AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Totals .....No. _____ $_____

V. Project summary:

	No. homeowners	HPG funds	Other
Assistance objectives of project	.....	$_____	$_____
Assistance to date	.....	_____	_____
Assistance during next period	.....	_____	_____
Average amount of HPG assistance.			
Per unit provided (program to date) (per unit)	$_____		

VI. Narrative:

A. Significant accomplishments.

B. Problem areas.

C. Proposed changes/assistance needed, etc.

D. Status of implementing environmental and historic preservation requirements. Include number of historic properties assisted.

PART 1946 [RESERVED]

PART 1948—RURAL DEVELOPMENT

Subpart A [Reserved]

Subpart B—Section 601 Energy Impacted Area Development Assistance Program

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EXHIBIT B TO SUBPART B OF PART 1948—GRANT AGREEMENT (PUBLIC BODIES) FOR SITE DEVELOPMENT AND/OR SITE ACQUISITION FOR HOUSING AND/OR PUBLIC FACILITIES AND/OR SERVICES

Subpart C [Reserved]

AUTHORITY: 5 U.S.C. 301, 7 U.S.C. 1932 note.

EDITORIAL NOTE: Nomenclature changes to part 1948 appear at 80 FR 9888, Feb. 24, 2015.

Subpart A [Reserved]

Subpart B—Section 601 Energy Impacted Area Development Assistance Program

AUTHORITY: Sec. 601, Pub. L. 95–620, delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

SOURCE: 44 FR 35984, June 19, 1979, unless otherwise noted.

§ 1948.51 General.

This subpart sets forth policies and procedures for designation, approval of designation, and making grants for assistance to areas impacted by increased

coal and uranium production, processing, or transportation. The Rural Development will fully consider all A–95 clearing-house review comments and recommendations in selecting applications for funding. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Rural Development 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 a Rural Development employee.

[44 FR 35984, June 19, 1979, as amended at 58 FR 228, Jan. 5, 1993]

§ 1948.52 Objectives.

The objective of the program is to help areas impacted by coal or uranium development activities by providing assistance for the development of growth management and housing plans and in developing and acquiring sites for housing and public facilities and services.

§ 1948.53 Definitions.

(a) *Approved designated area.* A group of counties, a county, or a part of a county designated as an energy impacted area by the Governor of a State and approved by the Secretary of Energy.

(b) *Available financial resources.* All existing financial resources which could be used for impact assistance including Federal, State, and local financial resources and financial resources accruing to States and local governments as a result of coal or uranium development activity and not already committed to other programs by low or historical precedent.

(c) *Coal.* Coal means anthracite and bituminous coal, lignite, and any fuel derivative thereof.

(d) *Coal or uranium development activities.* The production, processing, or transportation of coal or uranium.

(1) Production includes the mining of coal or uranium and all mine site operations connected with such mining operations and processing activities. This includes construction activities on mine sites relating to mining, production, and processing.

(2) Processing includes all operations performed on coal or uranium including construction of processing plants. However, processing does not include conversion into electrical energy.

(3) Transportation which directly relates to the production and processing of coal or uranium including transportation networks in the county of origin of the coal or uranium and counties of processing of coal and uranium. This includes transportation depots along transportation networks that are used primarily for the transfer of coal or uranium for domestic consumption. This also includes unit train rolling stock construction and repair facilities.

(e) *Condemnation by U.S. Department of Agriculture (USDA).* The use of Federal authority by the Secretary of Agriculture to condemn real property.

(f) *Council of local governments.* An areawide development organization which includes one or more local governments servicing at least a portion of an approved designated area. Such organization must either have a policymaking body made up of a majority of local elected officials.

(g) *Eligible employment.* Full time work related to coal or uranium development activities.

(h) *Eligible employment facility.* A coal or uranium mine, processing plant, or transportation depot.

(i) *Energy impacted areas.* An area where coal and uranium development activities have a significant impact on the socio-economic structure of the area and which meet the criteria set out at § 1948.68 of this subpart.

(j) *Fair market value.* The price at which a property will sell in the open market allowing a reasonable period of time for typical, fully-informed buyers and sellers to react, assuming that the purchaser and seller are both willing participants in the transaction.

(k) *Grantee.* An entity with whom FmHA or its successor agency under Public Law 103–354 has entered into a grant agreement under this program.

(l) *Growth management planning.* Planning for the orderly development of an approved designated area. This planning includes, but is not limited

to: Planning for provision of resources to support housing, public facility needs, sewer and water needs; planning for the provision of additional public services needed; overall plans for the coordinated development of all approved designated areas within a State; the development of State Investment Strategies for Energy Impacted Areas; and coordination of development of approved designated areas at the interstate level where impact is interstate in nature.

(m) *Housing planning.* Identification of present and future housing needs within an approved designated area and providing methods for developing needed housing. This planning includes, but is not limited to the identification of: housing sites; housing site development needs; data and resource needs; funding needs; acquisition methods; and agencies of government responsible for delivery of housing services.

(n) *Industry reports.* Those reports concerning production, expected production, and employment within an approved designated area which are requested by the Governor and submitted by a person to the Secretary of Energy.

(o) *Local government.* Any county, parish, city, town, township, village, or other general purpose political subdivision of a State with the power to levy taxes and expend Federal, State, and local funds and exercise governmental powers and which is located in, or has authority over, the energy impact area. With the concurrence of the Governor, the term may also include such school, water, sewer, highway, or other public special purpose districts or authorities, or public or private nonprofit corporations as may be appropriate to carry out the purpose for which a grant is being made. These corporations or special purpose districts or authorities may apply (including applications previously received) for grants from fiscal year 1981 and earlier fiscal year funds only.

(p) *Person.* Any corporation, individual, partnership, company, association, firm, institution, society, trust, joint venture, or joint stock company, any State or any agency or instrumentality thereof.

(q) *Public facilities.* Installations open to the public and used for the public welfare. This includes but is not limited to: hospitals, clinics, firehouses, parks, recreation areas, sewer plants, water plants, community centers, libraries, city or town halls, jailhouses, courthouses, and schoolhouses.

(r) *Public services.* The provision to the public of services such as: health care, fire and police protection, recreation, etc.

(s) *Site.* A site is a plot of land which is suitable or can be made suitable for providing housing, public facilities, or services.

(t) *Site acquisition.* Obtaining legal title to a site (or sites) or obtaining leaseholds or other interests in land, by an instrumentality of a state or local Government, or by Rural Development, for housing, public facilities, or services.

(u) *Site development.* Site restoration, necessary off-site improvements and such on-site improvements as the construction of sewerage collection and water distribution lines (does not include individual taps) and construction of access roads; but does not include the construction of houses or public facilities.

(v) *Site restoration.* On-site improvements to the real property (such as backfilling, compacting, grading and leveling) necessary for the construction of houses and public facilities.

(w) *State.* Any of the fifty States, Puerto Rico, and any territory or possession of the United States.

(x) *State Investment Strategy for Energy Impacted Areas.* The investment strategy for the development of approved designated areas within a State as proposed by the Governor and approved by Rural Development.

(y) *Substandard housing.* All housing units which do not have complete plumbing fixtures, lack adequate heating systems, are not structurally sound, or contain any other conditions that would cause a safety, sanitary, or health hazard to the family or community.

[44 FR 35984, June 19, 1979, as amended at 45 FR 26943, Apr. 22, 1980; 46 FR 33021, June 26, 1981]

§ 1948.54 Eligible applicants.

Organizations eligible for grants include local governments, councils of

local government, and State governments that have the leval authority necessary to undertake the proposed project.

[46 FR 33022, June 26, 1981]

§ 1948.55 Source of funds.

(a) Grants will be awarded from appropriate funds specifically allocated for this program.

(b) Grants made for growth management and housing planning may equal but will not exceed 10 percent of the total amount of funds appropriated for and allocated to this program.

§ 1948.56 Program purposes.

(a) Rural Development will make grants for assistance to approved designated areas in accordance with criteria contained in this subpart by providing assistance to fill gaps in growth management and housing planning, and to provide supplementary support for acquisition and development of sites for housing and public facilities and services by States, local governments, and councils of local government.

(b) Efforts will be made to provide comprehensive assistance to approved designated areas through the coordination power of the Secretary of Agriculture by utilizing existing plans, State and local programs, and other Federal programs to the maximum extent possible. Particular attention will be given to the utilization of existing Rural Development authorities under other Rural Development programs in conjunction with this subpart for providing assistance to approved designated areas in accordance with the Governor's approved State Investment Strategy for Energy Impacted Areas.

(c) Where existing plans are unsuitable or nonexistent, and other assistance programs are inadequate or unavailable on a timely basis, Rural Development will provide assistance under this subpart to States, councils of local governments, and local governments for the modification, updating, and/or development of growth management and/or housing plans to deal with problems resulting from coal or uranium development within approved designated areas according to the criteria contained in this subpart.

(d) Where needed, Rural Development will provide assistance for the development of sites and/or the acquisition of sites for housing and public facilities and services within approved designated areas according to the criteria contained in this subpart. Such assistance for site development and acquisition will be made in accordance with Rural Development approved plans and State Investment Strategies for Energy Impacted Areas in accordance with the criteria contained in the subpart.

(e) At the request of the Governor of the appropriate State, Rural Development will take action to acquire real property directly for sites for housing and/or public facilities and services in accordance with procedures set forth in this subpart.

(f) At the request of the Governor of the appropriate State, where neither the State nor local government has power to do so for this purpose, Rural Development may take action through condemnation to acquire real property for sites necessary for housing, public facilities, or services.

§ 1948.57 Eligible activities.

Grant Funds may be used for:

(a) The preparation of growth management and/or housing plans (or aspects thereof) for which financial resources are not available for approved designated areas as set forth in the grant agreement, including but limited to:

(1) One hundred percent of the total cost of developing growth management and/or housing plans.

(2) One hundred percent of the cost of developing aspects of growth management plans and/or housing plans including but not limited to:

(i) Sewer plans;

(ii) Water plans;

(iii) Recreation plans;

(iv) Transportation plans;

(v) Education plans; and

(vi) Subdivision plans.

(3) Payment of salaries of professional, technical, and clerical staff to carry out growth management and housing planning and evaluation;

(4) Payment of necessary reasonable office expenses such as office rental, office utilities, and office equipment rental;

(5) Purchase of office supplies;

(6) Payment of necessary reasonable administrative posts, such as workmen's compensation, liability insurance, and employer's share of social security and travel; and

(7) Payment of costs to undertake tests, make appraisals, and arrange for engineering/architectural services necessary for the planning activity.

(b) Up to 75 percent of the actual cost of developing or acquiring sites for housing, public facilities, or services for which financial resources are otherwise not available as set forth in the grant agreement, including but not limited to:

(1) Necessary grading and leveling;

(2) Sewer and water connections;

(3) Necessary water and sewer lines to housing and public facilities sites;

(4) Access roads to housing and public facilities sites;

(5) Restoring previously mined sites;

(6) Necessary engineering reports in connection with site development;

(7) Payment of costs to undertake tests, make appraisals, and engineering/architectural services necessary for the site development and/or site acquisition;

(8) Necessary legal fees involved in the transfer of the real property.

§ 1948.58 [Reserved]

§ 1948.59 Ineligible activities.

(a) Growth management and housing planning grant funds may not be used for:

(1) Acquisition, construction, repair, or rehabilitation of existing housing and public facilities;

(2) Replacement of, or substitution for, any financial support previously provided or assured from any other source which would result in a reduction of current efforts on the part of the applicant;

(3) Duplication of current services;

(4) Routine administrative activities not allowed under Federal Management Circular FMC 74–4, ''Cost Principles Applicable to Grants and Contracts with State and Local Governments;''

(5) Planning for areas other than approved designated areas;

(6) Planning other than growth management and housing planning; or

(7) Political activities.

(b) Grant funds for site development may not be used for:

(1) Construction, repair, or rehabilitation of housing and public facilities;

(2) Replacement of, or substitution for, any financial support previously provided or assured from any other source which would result in a reduction of effort on the part of the applicant;

(3) Administrative expenses not allowed under FMC 74–4;

(4) Purposes for which funding exists under other State or Federal programs that may reasonably be obtained on a timely basis by the applicants;

(5) Duplication of current services; or

(6) Political activities.

§ 1948.60 Delegation and redelegation of authority.

The Rural Development State Director is responsible for implementing the authorities contained in this subpart and may issue State supplements redelegating these authorities to appropriate Rural Development employees.

§ 1948.61 State supplements and guides.

Rural Development State Directors will obtain National Office clearance for all State supplements and guides in accordance with paragraph VIII of RD Instruction 2006–B, (available in any Rural Development office).

(a) *State supplements.* State Directors may supplement this subpart as appropriate to meet State and local laws and regulations and to provide for orderly application processing and efficient service to applicants. State supplements shall not contain any requirements pertaining to designations, designation approval, or plan approvals more restrictive than those in this subpart.

(b) *State guides.* State Directors may develop guides for use by applicants if the guides to this subpart are not adequate. State Directors may prepare guides for: items needed for the application; items necessary for the docket;

and items required prior to grant closing or construction starts.

[44 FR 35984, June 19, 1979, as amended at 80 FR 9888, Feb. 24, 2015]

§ 1948.62 Environmental impact requirements.

(a) Issuance of grants and other actions taken under this subpart must comply with the environmental review requirements in accordance with 7 CFR part 1970.

(b) Subsequent to an energy impact area designation by the Governor and establishment of priorities, the Rural Development State Director, in consultation with the Governor, shall define the geographic boundaries or otherwise delineate the areas which will be studied for environmental impacts.

(c) Boundaries shall define the area within which the environmental impacts of the proposed action can be reasonably studied. Proper delineation of impact areas will avoid duplication of effort by using one assessment or impact statement to study a broad area rather than numerous overlapping documents prepared for smaller projects.

[44 FR 35984, June 19, 1979, as amended at 49 FR 3764, Jan. 30, 1984; 81 FR 11032, Mar. 2, 2016]

§ 1948.63 Historic preservation requirements.

The policies and regulations contained in part 1901, subpart F, of this chapter apply to this program.

§ 1948.64 Equal opportunity requirements.

The policies and regulations contained in part 1901, subpart E, of this chapter apply to grants made under this program.

§ 1948.65 Relocation Act requirements.

The policies and regulations contained in title 7, subtitle A, part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) will apply to site development and acquisition grants and other actions under this program.

§ 1948.66 [Reserved]

§ 1948.67 Procedure for designation.

(a) Local governments may request the Governor of the State in which they are located to designate an area served by them as an energy impacted area.

(b) The Governor will define the geographic area of a designated area consistent with the nature of the impact and the socio-economic integration of the area.

(c) The Governor may designate an area as an energy impacted area based on the criteria contained in this subpart.

§ 1948.68 Criteria for designation.

(a) An area designated by the Governor must have the following characteristics:

(1) During the most recent calendar year, the eligible employment in coal or uranium development activities within the area has increased by eight percent or more from the preceding year, or such employment (as projected by generally acceptable estimates) will increase by eight percent (of the eligible employment in the year of the designation) or more per year during each of the next three calendar years.

(2) Because of increased employment in coal or uranium development activities, a shortage of housing, inadequate public facilities, or services exists or will exist in the area. Such shortages or inadequacies may be demonstrated by: Housing shortage statistics; higher occupancy rates of substandard houses than has historically occurred within the area; an increase (for which data or projected data is available) in eligible employment from the year of the designation of at least 100 workers and one-half of one percent of the designated area's population; or data showing that available public facilities and services in the area are below generally accepted standards due to the increased demand resulting from coal and uranium development activities.

(3) Available State and local financial resources are inadequate to meet the public need for housing or public facilities and services at present or in the next three years. In making this

determination the Governor should consider the following:

(i) State revenue increases resulting from coal and uranium development activity based on existing tax laws;

(ii) Federal funds transferred to the State for impact assistance;

(iii) Local revenue increases resulting from coal or uranium development activities based on existing tax laws;

(iv) Other federal financial assistance to which the area may have access;

(v) All other available State and local sources of funding;

(vi) The time during which the resources will be available;

(vii) Existing laws committing increases in State and local revenues and Federal transfers to purposes other than impact assistance; and

(viii) The estimated cost of development based on the best available informed judgment.

(b) Designations submitted to the Secretary of Energy for approval must have the following attached:

(1) A list of all counties and parts of counties covered by the designation;

(2) If the area is smaller than a county, a map showing the boundary of the area and the approximate location of all eligible employment facilities in the area and nearby;

(3) A written justification for the inclusion of an area if the area is smaller than a county;

(4) The level of eligible employment within the designated area for each of the two most recent calendar years. This data should be obtained from a single source for the entire State, if possible; special surveys may be used when the Governor determines that these more accurately reflect employment conditions within the designated area, or in cases where data from other sources for the most recent calendar year is unavailable at the time of designation. Reference should be made to the data sources used if it is a Federal source; if a non-Federal sources is used, a copy of the source and a brief description of the procedures used for justification should be included. If projections of eligible employment are to be considered, projections of such employment for the next three years must be attached; identification of data sources and methodology used in developing those projections and a copy of any survey data used should be included.

(c) In areas where the impacted area covers counties or parts of counties located in more than one State, the Governors of the affected States may jointly designate such area and submit the designation to the Secretary of Energy for approval.

(d) After examining these factors and determining that the area meets the criteria of (a) above, the Governor may so certify in a letter bearing his or her signature and submit the letter of certification with all data and estimates upon which the designation is based to the Secretary of Energy for approval.

(e) Each designation submitted should have the name and phone number of a contact person in the Governor's designating office.

(f) An original and one copy of the designation should be submitted to the Secretary of Energy, Department of Energy, Mail Stop 8G–031, Forrestal Building, Washington, DC 20585.

(g) Two copies of all designations submitted for approval shall be submitted to the appropriate Rural Development State Director. The Rural Development State Director shall forward one copy to the Office of Area Development Assistance in the Rural Development National Office.

(h) The Governor should designate all areas expected to be considered in fiscal year 1979 allocations of funds before July 1, 1979.

[44 FR 35984, June 19, 1979, as amended at 46 FR 33022, June 26, 1981]

§ 1948.69 [Reserved]

§ 1948.70 Designation approval.

Upon receipt of a request for approval of a designation made under this section, the Secretary of Energy shall:

(a) Determine to the best of his ability the consistency of the supporting data submitted along with the designation by the Governor;

(b) Confer with Rural Development on approval;

(c) Notify the Governor and the Under Secretary for Rural Development of action taken on each designation within 30 calendar days of the receipt of a request for approval;

(d) Consult with the Governor before the disapproval of any designation; and

(e) Publish a description in the FEDERAL REGISTER of all designated areas approved within 30 days of their approval.

§ 1948.71 [Reserved]

§ 1948.72 Industry reports.

Any person regularly engaged in any coal or uranium development activity within an area designated and approved in accordance with this subpart, shall prepare and transmit a report to the Secretary of Energy, Department of Energy, Mail Stop 8G–031, Forrestal Building, Washington, DC 20585 within 90 days after a written request to such person by the Governor of the State in which such area is located.

(a) The report shall contain:

(1) Projected levels of employment in coal or uranium development activities within the approved designated area for the next three calendar years;

(2) The projected number of new jobs to be created in coal or uranium development activities by the person within the approved designated area in each of the following three calendar years;

(3) Current or planned actions of the person in relation to the provision of housing or public facilities for such person's employees in the next three calendar years;

(4) Contracts in force whereby the person intends to provide funds to State government, local governments, and public or private nonprofit organizations for the provision of housing or public facilities for such person's employees; and

(5) The projected quantity of coal or uranium to be produced, processed, or transported by the person in each of the next three years.

(b) The Governor requesting the report will notify the Secretary of Energy of persons from whom reports have been requested.

(c) The Secretary of Energy shall provide a copy of these reports to the Secretary of Agriculture, the appropriate Governor, and the appropriate county or local officials, and make it available for public inspection and copying in the public reading room of the Department of Energy, Room GA152, Forrestal Building, Washington, DC 20585.

§§ 1948.73–1948.77 [Reserved]

§ 1948.78 Growth management and housing planning projects.

(a) Existing plans for growth management and housing may be used to meet the planning requirements of this subpart.

(b) A reasonable effort should be made to modify existing plans for use in meeting the planning requirements of this section.

(c) The Governor shall be responsible for the coordination of planning within a State.

(d) The planning process developed with assistance under this section should begin at the local level and flow upward to the State.

(e) Planning processes developed with assistance under this section should have the maximum possible citizen involvement in the development of plans.

(f) Governors should give full consideration to local and substate priorities in the development of the State Investment Strategy for Energy Impacted Areas.

(g) Plans developed with assistance under this section should be fully coordinated with other Federal, State, substate, and local planning activities affected by the project.

(h) Planning conducted by the State include effective management activities for coordinated development of approved designated areas through the plan implementation stage.

[44 FR 35984, June 19, 1979, as amended at 48 FR 29121, June 24, 1983]

§ 1948.79 Application procedure for planning grants.

(a) Applicants may submit a preapplication for a planning grant upon designation of the area as an energy impacted area by the Governor. Rural Development will not take final action on the preapplication until the designation has been approved by the Secretary of Energy.

(b) Intergovernmental consultation should be carried out in accordance with 7 CFR part 3015 subpart V, ''Intergovernmental Review of Department of Agriculture office.''

(c) Applicants shall file an original and one copy of SF 424.1, ''Application for Federal Assistance (For Non-construction),'' with the appropriate Rural Development office. A copy should also be filed with the Governor's office of the appropriate State. This form is available in all Rural Development offices. Local governments and councils of local governments shall submit preapplications to the appropriate Rural Development District Office. State governments shall apply to the appropriate Rural Development State Office. The Rural Development District Office will forward the preapplication with written comments within 10 working days to the appropriate State Office.

(d) All preapplications shall be accompanied by:

(1) Evidence of applicant's legal existence;

(2) Evidence of applicant's authority to prepare growth management and/or housing plans;

(3) A statement declaring that the planning neither duplicates nor conflicts with current activities;

(4) An original and one copy of Form RD 400–1, ''Equal Opportunity Agreement,'' and Form RD 400–4, ''Assurance Agreement;'' and

(5) A statement regarding other financial resources available to the area for this planning.

(e) District and State Rural Development Offices receiving preapplications will:

(1) Determine if the area to be covered by this project is an ''approved designated area'' as defined in this subpart;

(2) Comply with the environmental requirements set forth in this subpart; and

(3) Prepare a Historic Preservation Assessment in accordance with part 1901, subpart F, of this chapter.

(f) District Rural Development Offices receiving preapplications will also provide written comments reflecting planning grant selection criteria listed in this subpart.

(g) The Rural Development District Office will forward the original of the preapplication and accompanying documents including those described in paragraphs (e)(1) through (e)(3) and (f) of this section to the appropriate Rural Development State Director within 10 working days of receipt of the preapplication.

(h) Upon receipt of a preapplication, the Rural Development State Office will:

(1) Review and evaluate the preapplication and accompanying documents;

(2) Consult with the Governor of the appropriate State concerning the Governor's priorities and recommended funding level for the project; and

(3) Respond to the applicant within 30 days of the date of receipt of the preapplication using Form AD–622, ''Notice of Preapplication Review Action,'' indicating the action taken on the preapplication.

(i) Upon notification that the applicant is eligible to compete with other applicants for funding, a SF 424.1 may be submitted to the Rural Development State Office by all applicants.

(j) The Rural Development State Office will send evidence of the applicant's legal existence and authority to the USDA Regional Office of General Counsel (OGC) and request that a legal determination be made of the applicant's legal existence and authority to prepare growth management and/or housing plans in those cases where an application (SF 424.1) is requested.

(k) Upon receipt of an application on SF 424.1 by the Rural Development State Office, a docket will be prepared which will include the following:

(1) Form SF 424.1;

(2) Form AD–622;

(3) Any comments received in accordance with 7 CFR part 3015 subpart V, ''Intergovernmental Review of Department of Agriculture Programs and Activities''. See RD Instruction 1970–I, 'Intergovernmental Review,' available in any Agency office or on the Agency's Web site.

(4) SF 424.1;

(5) Evidence of the applicant's legal existence and authority to prepare growth management and/or housing plans;

(6) OGC legal determinations;

(7) Grant agreement and scope of work;

(8) Form RD 1940–1, ''Request for Obligation of Funds;''

(9) Form RD 400–1;

(10) Form RD 400–4;

(11) Historic Preservation Assessment;

(12) District, where appropriate, and State Rural Development written comments, assessments, and analysis of the proposed projects in accordance with the grant selection criteria; and

(13) All certificates and statements accompanying the pre-application and/or application.

[44 FR 35984, June 19, 1979, as amended at 48 FR 29121, June 24, 1983; 49 FR 3764, Jan. 30, 1984; 55 FR 13503, 13504, Apr. 11, 1990; 76 FR 80731, Dec. 27, 2011]

§ 1948.80 Planning grant selection criteria.

The following criteria will be used in the selection of planning grant recipients:

(a) Planning assistance which could be used for the purpose of the proposed planning process is not available from other sources on a timely basis (Mandatory);

(b) The increase in the number of new employees and the percentage of increase in employment in coal and/or uranium development activities in the year of designation within the approved designated area (years projected will be averaged and treated equally);

(c) The need for planning in relation to the financial resources available for such planning;

(d) The planning priorities and recommended funding level of the Governor(s) of the appropriate State(s);

(e) The appropriateness of the proposed planning activity for meeting the planning needs of the area, including but not limited to the building of planning capacity and the local priority for the project;

(f) The inadequacy of existing plans for mitigating the effects of coal and/or uranium development activities; and

(g) The nature of comments and recommendation received in accordance with 7 CFR part 3015 subpart V, ''Intergovernmental Review of Department of Agriculture Programs and Activities''. (See RD Instruction 1970–I, 'Intergovernmental Review,' available in any Agency office or on the Agency's Web site.)

[44 FR 35984, June 19, 1979, as amended at 48 FR 29121, June 24, 1983; 76 FR 80731, Dec. 27, 2011]

§ 1948.81 State Investment Strategy for Energy Impacted Areas.

(a) The State Investment Strategy for Energy Impacted Areas should be a dynamic document updated as each plan or group of plans is submitted to Rural Development for approval.

(b) The Governor shall consult with the Rural Development State Director when developing or updating a State Investment Strategy for Energy Impacted Areas.

(c) The State Investment Strategy for Energy Impacted Areas will include but is not limited to:

(1) A list of projects in order of priority;

(2) The Governor's recommended level of and method of funding for each project through completion of the project identified in the plans submitted and incorporated into the State Investment Strategy for Energy Impacted Areas;

(3) Methods of coordinating assistance with other State and Federal development programs;

(4) The differential between available financial resources and the cost of needed site development and acquisition for housing and public facilities and services within the area covered by the State Investment Strategy for Energy Impacted Areas;

(5) References to plan and page number of plan on which each priority project is described.

(d) The State Investment Strategy for Energy Impacted Areas having projects expected to be funded in FY 1979 should be submitted to the Rural Development State Director of the appropriate State before July 15, 1979. A copy should also be forwarded to the Under Secretary for Rural Development.

§ 1948.82 Plan and State Investment Strategy approval procedure.

(a) Any plan submitted for Rural Development approval, whether it is a plan developed with assistance under

this section, an existing plan, or a modified plan, should contain:

(1) The present level of coal or uranium production, processing, or transportation within the approved designated area covered by the plan;

(2) The anticipated level of coal or uranium production, processing, or transportation in each of the next three calendar years within the area covered by the plan;

(3) A brief description of the socioeconomic impacts that have occurred during the two most recent calendar years in the approved designated area covered by the plan;

(4) A brief description of the socioeconomic impacts that are expected to occur in the approved designated area covered by the plan within each of the next three calendar years;

(5) The anticipated number of new employees expected to be hired in coal or uranium development activities in each of the next three years within the approved designated area covered by the plan;

(6) Available financial resources and federal programs that may be applied to meeting the needs of the approved designated area including but not limited to the following:

(i) The expected amount of State assistance and State expenditures in the approved designated area covered by the plan which will be used for impact assistance in the next three years;

(ii) The amount of tax revenues expected to accrue to local governments serving the approved designated area covered by the plan in each of the next three years due to increased economic activities which have occurred since the year prior to designation or are expected to occur as a result of coal and uranium development activity;

(iii) Sources and amount of assistance State and local governments are now receiving or are expected to receive from persons for the provision of housing and public facility and services; and

(iv) Existing budget surplus at the State and local level.

(7) The specific needs of the area covered by the plan as to the number of housing units now needed and the number that are expected to be needed in each of the next three years, and/or the number and type of public facilities and services now needed or expected to be needed in the next three years;

(8) The type and quantity of real property now needed or expected to be needed in the next three years for the construction of public facilities and/or housing and/or in the provisions of public services;

(9) Proposed method of acquisition for each site to be acquired by the State or local governments; and

(10) An estimate of assistance that will be necessary under this section and/or other Rural Development or Federal programs for the development of the site.

(b) All plans meeting the criteria in paragraph (a) of this section should be forwarded to the Governor of the appropriate State or States for possible incorporation into the State Investment Strategy for Energy Impacted Areas.

(c) Appropriate growth management and/or housing plans received by the Governor under this section may be submitted to the appropriate Rural Development State Office by the Governor.

(d) The Governor shall submit a copy of the State Investment Strategy for Energy Impacted Areas along with all plans the Governor is submitting to Rural Development for approval.

(e) During fiscal year 1979 the Governor may submit existing plans to Rural Development for qualified approval in which some sections under paragraph (a) above are incomplete, provided that planning is presently being done to fill these gaps, or application for a planning grant has been submitted or is to be submitted to cover the cost of the needed planning. These plans must be resubmitted for final approval on or before December 31, 1980. No requested grant will be approved for land acquisition or site development unless the request is cited in the Rural Development -approved comprehensive growth management plan for the designated area in which the project is located.

(f) The Rural Development State Director shall review all plans and the State Investment Strategy for Energy Impacted Areas and provide comments on the following:

(1) Appropriateness of Rural Development assistance under this section as called for in the plans;

(2) Appropriateness of Rural Development assistance under other programs as called for in the plans;

(3) Appropriateness of the State Investment Strategy for Energy Impacted Areas;

(4) Other Federal programs which could be used instead of, or in addition to, assistance under this section; and

(5) Recommended action.

(g) The Rural Development State Director shall submit all plans received from the Governor, the State Investment Strategy Energy Impacted Areas, and any comments to the Rural Development National Office for approval within 10 days of the submission of plans and the State Investment Strategies for Energy Impacted Areas to the State Director.

(h) The Rural Development National Office shall review all plans and State Investment Strategy for Energy Impacted Areas received and approve or return them for modification within 30 days of their receipt in the Rural Development National Office.

(i) The Rural Development State Office shall notify the appropriate State Director of all plans that have been approved by the Under Secretary for Rural Development.

(j) Upon approval of the plans and State Investment Strategies for Energy Impacted Areas by the Under Secretary for Rural Development, the Rural Development State Director may exercise the authority of the Secretary of Agriculture under Section 603 of the Rural Development Act of 1972 to convene a meeting of the appropriate representatives of all Federal and State agencies which are requested to supply development funds by the State Investment Strategy for Energy Impacted Areas for the purpose of obtaining tentative funding commitments consistent with their authorities.

(k) The Rural Development State Office shall notify the Governor and the appropriate District Directors of all plans approved by the Under Secretary for Rural Development.

(l) Modifications to approved plans shall be approved by the Under Secretary for Rural Development following the above procedure.

(m) The Governor's modification to the State Investment Strategy for Energy Impacted Areas may be approved by the Rural Development State Director provided the modification is consistent with Rural Development approved plans.

§ 1948.83 Performance of site development work.

Site development work will be done in accordance with § 1942.18 of RD Instruction 1942–A.

§ 1948.84 Application procedure for site development and acquisition grants.

(a) For those projects for which Federal funding is sought in excess of $100,000 the applicant shall file SF 424.2, ''Application for Federal Assistance (For Construction)'' with the appropriate Rural Development office. For those projects for which Federal funding is sought for less than $100,000, the applicant shall file SF 424.2 with the appropriate Rural Development office. A copy should also be filed with the Governor's office of the appropriate State.

(b) The Rural Development office receiving a SF 424.2 shall reply to the applicant with-in 45 calendar days regarding the applicant's eligibility to compete for funding under this program using Form AD–622. (Rural Development District offices will send each preapplication to the Rural Development State Offices for review before replying to the applicant. Rural Development District offices will send a copy of Form AD–622 to the Rural Development State Office at the time the Form AD–622 is sent to the applicant.)

(c) Intergovernmental consultation should be carried out in accordance with 7 CFR part 3015 subpart V, ''Intergovernmental Review of Department of Agriculture Programs and Activities''. (See RD Instruction 1970–I, 'Intergovernmental Review,' available in any Agency office or on the Agency's Web site.)

(d) Applicants shall file an original and one copy of SF 424.2, with the appropriate Rural Development office. Local governments and councils of

local government shall submit applications to the Rural Development District Office and State governments to the Rural Development State Office. Applications shall include:

(1) Evidence of applicant's legal existence and authority to undertake the proposed project;

(2) Evidence of ownership of or lease on a site to be developed or ''Options to Purchase Real Property,'' Form RD 440–34, (Lease on a site for a public facility will be in accordance with FmHA Instruction 1942–A and lease on a site for housing will be in accordance with 7 CFR part 3550);

(3) Description of project and relationship to approved growth management and housing plan. Applicant must cite pages and section of the approved plan;

(4) A plat of the area including elevations;

(5) Preliminary plans and specifications on proposed development which will contain an estimate of the projected cost of site development prepared by independent qualified appraisers or architects/engineers;

(6) The amount of Federal grant needed;

(7) The amount and source of applicant's financial contribution to the project;

(8) Grants made under this subpart must comply with the environmental review requirements in accordance with 7 CFR part 1970.

(9) An original and one copy of Form RD 400–1 and Form RD 400–4;

(10) Evidence that the land is stable if the land has been previously mined (include relevant data on soil and analysis);

(11) Assurance that the requirements set forth in title 7, subtitle A, part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) have been met.

(12) Specific concurrence of the Governor if the proposed applicant is neither a council of local governments nor a general purpose political subdivision of a State;

(e) District and State Rural Development Offices receiving applications shall:

(1) Determine if the project is in accordance with a Rural Development approved growth management and/or housing plan covering the approved designated area;

(2) Comply with environmental review requirements in accordance with 7 CFR part 1970;

(3) Prepare a Historic Preservation Assessment in accordance with part 1901, subpart F, of this chapter;

(4) Determine site stability if the land has been previously mined; and

(f) District Rural Development Offices receiving applications shall also provide written comments reflecting site development and acquisition grant selection criteria (§1948.86) listed in this subpart.

(g) The Rural Development District Office shall forward the original of the application and accompanying documents including those required in paragraph (e) of this section to the Rural Development State Director within 10 working days of receipt of the application.

(h) Upon receipt of an application, the Rural Development State Office shall:

(1) Review and evaluate the application and accompanying documents;

(2) Determine that the project is a part of and consistent with the State Investment Strategy for Energy Impacted Areas;

(3) Send a copy of the applicant's evidence of legal existence and authority to the USDA Regional OGC for review;

(4) If applicant is local government(s), consult with the Governor on funding recommendation of the project; and

(5) Respond to the applicant within 30 days of the date of receipt of the application.

(i) Upon receipt of an application by the Rural Development State Office, a docket shall be prepared which shall include the following:

(1) Application SF 424.2 and enclosures;

(2) Any comments received in accordance with 7 CFR part 3015 subpart V, ''Intergovernmental Review of Department of Agriculture Programs and Activities''. (See RD Instruction 1970–I, 'Intergovernmental Review,' available

in any Agency office or on the Agency's Web site.)

(3) Evidence of ownership or lease of site to be developed;

(4) Evidence of applicant's legal existence and authority;

(5) OGC legal determination;

(6) Preliminary plans and specifications concerning the proposed development;

(7) Grant agreement and scope of work;

(8) An estimate of projected cost of site development prepared by independent qualified appraisers or engineers/architects;

(9) A topographical map of the area;

(10) Form RD 1940–1;

(11) Form RD 400–1;

(12) Form RD 400–4;

(13) Environmental review documentation in accordance with 7 CFR part 1970.

(14) Historic Preservation Assessment;

(15) A copy of the State Investment for Energy Areas; and

(16) District, where appropriate, and State Rural Development written comments, assessments and analysis of the proposed project in accordance with the grant selection criteria.

[44 FR 35984, June 19, 1979, as amended at 46 FR 61991, Dec. 21, 1981; 48 FR 29121, June 24, 1983; 49 FR 3764, Jan. 30, 1984; 55 FR 13503, 13504, Apr. 11, 1990; 67 FR 78329, Dec. 24, 2002; 76 FR 80731, Dec. 27, 2011; 81 FR 11032, Mar. 2, 2016]

§ 1948.85 [Reserved]

§ 1948.86 Site development and acquisition grant selection criteria.

The following criteria will be considered in the selection of site development and/or acquisition grant recipients:

(a) *Required criteria.* Each project must meet the following criteria:

(1) The area is covered by a Rural Development approved plan;

(2) The Rural Development approved plan specifically calls for the site development and/or acquisition;

(3) Other Federal funds that the community could receive for the project are inadequate or not available, and no State or local funds for site development are available to permit development on a timely basis;

(4) The site is to be developed and/or acquired and is to be used for housing, public facilities, or services;

(5) The applicant has title to the site, lease on site, or an option on the site and funds to purchase the site, or is applying for site acquisition funds;

(6) The site will comply with Executive Orders 11988, ''Flood Plain Management'' and 11990, ''Protection of Wetlands;''

(7) An appraisal of the fair market value of the site must have been completed;

(8) Priority has been given in the selection of site to unoccupied or previously mined land;

(9) Class I or Class II farm land was included in the site only if other suitable land was not available;

(10) The land is stable if previously mined; and

(11) Assurance that the requirements set forth in title 7, subtitle A, part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) have been met.

(b) *Competitive criteria.* The following criteria will be considered in the selection of grantees:

(1) Priority assigned and recommended funding level by the Governor in the State Investment Strategy for Energy Impacted Areas;

(2) The increase in the number of new employees and the percentage of increase in employment in coal and/or uranium development activities in the year of designation within the approved designated area (years projected will be averaged and treated equally);

(3) The severity of need for housing, public facilities, services that has resulted from coal or uranium development activities in relation to available financial resources within the approved designated area covered by the plan calling for the project;

(4) Local priority for the project;

(5) The amount of effort by State and local government to meet the needs of the area covered by the application as called for in the State Investment Strategy for Energy Impacted Areas in relation to available financial resources;

(6) An assessment of the environmental impacts of the project; and

(7) The nature of comments and recommendations of A–95 clearinghouse(s).

§ 1948.87 [Reserved]

§ 1948.88 Direct land acquisition by Rural Development.

(a) Rural Development may take action to acquire real property directly upon the written request of the Governor of the State in which the real property is located. Rural Development will not acquire real property directly under this section without such a request.

(b) All requests for direct land acquisition should be submitted to the Rural Development State Director. The following conditions must be met prior to the submission of a request for direct acquisition by Rural Development:

(1) The State or local government serving the area must lack power to condemn land of this type for this purpose and must supply an opinion by the State Attorney General that this authority is lacking;

(2) The real property is to be used as a site for needed housing, public facilities, or services;

(3) The site acquisition is called for in a Rural Development approved plan;

(4) The site is specifically identified by a Rural Development approved plan;

(5) State and local governments have been unable to obtain the real property for a price which does not substantially exceed its fair market value; and suitable alternate sites are not available;

(6) The land is not Indian Trust land;

(7) The land is not U.S. Forest Service land; and

(8) There is legal authority to undertake the proposed project.

(c) Rural Development may acquire Federal real property not prohibited in paragraphs (b) (6) and (7) of this section for purposes contained in this subpart. Farm land (Class I and II) will not be considered unless there is no other suitable land available.

(d) If the State Director determines that no other suitable real property exists that can be obtained at a price which does not substantially exceed its fair market value, and if the appropriate State or local government lacks condemnation authority as evidenced by opinion from the Attorney General, and there is authority to undertake the proposed project, then the State Director shall follow the procedures set out in title 7, subtitle A, part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) and immediately open negotiations to directly acquire the real property through purchase or trade.

(e) The Rural Development State Director may acquire real property by purchase to trade for other real property when Rural Development has been requested to acquire real property by the Governor of the State in which the real property is located.

(f) The Governor shall submit, with this request, a commitment from the State to acquire real property, together with a plan of compensation to Rural Development and evidence of the State's legal authority to enter into this agreement with Rural Development to accept the real property and repay Rural Development for the fair market value of the real property for the intended purpose.

(g) Real property acquired by Rural Development shall be transferred to the State requesting by a quitclaim deed for a price equal to the fair market value in accordance with the terms of a transfer agreement.

(h) After obtaining title to the real property and prior to transfer to the State, the property shall be managed by Rural Development in accordance with part 1955, subpart B of this chapter.

(i) The State Director shall inform the Governor that Rural Development real property acquisition is not likely to occur by purchase or trade if negotiations have failed to produce acceptable results within 90 days of the request for Rural Development acquisition of real property.

§ 1948.89 Land condemnation by Rural Development.

(a) If Rural Development attempts to acquire real property at the request of a Governor through purchase or trade and is unable to do so, Rural Development may take action to condemn the real property by the following procedures:

(1) A request for condemnation shall be submitted by the Rural Development State Director to the Under Secretary for Rural Development, Washington, DC 20250 at the request of the Governor of the appropriate State. A copy of the Governor's request for Rural Development real property condemnation and the State Attorney General's opinion that State and local government condemnation authority is lacking shall be attached to the Rural Development State Director's request.

(2) The Under Secretary for Rural Development shall forward all requests for Federal condemnation to the OGC, USDA with a recommendation for action.

(3) The Under Secretary for Rural Development shall inform the Governor of any action on the request for condemnation.

(4) Real property condemned by Rural Development shall be transferred to the requesting State by a quitclaim Deed for a price equal to the fair market value of the real property in accordance with terms of a negotiated real property transfer agreement.

(5) After obtaining title to real property and prior to transfer to the State, the property shall be managed by Rural Development in accordance with part 1955, subpart B of this chapter.

(b) Rural Development may not condemn Indian Trust Land or U.S. Forest Service Land.

§ 1948.90 Land transfers.

(a) Transfers of real property acquired by Rural Development.

(1) A request for Rural Development acquisition of real property by a Governor of a State constitutes an agreement by that State to receive said real property and to reimburse Rural Development for the fair market value of said real property for the intended use.

(2) Terms and conditions, including reimbursement terms, for real property transfers shall be set forth in a Real Property Transfer Agreement between the Under Secretary for Rural Development and the appropriate Governor. These terms and conditions will be agreed upon by Rural Development and the State prior to Rural Development attempting to acquire the property. These agreements shall be prepared after consulting with OGC, and forwarded for prior approval by the Rural Development National Office.

(3) All funds from real property transfers received by Rural Development shall be deposited in the U.S. Treasury.

(b) Transfer of real property acquired and/or developed with grant funds from a grant made under this subpart to a person.

(1) Real property acquired and/or developed under this subpart may be transferred to a person for the purposes of construction of privately-owned housing.

(2) All transfers of real property to a person must be approved by the Rural Development State Director of the appropriate State.

(3) Transfer of real property by a recipient of assistance under this subpart to a person must be by contract which: acknowledges the use of funds provided under this subpart to acquire or develop the site; specifies the date of performance prior to delivery of the deed; provides for Rural Development concurrence before changes or modifications; and assures Rural Development that the real property will be used for the purposes under which the grant was made.

(4) Proceeds derived from the sale of land acquired or developed through the use of a grant provided under this subpart must be divided between the grantee and Rural Development on a pro rata basis. A grantee may not recover its cost from sale proceeds to the exclusion of Rural Development. The amount to be returned to Rural Development is to be computed by applying the percentage of the Rural Development grant participation in the total cost of the project to the proceeds from the sale.

(5) All funds received by Rural Development from real property transfers shall be deposited in the U.S. Treasury.

(42 U.S.C. 8401; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

[44 FR 35984, June 19, 1979, as amended at 46 FR 33022, June 26, 1981; 56 FR 28038, June 19, 1991; 68 FR 61331, Oct. 28, 2003]

§ 1948.91 Inspections of development.

Inspections will be made by the Rural Development State Engineer or other employee designated by the Rural Development State Director to ascertain whether site development is proceeding in accordance with plans and specifications. Such inspections are solely for the benefit of the Government and not for the benefit of the Grantee or any other person.

§ 1948.92 Grant approval and fund obligation.

(a) The Rural Development State Office shall review the docket to determine whether the proposed grant complies with this subpart and that funds are available.

(b) The Rural Development State Director shall be the approving officer on all grants made under this subpart.

(c) If at any time prior to grant approval it is decided that favorable action will not be taken on a preapplication or application, the Rural Development State Director will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by Rural Development may be requested by the applicant in accordance with RD Instruction 1900–B.

(d) If a grant is recommended, Form RD 1940–1 and the proposed grant agreement and scope of work will be prepared and forwarded to the applicant for signature.

(e) When Form RD 1940–1 and the grant agreement and scope of work are received by the applicant, the applicant will sign these documents and forward them to the State Director.

(f) Exhibit A to RD Instruction 2015–C (available in any Rural Development office) will be prepared by the State Director and sent to the Director, Legislative and Public Affairs Staff (LAPAS), in the Rural Development National Office.

(g) If the State Director approves the project, the following actions will be taken in the order listed:

(1) The State Director, or a designee, will telephone the Finance Office requesting that grant funds for a particular project be obligated. Immediately after contacting the Finance Office, the requesting official shall furnish the requesting office's security identification code. Failure to furnish the security code will result in the rejection of the request of obligation. After the security code is furnished, the required information from Form FmHA or its successor agency under Public Law 103–354 440–1 shall be furnished to the Finance Office. Upon receipt of the telephone request for obligation of funds, the Finance Office shall record all information necessary to process the request for obligation in addition to the date and time of request.

(2) The individual making the request shall record the date and time of the request.

(3) The Finance Office will notify the Rural Development State Office by telephone when funds are reserved and the date the funds will be obligated. If funds cannot be reserved for a project, the Finance Office will notify the Rural Development State Office that funds are not available. The obligation date will be the date the request for obligation is processed.

(4) The Finance Office will send Form RD 440–57, ''Acknowledgement of Obligated Funds/Check Request,'' to the Rural Development State Director, informing the State Director of the reservation of funds with the obligation date inserted as required by Item 9 on the Forms Manual Insert (FMI) for Form RD 440–57.

(5) Form FmHA or its successor agency under Public Law 103–354 440–1 will not be mailed to the Finance Office.

(6) A copy of Form RD 1940–1 will be sent the Rural Development National Office.

(7) The State Director shall notify the Director, LAPAS, in the Rural Development National Office with a recommendation that the project announcement be released.

(8) An executed copy of Form FmHA or its successor agency under Public Law 103–354 440–1 shall be sent to the applicant along with an executed copy of the grant agreement and scope of work 6 working days from the date funds are obligated.

(9) The actual date of applicant notification will be entered on the original of Form FmHA or its successor agency

under Public Law 103–354 440–1 and the original of the form will be included as a permanent part of the file.

(10) For planning grants, Standard Form 270, ''Request for Advance or Reimbursement,'' will be sent to the applicant for completion and return to Rural Development. For site acquisition and site development grants, Standard Form 271, ''Outlay Report and Request for Reimbursement for Construction Programs,'' will be sent to the applicant for completion and returned to Rural Development.

(11) If it is determined that a project will not be funded or if major changes in the scope of the project are made after release of the approval announcement, the Rural Development State Director will notify the Director, LAPAS by telephone or electronic mail giving the reasons for such action. The Director, LAPAS, will inform all parties who were notified by the project announcement that the project will not be funded or of major changes in the project using a procedure similar to the announcement process. Form RD 1940–10, ''Cancellation of U.S. Treasury Check and/or Obligation,'' will not be submitted to the Finance Office until five working days after notifying the Director, LAPAS.

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; sec. 10 Pub. L. 93–357; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.70)

[44 FR 35984, June 19, 1979, as amended at 47 FR 36416, Aug. 20, 1982; 48 FR 30946, July 6, 1983; 79 FR 55967, Sept. 18, 2014]

§ 1948.93 Appeal procedure.

Any grantee or applicant for Rural Development assistance under this subpart who has been directly and adversely affected by an administrative decision by Rural Development may appeal such decision in accordance with RD Instruction 1900–B.

§ 1948.94 Reporting requirements.

(a) For planning grants, SF–270 shall be submitted by grantees on an as-needed basis but not more frequently that once every 30 days. SF–269, ''Financial Status Report,'' and a project performance activity report will be required of all grantees on a quarterly basis. SF–269 and a final project performance report will also be required. These final reports may serve as the last quarterly reports. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. All grantees except States should submit an original of each report and one copy to the appropriate Rural Development District Office. When the grantee is a State, an original should be submitted to the appropriate Rural Development State Office. The project performance reports shall include, but need not be limited to the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) Reasons why established objectives were not met;

(3) Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Federal assistance needed to resolve the situation; and

(4) Objectives established for the next reporting period.

(b) For site development and land acquisition grants, grantees shall submit Form SF–271 for payment of site development costs. Multiple advances will be made in accordance with RD Instruction 1902–A (available in any Rural Development office) and will be made as needed to cover required disbursements for not less than 30 day periods. Advances will be requested for the next 30 day period by the grantee on Form SF–272, ''Report of Federal Cash Transactions.'' Each payment estimate must be approved by the grantee. A final Form SF–272 will be submitted to Rural Development to include the final advance not later than 90 days after the final advance.

§ 1948.95 Grant monitoring.

Each grant will be monitored by Rural Development to ensure that the

Grantee is complying with the terms of the grant and that the project activities are completed as approved. This will involve on-site visits to the project area and review of quarterly and final reports by Rural Development.

§ 1948.96 Audit requirements.

(a) Audit requirements for Site Development and Acquisition Grants will be made in accordance with RD Instruction 1942–G.

(b) Audits for planning grants made in accordance with State statutes or regulatory agencies will be acceptable provided they are prepared in sufficient detail to permit Rural Development to determine that grant funds have been used in compliance with the proposal, any applicable laws and regulations, and the grant agreement. A copy of the audit shall be submitted to the State Director as soon as possible but in no case later than 90 days following the period covered by the grant.

§ 1948.97 Grant closing and fund disbursement.

Grant closing and fund disbursement will be accomplished in accordance with RD Instruction 1942–G.

§ 1948.98 Grant agreements.

The following Grant Agreements are a part of this regulation.

(a) Exhibit A of this subpart is a Grant Agreement for Growth Management and Housing Planning Grants for approved Designated Energy Impacted Areas.

(b) Exhibit B of this subpart is a Grant Agreement for Site Development and/or Site Acquisition for Housing and/or Public Facilities and/or Services.

§§ 1948.99–1948.100 [Reserved]

EXHIBIT A TO SUBPART B OF PART 1948—GRANT AGREEMENT—GROWTH MANAGEMENT AND HOUSING PLANNING FOR APPROVED DESIGNATED ENERGY IMPACTED AREAS

This Agreement is between

(Name), _____

(Address),(Grantee) and the United States of America acting through the Farmers Home Administration (Grantor or FmHA) or its successor agency under Public Law 103–354.

Grantee has determined to undertake certain growth management and housing planning for energy impacted areas at an estimated cost of $_____ and has duly authorized such planning. The Grantor agrees to grant to Grantee a sum not to exceed $_____ subject to the terms and conditions established by the Grantor; provided, however, that any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620) for the purpose only of defraying the planning costs as permitted by applicable Farmers Home Administration or its successor agency under Public Law 103–354 regulations:

PART A

Grantor and Grantee agree:

1. This agreement shall be effective when executed by both parties.

2. The scope of work set out below shall be completed prior to_____.

3. (a) Use of grant funds for travel which is determined as being necessary to the program for which the grant is established may be subject to the travel policies of the Grantee institution if they are uniformly applied regardless of the source of funds in determining the amounts and types of reimbursable travel expenses of Grantee staff and consultants. Where the Grantee institution does not have such specific policies uniformly applied, the Federal Travel Regulations shall apply in determining the amount charged to the grant. Grantee may purchase furniture and office equipment only if specifically approved in the scope of work. Approval will be given only when Grantee demonstrates that purchase is necessary and would result in less cost to the Government in providing Federal-share funds or to the Grantee in providing its contributions. Commercial purchase under these circumstances will be approved only after consideration of Federal supply sources.

(b) Expenses and Purchases Excluded:

(i) In no event shall the Grantee expend or request reimbursement from Federal-share funds for obligations entered into or for costs incurred or accrued prior to the effective date of this grant.

(ii) Funds budgeted under this grant may not be used for entertainment expenses.

(iii) Funds budgeted under this grant may not be used to pay for capital assets, the purchase of real estate or vehicles, improvement

and renovation of space, and repair and maintenance of privately-owned vehicles.

(c) Grant funds shall not be used to replace any financial support previously provided or assured from any other source. The Grantee agrees that the general level of expenditure by the Grantee for the benefit of program area and/or program covered by this agreement shall be maintained and not reduced as a result of the Federal share funds received under this grant.

4. (a) In accordance with Treasury Circular 1075, grant funds will be disbursed by the FmHA or its successor agency under Public Law 103–354 as cash advances on an as-needed basis not to exceed one advance every 30 days. The financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds as stated in OMB Circular A–102 revised for State and local governments.

(b) Cash advances to the Grantee shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the Grantee in carrying out the purpose of the planning project.

(c) The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs.

(d) Federal funds should be promptly refunded to the FmHA or its successor agency under Public Law 103–354 and redrawn when needed if the funds are erroneously drawn in excess of immediate disbursement needs. The only exceptions to the requirement for prompt refunding are when the funds involved:

(i) Will be disbursed by the recipient organization within seven calendar days, or

(ii) Are less than $10,000 and will be disbursed within 30 calendar days.

(e) Grantee shall provide satisfactory evidence to FmHA or its successor agency under Public Law 103–354 that all officers of Grantee organization authorized to receive and/or disburse Federal funds are covered by such bonding and/or insurance requirements as are normally required by the Grantee.

(f) Grant funds will be placed in a bank account(s). If for any reason grant funds are invested, income earned on such investment shall be identified as interest income on grant funds and forwarded to the Finance Office, FmHA or its successor agency under Public Law 103–354, St. Louis, Missouri, unless the Grantee is a State. ''State'' includes instrumentalities of a State but not political subdivisions of a State. A State Grantee is not accountable for interest earned on grant funds.

5. The Grantee will submit Performance and Financial reports as indicated below:

(a) As needed, but not more frequently than once every 30 days, an original and 2 copies of Standard Form 270, ''Request for Advance or Reimbursement;''

(b) Quarterly, an original and 2 copies of Standard Form 269, ''Financial Status Report,'' and a Project Performance report according to the schedule below:

Period	Date due

(c) Final, an original and 2 copies of Standard Form 269, ''Financial Status Report,'' and a Project Performance report according to the schedule below:

Period	Date due

NOTE: Final reports may serve as the last quarterly reports.

(d) The Project Performance reports shall include but need not be limited to the following:

(i) A comparison of actual accomplishment to the objectives established for that period;

(ii) Reasons why established objectives were not met;

(iii) Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of project work elements during established time periods. This disclosure shall be accompanied by a Statement of the action taken or comtemplated and any Federal assistance needed to resolve the situation; and

(iv) Objectives established for the next reporting period.

(e) All Grantees except States shall submit an original of each report and one copy to the appropriate FmHA or its successor agency under Public Law 103–354 District Office. A State Grantee shall submit original reports to the appropriate FmHA or its successor agency under Public Law 103–354 State Office.

(f) The plan(s) developed under this grant shall be submitted to the appropriate Governor for incorporation into the State Investment Strategy for Energy Impacted Areas. The Governor will submit the plan and the State Investment Strategy to the appropriate FmHA or its successor agency under Public Law 103–354 State Office(s). The FmHA or its successor agency under Public Law 103–354 State Office will forward the plan and State Investment Strategy to the FmHA or its successor agency under Public Law 103–354 National Office for approval of the plan.

6. The Budget covered by this agreement is:

Budget categories	Federal funds	Non-Federal share		Total
		Cash	In-kind	
Direct charges:				
1. Personnel	$			
2. Fringe benefits.				
3. Travel.				
4. Equipment.				
5. Supplies.				
6. Contractual.				
7. Others.				
Total Direct Charges.				
8. Indirect charges.				
Total	.....	.....	.....	.....

(a) In accordance with FMC 74–4, Attachment B, compensation for employees will be considered reasonable to the extent that such compensation is consistent with that paid for similar work in other activities of the State or local government.

(b) In accordance with OMB Circular A–102, Attachment K, transfers among direct cost budget categories of more than 5 percent of the total budget must have prior written approval by the State Director, Farmers Home Administration or its successor agency under Public Law 103–354.

7. (a) The scope of work is described in the attached exhibit 1. The Grantee accepts responsibility for establishing a development process which will improve local conditions and alleviate problems associated with increased coal or uranium production in the Grantee areas. The Grantee shall:

(i) Develop a growth management and housing plan for assistance to approved designated area(s) impacted by increased coal or uranium production.

(ii) Contribute to development of a State Investment Strategy for Energy Impacted Areas.

(iii) Endeavor to coordinate and provide liaison with State development organizations, where they exist.

(iv) Provide continuing information to FmHA or its successor agency under Public Law 103–354 on the status of Grantee programs, projects, related activities, and problems.

(b) The Grantee shall inform the Grantor as soon as the following types of conditions become known:

(i) Problems, delays, or adverse conditions which materially affect the ability to attain program objectives, prevent the meeting of time schedules or goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated, and any Grantor assistance needed to resolve the situation.

(ii) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

PART B

Grantee agrees:

1. To comply with property management standards established by Attachment N of OMB Circular A–102 for expendable and nonexpendable personal property *Personal property* means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence, such as patents, inventions, and copyrights. *Nonexpendable personal property* means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above. ''Expendable personal property'' refers to all tangible personal property other than nonexpendable property. When nonexpendable tangible property is acquired by a Grantee with project funds, title shall not be taken by the Federal Government but shall vest in the Grantee subject to the following conditions:

(a) Right to transfer title. For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, FmHA or its successor agency under Public Law 103–354 may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or otherwise made known to the Grantee in writing.

(2) FmHA or its successor agency under Public Law 103–354 shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If FmHA or its successor agency under Public Law 103–354 fails

to issue disposition instructions within the 120 calendar day period, the Grantee shall apply the standards of paragraph (4) below.

(3) When FmHA or its successor agency under Public Law 103–354 exercises its right to take title, the personal property shall be subject to the provisions for federally owned nonexpendable property discussed in paragraph (4), below.

(4) When title is transferred either to the Federal Government or to a third party and the Grantee is instructed to ship the property elsewhere, the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(b) Use of other nontangible expendable property for which the Grantee has title.

(1) The Grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When it is no longer needed for the original project or program, the Grantee shall use the property in connection with its other Federally sponsored activities, in the following order of priority:

(a) Activities sponsored by FmHA or its successor agency under Public Law 103–354.

(b) Activities sponsored by other Federal agencies.

(2) Shared use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the Grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by FmHA or its successor agency under Public Law 103–354; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissable if authorized by FmHA or its successor agency under Public Law 103–354. User charges should be considered if appropriate.

(c) Disposition of other nonexpendable property. When the Grantee no longer needs the property as provided in 1(a)(4) above, the property may be used for other activities in accordance with the following standards:

(1) Nonexpendable property with a unit acquisition cost of less than $1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The Grantee may retain the property for other use provided that compensation is made to FmHA or its successor agency under Public Law 103–354 or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

FmHA or its successor agency under Public Law 103–354 shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by FmHA or its successor agency under Public Law 103–354 to determine whether a requirement for the property exists in other Federal agencies. FmHA or its successor agency under Public Law 103–354 shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse FmHA or its successor agency under Public Law 103–354 an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(b) If the Grantee is instructed to dispose of the property other than as described in (1)(a)(4) above, the Grantee shall be reimbursed by FmHA or its successor agency under Public Law 103–354 for such costs incurred in its disposition.

(c) Property management standards for nonexpendable property. The Grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Sources of the property including grant or other agreement number.

(d) Whether title vests in the Grantee or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a Grantee compensates the Federal agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the Grantee shall promptly notify FmHA or its successor agency under Public Law 103–354.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the Grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(7) Expendable personal property shall vest in the Grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other Federally sponsored project or program, the Grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

2. To provide Financial Management Systems which will include:

(a) Accurate, current, and complete disclosure of the financial results of each grant. Financial Reporting will be on an accrual basis.

(b) Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. Grantee shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Accounting records supported by source documentation.

(e) Provide an audit report prepared in sufficient detail to allow Grantor to determine that funds have been used in compliance with the proposal any applicable laws and regulations and this agreement.

3. To retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

4. To provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

5. To provide information as requested by the Grantor concerning the Grantee's actions in soliciting citizen participation in the application process, including published notice of public meetings, actual public meetings held, and content of written comments received.

6. To account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes unless the Grantee is a State. See part A 4(f) above.

7. Not to encumber, transfer, or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in part B 1.

8. To provide Grantor such periodic reports as it may require of Grantee operations by designated representative of the Grantor.

9. To execute Form FmHA or its successor agency under Public Law 103–354 400–1, ''Equal Opportunity Agreement,'' and to execute any other agreements required by Grantor to implement the civil rights requirements.

10. To include in all contracts in excess of $100,000 a provision for compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the Grantor and the Regional Office of the Environmental Protection Agency.

11. That, upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will, to the extent legally permissible, repay to the Grantor forthwith the original principal amount of the grant stated herein above, with interest at the rate of five per centum per annum from the date of the default. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

12. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

13. That all non-confidential information resulting from its activities shall be made available to the general public on an equal basis.

14. That the purpose and scope of work for which this grant is made shall not duplicate programs for which monies have been received, are committed, or are applied for from other sources, public and private.

15. That the Grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or in part, the material shall contain notice and be identified by language to the following effect: ''The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source.''

16. That the Grantee shall abide by the policies promulgated in OMB Circular A–102, Attachment O, which provides standards for use by Grantees in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds.

17. To the following termination provisions:

(a) Termination for cause: The Grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor agency shall promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) Termination for convenience. The Grantor agency or Grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor agency shall allow full credit to the Grantee for the Federal share of the noncancelable obligations, properly incurred by the Grantee prior to termination.

PART C

Grantor agrees:

1. That it will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

2. That at its sole discretion, Grantor may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (a) advisable to further the purposes of the grant or to protect Grantor's financial interest therein, and (b) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

This agreement is subject to current Grantor regulations and any future regulations not inconsistent with the express terms hereof.

Grantee on _____, 19___, has caused this agreement to be executed by its duly authorized _____ and attested and its corporate seal affixed by its duly authorized _____.

Attest:

Grantee:

By _____

_____

(Title)

By _____

_____

(Title)

Grantor:

United States of America Farmers Home Administration or its successor agency under Public Law 103–354.

By _____

_____
(Title)

(Approved by the Office of Management and Budget under control number 0575–0040)

[44 FR 35984, June 19, 1979, as amended at 47 FR 745, Jan. 7, 1982]

EXHIBIT B TO SUBPART B OF PART 1948—GRANT AGREEMENT (PUBLIC BODIES) FOR SITE DEVELOPMENT AND/OR SITE ACQUISITION FOR HOUSING AND/OR PUBLIC FACILITIES AND/OR SERVICES

This agreement dated _____, 19__, between _____ a public body corporate organized and operating under _____ (Authorizing State Statute)

Herein called ''Grantee,'' and the United States of America acting through the Farmers Home Administration or its successor agency under Public Law 103–354, Department of Agriculture, herein called ''Grantor,'' Witnesseth:

Grantee has determined to undertake a project for site acquisition and/or site development as follows: _____ (herein called project) to serve the approved designated energy impacted area under its jurisdiction at an estimated cost of $_____, and has duly authorized the undertaking of such project;

Grantee is able to finance not more than $_____ of the site acquisition and/or site development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee. Said sum has been committed to and by Grantee for such project acquisition and/or site development costs.

The Grantor agrees to grant to Grantee a sum not to exceed $_____ subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620) for the purpose only of defraying a part of the acquisition and/or site development costs, as defined by applicable Farmers Home Administration or its successor agency under Public Law 103–354 regulations:

Grantee agrees that Grantee will:

1. Cause said project to be completed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any necessary modifications thereof prepared by Grantee and approved by Grantor.

2. Permit periodic inspection of the project by a representative of Grantor.

3. Make the housing or public facility or services available to all persons in Grantee's servce area without regard to race, color, national origin, religion, sex, marital status, age, physical or mental handicap.

4. Use the real property including land and land improvements for authorized purposes of the grant as long as needed.

a. The Grantee shall obtain approval of the Grantor before using the real property for other purposes when the Grantee determines that the property is no longer for the original purposes.

b. When the real property is no longer needed as provided above, return all real property furnished or purchased wholly with Federal grant funds to the Grantor. In the case of property purchased in part with Federal grant funds, the Grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal Participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

5. Not use grant funds to replace any financial support previously provided or assured from any other source. The Grantee agrees that the general level of expenditure by the Grantee for the benefit of program area and/or program covered by this agreement shall be maintained and not reduced as a result of the Federal share funds received under this grant.

6. Not use grant funds to pay for construction costs of housing or public facilities.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

7. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with Grant Funds.

a. The Grantee shall retain such property as long as there is a need for the property to accomplish the purpose of the grant. When there is no longer a need for the property to accomplish the purpose of the grant, the Grantee shall use the property in connection with other Federal grants it has received in the following order of priority.

(1) Other grant of the Grantor needing the property.

(2) Grants of other Federal agencies needing the property.

b. When the Grantee no longer has need for the property in any of its Federal grant programs, the property may be used for its own official activities in accordance with the following standards:

(1) Nonexpendable property with an acquisition cost of less than $500 and used four years or more. The Grantee may use the property for its own official activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) All other nonexpendable property. The Grantee may retain the property for its own use provided that a fair compensation is made to the Grantor. The amount of compensation shall be computed by applying the percentage of the Grantor participation in the grant program to the current fair market value of the property as determined by the Grantor.

c. If the Grantee has no need for the property, disposition shall be made as follows:

(1) Nonexpendable property with an acquisition cost of $1,000 or less. Except for that property which meets the criteria of b(1) above, the Grantee shall sell the property and reimburse the Grantor an amount which is computed in accordance with (3) below.

(2) Nonexpendable property with an acquisition cost of over $1,000. The Grantee shall request disposition instructions from Grantor.

(3) If disposition instructions are not issued within 120 days after reporting, the Grantee shall sell the property and reimburse the Grantor an amount which is computed by applying the percentage of the Grantor participation in the grant program to the sales proceeds. Further, the Grantee shall be permitted to retain $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

d. The Grantee's property management standards for nonexpendable personal property shall also include:

(1) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; sources of the property; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(2) A physical inventory of property shall be taken and the result reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property shall be investigated and fully documented.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

8. Provide Financial Management Systems which will include:

(a) Accurate, current, and complete disclosure of the financial results of each grant. Financial Reporting will be on an accrual basis.

(b) Records which identify adequately the source and application of funds for grant-supporting activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Accounting records supported by source documentation.

9. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee governments which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts and transcripts.

10. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

11. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this agreement.

12. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies of instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

13. Not encumber, transfer, or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item 5 above.

14. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a designated representative of the Grantor.

15. Execute Form FHA 400–1, ''Equal Opportunity Agreement,'' Form FHA 400–4, ''Nondiscrimination Agreement,'' and any other agreements required by Grantor to implement the civil rights requirements. If any such form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

16. Include in all contracts for construction or repair a provision for compliance with the Copeland ''Anti-Kick Back'' Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, part 3). The Grantee shall report all suspected or reported violations to the Grantor.

17. In Contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR, part 5).

18. Include in all contracts in excess of $2,500 a provision for compliance with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. Grantee shall report any violations of such regulation and standards to the Grantor and the local Internal Revenue Service field office.

19. Include in all contracts in excess of $100,000 a provision for compliance with all applicable standards, orders, or regulations issued pursuant to the Clear Air Act of 1970. Violations shall be reported to the Grantor and the Regional Office of the Environmental Protection Agency.

20. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and the demand of Grantor, will, to the extent legally permissible, repay to Grantor forthwith the original principal amount of the grant stated hereinabove, with interest at the rate of five per centum per annum from the date of the default. The provisions of this Grant Agreement may be enforced by Grantor at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

21. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

22. That all non-confidential information resulting from its activities shall be made available to the general public on an equal basis.

23. That the purpose and scope of work for which this grant is made shall not duplicate programs for which monies have been received are committed, or are applied for from other sources, public and private.

24. That Grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or in part, the material shall contain notice and be identified by language to the following effect: ''The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source.''

25. That the Grantee shall abide by the policies promulgated in OMB Circular A–95, Attachment O, which provides standards for use by Grantees in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds.

26. To the following termination provisions:

(a) Termination for cause: The Grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor agency shall promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) Termination for convenience. The Grantor agency or Grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor agency shall allow full credit to the Grantee for the

Federal share of the noncancelable obligations, properly incurred by the Grantee prior to termination.

Grantor agrees that it will:

1. Assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

2. In its sole discretion, Grantor may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (a) advisable to further the purposes of the grant or to protect Grantor's financial interest therein, and (b) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Grantee on the date first above written has caused this agreement to be executed by its duly authorized_____
and attested and its corporate seal affixed by its duly authorized_____

Attest:
(Seal)
By _____

(Title)

Grantee

_____

By _____

_____
(Title)

Grantor
United States of America
Farmers Home Administration or its successor agency under Public Law 103–354

By _____

_____
(Title)

(Approved by the Office of Management and Budget under control number 0575–0040)

[44 FR 35984, June 19, 1979, as amended at 47 FR 745, Jan. 7, 1982]

Subpart C [Reserved]

PART 1949 [RESERVED]