

PART 1900 - GENERAL

Subpart D - Processing and Servicing Rural Development Assistance to
Employees, Relatives, and Associates

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PART 1900 - GENERAL

Subpart D - Processing and Servicing Rural Development Assistance
to Employees, Relatives, and Associates

§ 1900.151 General.

(a) The Standards of Ethical Conduct for Employees of the Executive Branch requires the maintenance of high standards of honesty, integrity, and impartiality by employees. To reduce the potential for employee conflict of interest, any processing, approval, servicing or review activity, including access through automated information systems, is conducted only by authorized Rural Development employees who: (Revised 09-22-04, PN 379.)

- (1) are not themselves the recipient.
- (2) are not members of the family or known close relatives of the recipient.
- (3) do not have an immediate working relationship with the recipient, the employee related to the recipient, or the employee who would normally conduct the activity.
- (4) do not have a business or close personal association with the recipient.

(b) No provision of this subpart takes precedence over individual program requirements or restrictions relating to eligibility for Rural Development assistance to Rural Development employees, members of families of employees, close relatives, or business or close personal associates of employees. (Revised 09-22-04, PN 379.)

(c) The determination of a case's need for special handling under the provisions of this subpart is not an adverse action and, therefore, is not subject to appeal.

§ 1900.152 Definitions.

Applicant or borrower. All persons or organizations, individually or collectively, applying for or receiving insured or guaranteed loan or grant assistance from or through Rural Development. Referred to as recipient.

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Assistance. Loans or grants made, insured or guaranteed, or serviced by Rural Development.

Associates. All persons with whom an employee has a business or close personal association or immediate working relationship.

Business association. Business relationship between those with an identity of financial interest; including but not limited to a business partnership, being an officer, director, trustee, partner, or employee of an organization, or other long-term contractual relationship.

Close personal association. Social relationship between unrelated residents of the same household.

Close relatives. The spouse, relatives, and step-relatives of an employee or the employee's spouse, including Grandmother, Grandfather, Mother, Father, Aunt, Uncle, Sister, Brother, Daughter, Son, Niece, Nephew, Granddaughter, Grandson, and First Cousin

Conflict of interest. A situation (or the appearance of one) in which one could reasonably conclude that a Rural Development employee's private interest conflicts with his or her Government duties and responsibilities, even though there may not actually be a conflict.

Employee. All Rural Development personnel, including gratuitous employees and those negotiating for or having arrangements for prospective employment, except as otherwise specifically stated. For the purposes of this instruction only, the term also refers to county or area committee members, elected or appointed, and to closing agents who, although they are not employees, have a special relationship to Rural Development and therefore should be subject to these provisions.

Immediate working relationship. A relationship between a subordinate and a supervisor in a direct line, or between co-workers in the same office. For the purposes of this subpart, the relationships among a County Supervisor and members of the local County Committee are immediate working relationships.

Members of family. Blood and in-law relatives (such as by marriage or adoption) who are residents of the employee's household.

§1900.152 (Con.)

Recipient. One who has applied for or received Rural Development financial assistance in the form of a loan or grant. See definition of applicant or borrower.

§1900.153 Identifying and reporting an employee relationship.

(a) Responsibility of applicant. When an application for assistance is filed, the processing official asks if there is any known relationship or association with an Rural Development employee. The applicant is required to disclose the requested information under Subpart A of Part 1910 of this chapter and pertinent program regulations.

(b) Responsibility of Rural Development employee. A Rural Development employee who knows he or she is related to or associated with an applicant or recipient, regardless of whether the relationship or association is known to others, is required to notify the Rural Development official who is processing or servicing the assistance, in writing. Rural Development Guide Letter 1900-D-1 may be used as the notice. If the appropriate official is not known, the State Director should be notified. Regardless of whether the relationship or association is defined in §1900.152 of this subpart, if the employee believes there may be a potential conflict of interest, the Rural Development official who is processing or servicing the assistance may be notified and special handling requested. An employee's request that the case receive special handling is usually honored.

(c) Responsibility of Rural Development official. When any relationship or association is identified, the Rural Development official completes and submits RD Guide Letter 1900-D-2 to the State Director (or Administrator, under paragraph (e) of this section or §1900.155(a) of this subpart). When completed RD Guide Letter 1900-D-3 is returned by the State Director, the processing official;

- (1) files RD Guide Letters 1900-D-2 and 1900-D-3 in the file,
- (2) if required by the designation of a different processing/servicing official, forwards the file to the designated official,
- (3) notifies the recipient in writing of the change in responsibility and any other pertinent information, and

(4) retains a cross-reference file on Form RD 2033-1, "X-Reference Card," and a copy of RD Guide Letter 1900-D-3 for the operational file.

(d) Relationship or association established after application for Rural Development assistance. If a relationship or association is established after an application has been filed or assistance has been provided, both recipient and employee are required to notify the Rural Development official as described in paragraphs (a) and (b) of this section.

(e) Relationship or association with a State Office, Finance Office, or National Office employee. If an identified relationship or association is with an employee at a State Office (other than a State Director), Finance Office, or National Office, the processing/servicing official completes and submits RD Guide Letter 1900-D-2 to the State Director in the normal manner. The State Director reviews the information, determines the need for special handling, designates the processing/servicing official, completes and submits RD Guide Letters 1900-D-2 and 1900-D-3 to the Administrator for written concurrence. When the Administrator's concurrence is received, the State Director returns completed RD Guide Letter 1900-D-3 to the original official who completes the action described in paragraph (c) of this section.

(f) Relationship or association with a State Director. If an identified relationship or association is with a State Director, the processing/servicing official completes and submits RD Guide Letter 1900-D-2 to the Administrator. The Administrator reviews the information, determines the need for special handling, designates the processing/servicing official, completes and returns RD Guide Letter 1900-D-3 to the original official who completes the action described in paragraph (c) of this section.

(g) Change in relationship or association, status of Rural Development assistance, or employee's duty station. If the relationship or association has changed, the application denied or the assistance otherwise terminated, or the Rural Development employee's duty station changed, the designated processing/servicing official completes RD Guide Letter 1900-D-2 with the new information and submits it. The review process takes place as described in paragraphs (a) through (e) of this section to determine if processing/servicing activity may return to normal or requires another change. If the assistance is denied or otherwise terminated, the designated official notifies the original official. The closed case file remains in the office of the designated processing/servicing official. If security property is acquired, the appropriate documents are forwarded to the servicing official under §1900.157(c) of this subpart. (Revised 01-26-94, PN 218.)

§1900.154 Determining the need for special handling.

The State Director (or Administrator, under §1900.153(e) or §1900.155(a) of this subpart);

- (a) reviews RD Guide Letter 1900-D-2,
- (b) determines whether the reported relationship or association is defined in §1900.152 of this subpart and would violate the provisions of §1900.151(a) of this subpart,
- (c) in accordance with that determination, establishes the appropriate Employee Relationship Code (ERLC) and then determines the need for special handling,
- (d) designates the appropriate processing/servicing officials under §1900.155 of this subpart,
- (e) schedules any required post-closing review,
- (f) completes and returns RD Guide Letter 1900-D-3 to the original official.

§1900.155 Designating the processing/servicing official.

(a) Designating an official with equivalent authority. The State Director (or Administrator, under §1900.153(e) of this subpart or paragraph (a) of this section) designates a nonrelated or nonassociated Rural Development official authorized to conduct the activity under program regulations, delegation of authority, and approval authority under Subpart A of Part 1901 of this chapter, and whose duty station is most convenient to the recipient and to the security property. A type and/or amount of assistance processed or serviced by a County Supervisor or at a County Office should be assigned only to another County Supervisor or County Office. A type and/or amount of assistance processed or serviced by a District Director or at a District Office should be assigned only to another District Director or District Office. A type and/or amount of assistance processed or serviced by a State Program Official or at a State Office should be assigned only to the appropriate program division in the National Office or as otherwise determined appropriate by the Administrator. Additional guidance in making these designations is in Exhibit A of this subpart.

(b) County Committee. For processing or servicing decisions to be made by a County Committee, if the recipient is a member, a different County Committee is designated. If the recipient is related to or associated with the member, notwithstanding the provisions of §1900.151(a)(3) of this subpart, the State Director may permit the decision to be made by the local committee, if the related/associated member abstains.

(c) Case number. The case number is assigned using the geographic State and County (or District) location of the real estate security for the loan, except for Multi-Family Housing (MFH) loans. For MFH loans, the case number is assigned or changed, using the State and County (or District) codes of the office of the designated processing/servicing official. (Revised 01-26-94, PN 218.)

§1900.156 Special handling - processing.

(a) Pre-application or application processing. After RD Guide Letter 1900-D-2 has been submitted to determine the need for special handling, pre-application or application processing continues normally, up to but not including the eligibility determination, or until notified otherwise by the return of RD Guide Letter 1900-D-3. When completed RD Guide Letter 1900-D-3 is returned by the State Director, the processing official completes the action described in §1900.153(c) of this subpart. Unless otherwise designated, the original processing official collects and verifies the information needed for a complete pre-application or application. The complete application is then forwarded to the designated processing official to determine eligibility.

(b) Eligibility determination. The designated processing official reviews the application and develops additional data as necessary. Upon determination of whether the assistance will be provided, the designated processing official notifies the applicant of the decision in writing under program regulations, Subpart A of Part 1910 of this chapter, and Subpart B of Part 1900. If the determination is favorable, unless otherwise designated, the complete application is returned to the original processing official for docket preparation. If the determination is unfavorable, the designated processing official as decision-maker participates in the appeal process to its conclusion.

(c) Property inspection and/or appraisal. Property inspection and/or appraisal is conducted by the official designated by the State Director under §1900.155(a) of this subpart.

§ 1900.156 (Con.)

(d) Docket preparation. The collection of information necessary to complete processing, unless otherwise designated, is conducted by the original processing official. The docket is then forwarded to the designated processing/servicing official.

(e) Approval. The designated processing/servicing official must review the docket before approving the assistance and is responsible for preparation of obligation and closing documents. The case number, assigned in accordance with § 1900.155(c) of this subpart, and the ERLC are recorded using Agency forms and related ADPS transactions described in Exhibit B of this subpart to obligate the assistance. The designated official completes RD Guide Letter 1900-D-4 for the file. (Revised 01-26-94, PN 218.)

(f) Closing agent. Unless there is a clear or apparent conflict of interest, closing will be at a location and by a closing agent chosen by the recipient. The closing agent is advised in writing to forward the closing documents to the designated servicing official.

(g) Supervised bank account. Unless there is a clear or apparent conflict of interest, any supervised bank account (or construction account) is established at a financial institution chosen by the recipient under Subpart A of Part 1902 of this chapter. Countersignature authority is delegated only to a nonrelated or nonassociated Agency official.

(h) Construction inspection. Construction inspections are delegated to a nonrelated or nonassociated employee authorized to conduct inspections whose duty station is nearest the construction site. The designated processing/servicing official notifies the builder (or architect/engineer) in writing of how and from whom to request inspections.

§ 1900.157 Special handling - servicing.

Case files are maintained in the office of the designated processing/servicing official.

(a) Transfer of file. Upon receipt of a file transferred for special handling, the designated servicing official reviews all previous actions, completes RD Guide Letter 1900-D-4 for the file, and processes the ERLC and any servicing office/mail code changes (loans other than MFH) using Agency forms and related ADPS transactions described in Exhibit B of this subpart. For Single Family Housing, the servicing official will contact the Field Assistance Desk at the Centralized Servicing Center. (Revised 12-01-06, PN 404.)

(b) Servicing. All servicing is conducted by the designated servicing official.

(c) Acquired property. Upon termination of assistance and acquisition of security property, an employee relationship is not pertinent. The property identification number is established with the State and County (or District) codes of the property location, using Agency forms and related ADPS transactions to maintain acquired property records. The designated servicing official for the borrower's case will forward the appropriate documents to the servicing official for the inventory property. (Revised 01-26-94, PN 218.)

§ 1900.158 County, District, and State Office records.

(a) The original processing/servicing official maintains a record of file relocation with Form RD 2033-1.

(b) County, District, State, and National officials each maintain operational files of the designations received and made within their direct authority.

§ 1900.159 Finance Office records.

A quarterly report listing assistance with an ERLC is issued to each County, District, and State Office responsible for such assistance, with a summary report to the National Office.

§ 1900.160 Review and reporting functions.

(a) Post closing review. After closing, a State Program Official (or National Program Official, under §1900.153(e) or § 1900.155(a) of this subpart) reviews each case determined to need special handling.

(b) Evaluation reviews. The Finance Office report is used to assure that each case with an ERLC is reviewed on a regular schedule, during program visits and Management Control Reviews and State Internal Reviews under RD Instruction 2006-M, to determine that proper designations are made and appropriate processing and servicing action is taken. (Revised 03-10-99, PN 302.)

§ 1900.160 (Con.)

(c) Corrective action. An inappropriate designation is corrected when identified. The case is reviewed by the appropriate designated processing/servicing official to determine the need for corrective action.

(d) Unauthorized assistance. Unauthorized assistance is handled according to subparts L, N, and O of part 1951 of this chapter and 7 CFR part 3550. (Revised 01-23-03, SPECIAL PN.)

§ 1900.161 State supplements.

State supplements to this subpart will not be issued, except for necessary references within authorized State supplements to program regulations.

§§ 1900.162 - 1900.200 [Reserved]

Attachments: Exhibits A and B.

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Guide to Designate Processing/Servicing Officials

In accordance with the provisions of §1900.155(a) of this Instruction,
if a State is organized as follows:

District I	District II	District III	District IV
County A	County A	County A	County A
County B	County B	County B	County B
County C	County C	County C	County C
County D	County D	County D	County D

and the recipient is:	the processing/servicing official should not be:	but may be:
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ACS or his/her relative or associate in District III, County B,	ACS or CS in III, B, or DD III,	ACS or CS in III, A, C or D, or I, II or IV, or DD I, II or IV.
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CS or his/her relative or associate in District I, County A,	ACS or CS in I, A, or DD I,	ACS or CS in I, B, C or D, or II, III or IV, or DD II, III or IV.
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County Committee member or closing agent or his/her relative or associate in District IV, County C,	ACS or CS in IV, C, or DD IV,	ACS or CS in IV, A, B or D, or I, II or III, or DD I, II or III.
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DD or his/her relative or associate in District II,	ACS or CS in II, or DD II,	ACS or CS in I, III or IV or DD I, III or IV.
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State, FO or NO staff member or his/her relative or associate,	as determined by SD with Administrator's concurrence,	as determined by SD with Administrator's concurrence.
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SD or his/her relative or associate,	as determined by Administrator,	as determined by Administrator.
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RD Forms, Screen Forms, and Related Automated Discrepancy Processing System (ADPS) Transactions to Establish; Change; or Delete the Employee Relationship Code (ERLC), Servicing Office/Borrower/Property Mail Code, Case Number and/or Property Identification Number.

This Instruction requires an ERLC to identify such assistance in automated information systems. When the relationship or association requires the transfer of the case to an office where the potential for conflict of interest does not exist, the servicing office/borrower mail code is changed to reflect the State and County (or District) codes of the office where the file is maintained. Following are the RD forms, screen forms, and related ADPS transactions used to document and process this information.

SINGLE FAMILY HOUSING DIRECT ASSISTANCE

Action:	New Loan	Assumption	Property Acquisition	Credit Sale
Establish case # at obligation or property ID # at acquisition.	1940-1 1A, 1B	460-9 4A, 4D 1965-15 1M	1955-3 3E	1940-1 1A
Establish ERLC at obligation or acquisition.	1940-1 1A, 1B	1940-1 1M	Note 1	1940-1 1A
Establish servicing office/borrower/ property mail code at obligation or acquisition.	Note 2 1A, 1B	Note 2 4A, 4D 1M	Note 3 3E	Note 2 1A
Establish, change, or delete ERLC after obligation or acquisition.	450-10 5N	450-10 5N	Note 1	450-10 5N
Change or delete servicing office/ borrower/property mail code after obligation or acquisition. (Revised 12-01-06, PN 404.)	Note 4	Note 4	Note 4	Note 4

Note 1: ERLC is not pertinent after acquisition of property.

Note 2: The State and county of the case number input on the related ADPS transaction will be systematically assigned to the servicing office/borrower mail code.

Note 3: The State and county of the property ID input on the 3E transaction will be systematically assigned to the servicing office/property mail code.

Note 4: The processing/servicing office will be established as assigned by the State Director in RD Guide Letter 1900-D-3.

FARMER PROGRAMS DIRECT ASSISTANCE

Action:	New Loan	Assumption	Property Acquisition	Credit Sale
Establish case # at obligation or property ID # at acquisition.	1940-1 1A, 1B	460-9 4A, 4D 1965-13 1M	1955-3 3E	1940-1 1A
Establish ERLC at obligation or acquisition.	1940-1 1A, 1B	1940-1 1M	Note 1	1940-1 1A
Establish servicing office/borrower/property mail code at obligation or acquisition.	Note 2 1A, 1B	Note 2 4A, 4D 1M	Note 3 3E	Note 2 1A
Establish, change, or delete ERLC after obligation or acquisition.	450-10 5N	450-10 5N	Note 1	450-10 5N
Change or delete servicing office/borrower/property mail code after obligation or acquisition.	Note 4 9G	Note 4 9G	Note 4 9G	Note 4 9G

Note 1: ERLC is not pertinent after acquisition of property.

Note 2: The State and county of the case number input on the related ADPS transaction will be systematically assigned to the servicing office/borrower mail code.

Note 3: The State and county of the property ID input on the 3E transaction will be systematically assigned to the servicing office/property mail code.

Note 4: The processing/servicing office will be established as assigned by the State Director in RD Guide Letter 1900-D-3.

MULTI-FAMILY HOUSING ASSISTANCE

Action:	New Loan	Assumption	Property Acquisition	Credit Sale
Establish case # at obligation or property ID # at acquisition.	M5C Note 5	M5C Note 5	M5C Note 5	M5C Note 5
Establish ERLC at obligation or acquisition.	M5C	M5C	Note 1	M5C
Establish servicing office/borrower/property mail code at obligation or acquisition.	Note 5	Note 5	Note 5	Note 5
Change case # after obligation or property ID # after acquisition.	M5C	M5C	Note 1	M5C
Establish, change, or delete ERLC after obligation or acquisition.	M5C	M5C	Note 1	M5C
Change or delete servicing office/borrower/property mail code after obligation or acquisition.	Note 5	Note 5	Note 5	Note 5

Note 1: ERLC is not pertinent after acquisition of property.

Note 5: A unique servicing office/borrower/property mail code is not valid for Multi-Family Housing assistance. When a processing/servicing office is assigned by the State Director in RD Guide Letter 1900-D-3 based on the ERLC, the processing/servicing office code will be used in the case number.

COMMUNITY FACILITY - WATER/WASTE DISPOSAL DIRECT ASSISTANCE

Action:	New Loan	Assumption	Property Acquisition	Credit Sale
Establish case # at obligation or property ID # at acquisition.	1940-1 1A	1951-15 Note 6	1955-3 Note 6	1940-1 1A
Establish ERLC at obligation or acquisition.	1940-1 1A	1940-1 Note 6	Note 1	1940-1 1A
Establish servicing office/borrower/property mail code at obligation or acquisition	Note 2 1A	Note 2	Note 3	Note 2 1A
Establish, change, or delete ERLC after obligation or acquisition.	450-10 5N	450-10 5N	Note 1	450-10 5N
Change or delete servicing office/borrower/property mail code after obligation or acquisition.	Note 4 9G	Note 4 9G	Note 4 9G	Note 4 9G

Note 1: ERLC is not pertinent after acquisition of property.

Note 2: The State and county of the case number input on the related ADPS transaction will be systematically assigned to the servicing office/borrower mail code.

Note 3: The State and county of the property ID input on the 3E transaction will be systematically assigned to the servicing office/property mail code.

Note 4: The processing/servicing office will be established as assigned by the State Director in RD Guide Letter 1900-D-3.

Note 6: ADPS transaction cannot be processed by the field office. Form must be sent to Finance Office.

GUARANTEED LOAN ASSISTANCE - ALL PROGRAMS

Action:	New Loan	Assumption	Property Acquisition	Credit Sale
Establish case # at obligation or property ID # at acquisition.	1940-3 1A	1980-50 Note 6	N/A	N/A
Establish ERLC at obligation or acquisition.	1940-3 1A	1980-50 Note 6	N/A	N/A
Establish servicing office/borrower/property mail code at obligation or acquisition.	Note 2 1A	Note 2	N/A	N/A
Establish, change, or delete ERLC after obligation or acquisition.	1980-50 Note 6	1980-50 Note 6	N/A	N/A
Change or delete servicing office/borrower/property mail code after obligation or acquisition.	Note 4 9G	Note 4 9G	N/A	N/A

Note 1: ERLC is not pertinent after acquisition of property.

Note 2: The State and county of the case number input on the related ADPS transaction will be systematically assigned to the servicing office/borrower mail code.

Note 3: The State and county of the property ID input on the 3E transaction will be systematically assigned to the servicing office/property mail code.

Note 4: The processing/servicing office will be established as assigned by the State Director in RD Guide Letter 1900-D-3.

Note 6: ADPS transaction cannot be processed by the field office. Form must be sent to Finance Office.