

RD AN No. 4628 (4279-A, 4279-C, 4280-B, and
4287-B)

February 23, 2012

TO: State Directors, Rural Development

ATTN: Business Programs Directors

SUBJECT: Business and Industry Guaranteed and Direct Loan, Section 9007 Rural Energy
for America and Biorefinery Assistance 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. 4531 dated August 5, 2010, which expired on August 31, 2011.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-A, section 4279.30(a)(1)(iv), states that the lender is responsible for: "Obtaining valid evidence of debt and 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:
February 28, 2013

FILING INSTRUCTIONS:
Preceding RD Instructions 4279-A, 4279-C,
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, sections 4280.131(a) and 4280.156, RD Instruction 4279.202 (f), of RD Instruction 4279-C and 7 CFR § 4287.307 (l), all Section 9007 Rural Energy for America and Biorefinery Assistance 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