

RD AN No. 4456 (4279-A, 4280-B, and 4287-B)
July 7, 2009

TO: State Directors, Rural Development

ATTN: Business Programs Directors

SUBJECT: Business and Industry Guaranteed and Direct Loan and Section 9007 Rural Energy for America Programs (formerly Section 9006 Renewable Energy Systems and Energy Efficiency Improvements Guaranteed Loan Programs) Collateral Reconciliation

PURPOSE/INTENDED OUTCOME:

In order to facilitate an orderly liquidation, the lender must keep an accounting of collateral. Reconciliation of the collateral is essential to the orderly liquidation process. A current collateral listing can be compared to the collateral taken at loan inception. Proper documentation will prevent the recurring problems that are being experienced in the liquidation process and will ensure proper accounting of all collateral. The purpose of this Administrative Notice (AN) is to clarify information needed.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4370 dated May 14, 2008, which expired on May 31, 2009.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-A, section 4279.30(a)(1)(iv), states that the lender is responsible for: "Obtaining valid evidence of . . . collateral in accordance with sound lending practices." Lenders are responsible for obtaining an inventory accounting of all collateral items prior to the disbursing of loan proceeds. Lender and Agency files should be documented to include a complete collateral listing.

EXPIRATION DATE:
July 31, 2010

FILING INSTRUCTIONS:
Preceding RD Instructions 4279-A, 4280-B, and 4287-B

In addition, RD Instruction 4287-B, section 4287.157(d)(2), provides that the lender's liquidation plan must include "[a] full and complete list of all collateral including any personal and corporate guarantees." The Lender's Agreement, Form RD 4279-4, paragraph IV., Servicing, C. 6., states: ". . . if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to USDA [U. S. Department of Agriculture] at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. . ."

The State Office is responsible for following up with the lender when personal financial statements are not submitted on a timely basis. The Lender's Agreement, Form RD 4279-4, paragraph IV., Servicing, C. 1., states that the lender is responsible for: "Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements and notifying in writing USDA and the Borrower of any violations. None of the aforesaid instruments will be altered without USDA's prior written concurrence. . ."

In accordance with RD Instruction 4280-B, section 4280.131 and 4280.156, all Section 9007 Rural Energy for America Programs guaranteed loans are to be serviced in accordance with the provisions referred in this AN.

Any questions or comments should be directed to the Business and Industry Division, Servicing Branch, (202) 690-4103.

(Signed by Judith A. Canales)

JUDITH A. CANALES
Administrator
Business and Cooperative Programs