

RD AN No. 4009 (1951-E)
September 22, 2004

SUBJECT: Rural Business Enterprise Grant Program
Servicing Clarifications

TO: State Directors, Rural Development

ATTN: Business Programs Directors

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. 3886 (1951-E) dated July 23, 2003.

IMPLEMENTATION RESPONSIBILITIES:

Frequently asked questions from field offices are as follows:

1. How long should RBEG files be retained?

In accordance with 7 CFR 3015.21, in most cases, 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:
September 30, 2005

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 or no longer considered to be useful. 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 3015.90 through 3015.92. Similar provisions applicable to specific organizations are contained in 7 CFR parts 3016 and 3019. 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 3015.92(a) 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, paragraph II. 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 15 working days after the end of the quarter). A final Project Performance Report will be required with the last SF-269. 7 CFR 3015.82(d) 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 a reimbursable-basis grant and a revolving loan fund grant, as it relates to grantee reporting.

Once the final grant disbursement has been made where a revolving loan fund has been established, the reporting requirement of the recipient ceases. 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 3015.94, as frequently as practicable, to review program accomplishments, manage control systems, and provide technical assistance as the recipient may need. It is recommended that 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.

RD Instruction 1901-E, section 1901.204(b)(1) or (2), establishes civil rights compliance and compliance review requirements. These requirements have to be satisfied until the case folder is closed.

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., paragraph II., 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 general funds of \$500,000 are received by the grantee. The audit requirement referred to in RD Instruction 1942-G, Attachment 1, section A., paragraph II., K., “Audit requirements,” does pertain to OMB Circular A-133. Audit requirements only apply to the year(s) in which Agency grant funds are expended. Grantees expending \$500,000 or more of Federal assistance per year must submit an audit in accordance with the requirements of OMB Circular A-133. 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 3052, section 3052.215 (a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accountability Office. These records could include financial statements, etc., as deemed appropriate by the grantee's bookkeeper or accountant.

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?

Under RD Instruction 1942-G, the Agency does not require a grant recipient to record such liens, except in very unusual circumstances where a servicing action is involved or under the advice of the Office of the General Counsel.

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 case folders are closed. 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.

Also, the Department of Agriculture (USDA) agencies which provide Federal assistance are required to review their programs for continuous compliance with civil rights laws and USDA nondiscrimination regulations. This is to be accomplished by conducting initial and subsequent reviews. These reviews may be conducted separately or as part of a program review.

In accordance with 7 CFR 3015.94, concerning site visits, the Agency shall make site visits as frequently as practicable to review program accomplishments, manage control systems, and provide technical assistance as may be required.

RD Instruction 1942-G, Attachment 1, section B, paragraph III., 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 the visits. During the Agency site visits, a

determination is to be made whether the grantee has met RD Instruction 1942-G, Attachment 1, section B, paragraph III., 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. If the organization wishes to sell property, guidance on how to work with the organization can be found in RD Instruction 1942-G, Attachment 1, section B.

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

RD Instruction 1942-G, Attachment 1, section A, paragraph II, J, "Reporting," states that: "Forms SF-269, "Financial Status Report," and a Project Performance Activity Report will be required of all grantees on a quarterly basis (due 15 working days after the end of quarter) . . ."

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 269, "Financial Status Report," until the last advance is done.

If you have any questions, please contact Ken Hennings, Chief, Specialty Lenders Division Servicing Branch, (202) 690-3809.

(Signed by Peter J. Thomas)

PETER J. THOMAS
Administrator
Rural Business-Cooperative Service