

§ 1951.708

§ 1951.708 Notification to recipient.

(a) Upon determination that unauthorized assistance was received, Rural Development will send a demand letter to the recipient that:

(1) Specifies the amount of unauthorized assistance, including any accrued interest to be repaid, and the standards for imposing accrued interest;

(2) States the amount of penalties and administrative costs to be paid, the standards for imposing them, and the date on which they will begin to accrue;

(3) Provides detailed reason(s) why the assistance was determined to be unauthorized;

(4) States the amount is immediately due and payable to Rural Development;

(5) Describes the rights the recipient has for seeking review of Rural Development's determination pursuant to 7 CFR part 11;

(6) Describes the Agency's available remedies regarding enforced collection, including referral of debt delinquent more than 180 days for Federal salary, benefit, and tax offset under the Department of Treasury Offset Program (TOP); and

(7) Provides an opportunity for the recipient to meet with Rural Development to provide facts, figures, written records, or other information which might refute Rural Development's determination.

(b) If the recipient meets with Rural Development, Rural Development will outline to the recipient why the assistance was determined to be unauthorized. The recipient will be given an opportunity to provide information to refute Rural Development's findings. When requested by the recipient, Rural Development may grant additional time for the recipient to assemble documentation. Such extension of time for payment will be valid only if Rural Development documents the extension in writing and specifies the period in days during which period the payment obligation created by the demand letter (but not the ongoing accrual of interest) will be suspended. Interest and other charges will continue to accrue pursuant to the demand letter during any extension period unless the terms of the demand letter are modified in writing by Rural Development.

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(c) Unless Rural Development modifies the original demand, it will remain in full force and effect.

§ 1951.709 Decision on servicing actions.

(a) *Payment in full.* If the recipient agrees with Rural Development's determination or will pay the amount in question, Rural Development may allow a reasonable period of time (usually not to exceed 90 days) for the recipient to arrange for repayment. The amount due will be determined according to § 1951.707.

(b) *Continuation with recipient.* If the recipient agrees with Rural Development's determination or is willing to pay the amount in question but cannot repay the unauthorized assistance within a reasonable period of time, continuation is authorized and servicing actions outlined in § 1951.711 may be taken provided all of the following conditions are met:

(1) The recipient did not provide false information as defined in § 1951.702.

(2) It would be highly inequitable to require prompt repayment of the unauthorized assistance.

(3) Failure to collect the unauthorized assistance in full will not adversely affect Rural Development's financial interest.

(c) *Appeals.* Appeals resulting from the letter prescribed in § 1951.708 will be handled according to 7 CFR Part 11. All appeal provisions will be concluded before proceeding with further actions.

(d) *Liquidation of loan(s) or legal action to enforce collection.* When a case cannot be handled according to the provisions of paragraph (a) or (b) of this section, or if the recipient refuses to execute the documents necessary to establish an obligation to repay the unauthorized assistance as provided in § 1951.711, one or more of the following actions will be taken:

(1) *Active borrower with a secured loan.*
(i) Rural Development will attempt to have the recipient liquidate voluntarily. If the recipient does not agree to voluntary liquidation, or agrees but it cannot be accomplished within a reasonable period of time (usually not more than 90 days), forced liquidation action will be initiated in accordance