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December 18, 2012

KANSAS BULLETIN NO. KS300-13-28

SUBJECT: LTP–Handling Equitable Relief Requests

Purpose. This bulletin replaces bulletin KS300-12-2 providing guidance on equitable relief (ER) requests

Expiration Date. September 30, 2014

All ER requests will be based upon decisions made following guidance in Title 440-Conservation Programs Manual (CPM), Part 509, and Title 7 Code of Federal Regulations (CFR), Part 635.

ER is not a “fix all” for contract issues and is only appropriate when a participant is determined to be out of compliance with requirements of a covered Natural Resources Conservation Service (NRCS) conservation program and thereby ineligible for payment or other benefits.

When determining the appropriate type of ER, refer to CPM, Section 509.2, Types of ER, and ensure the conditions outlined in CPM, Sections 509.4A (four-part test) and/or 509.5A (three-part test) have been met and detailed documentation supplied.

NOTE: ER requests must be in writing and from the contract participant(s) and received within 30–calendar days from the notification of non-compliance. Within 14 days of receipt of the ER request, the field office (FO) will forward the request with all required documentation to the area office (AO) for recommendation to the state office (SO).

Processing ER Requests

All ER requests must include:

1. Recommendation by the assistant state conservationist for field operations (ASTC-FO)
2. A completed Kansas Checklist for ER Requests (Attachment 1)
3. A completed cover memo from the field (Attachment 2).
4. Copy of the signature page of the contract.
5. Form NRCS-CPA-6, Conservation Assistance Notes, documenting dates, facts, and events relevant to the ER request in chronological order.

(more)

DIST: F, A, S, Collins, Franklin, C. Nelson, Volkman

6. Completed Form FSA-321, Finality Rule and Equitable Relief (Attachment 4). The FO will complete sections 1-14 of this form.
 - a. If relief is due to NRCS misaction/misinformation, identify in Sections 9B and 9C the individual(s) who made and/or found the error.
 - b. Section 11 is generally not applicable (N/A).
 - c. If no payment has been made for the items which ER is being requested, Section 12A will be zero (\$0). If associated payments have been made, enter the amounts. In Sections 12B and 12C, enter the requested ER amount.
 - d. ASTC-FO signs Section 14B as the contracting officer, indicating their review and concurrence of the information.
7. A Corrective Action Plan from the ASTC-FO is required when the error is due to NRCS misaction/misinformation. The Corrective Action Plan must address the following:
 - a. A review of action taken.
 - b. The need for additional office reviews, including full program reviews in the applicable office, if appropriate.
 - c. Additional employee training to be completed to prevent reoccurrence.
 - d. Any appropriate employee disciplinary action.

Electronic contracts (eContracts) will be used to forward requests to the SO. See "Use of eContracts for ER Actions" below.

Processing ER Payments After Approval

The payment, if applicable, will be processed after receiving notification of ER approval. To process approved ER payments outside of Program Contracts System (ProTracts) the following information is needed:

1. Manually prepared Form NRCS-CPA-1245, Practice Approval and Payment Application (Attachment 3). Applicable practices must be certified as being fully completed to the NRCS standards and specifications. This form shall be signed by the participant and appropriate NRCS approving official. The "Payment Application Number" block should be filled in as "ER."
2. Power of Attorney and/or signature authority documents, if applicable.
3. Copy of Form SF-1199A, Direct Deposit Sign-Up.
4. Any other documentation needed to support the request (i.e., assignment of payment).

Use of eContracts for ER Actions

1. FO will upload the original application files as listed below into eContracts, as well as the information outlined under "Process ER Requests" in this bulletin, if not already present in eContracts, using the ER Application Packet option under the destination folder and file. The FO will contact their ASTC-FO to let them know this has been completed.

- Forms NRCS-CPA-1200, 1202 Appendix, NRCS-CPA-1155, Conservation Plan or Schedule of Operations, and NRCS-CPA-1156 Revision of Plan/Schedule of Operations or Modification of a Contract
 - Signature authority
 - Participant eligibility
2. The ASTC-FO will review documentation and provide a recommendation to the state conservationist (STC). They will print out the Form FSA-321 and sign.
 3. The AO will send the electronic notification of the uploaded files to the SO Financial Management (FNM) Staff using eContract notification option for ER as well as sending an email notification to the ER coordinator.
 4. After approval of the ER request, the FO will upload requested payment information, for those payments made outside of ProTracts, under the Payment Information, 1245 option, under the destination folder and file.

Note: The “Payment Number” block will be completed with “ER.” After uploading this information, the FO will need to utilize the eContract notification option for ER to send the electronic notification to the SO.

Note: These payment requests are forwarded to the Financial Assistance Program Division (FAPD) for processing. FOs should expect at least four to six weeks for payment to be processed.

Attached to this bulletin are an example memo (Attachment 2), electronic fillable forms NRCS-CPA-1245 (Attachment 3), and FSA-321 (Attachment 4). These forms are to be signed, as appropriate, prior to submitting. The fillable Form NRCS-CPA-1245 shall only be used when submitting ER or other preapproved payments outside of ProTracts.

All special circumstances will be handled by the SO on a case-by-case basis.

Electronic directives (eDirectives) is offline and we do not know how soon it will be back online, please refer to Attachment 5 for eDirectives references for your convenience.

Contact: Forward questions through established channels to Joni’ Franklin, Resource Conservationist, at 785-823-4568 or e-mail her at joni.franklin@ks.usda.gov.

/(Signed) JEFFREY L. GROSS, ACTING FOR

ERIC B. BANKS
State Conservationist

Attachments