

**§ 1951.702 Definitions.**

As used in this subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability of foreclosure did not satisfy the indebtedness.

(b) *Assistance.* Finance assistance in the form of a loan, grant, or subsidy received.

(c) *Debt instrument.* Used as a collective term to include promissory note, assumption agreement, grant agreement/resolution, or bond.

(d) *False information.* Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

(e) *Inaccurate information.* Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower.* A former borrower whose loan(s) has (have) been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the Finance Office.

(g) *Recipient.* "Recipient" refers to an individual or entity that received a loan, or portion of a loan, an interest 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 agency 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