



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA/RDA AN No. 2894 (1900-D)
October 27, 1993

SUBJECT: FmHA Instruction 1900-D, Processing and
Servicing FmHA Assistance to Employees,
Relatives and Associates

TO: State Directors, District Directors,
County Supervisors, FmHA
Regional Directors, RDA

PURPOSE/INTENDED OUTCOME:

This AN is in response to a number of requests for clarification.

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

IMPLEMENTATION RESPONSIBILITIES:

What is the effect and scope of this Instruction?

Section 1900.151, "General" fully describes the primary intent of FmHA Instruction 1900-D, to reduce Agency potential for conflict of interest. Its provisions not only restrict the loanmaking and servicing activities of FmHA/RDA employees who are, or whose family members, relatives or associates are, recipients of FmHA/RDA assistance, but also require limitations on physical access to their casefiles and access to their automated loan records via the Automated Discrepancy Processing System (ADPS). Exhibit A was developed as a guide to help designate appropriate processing or servicing officials. It does not attempt to include every employee or activity covered by the Instruction. All employees, supervisory or not, with approval authority or not, including clerical and other support staff, are expected to comply with its provisions. State or Regional Directors may need to request advice from program, Human Resource, and/or Automated Data Processing (ADP) Security officials in their State or Regional Offices to help determine appropriate designations.

EXPIRATION DATE: October 31, 1994

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1900-D

What can be done when a designation in strict compliance with the Instruction will severely inconvenience a recipient by requiring the removal of records or processing or servicing activities to another office?

State or Regional Directors are responsible for weighing Agency vulnerability to fraud, waste or abuse against the effect on the recipient. When the effect is severe, some modification of the requirements may be necessary, but not to the extent that the Agency is exposed to a conflict of interest. The nature of the relationship should be reviewed to evaluate the extent to which the employee may be influenced to provide undue benefits. The employee's position should be reviewed with regard to loanmaking or servicing authority; duty location with regard to physical access to the casefile, and ADPS user identification (ID) with regard to the ability to review or update automated records. The status and type of assistance should be reviewed to determine the necessary level of the recipient's interaction with the processing or servicing office. The recipient's financial circumstances and location should be reviewed to evaluate the financial and logistical effect of moving loan/grant records. If the potential for conflict of interest is minimal and it is not feasible to relocate the loan/grant records, other controls may be implemented to restrict the employee's processing or servicing responsibilities and physical or ADPS access to loan or grant records. As an absolute minimum, the assistance must be identified, reviewed and coded with the Employee Relationship Code (ERLC). The casefile must be certified with FmHA Guide Letter 1900-D-4 and reviewed regularly to assure no undue benefit is accruing to the recipient as a result of the relationship. The designation of the servicing official will determine the location of the casefile.

If the recipient is a relative or associate of a State Office employee with statewide ADPS access, or a District Office employee with districtwide access, must loan records be moved to an office in another District or State?

The employee's ADPS user ID may permit only inquiry capability, or both inquiry and update capability. If necessary, the employee's user ID may be changed to be restricted to inquiry only capability. If this would affect the employee's duties and responsibilities, we may have to rely on the automatic checks and balances in the ADPS and regular reviews to assure the integrity of automated loan records.

How will these requirements affect County Committee members, many of whom have a number of relatives who are recipients in the area in which they serve?

Section 1900.155(b) makes special provision for County Committee members, similar to that provided in FmHA Instruction 2045-BB. By inference from Section 1900.157, if the processing or servicing decisions may be made locally, the casefile may remain in that office.

How does the State or Regional Office prepare and submit a request for the Administrator's concurrence in a determination of special handling requirements?

Please note, when preparing Guide Letters be sure to reference the recipient's name in the subject line. Prepare FmHA Guide Letter 1900-D-3 as if it were being returned to the field office; for example, addressed to the County Supervisor or District Director, completed according to the State or Regional Director's determination and signed. Add a line below the signature for the Administrator's concurrence. Submit it to the National Office with a brief cover letter and FmHA Guide Letter 1900-D-2, to the attention of the Assistant Administrator for the appropriate program. It will be reviewed by program officials with Personnel, Employee Relations Branch (PERS, ERB) recommendations, if necessary, and submitted with a return cover letter for the Administrator's signature.

What is the appropriate action and ERLC if an employee's relative or associate has a position in an FmHA/RDA financed organization?

FmHA Instruction 2045-BB, Section 2045.1355(j) indicates the extent to which an employee may participate in an FmHA-financed organization. When an employee's relative or associate is an official of, or performs services for, the organization in a manner which is prohibited to an employee, identify, review and establish the ERLC as assistance to an employee, relative or associate, based on the type of relationship between the employee and the relative or associate.

Where are the directions for entering an ERLC?

When a casefile is transferred, Section 1900.157(a) directs the receiving official to process the ERLC. Inadvertently, this direction was omitted for a casefile which is not transferred. Until the Instruction can be revised, please add the following statement to FmHA Guide Letter 1900-D-3, "Be sure to process the ERLC via the ADPS transaction indicated in Exhibit B of FmHA Instruction 1900-D."

If an ERLC-coded loan is subject to 1951-S servicing after we have acquired the security property, should the casefile be retained in the designated servicing official's custody?

Yes, notwithstanding the directions given in Exhibit B, do not delete the ERLC. Retain the casefile in the designated servicing office until 1951-S servicing is concluded.

How should we notify new County Committee members and closing agents of the requirements of FmHA Instruction 1900-D?

Include a copy of the Instruction and the Guide Letters along with other FmHA/RDA orientation or instructional materials.

How should we document that applicants have been asked if they know of any relationship with an FmHA/RDA employee?

Until individual program regulations can be revised to formalize this inquiry, documentation in the running record should be sufficient to determine compliance with this requirement.

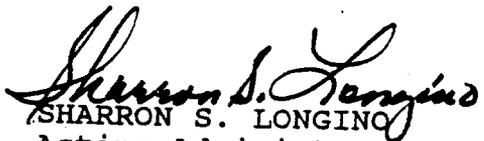
How do we monitor implementation of this Instruction?

Report Code (RC) 609, FmHA Assistance to Employees, Relatives and Associates, With Interest Accrued Through 07/06/93, and RC 4051, Guaranteed Loans, FmHA Assistance to Employees, Relatives and Associates, as of 06/30/93, were issued to State and Regional Offices. If there are any questions about the reports, contact the Finance Office, Financial and Management Reports Section, 314-539-2426. State or Regional Offices may want to check field offices to determine if the actions outlined in FmHA/RDA AN No. 2726(1900) have been taken and all ERLCs processed to the ADPS.

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Who has National Office responsibility for questions concerning this Instruction?

State or Regional Offices, for questions directly related to the implementation of FmHA Instruction 1900-D, may contact Joyce M. Halasz, at 202-720-1452. For program-related questions, such as program restrictions, approval authorities, or the effect of moving a casefile, contact a specialist on the appropriate program staff. For administrative questions regarding employee responsibilities, conduct, or conflicts of interest, contact PERS, ERB at 202-245-5500.


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