

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT  
HARRISBURG, PENNSYLVANIA

TO:		ISSUE NO. 290
State Office	STATE PROCEDURE	
Area Office	NOTICE	DATE: 1/31/05
Local Office		

RURAL DEVELOPMENT MANUAL CHANGE

RD Instruction 1942-A, RUS Instruction 1780

**GENERAL:** In an effort to streamline our loan processing for Community Facilities and Water and Waste Disposal loans and to reduce paperwork, a single Combined Form has been developed to combine and replace the Eligibility Certification; Form AD-1047, Debarment Suspension and Other Responsibility Matters; Form AD-1049, Drug-Free Workplace Requirements; Exhibit A-1 to Instruction 1940-Q on Lobbying; Form RD 400-1, Equal Opportunity Agreement; Form RD 400-4, Assurance Agreement; and Form RD 1910-11, Federal Collection Policies for Consumer and Commercial Debts.

This Combined Form is optional and may be used in place of the above forms. It should be obtained with the initial application (WWD) or preapplication (CF) and filed in Position 3, Tab 1. The Tables of Contents for the application files have not been revised at this time. Some of the forms that this Combined Form replaces are listed at other positions or tabs in the current Table of Contents. If this optional Combined Form is used, those other form positions should be marked "See Position 3, Tab 1."

While this Combined Form is optional, we highly recommend that it be included in all initial application (WWD) or preapplication (CF) packages that are provided to applicants in the future. This will provide better service to our applicants by requiring one signature on one form in place of seven.

The Combined Form is attached as Exhibit A.

INSERT- PA PN 290 dated 01/31/05

## U.S. DEPARTMENT OF AGRICULTURE (USDA)

### CERTIFICATION OF COMPLIANCE WITH FEDERAL REQUIREMENTS/LAWS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certifications included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the United States of America determines to award the covered transaction, grant, or cooperative agreement.

#### **ELIGIBILITY CERTIFICATION**

I hereby certify that the below signed applicant is unable to finance the proposed project from its own resources or through commercial credit at reasonable rates and terms.

No outstanding judgment has been obtained and recorded by the United States of America in a Federal Court (other than in the United States Tax Court).

#### **DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS (Form AD-1047)**

As required by Executive Order 12549, Debarment and Suspension, for prospective participants in primary covered transactions, as defined at 7 CFR Part 3017, Section 3017.510.

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  - (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction: violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### **DRUG-FREE WORKPLACE REQUIREMENTS (Form AD-1049)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 7 CFR Part 3017, Subpart F, Section 3017.600 for grantees.

A. The grantee certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about-

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

- (1) Abide by the terms of the statement; and
- (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

- (1) Taking appropriate personnel action against such an employee, up to and including termination; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance: (Street address, city, county, State, zip code):

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**LOBBYING (Exhibit A-1 to Instruction 1940-Q)**

As required by 7 CFR Part 3018 for persons entering into a grant, cooperative agreement or contract over \$100,000, or loan or loan guarantee over \$150,000, as defined at 7 CFR Part 3018, the undersigned certifies that to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee

of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, or Federal loan, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant or loan.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant or loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including contracts, subcontracts and subgrants, and loans) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **EQUAL OPPORTUNITY AGREEMENT (Form RD 400-1)**

Pursuant to the rules and regulations of the Secretary of Labor (herein called the 'Secretary') issued under the authority of Executive Order 11246, as amended, witnesseth:

In consideration of financial assistance (whether by a loan, grant, loan guaranty, or other form of financial assistance) made or to be made by the United States of America (the Government) to Recipient, Recipient hereby agrees, if the cash cost of construction work performed by Recipient or a construction contract financed with such financial assistance exceeds \$10,000 -- unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965.

1. To incorporate or cause to be incorporated into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

During the performance of this contract, the contractor agrees as follows:

- (a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause.
- (b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Government, advising the said labor union or workers' representative of the contractor's commitments under this agreement, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of all rules, regulations and relevant orders of the Secretary of Labor.
- (e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, rules, regulations, and orders, or pursuant thereto, and will permit access to his books, records, and accounts by the Government, USDA, Civil Rights Office, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government Contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as provided by Law.
- (g) The contractor will include the provisions of this paragraph 1 and paragraph (a) through (g) in every subcontract or purchase order, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each such subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. To be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work; Provided, that if the organization so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

3. To notify all prospective contractors to file the required "Compliance Statement", Form RD 400-6, with their bids.

4. Form AD-425, Instructions to Contractors, will accompany the notice of award of the contract. Bid conditions for all nonexempt federal and federally assisted construction contracts require inclusion of the appropriate "Hometown" or "Imposed" plan affirmative action and equal employment opportunity requirements. All bidders must comply with the bid conditions contained in the invitation to be considered responsible bidders and hence eligible for the award.

5. To assist and cooperate actively with the Government and the Secretary in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary that it will furnish to the Government and the Secretary such information such as, but not limited to, Form AD-560, Certification of Nonsegregated Facilities, to submit the Monthly Employment Utilization Report, Form CC-257, as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of its primary responsibility for securing compliance.

6. To refrain from entering into any contract, or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

7. That if the recipient fails or refuses to comply with these undertakings, the Government may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the organization under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such organization; and refer the case to the Department of Justice for appropriate legal proceedings.

**ASSURANCE AGREEMENT (Form RD 400-4)**

The Recipient hereby assures the U.S. Department of Agriculture that Recipient is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d et. seq.), 7 CFR Part 15, regulations promulgated thereunder, 7 C.F.R. § 1901.22. In accordance with that Act and the regulations referred to above, Recipient agrees that in connection with any program or activity for which Recipient receives Federal financial assistance (as such term is defined in 7 C.F.R. § 14.2) no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination.

1. Recipient agrees that any transfer of any aided facility, other than personal property, by sale, lease or other conveyance of contract, shall be, and shall be made expressly, subject to the obligations of this agreement and transferee's assumption thereof.
2. Recipient shall:
  - (a) Keep such records and submit to the Government such timely, complete, and accurate information as the Government may determine to be necessary to ascertain our/my compliance with this agreement and the regulations.
  - (b) Permit access by authorized employees of the Government or the U.S. Department of Agriculture during normal business hours to such books, records, accounts and other sources of information and its facilities as may be pertinent to ascertaining such compliance.
  - (c) Make available to users, participants, beneficiaries and other interested persons such information regarding the provision of this agreement and the regulations, and in such manner as the Government or the U.S. Department of Agriculture finds necessary to inform such persons of the protection assured them against discrimination.
3. The obligations of this agreement shall continue:
  - (a) As to any real property, including any structure, acquired or improved with the aid of the Federal financial assistance, so long as such real property is used for the purpose for which the Federal financial assistance is made or for another purpose which affords similar services or benefits, or for as long as the Recipient retains ownership or possession of the property, whichever is longer.
  - (b) As to any personal property acquired or improved with the aid of the Federal financial assistance, so long as Recipient retains ownership or possession of the property.
  - (c) As to any other aided facility or activity, until the last advance of funds under the loan or grant has been made.
4. Upon any breach or violation of this agreement the Government may, at its option:
  - (a) Terminate or refuse to render or continue financial assistance for the aid of the property, facility, project, service or activity.
  - (b) Enforce this agreement by suit for specific performance or by any other available remedy under the laws of the United States or the State in which the breach or violation occurs.

Rights and remedies provided for under this agreement shall be cumulative.

**FEDERAL COLLECTION POLICIES FOR CONSUMER OR COMMERCIAL DEBTS (Form RD 1910-11)**

The Federal Government is authorized to check credit information about the applicant(s) including using the federal Credit Alert Interactive Voice Response System (CAIVRS) or its successors to check to see if the applicant(s) are delinquent or in default on a Federal debt.

The Federal Government is authorized by law to take any or all of the following actions in the event your loan payments become delinquent or you default on your loan:

- Report your name and account information to a credit reporting agency, and the Credit Alert Interactive Voice Response System (CAIVRS).
- Assess interest and penalty charges for the period of time that payment is not made.
- Assess charges to cover additional administrative costs incurred by the government to service your account.
- Offset amounts to be paid to you from your Federal income tax refund.
- Offset amounts to be paid to you under other Federal Programs.
- Refer your account to a private collection agency to collect the amount due.
- Foreclosure on any security you have given for the loan.
- Pursue legal action to collect through the courts.
- Report any written off debt to the Internal Revenue Service as taxable income.
- If you are a current or retired Federal employee, take action to offset your salary, or civil service retirement benefits.
- Debar or suspend you from doing business with the Federal Government either as a participant or principal throughout the executive branch of the Federal Government for the period of debarment or suspension.
- Refer any debt that is delinquent to the Treasury Offset Program (TOP) in accordance with the Debt Collection Improvement Act of 1996.
- Refer any eligible debt that is delinquent to Treasury for cross servicing in accordance with the Debt Collection Improvement Act of 1996.
- Garnish your wages as allowed by the Debt Collection Improvement Act of 1996.

Any or all of these actions may be used to recover any debts owed when it is determined to be in the interest of the Government to do so.

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CERTIFICATION: As the duly authorized representative of the applicant, I hereby certify the applicant will comply with the above applicable certification(s) and the project is consistent with area wide comprehensive development plans.

\_\_\_\_\_  
(Name of Applicant)

(SEAL)

\_\_\_\_\_  
(Signature of Authorized Entity Official)

\_\_\_\_\_  
(Title of Authorized Entity Official)

\_\_\_\_\_  
(Signature of Attesting Official)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Title of Attesting Official)

\_\_\_\_\_  
(City, State and Zip Code)