



**APPALACHIAN
REGIONAL
COMMISSION**

*A Proud Past,
A New Vision*

Office of Inspector General

March 13, 2015

To: Federal Co-Chair
ARC Executive Director
ARC General Counsel
From: Hubert Sparks, Inspector General

Subject: Survey Report 15-10, Implementation of Memorandum of Agreement Between
Appalachian Regional Commission and USDA-Rural Development Service

The attached report recommends updating of the 1998 MOU and consideration of the issues noted by RDS and ARC representatives.

Office of Inspector General

Survey Report

**Implementation of Memorandum of Agreement
Between Appalachian Regional Commission and
United States Department of Agriculture, Rural Development Service**



OIG Report 15-10

March 17, 2015

Survey Report

Implementation of Memorandum of Agreement Between Appalachian Regional Commission and United States Department of Agriculture, Rural Development Service OIG Report 15-10

March 17, 2015

Background

This report summarizes a survey related to implementation of the August 1998 Memorandum of Agreement (MOA) between the Appalachian Regional Commission (ARC) and the Rural Development Service (RD) of the U.S. Department of Agriculture. The MOA provided that RD would administer and monitor ARC construction related grants for which Federal Child Agencies, hereafter referred to as Basic Agencies (BA), provided grant administration and monitoring. ARC reimburses RD for these services when no other USDA funds are provided for the applicable project. The survey methodology was a questionnaire provided to RD Representatives based on provisions of the MOA, RD implementation guidelines and grant agreements and contacts with State ARC Program Managers and grantees.

Thirty two responses were received from Area and State RD representatives and we accepted the responses as presented.

On July 1, 2003 RD officials, based on discussions with ARC, issued a memorandum entitled "Appalachian Regional Commission Grants Processing Procedures" to provide additional or clarifying guidance for processing the grants.

In October 2012, in order to obtain additional information about the status of grants administered by the Basic Agencies, ARC initiated a Basic Agency Monitoring Report (BAMR). The annual report provides for BA representatives to identify the status of key elements of the grant process including approval and obligation dates, funds approved, status of work, estimated completion date and problems incurred.

The cooperation and participation of RD Representatives during the survey was appreciated.

Appendix A is a listing of issues for consideration and action by RD and ARC impacting the MOA and administration of ARC grants. Appendix B details the RD Administration and Monitoring process.

Summary

We concluded, based on RD survey responses and contacts with State ARC Program Managers and grantees, that overall RD was effectively performing the necessary functions to administer and monitor the ARC construction contracts for which they are responsible. The responses indicated extensive involvement on the part of the RD Area Offices with assistance from the RD State Offices. The involvement begins with grant pre-planning and flows through the application process, all levels of the construction process, including monthly meetings, review of expenses, expenditures and payments through the final construction inspection and preparation of closing documents (financial and progress).

The responses did not identify significant issues with respect to the questions relating to payment of grant funds; full and accurate reporting of grant expenditures, grant administration, grantee compliance with applicable laws and regulations, including Davis-Bacon, participation in the grantee application process, contacts with grantee and on-site visits to projects, contractor oversight, grantee cooperation with RD, and timely responses from ARC.

The 2003 RD guidance noted that based on conversations with ARC officials it was apparent that there was a need to provide updated information in the administration of these grants and further indicated areas of greatest concern included approvals, closeouts, and current status of existing grants. The memorandum noted that ARC is authorized to cancel any grants that have not begun construction within 18 months of approval.

Survey responses and contacts did identify various issues for which additional coordination between ARC and RD is recommended to update, clarify, revise or address various issues, including issues previously identified by RD.

Thus, a primary issue and recommendation is the need to review and update the 1998 MOA to highlight and include current practices or requirements. This includes the ARC initiation in 2012 of the annual Basic Agency Monitoring Report (BAMR) that provides more definitive information to ARC about grant status.

Related issues for consideration in line with MOA updating include periodic MOA updates, notification of changes in project costs or scope, project delays, and notification of projects not started within 18 months of grant approvals, including clarification of when the 18 months period starts for construction grants. Also, use and timing of BAMR reports, clarification of financial and progress reporting requirements, timely reporting, including closing of completed projects, and proportionate expenditure of grant funds were identified as having different implementation interpretations.

RD implementation guidelines provided for grantees to provide quarterly progress reports to RD. Based on review of real time information on project progress available at ARC and contacts with State ARC Program Managers we concluded that availability of these reports at ARC and State ARC Offices would be beneficial.

As noted, State ARC Program Managers and grantees had positive comments with respect to coordination and cooperation with RD representatives. Their primary concern was the lengthy process with respect to applicants (grantees) meeting RD requirements before project construction could start. Several RD responses dealt with this issue and coordination between ARC and RD with respect to streamlining the process has merit.

We recommend ARC and RD coordinate updating of the 1998 MOA and consider issues noted for inclusion in the updated MOA or RD implementing guidance.

ARC agreed to coordinate with RDS-USDA to update the 1998 MOU between ARC and USDA and consider issues identified in the report.

Appendix A

The Appendix identifies a series of issues that were surfaced during the survey and are considered worthy of consideration and coordination between RD and ARC as part of actions to revise and update the USDA/RD – ARC Memorandum of Agreement or RD Implementing Guidance.

- Provide a clause for periodic review of MOA, including consideration of necessary actions and update RD/ARC contacts annually.
- RD provide State ARC Program Managers and ARC the quarterly reports received from grantees.
- Consider automated web based reporting system that includes quarterly and final reports, including the BAMR.
- Coordinate efforts to streamline, where possible, required RD reviews by, for example, separating project components that may not require an in depth environmental study.
- Emphasize ARC and RD timely closing of grants, including receipt and processing of needed information.
- Identify and/or clarify financial and progress reporting including use of the Basic Agency Monitoring Report (BAMR).
- Joint training session or teleconference with respect to administering grants, including ARC regulations and requirements, with participation by RD National and State office staff, ARC and ARC State Program Managers to extent feasible.
- Classify when 18 month rule starts – i.e. at time of ARC award or RD/grantee agreement.
- Clarify policies and procedures with respect to significant changes in project scope or cost and significant problems including notification to ARC where applicable.
- Clarify procedures that outline responsibilities of each agency, including the policy of providing ARC copies of the RD-grantee agreement and consider providing the Letter of Conditions.
- Coordinate actions to notify grantees of RD responsibilities.
- Inform RD of ARC approved projects and RD inform ARC when RD-grantee agreement signed.

- Coordination between ARC and RD with respect to notifying grantee of obligations and RD review start.

- Clarifying handling of unliquidated funds.

- Establish disbursement procedures with respect to proportionate or other distributions of ARC funds.

The RD Administration and Monitoring Process

RD responses identified the following actions. Based on the responses, the RD area offices are very involved after notification from the RD State Office that the project has been approved by ARC. The Area Specialist plays a key role in administering the grants. Many noted involvement in early meetings with potential grantees interested in doing a project and at these meetings various funding sources are identified and discussed, one of which could be ARC.

The Area Specialist is involved in the application process and responsible for working with all parties to make sure that the documents and information are prepared accurately and copies maintained.

An application processing meeting may be held with the Grantee to explain application requirements. Often RD loan/grant funds are included in the projects and most of the required documents are the same for both agencies. ARC projects that do not have RD funding were reported as administered in the same fashion as a RD project.

Required forms and approvals are obtained; which could include a copy of the application, applicable forms, engineering procurement information, legal service agreements, user agreements, operation and management plans, verification of commitment of other funds, Letter of Conditions, RD-Grantee agreements, advertisement for bids, pre-construction conference items, pertinent construction contracts and other related documents, and close out documents.

The Area Specialist ensures completion of the necessary environmental reviews (which can be very in depth and time consuming), visits or communicates with the grantee during the application process to assist in completion of various documents, delivers the Letter of Conditions, and completes the Grant Agreement. The Area Office ensures that the grantee has a complete grant application before submitting to the RD State Office for approval.

RD is active with respect to assisting grantees with the contracting requirements. The Area Specialist is involved in the contracting process from planning of the contract to closing the contract once construction is completed. This process usually includes a pre-construction conference, review of plans and specifications, development of an RFP, advertisement for bids, review of bid proposals, and award of contract. The Area Specialist assures necessary documentation is included such as payment performance bonds, notice of awards, bid schedule, liquidated damages, wage determinations etc. The State Engineer and State Architect also review these items to make sure that the necessary documents, as well as the applicable federal regulations, are included. Once the contracts are in accordance with the regulations, the State Architect/Engineer approves the documents for bidding. The Area Office works with the applicant to insure that public notices are given and public meetings held. RD is

actively involved in the pre award construction conference and subsequent administration of the contract. Once the contract is awarded the process includes monthly progress meetings, review and approval of payment requests, review of change orders, progress reports, completes inspections throughout the construction phase, coordinates payments, orders funds to complete payment and completes the needed close-out reports.

Grant funds are usually paid following regularly scheduled construction meetings upon request of the grantee and presentation of documentation that expenses were incurred and documented by invoice and in accordance with the grant purpose and applicable laws and regulations. The Area Specialist receives monthly bank statements in order for the reconciliation of the construction bank account. Payments are signed off on by all appropriate parties.

The Area Specialist works with the grantee to complete the ARC closeout report at the end of the project. At the end of construction the grantee signs the final inspection report indicating acceptance with project completion. The Area Office prepares the final progress report and closeout report and submits to the State Office for review and approval. The State Office or the Area Office sends the closing reports to ARC.