

the Administrator determines that application of the requirement or provision would adversely affect the Government's interest and show how the adverse impact will be eliminated or minimized if the exception is made.

[55 FR 135, Jan. 3, 1990]

§ 1942.349 Forms, guides, and attachments.

Exhibit A of subpart H of part 1942 of this chapter, guides 1 and 2 of this subpart, attachment 1 and Forms referenced (all available in any FmHA or its successor agency under Public Law 103-354 office) are for use in administering RBE/television demonstration grants.

[53 FR 30250, Aug. 11, 1988, as amended at 57 FR 33101, July 27, 1992]

§ 1942.350 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0132. Public reporting burden for this collection of information is estimated to vary from one-half to 40 hours per response, with an average of 1.8 hours per response including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[57 FR 33101, July 27, 1992]

GUIDES TO SUBPART G

GUIDE 1—PROJECT MANAGEMENT AGREEMENT BETWEEN THE _____ REGIONAL COMMISSION AND THE FARMERS HOME ADMINISTRATION OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354, DEPARTMENT OF AGRICULTURE

(Grantee) _____

County, _____
Page No. ____

I. Introduction

A. The _____ Regional Commission is providing a (basic or supplemental) grant for (purpose) _____ to (grantee) _____, and the U.S. Department of Agriculture, Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 has approved and will administer that grant. The FmHA or its successor agency under Public Law 103-354 has determined that funds (can or cannot) be made available under its funding program for this fiscal year for the project. The project does meet all the requisites for assistance under section 310(B) of the Consolidated Farm and Rural Development Act, as amended (7 USC 1926). In order to accomplish these purposes, the _____ Regional Commission's Federal Cochairman and the FmHA or its successor agency under Public Law 103-354 State Director hereby enter into this Memorandum of Understanding which is in accordance with the 31 USC 686.

B. This agreement is intended to cover the application phase, construction phase, and final audit.

II. General

A. *Project Cost*

The project costs for the purposes of this agreement shall include the costs of construction, technical services, legal services, land acquisition, permits and rights-of-way, interest during construction and contingencies.

B. *Grant*

The _____ Regional Commission shall make a (basic or supplemental) grant of \$_____ up to but not exceeding ____% of the total cost of the project. These funds will be transferred to the Treasury Account of the Farmers Home Administration or its successor agency under Public Law 103-354 by Standard Form 1151, "Nonexpenditure Transfer Authorization."

C. The undersigned FmHA or its successor agency under Public Law 103-354 State Director on behalf of FmHA or its successor agency under Public Law 103-354, in concurring to this Project Management Agreement, hereby assures the Federal Cochairman that:

- 1. The estimated cost of the project is reasonable and the (basic or supplemental) grant, with the funds to be supplied by the applicant, are, in its judgment, sufficient to complete the project.
- 2. The funds to be supplied by the applicant are available or FmHA or its successor agency under Public Law 103-354 is reasonably satisfied that the applicant has the capability of supplying such funds.

- 3. FmHA or its successor agency under Public Law 103-354 is reasonably satisfied that the facility will be properly and efficiently administered, operated, and maintained and that the applicant will provide sufficient funds to assure the successful and continuing operation of the facility.
- D. The (grantee) _____ is subject to Executive Order 11246 and will be required to evidence compliance by execution of the following:
 - 1. Equal Opportunity Agreement—Form FmHA or its successor agency under Public Law 103-354 400-1
 - 2. Nondiscrimination Agreement—Form FmHA or its successor agency under Public Law 103-354 400-4
- E. The (grantee) _____ shall execute assurances of nonrelocation. (If applicable.)

III. Construction Management

- A. The forms and format for the documents shall conform to the requirements in Subpart A of Part 1942 of this chapter. Generally, the following items shall be included:
 - 1. Contract Documents
 - 2. Specifications
 - 3. Plans
- B. FmHA or its successor agency under Public Law 103-354 will approve the plans and specifications.
- C. FmHA or its successor agency under Public Law 103-354 will obtain a certification of adequacy from the Federal Environmental Protection Agency (include only when applicable).
- D. FmHA or its successor agency under Public Law 103-354 will obtain a non-pollution certificate from the (state) _____ (agency) _____ (include only when applicable).
- E. FmHA or its successor agency under Public Law 103-354 will make monthly inspections.
- F. Contract change orders will not become effective until approved by FmHA or its successor agency under Public Law 103-354.
- G. Final inspection will be conducted by FmHA or its successor agency under Public Law 103-354.

IV. Financial Management

- A. Financial management of the project shall be according to Subpart A of Part 1942 of this chapter.
- B. FmHA or its successor agency under Public Law 103-354 will provide the _____ Regional Commission with a copy of the audit report.
- C. If actual costs fall below the costs on which the grant was calculated, the Federal and non-Federal shares will be reduced proportionately.
- D. FmHA or its successor agency under Public Law 103-354 will conform to the fi-

nancial reporting requirements for transferred funds as required by the attached copy of "Reporting of Funds Transfer by Participating Agencies."

V. Compensation

Services rendered by FmHA or its successor agency under Public Law 103-354 for the processing and administration of Commission grants in cases where neither FmHA or its successor agency under Public Law 103-354 loan nor grant funds are involved shall be on a reimbursable basis. Reimbursement will be based on five percent of the amount of the grant up to \$50,000 and an additional one percent of any amount over the first \$50,000 of the Commission grant. The full amount of the reimbursement will be transferred to FmHA or its successor agency under Public Law 103-354 at the time the grant funds are transferred to FmHA or its successor agency under Public Law 103-354.

VI. No provision in this agreement shall abrogate the legal requirements of administrative responsibilities as set forth in the Consolidated Farm and Rural Development Act or section 509 of the Public Works and Economic Development Act of 1965, as amended.

For the _____ Regional Commission
(name) _____
Federal Cochairman _____
_____, 197_

For the Farmers Home Administration or its
successor agency under Public Law 103-354,
USDA
(name) _____
State Director _____
_____, 197_

GUIDE 2—RESOLUTION

Whereas the _____ (hereinafter called public body) desires to obtain financial assistance from the Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture, pursuant to section 310 B of the Consolidated Farm and Rural Development Act, for the purpose of providing _____ (describe briefly the nature of the project) _____ (herein referred to as the facility) and as a condition to and in consideration of receiving financial assistance from the Farmers Home Administration or its successor agency under Public Law 103-354 this resolution is being adopted.

Therefore, in consideration of the premises the public body agrees as follows:

- 1. No private business enterprises shall be allowed to use or occupy the facility if such use or occupancy would be calculated to, or is likely to, result in the transfer from one area to another of any employment or business activity provided by operations of the private business enterprises. This limitation

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shall not be construed to prohibit use and enjoyment of the facility by such private business entity through the establishment of a new branch, affiliate, or subsidiary if the establishment of such branch, affiliate, or subsidiary will not result in the increase in unemployment in the area of original location (or in any other area where such entity conducts business operations), unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location (or in any other area where it conducts such operation).

2. No private business enterprises shall be allowed to use or occupy the facilities if such use or occupancy would be calculated to, or is likely to, result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, where there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the sufficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse affect upon existing competitive enterprises in the area.

3. Prior to allowing the use or occupancy of the facilities by any private business enterprise, the public body shall clear such use or occupancy with the Manpower Administration, Department of Labor, Washington, DC, by submitting information required by the Department of Labor for certification under the Act. This information shall be submitted to Farmers Home Administration or its successor agency under Public Law 103-354 for transmittal to the Department of Labor. The public body agrees to make no final commitment with any private business enterprise regarding such use or occupancy if the Department of Labor issues a negative certification under the Act. The public body shall obtain prior clearance in this matter for a period of three years after the date of an affirmative certification by the Department of Labor on the application for financial assistance now pending before the Farmers Home Administration or its successor agency under Public Law 103-354.

This resolution shall be in force and effect immediately.

The voting was yeas ____, nays ____, absent ____.
(Name of public body) _____
by (Name and Title) _____

Certification

I the undersigned as (Secretary) (Town Clerk) of the _____ do hereby certify that the foregoing resolution was duly adopted at a meeting of _____ duly called and held on the _____ day of _____ 19__, and that such resolution has not been re-

scinded or amended in any way. Dated this _____ day of ____, 19__.

(Seal)

(Town Clerk) (Secretary) of

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

SOURCE: 57 FR 21195, May 19, 1992, unless otherwise noted.

§ 1942.351 General.

(a) This subpart outlines the policies and authorizations and sets forth the procedures for making and processing grants to assist in financing the development cost of domestic water and waste disposal systems for rural communities. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an FmHA or its successor agency under Public Law 103-354 employee. Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 will maintain continuous liaison and coordination with State and substate planning district officials. FmHA or its successor agency under Public Law 103-354 shall cooperate fully with appropriate State agencies in making grants in a manner which will assure maximum support of the State's strategies for development of rural areas.

(b) Indian tribes on Federal and State reservations and other Federally recognized Indian tribes are eligible to apply and are encouraged to participate in this program. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this subpart that affect applicant eligibility, the adequacy of FmHA or its successor agency under Public Law 103-354's security or the adequacy of service to users of the facility, and all