

**RHS, RBS, RUS, FSA, USDA****§ 1951.715**

code, audit report number, audit finding number, date of claim, amount of claim, amount collected during the reporting period, and the balance owed on the unauthorized grant assistance.

(3) *Unauthorized subsidy benefits received.* When the recipient was eligible for the loan but should have been charged a higher interest rate than that in the debt instrument, which resulted in the receipt of unauthorized subsidy benefits, the case will be handled as outlined in this paragraph. The recipient will be given the option to submit a written request that the interest rate be adjusted to the lower of the rate for which they were eligible that was in effect at the date of loan approval or loan closing. (See exhibit C of this subpart for interest rates (available in any FmHA or its successor agency under Public Law 103-354 office).) FmHA or its successor agency under Public Law 103-354 servicing officials will make a concerted effort to collect all unauthorized subsidy benefits from the recipient and will contact the Office of General Counsel in each case for advice in accomplishing corrective actions.

(c) *Continuation on existing terms.* When the recipient does not have the legal and/or financial capabilities for the options outlined in paragraph (b)(1), (b)(2), or (b)(3) of this section, as appropriate, to be exercised, the recipient may be allowed to continue to meet the loan/grant obligations outlined in the existing loan/grant instruments. Unless the unauthorized assistance was identified in an OIG audit, no Finance Office notification or action is necessary. If identified by OIG, the servicing official will advise the Finance Office by memorandum of the determination to continue with the recipient on the existing terms of the loan/grant.

(d) *Reporting requirements to National Office.* An annual report will be submitted by the State Office to the Assistant Administrator, Community and Business Programs, within 30 days following the end of the Government's fiscal year for each case of unauthorized assistance or subsidy benefits. The report will include for each case the account name, case number, fund code, OIG audit number (if applicable),

amount collected during period, and the balance owed on the unauthorized assistance. Each State Office is responsible for coordinating with the servicing official's office so that this information can be accumulated and consolidated by the State Office within the allotted time. A negative report is required from States which have no unauthorized assistance cases.

[50 FR 13000, Apr. 2, 1985, as amended at 51 FR 11563, Apr. 4, 1986; 54 FR 28020, July 5, 1989]

**§§ 1951.712–1951.714 [Reserved]****§ 1951.715 Account adjustments and reporting requirement.**

Cases of unauthorized assistance which require Finance Office notification and action, regardless of whether they were identified in an OIG audit or by other means, will be submitted to the Finance Office by memorandum from the servicing official, as provided in applicable paragraphs of §1951.711 of this subpart. Each memorandum should include account (borrower) name, case number, audit report number (if applicable), finding number (if applicable), fund code, loan number, and an explanation of the actions to be taken. If the unauthorized assistance was identified in an OIG audit report, the memorandum should be clearly annotated "Audit Claim for OIG Report" as a part of the subject. The explanation should provide sufficient details to allow the Finance Office to properly adjust the account. The State Office will forward a consolidated report on unauthorized grant assistance identified in an OIG audit to the Finance Office by the 15th of March, June, September, and December of each year reflecting the information reported by servicing officials in accordance with §1951.711(b)(2) for inclusion in the report to OIG.

(a) *Entire loan unauthorized.* When the entire loan is unauthorized because the recipient was not eligible or because the loan was approved for unauthorized purposes, the servicing official will advise the Finance Office, by memorandum, which of the following servicing actions will be taken.

(1) *Repayment in full.* If the recipient has arranged to repay the unauthorized

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loan in full through refinancing or other available resources, the payment will be remitted with Form FmHA or its successor agency under Public Law 103-354 451-2 and the schedule number will be included in the memorandum.

(2) *Continuation with loan on existing or modified terms.* When it is determined, according to §1951.711 (b)(1) or (c), that continuation with the loan on the existing or modified terms will be provided, the servicing official will advise the Finance Office by memorandum of this determination including an explanation of the terms, if modified.

(b) *Portion of loan unauthorized.* When only a portion of the loan has been determined to be for unauthorized purposes, the servicing official will advise the Finance Office, by memorandum, of the servicing actions as follows:

(1) *Repayment in full of unauthorized portion.* If the recipient has arranged to repay the unauthorized portion of the loan through refinancing or other available resources, the remittance will be submitted with Form FmHA or its successor agency under Public Law 103-354 451-2, and the schedule number will be included in the memorandum.

(2) *Continuation with unauthorized portion of loan on existing or modified terms.* When it is determined, according to §1951.711 (b)(1) or (c), that continuation with the unauthorized portion of the loan on the existing or modified terms will be provided, the servicing official will advise the Finance Office by memorandum of this determination, including an explanation of the terms if modified. The authorized portion will retain the original loan number with installments adjusted accordingly. Payments previously made will not be reversed and reapplied. The amortized unauthorized amount will be assigned the next available loan number. Installments for the authorized and unauthorized loans will be scheduled and paid concurrently.

(c) *Unauthorized subsidy benefits received.* The unauthorized subsidy benefits received will be serviced according to §1951.711 (b)(3) or (c).

(d) *Liquidation pending.* When liquidation is initiated under the provisions of this subpart, the servicing official will advise the Finance Office, by memo-

randum, that an unauthorized assistance account is to be established. This account will be flagged “FAP” (Foreclosure Action Pending) or “CAP” (Court Action Pending), as applicable.

(e) *Liquidation not initiated.* Cases in which liquidation would normally be initiated, but where it is not because of the provisions of §1951.708(e)(1), will be serviced in accordance with §1951.708(e)(1)(iii). If the unauthorized assistance was identified through means other than an OIG audit report, the Finance Office will not be notified and no action is necessary.

(f) *Unauthorized grant assistance.* A grant that is to be repaid will be serviced according to §1951.711(b)(2). If the unauthorized assistance was identified through means other than an OIG audit report and a determination has been made not to recover, the Finance Office will not be notified and no action is necessary.

(g) *Reporting.* At prescribed intervals, the Finance Office will report to the OIG on the status of cases involving unauthorized assistance which were identified by OIG in audit reports. The amounts to be reported will be determined by the Finance Office after account servicing actions have been completed. For reporting purposes, the following applies:

(1) For an unauthorized loan account established as provided in paragraph (a) or (b) of this section, reporting will be as follows:

(i) When unauthorized assistance is paid in full, this will be reported on the next scheduled report only.

(ii) When continuation with the loan on existing or modified terms is approved, this will be reported on the next scheduled report, and no further reporting is required.

(2) For unauthorized subsidy cases as provided in paragraph (c) of this section, once the interest rate has been appropriately adjusted, the unauthorized subsidy will be reported as resolved on the next scheduled report. No further reporting is required.

(3) When an account is established with liquidation action pending as provided in paragraph (d) of this section, the status will be included on each scheduled report until the liquidation

is completed or the account is otherwise paid in full.

(4) When liquidation is not initiated as provided in paragraph (e) of this section, this will be reported on the next scheduled report. No further reporting is required.

(5) When unauthorized grant assistance is scheduled to be repaid as provided in paragraph (f) of this section, collections and status will be included in the report to OIG until the amount is paid in full.

**§ 1951.716 Exception authority.**

The Administrator may in individual cases make an exception to any requirement or provision of this subpart which is not inconsistent with any applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be made in writing by the State Director and submitted through the Assistant Administrator, Community and Business Programs. Requests will be supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

**§§ 1951.717–1951.749 [Reserved]**

**§ 1951.750 OMB control number.**

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0103.

**Subparts P–Q [Reserved]**

**Subpart R—Rural Development Loan Servicing**

SOURCE: 53 FR 30656, Aug. 15, 1988, unless otherwise noted.

**§ 1951.851 Introduction.**

(a) This subpart contains regulations for servicing or liquidating loans made by the Farmers Home Administration or its successor agency under Public

Law 103–354 (FmHA or its successor agency under Public Law 103–354) under the Intermediary Relending Program (IRP) to eligible IRP intermediaries and applies to ultimate recipients and other involved parties. The provisions of this subpart supersede conflicting provisions of any other subpart.

(b) This subpart also contains regulations for servicing the existing Rural Development Loan Fund (RDLF) loans previously approved and administered by the U.S. Department of Health and Human Services (HHS) under 45 CFR part 1076. This action is needed to implement the provisions of Section 1323 of the Food Security Act of 1985, Pub. L. 99–198, which provides for the transfer of the loan servicing authority for those loans from the HHS to the U.S. Department of Agriculture (USDA).

(c) The portion of this regulation pertaining to loanmaking applies to RDLF intermediaries cited in § 1951.851(b) which have RDLF funds from HHS and have not fully utilized relending of those funds to ultimate recipients at the date of these regulations. The loanmaking of all other IRP loans serviced by this regulation is in accordance with part 1948, subpart C of this chapter.

(d) These regulations do not negate contractual arrangements that were previously made by the HHS, Office of Community Services (OCS), or the intermediaries operating relending programs that have already been entered into with ultimate recipients under previous regulations.

(e) The loan program is administered by the FmHA or its successor agency under Public Law 103–354 National Office. The Director, Business and Industry Division, is the point of contact for servicing activities unless otherwise delegated by the Administrator.

**§ 1951.852 Definitions and abbreviations.**

(a) *General definitions.* The following definitions are applicable to the terms used in this subpart.

(1) *Intermediary (Borrower).* The entity receiving FmHA or its successor agency under Public Law 103–354 loan funds for relending to ultimate recipients. FmHA or its successor agency under Public Law 103–354 becomes an