

RD AN No. 4789 (1944-I)
August 13, 2015

TO: All State Directors
Rural Development

ATTENTION: Rural Housing Program Directors

FROM: Tony Hernandez /s/ *Tony Hernandez*
Administrator
Rural Housing Service

SUBJECT: Fiscal Year 2014 Management Control Review
Section 523 Mutual Self-Help Technical Assistance Grant Program

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on weaknesses and inconsistencies noted during the Fiscal Year 2014 Management Control Review (MCR) of the Section 523 Mutual Self-Help Technical Assistance Grant Program.

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

BACKGROUND:

The basis for performing the MCR for the Section 523 Technical Assistance Grant Program was to assess the risk or vulnerability of inadequate controls; to determine if adequate control measures and/or objectives have been established, and if these controls are functioning effectively to achieve the overall goals of the program. Three control objectives were utilized during the review:

EXPIRATION DATE:
August 31, 2016

FILING INSTRUCTIONS:
Preceding RD Instruction 1944-I

1. To ensure grantee eligibility and capacity to accomplish the objectives of the grant.
2. To ensure Section 523 grant funds are utilized for eligible purposes and that grants are administered and monitored in accordance with regulations.
3. To ensure that grants are closed out properly.

The MCR included docket reviews of both Section 523 grants and Section 502 Direct loans representing a cross section of Self-Help programs across the country. The overall results of the review were generally good. However, there were areas of concern that must be addressed in order to reduce risk and the potential for losses to the government. The full final report can be found at <http://teamrd.usda.gov/rd/daom/cfo/fmd/mc.html>.

IMPLEMENTATION RESPONSIBILITIES:

Documentation

Documentation is a critical component of all grant files from application through the life of the grant to closeout. Proper documentation of all transactions within a contract protects the best interest of the government. Running case records must also be kept in grant files with entries made each time there is interaction with the grantee.

RD Instruction 2033-A provides guidance on maintaining official records and documentation. In addition to that, RD Instruction 1944 – I, Exhibit A (r) “Self Help Technical Assistance Grant Agreement” states: “Grantee will retain all financial records, supporting documents, statistical records, and other records pertinent to this agreement for three years, and affirms that it is fully aware of the provisions of the Administrative Remedies for False Claims and Statements Act, 31 USC 3801, et. seq.” Proper documentation becomes invaluable in the case of disputes, appeals or changes in RD staffing.

Equity

The basis of the Self-Help Program is to assist families to become homeowners who otherwise would be unable to do so by utilizing their own labor to construct their homes at a lower cost. Families earn “sweat equity” in the process. RD Instruction 1944.403(i) states, “The definition of mutual self-help is the construction method by which participating families organized in groups, generally of four to ten families, utilize their own labor to reduce the total construction cost of their homes. Participating families complete construction work on their homes by an exchange of labor with one another.”

The amount of equity is calculated by subtracting the value of the lot and cost of construction from the appraised value. Ideally, the equity in each home should be equal to, or in best case scenarios, exceed the technical assistance costs needed to build the home. While the downturn in the economy and subsequent decrease in property and appraised values had an effect on the value of sweat equity attained, there are also other reasons which can also have an effect. Low sweat equity can be an indication of inaccurate estimates for the cost of construction or an indication that the participating families are doing very little of the labor. Limited equity can also indicate that the particular self-help project is not cost effective. Prior to construction, grantees must accurately calculate construction costs and family labor requirements to ensure that equity will be achieved. Grantees that consistently develop houses with little to no equity must be reviewed closely and provided training and guidance on this subject.

Grant Extensions

Detailed planning is imperative to a successful grant cycle. Although there are often compelling reasons for the need for grant extensions, such as weather delays or loss of key personnel that are beyond the grantees control; there are reasons for concern, as it can be indicative of poor planning and/or budgeting during the grant application phase or overall poor management of the grant.

RD Instruction 1944.410(e) states that the grant applicant will submit an application that should include “a detailed proposal of its goals” which includes such items as detailed budget information as well as a proposed monthly activities schedule detailing recruitment, loan processing and construction phases for each group of participating families. Failure to plan and budget accordingly often leads to the need to request extensions and additional funds.

RD Instruction 1944.420 states that the State Director may authorize the District Director to execute an extension on behalf of the government at any time during the grant period provided:

- (a) The extension period is for no more than one year from the final date of the existing Agreement,
- (b) The need for the extension is clearly justified,
- (c) If additional funds are needed, a revised budget is submitted with complete justification, and
- (d) The grantee is within the guidelines in 1944.407 of this subpart or the State Director determines that the best interest of the Government will be served by the extension.

States should make every effort to work with the grantee and the Regional Technical and Management Assistance contractor in developing more realistic budgets and schedules, to eliminate or reduce the need for grant extensions and/or additional grant funds.

Construction Contracts

The absence of construction contracts can put participating families, the grantee and RD at risk. Typically, work such as excavation, foundation, electrical and plumbing is subcontracted out for self-help projects, leaving other tasks such as framing, hanging sheetrock, trim work and painting for the families to complete. Although RD Instruction 1924-A does not specifically require the use of Form RD 1924-6, Construction Contract, for self-help subcontract work, a contract must be utilized that clearly spells out the nature of the work to be completed, specifications, price and payments. We have encountered numerous instances in which there is no contract in place for the subcontracted work. The absence of contracts has led to the need for subsequent loans or the use of Program Loan Cost Expense funds to correct poor workmanship and unfinished houses in some cases. Finally, claims for Compensation for Construction Defects under RD Instruction 1924-F, which for self-help housing can only be paid on work completed by a subcontractor, will not be paid if there were no contracts in place and supporting documentation available.

System for Award Management (SAM)

To ensure that all entities are eligible to do business with the government, the Excluded Parties List System (EPLS), now System for Award Management (SAM) should always be checked. This system verifies debarment for the section 523 grant applicant, the section 502 Direct loan applicant and subcontractors involved in the construction of the homes. In an effort to deter fraud, waste and abuse RD Instruction 1940-M §1940.606 (b) states, "Screening should be completed at two points in the loan/grant making process. The first check should be made upon receipt of a pre-application or application for Rural Development financial assistance. The second check should occur immediately before the loan closing or grant award, to prevent granting assistance to applicants that could subsequently appear on SAM after an application has been approved."

Environmental Assessments

Environmental Assessments must be conducted to confirm that the project does not affect any important land uses or environmental resources. During the review it was found that in a majority of cases, there was no documentation regarding the environmental assessment or completion of Form RD 1940-22, Environmental Checklist for Categorical Exclusion (Catex). RD employees are to take into account any potential impact of our programs on the environment. Further, RD Instruction 1940-G requires that Form RD 1940-22 is completed for all Single Family Housing Direct 502 loans. The application will not be considered complete until either the checklist is successfully completed or the need for any further environmental review is identified and completed.

For questions pertaining to this AN, please contact Andrea Birmingham, Loan Specialist for the Single Family Housing Direct Loan Division at (202) 720-1489 or Carolyn Bell, Branch Chief at (202) 720-1532.

Electronically sent to State Directors and Program Directors on August 20, 2015 at 9:20 a.m. by the Single Family Housing Direct Loan Division. The State Director will also send to other appropriate parties.