

agency under Public Law 103-354 case number of the maker thereof, issue date, interest rate of obligation, face amount of note or certificate of beneficial ownership, and a full description of any assignment, endorsement, or any other writing.

(iv) A full statement of circumstances of the loss, theft, or destruction of the note.

(2) An indemnity bond in the amount of the unpaid principal and interest will be required except in the following instances:

(i) Substantially the entire note or certificate of beneficial ownership is presented and surrendered by the owner or holder, and the Director, Finance Office, is satisfied as to the identity of the instruments and that any missing portions are not sufficient to form the basis of a valid claim against the United States or the borrower; or

(ii) The owner or holder is the United States, a Federal Reserve Bank, a Federal Government Corporation, a State or territory, or the District of Columbia.

(3) An indemnity bond without surety will be provided in the following cases:

(i) Cases involving registered unassigned obligations held by banks, trust companies, savings and loan associations, or companies holding certificates of authority from Secretary of the Treasury as acceptable sureties on Federal Bonds (companies listed on Treasury Department Circular 570) where the financial responsibilities of such claimants are well known or readily ascertainable.

(ii) Cases involving registered unassigned obligations where the evidence reasonably justifies a conclusion that the obligations were destroyed and the unpaid principal and interest amount does not exceed \$1,000.

(4) An indemnity posted with a qualified surety is required in all cases involving registered unassigned obligations other than those cited in paragraphs (b)(2)(i), (b)(2)(ii), (b)(3)(i) and (b)(3)(ii) of this section. A qualified surety is a company holding a certificate of authority from the Secretary of the Treasury as acceptable sureties on Federal Bonds, and listed in Treasury Department Circular 570.

(5) All indemnity bonds for notes must be payable to both the borrower and FmHA or its successor agency under Public Law 103-354. All indemnity bonds for certificates of beneficial ownership must be payable to FmHA or its successor agency under Public Law 103-354. The bond may be posted at the time the note or certificate of beneficial ownership becomes eligible for repurchase by FmHA or its successor agency under Public Law 103-354. If the holder desires to continue to hold the note for the life of the note, an indemnity bond will not be required.

(6) An assignment of the note or certificate of beneficial ownership shall be made to the United States of America, acting through the Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture. An acceptable form of assignment is available from the Director, Finance Office.

(c) *Other cases.* Cases involving bearer obligations and other cases not discussed in this section will be forwarded to the Director, Finance Office, for requirements.

(d) *Replacement of notes.* FmHA or its successor agency under Public Law 103-354 will not attempt to obtain replacement notes from borrowers.

Subparts L-N [Reserved]

PART 1902—SUPERVISED BANK ACCOUNTS

Subpart A—Supervised Bank Accounts of Loan, Grant, and Other Funds

Sec.

1902.1 General.

1902.2 Policies concerning disbursement of funds.

1902.3 Procedures to follow in fund disbursement.

1902.4 Establishing MFH reserve accounts in a supervised bank account.

1902.5 [Reserved]

1902.6 Establishing supervised bank accounts.

1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

1902.8 Authority to establish and administer supervised bank accounts.

1902.9 Deposits.

1902.10 Withdrawals.

1902.11 Servicing Office records.

1902.12-1902.13 [Reserved]

RHS, RBS, RUS, FSA, USDA

§ 1902.2

- 1902.14 Reconciliation of accounts.
- 1902.15 Closing accounts.
- 1902.16 Request for withdrawals by State Director.
- 1902.17-1902.49 [Reserved]
- 1902.50 OMB control number.
- EXHIBIT A TO SUBPART A [RESERVED]
- EXHIBIT B TO SUBPART A—UNITED STATES DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354—INTEREST-BEARING DEPOSIT AGREEMENT

Subparts B-C [Reserved]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 7 U.S.C. 6991, et seq.; 42 U.S.C. 1480; Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

Subpart A—Supervised Bank Accounts of Loan, Grant, and Other Funds

SOURCE: 46 FR 36106, July 14, 1981, unless otherwise noted.

§ 1902.1 General.

This subpart prescribes the policies and procedures in establishing and using supervised bank accounts, and in placing Multi-Family Housing (MFH) reserve accounts in supervised bank accounts. 7 CFR part 2018, subpart D, provides the procedures Servicing Officials should follow in ordering loan and grant disbursements.

(a) Borrowers referred to in this subpart include both loan and grant recipients. They are referred to as “depositors” in the deposit agreements hereinafter described. References herein and in deposit agreements to “other lenders” include lenders and grantors other than Rural Development.

(b) Banks and savings associations referred to in this subpart are those in which deposits are insured by the FDIC.

(c) Credit unions referred to in this subpart are those in which deposits are insured by the NCUA.

(d) Financial institutions as referred to in this subpart include banks, savings associations, and credit unions which are covered by the proper insurance coverage cited in paragraphs (b) and (c) of this section.

(e) Supervised bank accounts referred to in this subpart are bank, savings association, or credit union accounts es-

tablished through deposit agreements entered into between the borrower, the United States of America acting through Rural Development, and the Financial Institution on Form RD 402-1, “Deposit Agreement”.

(f) Form RD 402-1 provides for the deposit of funds in a supervised bank account to ensure the performance of the borrower’s obligation to Rural Development in connection with a loan and/or grant.

(g) “Interest-Bearing Deposit Agreement” (Exhibit B of this subpart), provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form RD 402-1.

(h) Servicing officials referred to in this instruction include county supervisors, district directors, local supervisors, area supervisors, and National Office grant program managers.

(i) Automated systems referred to in this instruction refers to the loan accounting systems; e.g., Program Loan Accounting System, Automated Multi-Housing Accounting System, and Dedicated Loan Origination System, from which loan and grant disbursements are ordered.

(j) This subpart includes the National Office directly servicing a grant recipient or recipient of cooperative agreement funds.

[70 FR 59225, Oct. 12, 2005]

§ 1902.2 Policies concerning disbursement of funds.

(a) Generally, loan and grant disbursements may be requested on an as needed basis, thereby reducing the need for supervised bank accounts. For all construction loans and those loans using multiple advances, only the actual amount to be disbursed at loan closing will be requested through the automated systems. Subsequent disbursements will be ordered as needed. However, supervised bank accounts may be used in certain circumstances. For example:

(1) When a construction loan is made and the construction is substantially completed, but a small amount is being withheld pending completion of landscaping or some similar item. In this case, funds not disbursed may be placed

§ 1902.3

in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development. In such cases, loan and grant disbursements will be requested in accordance with 7 CFR part 2018, subpart D as necessary, deposited in a supervised bank account, and disbursed as necessary to suppliers, sub-contractors, etc.

(3) Association loan and grant funds made on a multiple advance basis may be deposited in a supervised bank account when required by State statutes or when determined necessary by the loan approval official.

(4) Supervised bank accounts may be used when needed as defined in paragraph (a)(5) of this section to ensure the correct expenditures of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of Rural Development and other lenders when the accounts are no longer required.

(5) When it is determined by the Servicing Official that special supervision is needed in the management of the borrower's finances, funds may be deposited in a supervised bank account. This supervisory technique will be used for a temporary period to help the borrower learn to properly manage his/her finances. Such a period will not exceed 1 year unless extended by the Servicing Official.

(b) Program instructions provide information as to the type of note to be utilized and the method of handling advances and the interest accrued.

(c) The debt instruments executed at the time of loan closing constitute an obligation on the part of the Government to disburse all funds at one time or in multiple advances, provided the funds are for purposes authorized by the Government at the time of loan closing. This obligatory commitment takes priority over any intervening liens or advances by other creditors, regardless of the provisions of the State laws involved.

[70 FR 59225, Oct. 12, 2005]

7 CFR Ch. XVIII (1-1-09 Edition)

§ 1902.3 Procedures to follow in fund disbursement.

(a) The Servicing Official will determine during loan approval the amount(s) of loan or grant disbursement(s)—full or partial—and will process the request to the appropriate automated system in accordance with 7 CFR part 2018, subpart D.

(b) When Treasury check(s) are delivered to the Servicing Official, the Servicing Official will make sure that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The Servicing Official should be sure that the check is properly endorsed to ensure payment to the intended recipient. Examples of such restrictive endorsements are:

(1) "For Deposit only to Account No. (Number of Construction Account) of (Name of Borrower) in (Name of Financial Institution)."

(2) "Pay to the order of (3rd party payee)"—(Contractor, Developer, Sub-Contractor, Building Supply House, etc.) for the purpose of _____.

(c) When necessary, and only under the circumstances listed in § 1902.2, the Servicing Official will establish, or cause to be established, a supervised bank account. Funds deposited in a supervised bank account are to be recorded and accounted for on Form RD 402-2, "Statement of Deposits and Withdrawals".

[46 FR 36106, July 14, 1981, as amended at 53 FR 26588, July 14, 1988; 53 FR 35670, Sept. 14, 1988; 54 FR 39727, Sept. 28, 1989; 70 FR 59226, Oct. 12, 2005]

§ 1902.4 Establishing MFH reserve accounts in a supervised bank account.

(a) *General requirements.* All MFH borrowers required to maintain reserve accounts must place the reserve accounts in a supervised bank account(s) which meets the following requirements:

(1) *Countersignature requirements.* The reserve account must require that any funds withdrawn be countersigned by an authorized FmHA or its successor agency under Public Law 103-354 official.

(2) *Restrictions on collateral.* The financial institution holding the reserve account must ensure that the funds are

not pledged or taken as security without the Agency's prior consent.

(3) *Interest bearing.* The reserve account funds are encouraged to be maintained in an interest-bearing account. The "Interest-Bearing Deposit Agreement" set out in Exhibit B of this subpart is not required to be used for reserve accounts.

(4) *Restricted investments.* Reserve funds must be placed in investments authorized in 7 CFR part 3560, subpart G. The authorized investments are deemed to be of acceptable risk such that the potential for any loss is minimal.

(5) *Financial institutions.* The reserve account must be maintained in authorized financial institutions set out in 7 CFR part 3560, subpart G; e.g., banks, savings associations, credit unions, brokerage firms, mutual funds. Generally, any financial institution may be used provided invested or deposited funds are insured to protect against theft and dishonesty. The reserve account funds need not be Federally insured, but must be otherwise covered by non-Federal insurance against theft and dishonesty.

(6) *Rules where multiple projects are involved.* A reserve account(s) must be maintained for each borrower. When a borrower owns multiple projects, reserve accounts may be established for each project. A single reserve account may also be established by a borrower owning multiple projects, provided the conditions set out in 7 CFR part 3560, subpart G are met.

(7) *Term.* Reserve accounts are expected to be kept for the full term of the loan.

(b) *Deposits and account activity statements*—(1) *Deposits.* Generally, Rural Development will not require the review or approval of deposits or the use of Form RD 402-1 or 402-2.

(2) *Account activity statements.* Generally, the FmHA or its successor agency under Public Law 103-354 will not monitor or reconcile the reserve account activity statements issued periodically by the financial institutions holding the funds. FmHA or its successor agency under Public Law 103-354 will monitor reserve account levels through budget reports, audits, and Agency reserve tracking systems. If

disputes arise or the borrower is in violation of Agency regulations, the Agency may require account activity statements. When account activity statements are sought, it will normally be sufficient to obtain the statement which reflects balances as of the last activity statement ending period. Form FmHA or its successor agency under Public Law 103-354 402-2 is not required to be used.

[59 FR 3778, Jan. 27, 1994, as amended at 69 FR 69104, Nov. 26, 2004; 70 FR 59226, Oct. 12, 2005; 70 FR 73347, Dec. 12, 2005]

§ 1902.5 [Reserved]

§ 1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the financial institution in which the supervised bank account will be established, provided the financial institution is a member of the FDIC or NCUA, as applicable.

(b) When accounts are established, it should be determined that:

(1) The financial institution is fully informed concerning the provisions of the applicable deposit agreement,

(2) Agreements are reached with respect to the services to be provided by the financial institution including the frequency and method of transmittal of checking account statements, and

(3) An agreement is reached with the financial institution regarding the place where the counter-signature will be on the checks.

(c) When possible, Servicing Officials will make arrangements with financial institutions to waive service charges in connection with supervised bank accounts. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) For each borrower, if the amount of any loan and grant funds, plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed \$100,000, the financial institution will be required to pledge collateral for the excess over \$100,000 before the deposit is made (see § 1902.7 of this subpart). If the supervised bank account is a joint account, any amount over the FDIC- or NCUA-insured limit must be collateralized.

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for *Rural Rental Housing* loans where separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of the applicable Deposit Agreement and the Interest-Bearing Deposit Agreement (Exhibit B of this subpart), when applicable, will be executed by the borrower, the financial institution, and a Servicing Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the financial institution and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement, when applicable, will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988; 70 FR 59227, Oct. 12, 2005]

§ 1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

(a) Funds in excess of \$100,000 per financial institution, deposited for borrowers in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank (FRB) in an amount not less than the excess. If the supervised bank account is a joint account, any amount over the FDIC- or NCUA-insured limit must be collateralized.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a financial institution for the supervised bank account, the Servicing Official will contact the financial institution to determine:

(1) That the financial institution selected is insured by the FDIC (banks and savings associations) or NCUA (credit unions).

(2) Whether the financial institution is willing to pledge collateral with the FRB under 31 CFR part 202 (Treasury Circular 176) to the extent necessary to secure the amount of funds being deposited in excess of the FDIC or NCUA insurance limit.

(3) If the financial institution is not a member of the Federal Reserve System, it will be necessary for the financial institution to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the FRB informing them they are holding securities pledged for the supervised bank account under 31 CFR part 202 (Treasury Circular 176).

(c) If the financial institution agrees to pledge collateral, the Servicing Official should complete RD Form Letter 1902-A-2, "Designated Financial Institution—Collateral Pledge", in an original and two copies: The original for the National Office, Policy and Analysis Division; the first copy for the State Office; and the second copy for the Servicing Official. The Rural Development Form Letter 1902-A-2 should be forwarded to the National Office, Policy and Analysis Division, at least 30 days before the date of loan closing.

(d) The National Office, Policy and Analysis Division, will arrange for the financial institution under its designation as a depository and financial agent of the U.S. Government to pledge the requested collateral.

(e) If, two days before loan closing, the local Rural Development office which requested the collateral has not received notification from the National Office, Policy and Analysis Division, that collateral has been pledged, contact should be made with the financial institution to ascertain whether they have pledged collateral with their local FRB under 31 CFR part 202 (Treasury Circular 176). If the financial institution has pledged collateral, the local Rural Development office should contact the National Office, Policy and Analysis Division, who will follow-up with the local FRB concerning the collateral.

(f) When the amount of deposit in the supervised bank account has been reduced to a point where the financial institution desires part or all of the collateral released, it should contact the National Office, Policy and Analysis Division. The local Rural Development office will be contacted for release authorization. The authorization release will be made through the local FRB,

with notification to the financial institution. The local Rural Development office may also request release through the National Office, Policy and Analysis Division.

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988; 53 FR 24437, June 29, 1988; 56 FR 50648, Oct. 8, 1991; 70 FR 59227, Oct. 12, 2005]

§ 1902.8 Authority to establish and administer supervised bank accounts.

Servicing Officials are authorized to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions and redelegate this authority to a person under their supervision who is considered capable of exercising such authority. State Directors will make written demand upon the bank for withdrawals outlined in §1902.16.

[70 FR 59227, Oct. 12, 2005]

§ 1902.9 Deposits.

(a) *Deposit by FmHA or its successor agency under Public Law 103-354 personnel.* (1) Checks made payable solely to the Federal Government or any Agency thereof, and a joint check when the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) Rural Development personnel will accept funds for deposit in a borrower's supervised bank account ONLY in the form of: A check or money order endorsed by the borrower "For Deposit Only;" a check drawn to the order of the financial institution in which the funds are to be deposited; a loan check drawn on the U.S. Treasury; or a Rural Development electronic funds transfer disbursement.

(i) A joint check that is payable to the borrower and Rural Development will be endorsed by the Servicing Official as provided in 7 CFR part 1951, subpart B, Exhibit B, section 4.

(ii) Ordinarily, when deposits are made from funds which are received as the result of consent or subordination agreements or assignments of income, the check should be drawn to the order of the financial institution in which the supervised bank account is established or jointly to the order of the

borrower and Rural Development. All such checks should be delivered or mailed to the Servicing Office.

(3) If direct or insured loan funds or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing after it has been determined that the loan can be closed. However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the financial institution or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(4) Grant funds will be deposited when such funds are delivered.

(5) When funds from any source in the form of cash, check, or money order are deposited by Rural Development personnel in a supervised bank account, a deposit slip will be prepared in an original and two copies with distribution as follows: Original to the financial institution, one copy to the borrower, and one copy for the borrower's case folder. The name of the borrower, the sources of funds, "Subject to Rural Development Countersignature" and, if applicable, the account number, will be entered on each deposit slip.

(6) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the financial institution. The borrower will be notified immediately of any deposit made and will be furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

For deposit only in the supervised bank account of *(name of borrower)* in the *(name of financial institution and address when necessary for identification)* pursuant to Deposit Agreement dated _____.

(7) Accounts established through the use of Interest-Bearing Deposit Agreement will be in the name of the depositor and the Government.

(b) *Deposits by borrowers.* Funds in the form of cash, check, or money order may be deposited in the supervised bank account by the borrower if authorized by Rural Development, provided the financial institution has

§ 1902.10

7 CFR Ch. XVIII (1-1-09 Edition)

agreed that when a deposit is made to the account by other than Rural Development personnel, the financial institution will promptly deliver or mail a copy of the deposit slip to the Rural Development Servicing Office.

(1) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

For deposit only in my supervised bank account in the *(name of financial institution and address when necessary for identification)* pursuant to Deposit Agreement dated _____.

(2) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the Servicing Official and the borrower, whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in § 1902.9 (a)(5) of this subpart.

[46 FR 36106, July 14, 1981, as amended at 70 FR 59227, Oct. 12, 2005]

§ 1902.10 Withdrawals.

(a) The Servicing Official will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits, checks which the Servicing Official knows to be good, or deposited checks which have cleared.

(b) Withdrawals of funds deposited under the applicable deposit agreement are permitted only by order of the borrower and countersignature of authorized FmHA or its successor agency under Public Law 103-354 personnel, or upon written demand on the financial institution by the State Director.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of an Interest-Bearing Deposit Agreement, such funds will be credited to the supervised bank account established through the use of Form FmHA or its successor agency under Public Law 103-354 402-1.

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number of relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous items of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

(1) A check will be issued payable to the appropriate payee but will never be issued to "cash." The purpose of the expenditure will be clearly shown on Form FmHA or its successor agency under Public Law 103-354 402-2 and indicated on the fact of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check, as "miscellaneous."

(2) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances, such as when excessive travel on the part of the borrower or Servicing Official would be involved, or purchase would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the Servicing Official must make it clear to the borrower and to the payee, if possible, that the check will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before counter-signature will bear the following legend in addition to the legend for countersignature: Valid only upon countersignature of Rural Development."

(iii) The check must be presented by the payee or a representative to the Rural Development Servicing Office for the required countersignature.

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of goods or services purchased, or similar information must be indicated on the check.

(3) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services.

(4) Bills of sale, invoices, receipts, or itemized statements may be returned to the borrower with the canceled check for the payment of the bill.

(5) Checks to be drawn on a supervised bank account will bear the legend:

- “Countersigned,” not as co-maker or endorser.

(Title)

Rural Development

[46 FR 36106, July 14, 1981, as amended at 54 FR 47959, Nov. 20, 1989; 70 FR 59227, Oct. 12, 2005]

§ 1902.11 Servicing Office records.

A record of funds deposited in a supervised bank account will be maintained on Form RD 402-2 in accordance with the Forms Manual Insert. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form RD 402-2 so that they can be clearly identified.

[70 FR 59228, Oct. 12, 2005]

§§ 1902.12-1902.13 [Reserved]

§ 1902.14 Reconciliation of accounts.

(a) A checking account statement will be obtained periodically in accordance with established practices in the area. If the checking statement does not include sufficient information to reconcile the account (the name of the payee or the check number and the amount of each check; *i.e.*, a negotiable demand draft drawn on a financial institution), the original cancelled check or either a copy or other reasonable facsimile of the cancelled check must be provided to the Servicing Office

with the statement. Checking account statements will be reconciled promptly with Servicing Office records. The person making the reconciliation will initial the record and indicate the date of the action.

(b) All checking account statements and, if necessary, original cancelled checks or either a copy or other reasonable facsimile of the cancelled checks will be forwarded immediately to the borrower when bank statements and Servicing Office records are in agreement. If a transmittal is used, Form RD 140-4, “Transmittal of Documents”, is prescribed for that purpose.

(c) If the financial institution did not return the original cancelled check(s) to the Agency with the statements, and Rural Development has a need for the original cancelled check(s), the financial institution, upon request by the Agency, will furnish to the Agency the requested original cancelled check(s) or a certified copy or other reasonable certified facsimile of the cancelled check(s) and will provide this service to Rural Development with no fees being assessed the Agency or the Depositor’s account for the service.

[70 FR 59228, Oct. 12, 2005]

§ 1902.15 Closing accounts.

When FmHA or its successor agency under Public Law 103-354 loan or grant funds and those of any other lender or grantor have all been properly expended or withdrawn, Form FmHA or its successor agency under Public Law 103-354 402-6 may be used to give FmHA or its successor agency under Public Law 103-354’s consent (and of another lender or grantor, if involved) to close the supervised bank account in the following situations:

(a) When FmHA or its successor agency under Public Law 103-354 loan funds in the supervised bank account of a borrower have been reduced to \$100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, after completion of authorized loan funds expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower’s loan account

with Rural Development or another lender, as appropriate.

(c) Promptly upon death of a borrower, except when the loan is being continued with a joint debtor, when a borrower is in default and it is determined that no further assistance will be given, or when a borrower is no longer classified as “active.”

(1) *Deceased borrowers.* (i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower’s FmHA or its successor agency under Public Law 103-354 indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(i) Ordinarily, upon notice of the death of a borrower, the Servicing Official will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower’s Rural Development indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of a deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the financial institution will agree to permit the addition of the surviving joint debtor’s name to the existing signature card and the appropriate Deposit Agreement and continue to disburse checks out of the existing account upon FmHA or its successor agency under Public Law 103-354’s countersignature and the joint debtor’s signature in place of the deceased borrower, or

(C) The financial institution will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA or its successor

agency under Public Law 103-354 and the surviving joint debtor and deposit the money in a new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA or its successor agency under Public Law 103-354 official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA or its successor agency under Public Law 103-354 indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances of funds from other lenders to the FmHA or its successor agency under Public Law 103-354 borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA or its successor agency under Public Law 103-354, the lender and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower’s plans approved by FmHA or its successor agency under Public Law 103-354.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the Servicing Official will request the State Director to make demand upon the financial institution for the balance on deposit in the borrower’s supervised bank account for application as appropriate:

(i) To the borrower’s FmHA or its successor agency under Public Law 103-354 indebtedness, or

(ii) As refunds of any unobligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of Rural Development grant funds in accordance with 7 CFR part 1951, subpart B or

(iv) For the return of grant funds to other grantors.

RHS, RBS, RUS, FSA, USDA

Pt. 1902, Subpt. A, Exh. B

(3) *Inactive borrowers.* An inactive borrower is one whose loan has not been paid in full, but is no longer classified as "active."

(4) *Paid up borrowers.* A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to Rural Development and has properly expended all funds advanced by other lenders. In such cases the Servicing Official will:

(i) Notify the borrower in writing that the interests in the account of Rural Development have been terminated, and

(ii) Inform the borrower of the balance remaining in the supervised bank account.

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988; 54 FR 47196, Nov. 13, 1989; 66 FR 1569, Jan. 9, 2001; 70 FR 59228, Oct. 12, 2005]

§ 1902.16 Request for withdrawals by State Director.

When the State Director is requested to make written demand upon the financial institution for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information.

(a) Name of borrower as it appears on the applicable Deposit Agreement.

(b) Name and location of financial institution.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA or its successor agency under Public Law 103-354, the other lender, and the borrower.

(d) Amount to be withdrawn, excluding any service charges, for a refund of FmHA or its successor agency under Public Law 103-354's.

(e) Other pertinent information including reasons for the withdrawal.

§§ 1902.17-1902.49 [Reserved]

§ 1902.50 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the OMB

and have been assigned OMB Control Number 0575-0158.

[70 FR 59228, Oct. 12, 2005]

**EXHIBIT A TO SUBPART A OF PART 1902
[RESERVED]**

**EXHIBIT B TO SUBPART A OF PART 1902—
UNITED STATES DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354—INTEREST-BEARING DEPOSIT AGREEMENT**

BECAUSE certain funds of _____ referred to as the "Depositor," are now on deposit with the _____, referred to as the "Financial Institution," under a Deposit Agreement, dated _____, 20____, providing for supervision by the United States of America, acting through the Farmers Home Administration or its successor agency under Public Law 103-354, referred to as the "Government," which Deposit Agreement grants to the Government security and/or other interest in the funds covered by that Deposit Agreement, and

BECAUSE certain of these funds are not now required for immediate disbursement and it is the desire of the Depositor to place these funds in interest-bearing deposits with the Financial Institution:

THEREFORE, the Depositor and the Government authorize and direct the Financial Institution to place _____ Dollars (\$_____) of the funds subject to that Deposit Agreement in interest-bearing deposits as follows:

\$ _____ for a period of _____ months at _____ % interest.

\$ _____ for a period of _____ months at _____ % interest.

\$ _____ for a period of _____ months at _____ % interest.

These interest-bearing deposits and the income earned on them at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion of the balance, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration or its successor agency under Public Law 103-354.

A copy of this Agreement shall be attached to and become a part of each certificate, passbook, or other evidence of deposit that

Pt. 1910

may be issued to represent such interest-bearing deposits.

Executed this _____ day of _____, 20____.

UNITED STATES OF AMERICA

By: _____

County Supervisor
Farmers Home Administration or its successor agency under Public Law 103-354
U.S. Department of Agriculture

(Depositor)

By: _____

Title: _____
Accepted on the above terms and conditions this _____ day of _____, 20____.

(Financial Institution)

(Office or Branch)

By: _____

Title: _____

[53 FR 35671, Sept. 14, 1988, as amended at 55 FR 21524, May 25, 1990; 70 FR 59228, Oct. 12, 2005]

Subparts B-C [Reserved]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL) [RESERVED]

PART 1910—GENERAL

Subpart A [Reserved]

Subpart B—Credit Reports (Individual)

- Sec.
- 1910.51 Purpose.
- 1910.52 [Reserved]
- 1910.53 Policy.
- 1910.54-1910.100 [Reserved]

Subpart C—Commercial Credit Reports

- 1910.101 Preface.
- 1910.102-1910.150 [Reserved]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

SOURCE: 43 FR 56643, Dec. 4, 1978, unless otherwise noted.

Subpart A [Reserved]

7 CFR Ch. XVIII (1-1-09 Edition)

Subpart B—Credit Reports (Individual)

SOURCE: 49 FR 40790, Oct. 18, 1984, unless otherwise noted.

§ 1910.51 Purpose.

This subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 for individual and joint type credit reports. Credit reports will be ordered to determine the eligibility of applicants requesting Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 loans. A non-refundable fee will be charged the applicant. This subpart is inapplicable to Farm Service Agency, Farm Loan Programs.

[55 FR 46188, Nov. 2, 1990, as amended at 72 FR 64122, Nov. 18, 2007]

§ 1910.52 [Reserved]

§ 1910.53 Policy.

The County Supervisor will be responsible for ordering individual credit reports. These will be obtained on initial and rescheduled Farmer Program loans and on all initial Single Family Housing applications, except for those situations outlined in paragraph (c) of this section, to help determine the eligibility of the loan applicant, and when it appears the credit report will not have to be updated before loan closing.

[55 FR 46188, Nov. 2, 1990]

§§ 1910.54-1910.100 [Reserved]

Subpart C—Commercial Credit Reports

SOURCE: 52 FR 6498, Mar. 4, 1987, unless otherwise noted.

§ 1910.101 Preface.

FmHA or its successor agency under Public Law 103-354 Instruction 1910-C (available in any Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 office) describes the procedure to be used by FMHA in obtaining commercial credit reports. A nonrefundable fee, set forth in §1910.106(d) of this Instruction will