



Rural Development

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RD AN No. 4849 (1944-N)
December 20, 2017

TO: State Directors
Rural Development

FROM: Curtis M. Anderson /s/ *Curtis M. Anderson*
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Rural Housing Service

SUBJECT: Processing and Servicing Issues within the Housing
Preservation Grant Program

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify the processing and servicing options within the Housing Preservation Grant (HPG) program.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4759 (1944-N) dated June 9, 2014, which expired on June 30, 2015.

IMPLEMENTATION RESPONSIBILITIES:

State Directors will designate a staff person to be responsible for carrying out the training and day-to-day operations of the HPG program. Rural Development (RD) personnel should be trained in and knowledgeable of 7 C.F.R. 1944, subpart N, particularly section 944.661, "Individual Homeowners Eligibility for HPG Assistance;" section 1944.663, "Ownership Agreement Between HPG Grantee and Rental Property Owner or Co-Op," and section 1944.659, "Replacement Housing". In addition RD personnel should be familiar with the corresponding RD Instruction 1944-N and in particular, Exhibit C.

RECIPIENT FILES:

The HPG filing materials will include, but are not limited to: a) in order to show homeowner eligibility, photocopies of any instrument that serves as evidence for income eligibility and for proper ownership when using marketable title, divided or undivided property interests, leases, life estates, land assignments, etc.; as required by 7 C.F.R. sections 1944.661 and 1944.662; b) the names, racial/ethnic data, and dates of contact for leaders

EXPIRATION DATE:
December 31, 2018

FILING INSTRUCTIONS:
Preceding RD Instruction 1944-N

of organizations involved in community outreach activities; as required by 7 C.F.R. section 1944.671(b)(1); c) copies of all advertising in local media, such as, newspapers, including name of the media used and the percentage of its service area by race/ethnic origin as required by 7 C.F.R. section 944.671(b)(2); and (d) copies of any other advertising or other printed material, including the application form used. The application shall include the wording: "This is an equal opportunity program. Discrimination is prohibited" as required by 7 C.F.R. section 1944.671(b)(3). If an environmental assessment is required, that will be made part of the recipient's file as set forth in 7 C.F.R. 1944.672(e).

CONSTRUCTION WORK AND CONTRACTOR SELECTION:

Part of the required training of RD staff for the HPG program includes the knowledge of building codes in order to determine which repairs are needed and if repairs have been properly completed. One of the recommended methods to accomplish this training is for RD personnel to complete the "MFH Inspection Training" e-learning CD, which was sent to State Architects and Training Coordinators in 2001. If original copies cannot be located within a State, the State Architect should contact Bill Downs, Architect, Program Support Staff (PSS) at, (202) 720-1499, or e-mail william.downs@wdc.usda.gov, for additional copies. There are other resources, such as, PowerPoint presentations and face to face training sessions, available through PSS as well.

Repairs must be completed exactly as described in the construction contract; so, it is important that the description of repairs include and adequately describe **ALL** work to be performed.

RD Instruction 1944-N, and 7 C.F.R. section 1944.665, requires all repairs to be inspected by a qualified disinterested third-party, which could be a local building/code enforcement official or a qualified contract/fee inspector. The repairs should be adequately documented in an "Inspection Report and the Inspection Report" should be included in both the grantee and RD files.

Grantees may select different contractors for future projects. Contractor selection must be impartial. Personal preferences should not be the deciding factor when selecting a contractor. Past performance should be the leading indicator of future selections.

Warrantees for construction work, products, equipment and appliances should be available prior to final payment for the work (1924.12). A 1 year warranty inspection should occur at least 30 days prior to warranty expiration to allow for identification of any defects that may be present. Homeowners should be aware to notify the contractor and Agency of any concerns as soon as possible, so the remedy can be completed within the warranty period.

ENVIRONMENTAL REQUIREMENTS

General:

The approval of an HPG grant for repair, rehabilitation, or replacement of dwellings is a multi-tier review. In accordance with 7 C.F.R. part 1970.51(a)(3) and 1970.55, the environmental review is a 2-step process: the approval of the provision of the grant to

the grantee is categorized as a Categorical Exclusion without an Environmental Report pursuant to §1970.53, for which RD Instruction 1970-B, Exhibit D, “Environmental Checklist for Categorical Exclusions,” is completed by the Agency. The second step is an environmental review performed by the grantee of the activity proposed by the ultimate recipient. If the grantee, with the assistance of the Agency, if requested, determines that the activities proposed by the ultimate recipient are classified as a Categorical Exclusion in accordance with §1970.53 or §1970.54, the primary recipient will complete the environmental review and is not required to submit environmental documentation to the Agency for review and approval. If the ultimate recipient’s proposed project is determined by the grantee to require the preparation of an Environmental Assessment in accordance with RD Instruction 1970-C, the grantees shall submit environmental documentation in accordance with RD Instruction 1970-C, Exhibit B, “Guide to Applicants for Preparing Environmental Assessments,” for that specific property. The environmental review of the ultimate recipient’s project must be completed prior to the commencement of any project activities.

The use of HPG funds by the grantee to repair, rehabilitate, or replace on the same site specific dwellings is generally classified as a Categorical Exclusion without an Environmental Report pursuant to §1970.53, and therefore generally does not require the preparation of environmental documentation by the grantee. However, if such dwellings are located in or adjacent to an environmental resource, further environmental review may be required in accordance with 7 CFR part 1970. Dwellings within the Coastal Barrier Resources System are not eligible for HPG assistance. Applicants must follow the process identified in RD Instruction 1944-N, Exhibit F-1, or another process supplying similar information acceptable to Rural Development, for identifying dwellings that may receive housing preservation or replacement housing assistance that will require Environmental Assessment. If, in accordance with 7 CFR part 1970, the dwelling does not require further environmental review, the grantee must document the presence of any environmental conditions, and include a copy in the recipient’s file. The grantee must also include in each recipient’s file:

- (1) Documentation on how the process for historic preservation review under §1944.673 has been complied with, including all relevant reviews and correspondence;
- (2) Determination as to whether the unit is located in a 100-year floodplain or a wetland; and,
- (3) Documentation of this review. Suggested language is: “In accordance with 7 CFR part 1970, we have considered this dwelling under RHS’s environmental and historic preservation requirements for a HPG (§§ 1944.672 and 1944.673) and it meets the criteria for Categorical Exclusion; therefore, an Environmental Assessment is not required. The review was completed in accordance with the process to identify properties requiring an Environmental Assessment in RD Instruction 1944-N, Exhibit F-1, or another process supplying similar information acceptable to Rural Development.

When the HPG proposal does not qualify as a Categorical Exclusion under §1970.53 or §1970.54, and therefore requires the preparation of an Environmental Assessment, the applicant will immediately contact the RHS office designated to service the HPG grant. Prior to approval of HPG assistance to the recipient by the applicant, the Environmental Assessment must be prepared by the grantee (or the grantee's consultant) and approved by the Agency in accordance with RD Instruction 1970-C. Construction activities may not commence until the Environmental Assessment has been approved by the Agency. A copy of the Environmental Assessment must be kept in the Agency's and grantee's files.

Floodplains:

All HPG program recipients must include the completed Federal Emergency Management Agency (FEMA) FEMA Form 086-0-32, "*Standard Flood Hazard Determination*," in each file for properties being repaired. FEMA Form 086-0-32 identifies and certifies the availability of flood insurance and whether it is required. As required under the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973, flood insurance must be required under certain circumstances as detailed in RD Instruction 1970-C.

Historic Preservation:

RHS has entered into a Programmatic Memorandum of Agreement (PMOA) with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation in order to implement the specific requirements regarding historic preservation contained in Section 533 of the Housing Act of 1949, 42 U.S.C. 1490(m) of the enabling legislation. The PMOA, with attachments, can be found in RD Instruction 2000-FF. A copy of the PMOA will be provided to each applicant for a HPG as part of the pre-application package specified in paragraph II of Exhibit C of RD Instruction 1944 -N.

Accordingly, each applicant for a HPG grant will provide, as part of its pre-application documentation submitted to RHS, a description of its proposed process for assisting very low- and low-income persons owning historic properties needing rehabilitation, repair, or replacement. "Historic properties" are defined as properties that are listed or eligible for listing on the National Register of Historic Places. Each HPG proposal shall comply with the provisions of Stipulation I, A-G of the PMOA (RD Instruction 2000-FF). Should RHS be required to assume responsibility for compliance with 36 CFR part 800 in accordance with Stipulation III of the PMOA, the grantee will prepare an appropriate documentation in accordance with 7 CFR part 1970 and submit it to RHS for review. RHS will work with the grantee to develop alternative actions or mitigation measures, as appropriate.

Public Participation and Intergovernmental Review:

In preparing its statement of activities, the applicant is responsible for consulting with leaders from the county, parish and/or township governments of the area where HPG activities will take place for the purpose of assuring that the proposed HPG program is beneficial and does not duplicate current activities. American Indian nonprofit organization applicants should obtain the written concurrence of the tribal governing body in lieu of consulting with the county governments when the program is operated only on tribal land.

The applicant must also make its statement of activities available to the public for comment. The applicant must announce the availability of its statement of activities for review in a newspaper of general circulation in the project area and allow at least 15 days for public comment. The start of this 15-day period must occur no later than 16 days prior to the last day for acceptance of pre-applications by RHS.

The HPG program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Under RD Instruction 1970-I, prospective applicants for HPG grants must submit its statement of activities to the State single point of contact, if the State has one, or to local governmental officials prior to submitting their pre-application to RHS. Evidence of submittal of the state of activities to the State single point of contact or local governmental official is to be submitted with a pre-application. Comments and recommendations made through the intergovernmental review process are for the purpose of assuring consideration of State and local government views. The name of the State single point of contact is available from any Rural Development office. This section does not apply to American Indian tribes, bands, groups, etc., as noted in §1944.656.

COMPLIANCE WITH CIVIL RIGHTS LAWS:

RD Instruction 1970-E, “Rural Development Environmental Justice (EJ) and Civil Rights Impact Analysis (CRIA) Certification,” provides guidance on how to implement and integrate environmental justice considerations into all Agency programs’ environmental reviews as part of the public involvement process. Form RD 2006-38 is to be completed prior to obligation of grant funds and completion of grant project to assure that the major civil rights impacts of proposed actions are identified and the potential for negative effects are addressed prior to approval of the Agency’s financial assistance.

Prior to the obligation of the HPG funds and completion of the project, RD Instruction 2006-P, § 2006.754(a) and (b), requests certifying officials to identify and address major civil rights impacts of proposed policy actions and the potential for negative effects based on race, color, sex, national origin, religion, age, disability, or marital and/or familial status; and to complete Form RD 2006-38 to assure the Agency that a civil rights impact analysis has been completed and the potential effects of each proposed policy action have been considered, before the proposed policy action is approved and implemented.

In accordance with RD Instruction 2006-P, Form 2006-38 Civil Rights Impact Assessment, should be in all files to document that the Agency has conducted an impact analysis and concluded that no low-income or minority community will bear a disproportionately high and adverse environmental impact as a result of the project.

The policies contained in subpart E of part 1901 apply to grantees as set forth in 7 C.F.R. section 1944.671. As recipients of Federal financial assistance, HPG grant program recipients are required to comply with the applicable Federal, State and local laws. The Fair Housing Act prohibits discrimination by recipients of Federal financial assistance,

Grant recipients are required to adhere to specific outreach activities. These outreach activities include, contacting community organizations and leaders that include minority leaders, advertising in local newspapers and other media throughout the entire service area, and including the non-discrimination slogan, “This is an Equal Opportunity Program. Discrimination is prohibited by Federal Law,” in methods that may include, but not be limited to, advertisements, public broadcasts, printed materials, such as, brochures and pamphlets, and application forms for Fair Housing. These requirements can be found under 7 C.F.R. section 1944.671 (b).

DEBARMENT AND SUSPENSION:

The regulations at 7 C.F.R. section 1944.654(a) requires all Agency program applicants to sign and submit with their pre-application, Form AD-1047, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions,” which states that the applicant has not been debarred or suspended from Government assistance. In addition, all grantees must obtain a signed certification on Form AD-1048, “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions,” from all persons or entities that the program recipient does business with (excluding homeowner recipients) as a result of the program. The HPG program grantee should maintain Form AD-1048 in the HPG program grantee’s files.

RD staff must check the Excluded Parties List System to verify that all program applicants have or have not been debarred and/or suspended from Government assistance at the time the pre- application is received and immediately prior to providing the loan/grant assistance. In addition, any persons or entities that the grantee proposes to engage as a result of the Housing Preservation Grant must be verified that they have not been debarred and/or suspended from Government assistance using the Excluded Parties List System which is located at <https://www.sam.gov>.

LEAD-BASED PAINT (LBP):

The Environmental Protection Agency pamphlet entitled “Protect Your Family from Lead in Your Home” should be distributed by the HPG grantee to all prospective ultimate recipients.

Rural Development adopted subparts of the United States Department of Housing and Urban Development’s (HUD) LBP Rule which must be followed for any housing rehabilitation or renovation project. Exemptions to HUD’s LB requirement are detailed in 24 C.F.R. section 35.115. Recipient files must contain applicable LBP documents including initial inspection reports, risk assessments, and/or clearance inspection reports.

CHECKLISTS AND WAITING LIST:

Attachment A contains a checklist detailing the requirements HPG applicants must provide with their HPG pre-applications. Attachment B contains a checklist detailing the requirements grantees must maintain in their HPG files. Attachment C contains a checklist detailing the requirements grantees must maintain in their HPG recipient files. Attachment D contains a waiting list for HPG applicants to use to keep track of the homeowners who have responded to the local newspaper’s 15 day notice publication which announced that the HPG funds will be available for those

homeowners who are eligible to participate in the HPG Program to have their homes repaired on a first come first serve basis.

RECYCLING OF HPG FUNDS:

As the purpose of the HPG program is to repair and rehabilitate homes, the grantee may use HPG funds as grants or loans. In accordance with 7 C.F.R. 1944.670(b), "Project Income," the loan funds that are repaid are encouraged to be recycled into the HPG repair and rehabilitation activities and replacing individual housing. To continue the HPG repair and rehabilitation activities, a separate trust account should be used that is interest bearing. The interest funds that are earned are to go back into the HPG "pot" and the interest earned is to be reported in an audit following the procedures set forth in 7 C.F.R. parts 3015 and 3016 or subsequent regulations.

HPG GRANT EXTENSION REQUESTS:

Information covering all requests to extend the HPG funds until the remaining balance has been expended are located in 7 C.F.R. section 1944.684. The State Office personnel may grant these requests following the requirements set forth in the regulations.

In instances whereby the grant will be expiring and an extension of the HPG funds is necessary for completion of the project, refer to the Office of Management and Budget (OMB) Circular A-110, 7 C.F.R. part 3019, Uniform Administrative Requirements For Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, Subpart C - Post Award Requirements, and follow the requirements established at 7 C.F.R. section 3019.25, (e) (2).

Upon the State Office approval, documentation of extending the grant prior to expiration, as well as the, amendment to the grant agreement extending the completion time of the HPG project(s), should be placed in the HPG file.

HPG GRANT EXPIRATION:

Information covering evaluation, closeout, suspension and termination of the HPG funds is located in 7 C.F.R. section 1944.688. It is important that the State Office personnel continue to monitor the HPG award recipient files to ensure the funds will be used in order to avoid an expiration of the HPG funds.

In instances where the project remains uncompleted and the HPG grant funds have expired, no further grant funds will be advanced as the Housing Preservation Grantee will be unable to receive an extension. In these circumstances, the HPG funds must be returned to RD. The HPG funds will be returned with a Form RD 451-2, "Schedule of Remittances". Use a Miscellaneous Collection Code 17, Return of unused grant funds. If the Forms Manual Insert is needed, it can be found at:

<https://formsadmin.sc.egov.usda.gov/eFormsAdmin/welcomeAction.do?Home>. Upon the State Office personnel documentation of the expired grant, as well as, information that the grant will not be extended to complete the HPG project(s), this information is to be placed in the HPG file.

SF 425 REPLACES SF 269 AND SF 272:

The Office of Management and Budget (OMB) has created the Standard Form (SF) 425, "Financial Report Form," (and SF 425A, "Federal Financial Report Attachment,") to take the place of SF 269, "Financial Status Report" and SF 269A, "Financial Status Report (Short Form)," (plus SF 272, "Federal Cash Transactions Report" and SF 272A, "Federal Cash Transactions Report (Continuation,)"). In addition, OMB also created the Performance Progress Report (SF PPR) to standardize the grant progress reporting requirements government wide. Based on information pertaining to the form, a grantee is required to submit the SF 425 until the last advance of funds is made. The SF PPR "Performance Progress Report" must be used to report the progress of projects if the grant exceeds \$100,000.

HOME REPAIR PERFORMED AGAIN FOR PREVIOUS REPAIRED HOME:

In accordance with 7 C.F.R. section 1944.683 (b) (5), Housing Preservation Grantees are to report the reasons why, if established objectives are not met. In instances whereby a homeowner has had repair and/or rehabilitation work performed on the home with previously awarded fiscal year Housing Preservation Grant funds and the work was determined to be unsatisfactory by either a disinterested third-party, qualified contract or fee inspector, the Housing Preservation Grantee may use the newly awarded fiscal year Housing Preservation Grant funds **as a one-time exception** to repair and/or rehabilitate the work identified as unsatisfactory to satisfactory status for the homeowner.

VIOLENCE AGAINST WOMEN ACT:

Certification of Legal Compliance Presumed to Cover Compliance with VAWA Act
The HPG Grant Agreement should be amended using as a model Exhibit B of subpart N of 7 C.F.R. part 1944, to state that the HPG grantee shall comply with the VAWA Act and should include a clause in the ownership agreement that the assistance being made available is subject to the VAWA Act. Any amendments will require Rural Development's approval.

LIMITED ENGLISH PROFICIENCY (LEP):

Grantees must ensure that LEP persons receive instructions and documents in the language necessary to afford them meaningful access to U.S. Department of Agriculture (USDA) programs and activities, free of charge. Failure to take reasonable steps to ensure that LEP persons can effectively participate in or benefit from Federally-assisted programs or activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin discrimination.

Grantees are encouraged to follow LEP guidance that has been published by the Department of Justice (DOJ). This guidance and additional information can be found at www.LEP.gov.

Please review this material carefully as it is essential that State Directors ensure that the subject training is provided to all appropriate staff. If there are any questions, you may contact Bonnie Edwards-Jackson, Preservation and Direct Loan Division, (202) 690-0759.

Housing Preservation Grant Pre-Application Checklist

- Application for Federal Assistance; Standard Form 424 (if paper application)
- Statement of Activities
- Statement on Experience and Capacity
- Evidence of Legal Existence
- Financial Statements
- Budget
- Narrative on Area to be Served
- 1944-N, Exhibit F-1, "Guide: Grantee's Process for Identifying Properties Requiring Rural Development Environmental Assessments" signed
- Intergovernmental Review correspondence
- Evidence of 15-day publishing requirement
- Form 400-1, Equal Opportunity Agreement
- Form 400-4, Assurance Agreement
- Form AD 3031, Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants

The following are forms that must be submitted prior to closing:

- Form AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions
- Form AD-1048, Certification Regarding Debarment, Suspension, and Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions
- Evidence Agency verification for debarment with use of Excluded Parties List System
- Form AD-1049, Certification Regarding Drug-free Workplace Requirements (Grants) Alternative I-Grants Other Individuals
- The applicant must demonstrate compliance with other Federal Statutes and Regulations by Adherence and conformance to policies involving:
 - Equal Employment Opportunity (see 7 CFR section 1944.671 for requirements)
 - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (see 7 CFR section 1944.667 for requirements)
 - Restrictions on Lobbying (see 7 CFR section 1944.657 for guidance.)

Housing Preservation Grantee File Checklist

Grantee Name: _____ Date: _____
Project Name and Address: _____
State: _____ Grant Amount: _____ Fiscal Year: _____

Civil Rights Compliance Review:
_____ Pre-grant _____ Post-grant

Housing Preservation Grant Recipient File Checklist

Recipient Name: _____ Date: _____

State: _____ County: _____

Grant Amount Request: _____ Fiscal Year: _____

- Application Review:**
 _____ Signature of Recipient
 _____ Verification of low, or very-low income
 _____ Verification of homeownership
- Environmental Review:**
 _____ Documentation the Environmental Protection Agency pamphlet, "Protect Your Family From Lead in Your Home," should have been provided to Recipient
 _____ LBP inspection report, risk assessment, and/or clearance inspections report
 _____ Evidence of environmental review of each home per 1944-N, Exhibit C VIII (A)
 _____ Evidence that the home is not historic / consultation with the SHPO (in accordance with 1944-N, Exhibit F-2)
 _____ Completion of FEMA Form 086-0-93, "Standard Flood Hazard Determination"
- Specification Review:**
 _____ Cost estimate by line item
 _____ Accepted contractor's quote
- Field Visits by Rural Development:**
 _____ Documentation in file of Field visits to the Recipient's house
- Photos:**
 _____ Before _____ After
- Final Inspection:**
 _____ Final inspection by disinterested third party certifying that all work has been performed according to plans and specifications.

HOUSING PRESERVATION GRANT PROGRAM WAITING LIST FY 20XX				
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