Compliance reviews will be conducted on grant recipients until the last advance of grant funds. RD Instruction 1901-E, section 1901.204(e), "Timing of reviews," provides guidance on the timing of the compliance reviews. Form RD 400-8, "Compliance Review," will be used to record the results of a compliance review.

In accordance with 7 CFR 3016.40(e) (public bodies) and 3019.51(g) (non-profits), concerning site visits, the Agency shall make site visits as frequently as warranted or needed to review program accomplishments, manage control systems, and provide technical assistance as may be required. RD Instruction 1942-G, Attachment 1, Section B, Subsection III, Paragraph A, (3)(c)(iii)(c), states: "A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property." The grantee is responsible for complying with these requirements. During the Agency site visits, a determination is to be made whether the grantee has met RD Instruction 1942-G, Attachment 1, Section B, Subsection III, Paragraph A, (3)(c)(iii)(c).

7. How should you handle a situation where RBEG funds are used by a nonprofit development organization to purchase an industrial site and the organization wants to give the lots away as part of an incentive package?

The grantee cannot give away any real or personal property acquired with grant funds. In the event an organization leases the facility, the grantee is entitled to utilize the lease payments in the Grantees General Fund, and no funds are due the Agency under the lease agreement. Real estate acquired with grant funds may only be disposed of in accordance with 7 CFR 3016.31 (public bodies) or 3019.32 (non-profits).

8. Can the grantee use the SF-269A (short form) in lieu of the SF-269 (long form)?

Public body grantees may use SF-269A in lieu of SF-269 in accordance with 7 CFR 3016.41(b). The Agency requires SF-269 for all non-profit grantees in accordance with 7 CFR 3019.52(a). Grantees shall constantly monitor performance to ensure that time schedules are being accomplished and other performance objectives are being achieved. The difference between SF-269A (short form) and SF-269 (long form) is that SF-269 requires grantees to report program income, where as the SF-269A does not.

If you have additional questions, please contact the Business and Industry Division, Servicing Branch, at (202) 690-4103.

(Signed by Ben Anderson)

BEN ANDERSON
Administrator
Rural Business-Cooperative Service