

RHS, RBS, RUS, FSA, USDA

§ 1951.707

subsidy, a grant, or a portion of a grant which was unauthorized.

(h) *Servicing official.* For Community Programs, the servicing official is the District Director, an Assistant District Director, or a District Loan Specialist so designated. For Business Programs, the servicing official is the State Director or Designee.

(i) *Unauthorized assistance.* Any loan, interest subsidy, grant, or portion thereof received by a recipient for which there was no regulatory authorization for which the recipient was not eligible. Interest subsidy includes subsidy benefits received because a loan was closed at a lower interest rate than that to which the recipient was entitled, whether the incorrect interest rate was selected erroneously by the approval official or the documents were prepared in error.

§ 1951.703 Policy.

When unauthorized assistance has been received, an effort must be made to collect from the recipient the sum which is determined to be unauthorized, regardless of amount, unless any applicable Statute of Limitation has expired.

§§ 1951.704–1951.705 [Reserved]

§ 1951.706 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General, USDA, (OIG); through reviews made by FmHA or its successor agency under Public Law 103–354 personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a recipient of FmHA or its successor agency under Public Law 103–354 assistance. If the servicing official has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case file including the advice of the Regional Office of the General Counsel (OGC) will be referred to the National Office for review and comment. In every case where it is known or believed by FmHA or its successor agen-

cy under Public Law 103–354 that the assistance was based on false information, investigation by the OIG will be requested as provided for in FmHA or its successor agency under Public Law 103–354 Instruction 2012–B (available in any FmHA or its successor agency under Public Law 103–354 office). If OIG conducts an investigation, the actions outlined in §1951.707 will be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the recipient will be well documented in the case file, and will specifically state whether it was due to:

- (a) Submission of inaccurate information by the recipient;
- (b) Submission of false information by the recipient.
- (c) Submission of inaccurate or false information by another authorized party acting on the recipient’s behalf including professional consultant such as engineers, architects, and attorneys, when the recipient did not know the other part had submitted inaccurate or false information;
- (d) Error by FmHA or its successor agency under Public Law 103–354 personnel, either in making computations or failure to follow published regulations or other agency issuances; or
- (e) Error in preparation of a debt instrument which caused a loan to be closed at an interest rate lower than the correct rate in effect when the loan was approved.

§ 1951.707 Notification to recipient.

(a) Collection efforts will be initiated by the servicing official by a letter substantially similar to exhibit A of this subpart (available in any FmHA or its successor agency under Public Law 103–354 office), and mailed to the recipient by “Certified Mail, Return Receipt Requested,” with a copy to the State Director and, for a case identified in an OIG audit report, a copy to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will be sent to all recipients who received unauthorized assistance, regardless of amount. The letter will: