



September 30, 2014

To: Federal Co-Chair
ARC Executive Director
ARC General Counsel
ARC Program Director

From: Hubert Sparks, Inspector General

Subject: Report No. 14-44, Memorandums of Understanding with Basic Agencies

A review of the current Memorandums of Understanding or Agreements (MOU) between ARC and Federal agencies administering ARC construction grants disclosed a need to update the MOUs to better address or clarify several issues. The basic MOUs for active partners USDA, HUD and EPA are dated 1998, 1975 and 1996 respectfully.

MOUs are administered by departments within the Federal agency (classified as Basic or Child Agencies). ARC approves the grants and provides grant funds to the identified Basic Agencies (BA) who are responsible for assuring the grant complies with BA and ARC requirements, making grant obligations and tracking, monitoring and reporting the project status, including changes to project scope, funding, and reporting problems to ARC. ARC provides administrative funds to some BAs to provide these services when BA funds are not approved for the project. BAs also execute agreements with grantees identifying applicable grant implementation requirements of the BA and the Appalachian Regional Development Act (ARDA).

The primary reasons for MOU updates involve better identification of revised or recommended policies and procedures, including reporting and emphasis on timely identification of factors or problems delaying grant/project implementation.

Current MOUs do not refer to the annual BA Monitoring Report (BAMR) that was initiated in 2012 by ARC. This report includes data about grant status including construction phases, accumulated costs of all grant funds and identification of problems and estimated project completion date.

Prior to the BAMR BA reporting was financial oriented with respect to status of ARC funds and did not provide information about overall project spending or project progress. Consequently ARC had limited information about grant status. Follow-up to determine status was sporadic and if no ARC funds were reported as expended impressions of no project progress were created.

In some cases the BAMR reports have not been received or not received timely and inclusion of this report requirement in an updated MOU would better assure the reports were provided timely to ARC.

In addition to the annual BAMR consideration should be given to obtaining summary information on grant status on a quarterly basis. Current MOUs provide that periodic reports that include project status be submitted as may be required by ARC. Quarterly reporting would provide more timely information than the annual BAMR.

BAs generally require that grantees report periodically about project status to the BA, including quarterly financial and progress reports. Providing these reports to State ARC Program Managers and ARC would provide more timely information about grant status, including necessary follow-up actions.

ARC policy that the Commission may revoke or revise its approval of any program or project if the work intended to be undertaken is not started or placed under contract within 18 months of approval is included in BA agreements with grantees. However, prior reviews have disclosed few, if any, cases of BAs notifying ARC of inactive projects subject to this provision and quarterly periodic progress reports could improve the effectiveness of this control.

A related issue involves the ARC Project Guidelines that note the Commission 18 month policy is initiated 18 months after grant approval. In many cases BA final approval of project start up is delayed significantly pending completion of grantee requirements such as environmental studies. Provision in the ARC guidelines that the 18 month period for BA administered grants starts after the BA approves project start would clarify this guideline.

Current MOUs provide that a copy of the BA agreement with the grantee, and amendments, be provided to ARC for each project involving transferred funds. Grant agreements and Letters of Condition provide information about RD requirements and expected grantee actions and vary between grantees in some cases, ARC file reviews disclosed these agreements are seldom available. We recommend compliance with MOU requirements and addition of Letter of Condition unless it is determined the agreements are not utilized by ARC.

Current MOUs provide that each disbursement of funds for a project receiving assistance from more than one Federal source will be deemed to be a proportionate disbursement from each source. Clarification of this provision is appropriate since reviews noted that disbursements by BAs varied from proportionate disbursements to ARC funds usually being the last disbursements.

MOUs also include provisions that the BA will recapture ARC funds for cancelled projects. Since there are instances of completed grants with fund balances that are not timely de-obligated by

the BA consideration should be given to expanding the MOU provision to allow ARC to directly recover old unused balances (unliquidated balances) or provide for the BA to timely de-obligate such balances and return the funds to ARC.

In sum, the updating of BA MOUs should be addressed.