

RD AN No. 4696 (1951-E)
December 6, 2012

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.

COMPARISON WITH PREVIOUS AN:

This AN updates and replaces RD AN No. 4610 (1951-E) dated December 16, 2011, which expired on November 30, 2012.

IMPLEMENTATION RESPONSIBILITIES:

Frequently asked questions from field offices are as follows:

1. How long should RBEG files be retained?

Grantees should retain their records in accordance with 7 CFR part 3016.42 (public bodies) and 3019.53 (non-profits), which in general, will require their records being retained for 3 years from the date of the final expenditure report and final performance report. However, there are a number of exceptions and the specific regulations should be consulted for better guidance. Rural Development RBEG case files should be retained in accordance with RD Instruction 2033-A.

EXPIRATION DATE:
November 30, 2013

FILING INSTRUCTIONS:
Preceding RD Instruction 1951-E

Personal Property Grants: Files must be maintained until the property used to complete the scope and purpose of the grant is completed. If the personal property still retains a per unit value of \$5,000 or more, it must be properly disposed of in accordance with regulations before files can be destroyed. For grants to public bodies, if the personal property value is less than \$5,000, the grant can be closed and the file destroyed 3 years after disposition of the personal property.

Revolving Loan Fund (RLF) Grants: RLF grants continue in perpetuity; therefore, the grantee's obligations continue as long as the grantee continues to make loans under the grant agreement. Loans made with "revolved" funds must continue to be made in accordance with RD Instruction 1942-G and the Scope of Work, Work Plan, and Grant Agreement. The Agency continues to have an interest in the RLF after the last grant disbursement and must have the grant case folder (including all servicing documentation) available in the event questions arise requiring the file data and Agency approval to resolve.

2. Are there additional retention requirements if there has been an Office of the Inspector General (OIG) investigation for misuse of funds?

For Agency records and in accordance with RD Instruction 2033-A, section 2033.8(b) (6) (ii), files should be retained for a period of 7 fiscal years after, if there has been an OIG investigation.

3. What are the reporting and monitoring requirements when all grant funds have been loaned out and all subsequent loans are made from the RLF or all real property funds have been expended?

The reporting requirements for revolving loan funds terminate when the fund is terminated. The reporting requirements for real estate terminate when the real estate has been disposed of in accordance with Agency instructions. Therefore, Rural Development's policy is to service real estate every 3 years when the Civil Rights Review is completed and RLF grants will be serviced every year like the Intermediary Relending Program (IRP). The grantee should complete a Standard Form Performance Progress Report annually. These requirements should be included in the letter of conditions. The grant case folder will remain open until the 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 grant funds have been disbursed, site visits should then be made at least every 3 years or more often if necessary.

4. How long after the grantee's fiscal year ends should the annual audit 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 and 7 CFR part 3052.

Generally, the Agency must receive an audit within 9 months after the end of the auditee's fiscal year where general funds of \$500,000 or more in Federal awards are expended by the grantee.

The Audit Requirements of 7 CFR part 3052 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 under 7 CFR part 3052 for that year, except as noted in 7 CFR 3052.215, but records must be available for review or audit by appropriate officials of the Federal Agency and General Accounting 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 Government funds and that use and disposition conditions apply to the property?

The Agency recommends recording liens or notices for awards covered by 7 CFR part 3019 in accordance with 7 CFR 3019.37, using formats and language that your Office of the General Counsel recommends. Real estate grants should be secured with at least a Notice of Federal Interest. Personal property grants liens or notices do not have to be filed for any unit of property valued below \$5,000.

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. Technical Assistance Compliance reviews will be

conducted on grant recipients until the last advance of grant funds. For Real Property, Personal Property, and RLF grants compliance reviews will be conducted as established in number 3 above. 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. For RLF's, compliance visits will be made annually similar to those made under IRP.

"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 or not 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 or equipment, the lease revenue is considered program income under Subpart F -- Grant Related Income of 7 CFR 3015. 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 Form SF-269A (short form) in lieu of the Form SF-269 (long form)?

Form SF-425 Federal Financial Report replaced Form SF-269A. Form SF-PPR is a new report. The grantee will submit Form SF-425 "Financial Status Report" and Form SF-PPR in accordance with regulatory requirements.

Grantees shall constantly monitor performance to ensure that time schedules are being accomplished and other performance objectives are being achieved. The grantee shall be required to submit Form SF-425, "Financial Status Report," until the last advance is done.

If you have additional questions, please contact the Specialty Programs Division, Program Management Branch, at (202) 720-1400.

(Signed by Lillian E. Salerno)

Lillian E. Salerno
Acting Administrator
Rural Business-Cooperative Service