PART 4280 - LOANS AND GRANTS

Subpart A - Rural Economic Development Loan and Grant Programs

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Guide 3 Servicing Visit Guide for Grants
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PART 4280 – LOANS AND GRANTS

Subpart A - Rural Economic Development Loan and Grant Programs

§ 4280.1 Purpose.

The Rural Economic Development Loan (REDL) and Grant (REDG) Programs provide financing to eligible Rural Utilities Service (RUS) electric or telecommunications borrowers (Intermediaries) to promote rural economic development and job creation projects.

§ 4280.2 Policy.

(a) REDL Program. REDL Zero-Interest Loans are made to Intermediaries, to relend, at a zero-interest rate, to Ultimate Recipients. Ultimate Recipients are responsible for repayment to the Intermediary. The Intermediary must transmit Ultimate Recipient loan repayments to Rural Development.

(b) REDG Program. Grants are made to Intermediaries to establish Revolving Loan Funds. REDG Zero-Interest Loans are made by the Intermediary from the Revolving Loan Fund to Ultimate Recipients for the purpose of financing specific, approved Projects. Ultimate Recipients are responsible for repayment to the Intermediary. The Ultimate Recipient's loan repayments are to be retained in the Revolving Loan Fund, which is maintained by the Intermediary, to finance other rural economic development Projects. Only the initial loan made by the Intermediary from the Revolving Loan Fund has to be at zero interest.

(c) Any portion of this subpart appearing in italicized type is considered by Rural Development to be administrative procedure and has not been published in the Federal Register as part of the regulation.

(d) State Directors may delegate in writing the processing and servicing responsibilities of the program in any manner that will be most effective for program delivery within the State.

§ 4280.3 Definitions.

The following definitions are applicable to this subpart:

Advanced telecommunications. Using communications equipment for purposes, such as the simultaneous transmission of images and voice or the electronic transmission of data between multiple sites that do not consist primarily of providing local exchange voice or other routine communications.

Agricultural production. The cultivation, production, growing, raising, feeding, housing, breeding, hatching, or managing of crops, plants, animals, fish, or birds, either for fiber, food for human consumption, or livestock feed.

Business incubator. A facility in which small businesses can share premises, support staff, computers, software or hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive Technical Assistance, financial advice, business planning services or other support.

Community Facilities Project. An eligible community facility under the Community Facility Direct or Guaranteed programs.

Cushion of Credit. The amount contributed by the Intermediary pursuant to 7 U.S.C. 940c.

Direct Job. A job that is created or saved by an Ultimate Recipient employer as a result of funding received from these Programs.

Established Operation. An entity that has engaged in the nature of the Project for more than one year.

Full-Time Job. A job for which a worker is scheduled to work 35 hours per week, or more, on a regular basis.

Grant. For the REDG Program only; a transfer of monies other than a loan, from Rural Development to an Intermediary for specific use in funding a Revolving Loan Fund from which loans are made to Ultimate Recipients. Grant funds must be repaid by the Intermediary to Rural Development in the event the Fund is unused for more than one year, misused, no longer needed for its intended purposes, or the Grant is terminated.

Independent Provider. An entity or individual, other than the Intermediary or the Ultimate Recipient that is not owned by a subsidiary or an affiliate of the Intermediary or Ultimate Recipient or would otherwise have an interest in the Intermediary or Ultimate Recipient that would be a conflict of interest or have the appearance of a conflict of interest.

Indirect Job. A job that is created or saved as a result of a funded Project, but is not with the Ultimate Recipient.

Infrastructure. Facilities required to support private sector economic activity such as: highways, streets, roads, and bridges; public transit; water supply; wastewater treatment; water resources; solid waste; and hazardous waste services.

Intermediary. An entity that is identified by RUS as an eligible borrower under the Rural Electrification Act and obtains a REDG Grant or a REDL Loan.

Part-Time Job. A job for which a worker is scheduled to work less than 35 hours per week, on a regular basis.

Programs. The Rural Economic Development Loan (REDL) and the Rural Economic Development Grant (REDG) Programs.

Project. The facility, equipment, or activity of the Ultimate Recipient that is funded under one of the Programs.

REDG. The Rural Economic Development Grant Program.

REDL. The Rural Economic Development Loan Program.

Revolving Loan Fund (or Fund). A revolving loan fund that is created with Grant funds and the Intermediary’s supplemental contribution under the REDG Program that makes loans and uses the loan repayments and interest earnings to make subsequent loans until the Fund is terminated.

Revolving Loan Fund Plan. A plan developed by the Intermediary and approved by Rural Development that governs the use of the Revolving Loan Fund. The plan must at least include a detailed explanation of the Intermediary’s Fund administration policies and procedures and planned Fund use after the funds in the Revolving Loan Fund have revolved. Fund administration policies and procedures must at least include information regarding the review and approval of loans from the Fund.

Rural area. Any area other than:

(1) A city or town that has a population of greater than 50,000 inhabitants; and

(2) The urbanized area contiguous and adjacent to such a city or town.

This information will be taken from the most recent census data.

Rural Business- Cooperative Service (RBS). The Rural Business-Cooperative Service, an agency within the Rural Development mission area of the USDA.

Rural Development. For purposes of this regulation, The Rural Business-Cooperative Service (RBS), an agency of the United States Department of Agriculture, or a successor agency, will be referred to as Rural Development.

Rural Utilities Service (RUS). The Rural Utilities Service, an agency within the Rural Development mission area of the USDA.

Seasonal Job. A job whether Part-Time or Full-Time that begins and ends in accordance with a specified time period of less than a year and generally within a range less than four months.

Start-Up Venture(s). An entity that has engaged in the nature of the Project for less than one year. An entity that has operated in excess of one year, but which is about to enter into a new line of business, would be considered a Start-Up Venture.

State. Any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Technical assistance. Managerial, financial and operational analysis and consultation by Independent Providers to assist Project owners in identifying and evaluating problems or potential problems and to provide training that enables Project owners to successfully implement, manage, operate and maintain viable Projects.

Ultimate Recipient. An entity or individual that receives a loan from an Intermediary. The Ultimate Recipient may be a for profit or not-for-profit entity such as, but not limited to, a sole proprietorship, a corporation, a cooperative, a partnership, or a Limited Liability Company. The Ultimate Recipient may also be a public body, such as, but not limited to, a political subdivision of a State or locality, or a Federally-recognized Indian tribe.

Uniform Act. The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601-4655).

USDA. The United States Department of Agriculture.

Zero-Interest Loan. A loan made by the Intermediary to the Ultimate Recipient with no interest and which will be repaid to the Intermediary by the Ultimate Recipient.

§§ 4280.4 - 4280.12 [Reserved]

§ 4280.13 Applicant eligibility.

Applicants that are not delinquent on any Federal debt or otherwise disqualified from participation in these Programs are eligible to apply. An applicant must be eligible under 7 USC 940c.

A statutory exception was given by Congress to permit certain electric borrowers that paid their RUS electric loans under either of two authorized discount prepayment programs to remain eligible for REDLG assistance. The first discount prepayment program was authorized on October *30, 1986, and expired on September 30, 1987. The second discount prepayment program was authorized October 21, 1992, and currently remains in effect. Only electric borrowers are eligible to apply for the discount prepayment program. No provision was made in the prepayment legislation to allow telecommunications borrowers to participate. Rural Development processing officials must determine if the applicant is current on all other Federal debts.*

Public Law 109-97, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2006, expanded for Fiscal Year 2006 only, the definition of eligible Program borrowers to include "any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act". RUS General Field Representatives (GFRs) are responsible for determining eligibility for the REDLG program.

Eligibility of a prospective Intermediary does not necessarily equate to qualification. State Offices must be confident that the applicant has the capacity and capability to service a pass-through loan (in the case of REDL loan) or manage a Revolving Loan Fund (in the case of a REDG Grant) before recommending the applicant for approval. A tool for assessing the financial capability of the prospective Intermediary is provided in Guide 6. A tool for assessing the loan fund management capability of the prospective Intermediary is provided in Guide 1. The State Office determines that the applicants are eligible for funding as described in Guide 6. Therefore, it is incumbent upon the State Office to ensure that this statement is correct.

§ 4280.14 [Reserved]

§ 4280.15 Ultimate Recipient Projects eligible for Rural Economic Development Loan funding.

An Intermediary may receive REDL funds only when it has a pre-approved Ultimate Recipient and Project that have an immediate need for the Zero-Interest Loan. REDL funds may only be used by the Intermediary to make a Zero- Interest Loan to the Ultimate Recipient to finance financially viable economic development or job creation Projects in a Rural Area. Funds may only be used to provide the following assistance:

(a) Start-Up Venture costs, including, but not limited to financing fixed assets such as real estate, buildings (new or existing), equipment, or working capital;
(b) Business expansion;
(c) Business Incubators;
(d) Technical Assistance;
(e) Project feasibility studies;
(f) Advanced Telecommunications services and computer networks for medical, educational, and job training services;
(g) Other Projects eligible under §4280.21; or
(h) Community Facilities Projects.

The National Office should be consulted for other projects that fall under this section. (Also refer to §4280.21 for types of eligible projects that may be financed with a loan to an Ultimate Recipient from USDA funds granted to an Intermediary. Also refer to §4280.27 for a list of ineligible purposes of the REDL loan and REDG Grant proceeds.)

§ 4280.16 REDL and REDG Loan Terms.

REDL and REDG loans made by the Intermediary are governed by the following terms:

(a) The maximum term of a loan is 10 years, including any principal deferment period. The Intermediary may choose a shorter term if desired. No other repayment schedule, e.g., quarterly, semi-annual, annual, is acceptable under the REDLG program due to subsidy model computations. The Administrator will determine the terms and repayment schedule of the REDL loan to the borrower based on the nature of the project and approved purposes. Ordinarily, the total term of the loan, including any principal deferment period, will not exceed 10 years. The repayment terms the Intermediary sets on a REDL loan must equal the terms of the loan provided to the Ultimate Recipient unless a written request from the Intermediary to provide a longer deferment period, shorter total term of the loan, or other *benefits is approved by the Administrator.*

(b) Deferments on Zero-Interest Loans will automatically be granted by Rural Development upon request of the Intermediary as follows:

(1) A deferral for up to 1 year for Projects involving an Established Operation; or

(2) A deferral for up to 2 years for Projects involving a Start-Up venture or a Community Facilities Project whether or not such Project also receives funding under USDA Community Facilities funding programs. *A principal deferment period that is less than 1 year may be considered by Rural Development for a pass-through loan to an established business if requested by the Intermediary. The total term of the loan, including the deferment period, will not exceed 10 years. The Administrator has the discretion to defer the repayment of principal up to 2 years, based on an analysis of the feasibility of the project. Ordinarily, if the Administrator considers the project to be a business expansion or going concern, the first repayment of principal will not begin until one year after the date of the RUS note. Ordinarily, if the Administrator considers the project to be a start-up project, the first repayment of principal will not begin until 2 years after the date of the RUS note. Loans must be repaid under terms set forth in RUS's legal documents.*

(c) The Intermediary must provide the Ultimate Recipient with the same loan terms as the Intermediary receives from Rural Development.

(d) The Intermediary is solely responsible for the financial approval of Fund loans and all other Fund decisions and actions.

(e) Rural Development's *security for the REDL loan to the Intermediary, if it is not a current RUS borrower, is a letter of credit issued by a reputable financial institution on behalf of the Intermediary and made payable to the United States of America, acting through Rural Development.*

The letter of credit must be in form and substance satisfactory to Rural Development. The letter of credit must be irrevocable during the term of the loan and issued in an amount equal to 100 percent of the outstanding principal amount of debt on the first anniversary date of the note and thereafter on the annual renewal date. The State Office will require that the Intermediary provide the letter of credit to Rural Development prior to the advance of any funds.

§ 4280.17 Additional REDL Terms.

(a) The Intermediary is responsible for fully repaying the Zero-Interest Loan to RBS even if the Ultimate Recipient does not repay the Intermediary.

(b) The Intermediary is responsible for remitting any partial or full payment to RBS at the time the Ultimate Recipient pays the Intermediary.

(c) Unless deferred pursuant to §4280.16(b) of this subpart, loan payments to Rural Development under the REDL Program are due monthly.

(d) If the Intermediary does not have an outstanding loan with RUS, the Intermediary must immediately provide, as security for any REDL loan it receives, a Rural Development-approved irrevocable letter of credit that remains in effect until the loan is repaid.

(e) The Intermediary is required to repay the loan, to Rural Development, in full, at such time as the loan has been fully repaid to the Intermediary. Additionally, if the Intermediary receives a payment in excess of the Ultimate Recipient's regularly scheduled payment, such excess payment must be immediately remitted to Rural Development as a payment on the Intermediary's loan. The Intermediary is prohibited from retaining a partial or full loan payment for its own financial use or benefit.

§ 4280.18 [Reserved]

§ 4280.19 REDG Grants.

Intermediaries receiving Grants must partially finance a Revolving Loan Fund that the Intermediary will operate and administer, by providing supplemental funds of at least 20 percent of the Grant. Grants are subject to 7 CFR parts 3015, 3019, and 3052, as applicable. *Intermediaries shall establish their own rates and terms for subsequent loans made from the required matching funds, but must use the required matching funds for purposes as outlined in § 4280.21. The initial loan from the Grant funds and the required matching funds cannot be used for private for profit businesses except as stated in § 4280.21. Further guidance can be found in § 4280.23.*

§ 4280.20 [Reserved]

§ 4280.21 Eligible REDG initial Ultimate Recipients and Projects.

The Intermediary may only make loans from the Revolving Loan Fund to entities located in a Rural area of a State. Eligible entities are as follows:

(a) Non-profit entities, public bodies, or Federally-recognized Indian tribes Ultimate Recipients for:

(1) Community development or Community Facility Projects that:

(i) will create or save employment; and

(ii) are open to and serve all Rural residents, and are owned by the Ultimate Recipient;

(2) Business Incubators;

(3) Facilities and equipment to provide education and training to residents of Rural Areas that will facilitate economic development;

(4) Facilities and equipment to provide medical care to residents of Rural Areas. Equipment and facilities may be funded to enable eligible entities to provide medical training and related professional health care skills to rural health care providers;

(5) Projects that utilize Advanced Telecommunications or computer networks to facilitate medical or educational services or job training; or

(6) Project feasibility studies and Technical Assistance. A qualified Independent Provider must perform feasibility studies or Technical Assistance.

(b) For-profit Ultimate Recipients for Projects under paragraphs (a)(3), (4), (5), or (6) of this section.

§ 4280.22 [Reserved]

§ 4280.23 Requirements for lending from Revolving Loan Fund.

(a) Supplemental contribution. The Intermediary must establish a Revolving Loan Fund and contribute an amount equal to at least 20 percent of the Grant. The supplemental contribution must come from Intermediary's funds which may not be from other Federal Grants, unless permitted by law. *For example, if the Intermediary receives a Grant of $200,000 from Rural Development, the Intermediary must deposit $40,000 of its funds into the Fund.*

(b) Use of supplemental contribution. The Intermediary's contribution will only be used to make REDG loans and not other investment purposes. The Intermediary's contribution must remain a permanent part of the Revolving Loan Fund until the Fund is terminated.

(c) REDG Zero-Interest Loan Requirements. The Fund is made up of Rural Development and Intermediary contributions and must be loaned in accordance with one of the following 2 options:

(1) The contribution may be used to fund the same Project that Rural Development is funding. The interest rate on that portion of the financing using Rural Development funds will be at zero percent. The interest rate on that portion of the financing using the Intermediary's contribution may be greater than zero percent but must be less than, or equal to, the prevailing prime rate. Using this option, loan security and recovery of loan losses must provide for the pro rata recovery and distribution between the Intermediary and Rural Development based on the respective amounts of each contribution to the total loan amount for the Project.

(2) The Intermediary's contribution may be used to fund Projects separate from the Project financed with Rural Development funds, provided that the Project is eligible in accordance with §4280.21.

(3) Whether the Intermediary chooses the option under paragraph (1) or paragraph (2), its contribution must be used to fund an eligible Project within 3 years from the date of the Grant agreement. If the Intermediary fails to use its contribution within this 3-year period, Rural Development will terminate the Grant;

(d) Intermediary's supplemental funds. Once revolved, funds may be loaned at an interest rate called for in the Revolving Loan Fund Plan, not to exceed the prevailing prime rate, and

(e) Eligible purposes only. Until the total amount in the Fund has been loaned, all loans must be made for eligible purposes as stated in § 4280.21. After the Fund has been loaned, in accordance with §4280.21 of this subpart, the Intermediary shall make loans to finance rural economic development purposes in accordance with the Revolving Loan Fund Plan. All loan repayments, including interest earned, must be deposited into the Fund.

(f) Termination for cause. Rural Development will terminate the Fund and require repayment of the Grant funds in accordance with 7 CFR parts 3015 and 3019 if Rural Development determines that the Fund is not being operated according to the approved Revolving Loan Fund Plan, this subpart, or for other good cause determined by Rural Development, such as questionable prepayment of initial loans.

(g) All REDG Loans must be made to Rural Ultimate Recipients.

§ 4280.24 Revolved Funds.

Rural Development and the Intermediary's supplemental funds will be considered revolved after they have been loaned to Ultimate Recipients and subsequently repaid. Loans made from revolved funds will not require prior approval of Rural Development for creditworthiness or environmental clearance purposes. All other Federal compliance requirements, including those in this subpart, remain in effect. *The phrase "non-federal" was historically used to describe revolved funds. However, "non-federal" is a misnomer that may lead Intermediaries to make errors of omission when processing loans to Ultimate Recipients. Therefore, the phrase "revolved" has been substituted.*

§ 4280.25 Revolving Loan Fund Plan.

Each REDG Intermediary must adopt a Rural Development-approved plan that specifies that:

(a) The initial loan made from the Fund will be at zero percent interest and have a maximum term of 10 years;

(b) Loans made from loan repayments, may carry an interest rate less than, or equal to, the prevailing prime rate. The Intermediary determines repayment terms and security arrangements on these loans. *The prevailing prime rate that the Intermediary will use must be specified in the Revolving Loan Fund Plan. For example, "The maximum interest rate for loans made from the Revolving Loan Funds is the prime rate as published in the Wall Street Journal on the date of loan closing."*;

(c) Loans made from repayments of REDG loans must be for eligible Program purposes;

(d) The Intermediary is solely responsible for the financial approval of Fund loans and all other Fund decisions and actions; and

(e) No changes will be made to a Rural Development-approved Revolving Loan Fund Plan without the prior written approval of Rural Development.

(f) The Revolving Loan Fund Plan is the vehicle that will guide the Intermediary in operating the Revolving Loan Fund once the fund loses its federal character. The plan, previously referred to as a Rural Development Plan, must be comprehensive in its content. It should contain policy directives regarding the purpose and intended use of the Revolving Loan Fund as well as a system to measure the success of the Fund. The plan should provide guidelines for loan making (application review and selection process) and loan servicing (loan monitoring and servicing procedures). The plan should contain guidelines for the collection of data and compliance with the Civil Rights requirements of §4280.36(a) through (e) and (l) and any other Rural Development Civil Rights requirements. The plan should detail such requirements as minimum levels of supplemental financing, applicant eligibility requirements, eligible and ineligible loan purposes, maximum and minimum loan amounts, repayment terms, interest rates, financial and credit review requirements, servicing fees, collateral, loan servicing requirements, and recovery of loan losses. The plan should clearly state that all authority for approving or denying loans rests solely with the Intermediary and its Board of Directors. The plan should contain a provision stating that no change will be made to the plan without obtaining prior written approval of Rural Development. Guide 1 includes a sample format of a Revolving Loan Fund Plan for reference purposes. Each State Office is required to review and approve any Revolving Loan Fund Plan submitted by an Intermediary in its jurisdiction prior to the advance of any Grant funds.

(g) Guide 2 provides a basic checklist for use in reviewing the Revolving Loan Fund Plan. The plan may be more comprehensive and address more issues than those items shown on the checklist. If the plan is acceptable, a written letter of approval is to be provided by the State Office to the Intermediary with instructions for the Board of Directors to adopt the plan at the next regularly scheduled board meeting. A sample plan approval letter for use by State Offices is set forth in Guide No. 9. A copy of the duly passed board resolution adopting the plan is to be provided by the Intermediary to the State Office for its files. If the plan is incomplete or not acceptable, the State Office is required to inform the Intermediary in writing as to weaknesses in the plan and provide the Intermediary with a date by which the plan should be corrected. The Intermediary should be reminded that Grant funds will not be advanced until an acceptable plan is approved by Rural Development.

§ 4280.26 Administration and operation of the Revolving Loan Fund.

(a) The Intermediary will operate and administer the Revolving Loan Fund. The Intermediary may contract with a third party for administrative services regarding the Fund. However, the Intermediary must permanently retain all Project review, approval, and monitoring authority and responsibility. This authority and responsibility cannot be delegated to any other person or entity. *The Intermediary cannot delegate the operation and administration of the Revolving Loan Fund to any other entity, including any entity affiliated with the Intermediary. Only Intermediaries, as defined in* § 4280.3*, are eligible entities under the program; therefore, no other entities can legally fulfill the requirements of the Grant. If necessary, the Intermediary may contract with a reputable entity to provide certain limited activities necessary for the successful daily administration of the fund, such as credit review and financial analysis of the applicants, title searches, appraisal and valuation of collateral, insurance verifications, site inspections, performance and progress reports, and liquidation of collateral. The Intermediary will provide fidelity bond coverage for all persons, including contractors, who have access to the funds in the Revolving Loan Fund. Any contract for services provided by outside independent entities for the benefit of the Intermediary in connection with the administration of the Revolving Loan Fund must be reviewed and approved by Rural Development prior to the advance of any Grant funds. The contract must set forth the services to be provided and the rate charged for each service.*

(b) Up to 10 percent of Rural Development Grant funds may be applied toward operating expenses over the life of the Fund. Operating expenses include the costs of administering the Fund and Technical Assistance provided to Project owners by Independent Providers. *The 10 percent limitation is a one-time allowance applicable for the life of the fund.*

(c) In cases where the Intermediary uses its supplemental contribution to the Revolving Loan Fund for a Project other than the Project that resulted in the Intermediary being awarded the Grant, the loan terms must not exceed 10 years and the interest rate must be less than, or equal to, the prevailing prime rate.

§ 4280.27 Ineligible purposes.

Zero-Interest Loans may not be used:

(a) For activities that would adversely affect the environment, or activities that limit the choice of reasonable alternatives prior to satisfying Rural Development environmental requirements;

(b) To pay off or refinance any existing indebtedness or costs of the Project that was incurred prior to Rural Development receipt of the Intermediary's completed application;

(c) For any electric or telecommunications purpose or for the Intermediary's electric or telecommunications operations, for affiliated operations of the Intermediary, or for the benefit of other Intermediaries or their affiliated operations, except those purposes contained in § 4280.15(f);

(d) To pay the salaries of any employee or owner of the Intermediary, its subsidiaries, or affiliates, except for salaries incurred in administering a Revolving Loan Fund established under the REDG Program;

(e) For community antenna or cable television systems or facilities;

(f) For residential purposes such as residential dwellings and land sites; facilities to provide entertainment television; to transfer property between owners without making improvements that will promote or sustain economic development in Rural Areas; or for personal, non-business related vehicles;

(g) Where there is directly or indirectly a conflict of interest or the appearance of a conflict of interest in the Project; for Intermediaries this would include a situation in which the Intermediary, its officers, managers, Board of Directors, employees, their spouses, children, or close relatives, have a financial or ownership interest in the Project being funded, including its construction or development;

Examples of Conflicts of interest include but are not limited to:

1. The Intermediary, Board Member and/or employee, its officers, manager, their spouses, children, or close relatives have an ownership interest in the project.

2. The Intermediary, Board Member and/or employee, its officers, manager, their spouses, children, or close relatives have an ownership interest in the property or other assets being purchased by the project.

3. The Intermediary, Board Member and/or employee, its officers, manager, their spouses, children, or close relatives providing technical assistance financed with project funds.

4. Any other activity which may have the appearance of a conflict of interest.

(h) For any purpose when receipt of loan funds is conditioned upon the requirement that the Ultimate Recipient acquire electric or telecommunications service from the Intermediary or its affiliates;

(i) For any gambling activity;

(j) For a Project that would result in the transfer of existing employment or business activity more than 25 miles from its existing location;

(k) For proposed Projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501-3510);

(l) For any illegal activity or any activity involving prostitution;

(m) For Agricultural Production, except where the Project is a farmer-owned cooperative or similar organization where the benefits of the Project are passed on to the farmer-owners, and the Agricultural Production is part of an integrated business that processes the agricultural products, and the Agricultural Production portion of the loan will not exceed 50% of the loan amount;

(n) For any pass-through Grant funding activity (a Grant by the Intermediary to the Ultimate Recipient);

§ 4280.27 (Con.)

(o) Provision of only local exchange voice telephone service; or

(p) For any other purpose announced in a notice by Rural Development. This will not affect Grants that have already been awarded.

§ 4280.28 [Reserved]

§ 4280.29 Supplemental financing required for the Ultimate Recipient Project.

(a) For REDL loans, either the Ultimate Recipient or the Intermediary must provide supplemental funds for the Project equal to at least 20 percent of the loan to the Intermediary. For REDG Grants, the Intermediary must provide supplemental funds for the Project equal to at least 20 percent of the Grant to the Intermediary.

(b) Funds provided by the Ultimate Recipient must be:

(1) Cash or its equivalent;

(2) provided after Rural Development receives the completed application; and

(3) disbursed for an eligible Project within a three year period that begins on the day the Intermediary signs the Grant agreement.

(c) Satisfactory evidence of the Ultimate Recipient's funds must be provided to Rural Development before it will advance any funds to the Intermediary.

§ 4280.30 Restrictions on the use of REDL or REDG funds.

(a) Conflict of Interest. The Intermediary must not own or manage any Ultimate Recipient Project, unless the Project is acquired as a result of servicing a loan made from the Revolving Loan Fund. Conflicts of interest and all appearances of a conflict of interest are not permitted.

(b) Fees. The Intermediary may charge reasonable loan servicing fees, which are limited to one percent per year of the principal amount outstanding on the loan; reasonable professional service fees that are customary for the service being provided and in accordance with any standard fee schedules that have been established for the service; and reasonable expenses the Intermediary has incurred from Independent Providers.

(c) Interest earnings. Any interest earned by the Intermediary on advances of Rural Development REDG or REDL funds prior to the disbursement for the Project, must be returned to Rural Development.

§§ 4280.31 - 4280.35 [Reserved]

§ 4280.36 Other laws that contain compliance requirements for these Programs.

(a) Equal employment opportunity. For all construction contracts and Grants in excess of $10,000, the contractor must comply with Executive Order 11246, as amended by Executive Order 11375, and as supplemented by applicable Department of Labor regulations (41 CFR part 60). The applicant is responsible for ensuring that the contractor complies with these requirements.

(b) Equal opportunity and nondiscrimination. Rural Development will ensure that equal opportunity and nondiscriminatory requirements are met in accordance with the Equal Credit Opportunity Act and 7 CFR 15d, conducted by USDA. Rural Development will not discriminate against applicants on the bases of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to contract); to the fact that all or part of the applicant’s income derives from public assistance program; or to the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(c) Civil rights compliance. Recipients of Grants must comply with the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. This includes collection and maintenance of data on the race, sex, and national origin of the recipient's membership/ownership and employees. These data must be available to conduct compliance reviews in accordance with 7 CFR part 1901 subpart E, § 1901.204. Initial compliance reviews will be conducted with the Intermediary when Form RD 400-4, "Assurance Agreement," is signed. For each loan or Grant an Intermediary receives, a new Form RD 400-4 must be completed. Each Ultimate Recipient must go through the same pre-award compliance review process and must also sign Form RD 400-4. For loans and Grants, a pre-award review is required before loan or Grant approval or any disbursement of funds. For Intermediaries, a post-award compliance review is required 90 days after closing the loan or Grant. This review is not required for Ultimate Recipients. Subsequent compliance reviews will be conducted 3 years from the date the post-award compliance review is completed for Intermediaries and 3 years from the date the pre-award compliance review is completed for Ultimate Recipients. Where Grant funds are used for a Revolving Loan Fund, compliance reviews are required for the Intermediaries for as long as the Fund is in operation. For Ultimate Recipients, compliance reviews are conducted until the loan is repaid to the Fund.

(d) Architectural barriers. All facilities financed with Zero-Interest Loans that are open to the public or in which persons may be employed or reside must be designed, constructed, or altered to be readily accessible to and usable by disabled persons. Standards for these facilities must comply with the Architectural Barriers Act of 1968, (42 U.S.C. 4151-4157) and the ``Uniform Federal Accessibility Standards'', (41 CFR part 101-19.6, Appendix A).

(e) Uniform relocation assistance. Relocations in connection with these Programs are subject to 49 CFR part 24 as referenced by 7 CFR part 21 except that the provisions in title III of the Uniform Act do not apply to these Programs.

(f) Drug-free workplace. Grants made under these Programs are subject to the requirements contained in 7 CFR part 3021 which implements the Drug-Free Workplace Act of 1988 (41 U.S.C. 701-706). An Intermediary requesting a REDG Grant will be required to certify that it will establish and make a good faith effort to maintain a drug-free workplace program.

(g) Debarment and suspension. The requirements of 7 CFR part 3017 are applicable to these Programs.

(h) Intergovernmental review of Federal programs. These Programs are subject to the requirements of Executive Order 12372 (3 CFR 1982 Comp., p. 197) and 7 CFR part 3015, subpart V which implements Executive Order 12372. Proposed Projects are subject to the State and local government review process contained in 7 CFR part 3015.

(i) Restrictions on lobbying. The restrictions and requirements imposed by 31 U.S.C. 1352, and 7 CFR part 3018, are applicable to these Programs.

(j) Earthquake hazards. These Programs are subject to the seismic requirements of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701-7706).

(k) Environmental requirements. The requirements of 7 CFR part 1940, subpart G, or its successor regulations, are applicable to these Programs and to the loans made from the Revolving Loan Fund using Rural Development funds. Financial assistance from the Revolving Loan Fund, when funds are derived from repayments by third parties, is not considered Federal assistance for purposes of meeting the compliance requirements of 7 CFR part 1940, subpart G, or any successor regulations.

(l) Affirmative fair housing. If applicable, the Intermediary will be required to comply with the Affirmative Fair Housing Act (42 U.S.C. 3601-3631).

(m) Flood hazard insurance. These Programs are subject to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended by 42 U.S.C. 4001-4129.

(n) Audits. These Programs are subject to 7 CFR part 3052.

§ 4280.37 Application forms and filing dates.

(a) The Intermediary may obtain forms that supplement the written narrative sections of its application from the Rural Development State Office for the State where the Intermediary is located.

(b) An original copy only of the application is to be filed with the Rural Development State Office. No other copies are required.

(c) The processing and servicing office for an application is the State Office for the State in which the Intermediary is headquartered, not the location of the Ultimate Recipient project.

§ 4280.38 Maximum amount of loans or Grants.

During any given fiscal year, Rural Development will publish an announcement of available loan and Grant funds and will indicate the maximum loan and Grant amounts for which an Intermediary or prospective Intermediary may apply. This announcement will also include contact information and application deadlines.

All pending applications on file at RBS, including both loan and Grant applications, from the same Intermediary or prospective Intermediary for the same Project will be considered to be one application in determining that the maximum size of the application is in accordance with this section.

§ 4280.39 Contents of an application.

An application for a loan or a Grant must contain the following:

(a) Required forms and certifications:

(1) Standard Form 424, ``Application for Federal Assistance,'' signed by an authorized representative of the Intermediary. *Applicant must include their DUNS number on this form when applying for Grants*;

(2) A Resolution of the Board of Directors signed by the directors and certified by the Intermediary's board secretary. The board resolution must indicate whether the Intermediary is requesting a loan or Grant, agree to the provisions of this subpart and the loan or Grant agreement including the Intermediary's 20 percent Fund contribution, and state that the Intermediary has the legal authority to enter into a loan or Grant agreement under these Programs;

(3) Form AD 1047, "Certification Regarding Debarment, Suspension, and other Responsibility Matters-Primary Covered Transactions,'' and Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Transactions." *AD-1048 is to be signed by the Ultimate Recipient*;

(4) Assurance statement for the Uniform Act signed by the Ultimate Recipient. This statement provides Rural Development with the required assurance statement that any relocations of persons or acquisitions of real property, as part of completing the Ultimate Recipient Project, will be handled in accordance with this statute. *See Guide 13*;

(5) RD Instruction 1940-Q, Exhibit A-1, applies if the loan is greater than $150,000 or the Grant is greater than $100,000;

(6) SF LLL, ``Disclosure of Lobbying Activities,'' (If the Intermediary or the Ultimate Recipient engages in lobbying activities);

(7) Form AD 1049, "Certification Regarding Drug-Free Workplace Requirements," for Grants only;

(8) Seismic certification if construction of a building is proposed. The Project owner certifies that any building constructed will comply with standards that reduce the damage caused by earthquakes;

(9) Form RD 1940-20, "Request for Environmental Information''; and

(10) RUS Form 7, "Financial and Statistical Report" and RUS Form 7a "Investments, Loan Guarantees, and Loans," or similar information.

§ 4280.39 (Con.)

(b) A written narrative section must be provided. This section consists of the following:

(1) A Project description, including details of the work to be performed with Rural Development funds, and a business plan, including a discussion of management and prior experience of the Ultimate Recipient. The application should document how the Project will benefit residents of rural areas. The business plan should be comparable to a plan normally submitted to a bank for long-term financing;

(2) A discussion of how the Project meets each selection factor in § 4280.42(b);

(3) A Revolving Loan Fund Plan is required if the Intermediary is applying for a Grant to establish a Revolving Loan Fund. See § 4280.25 and Guides 1 and 2 for additional information.

(4) Upon receipt of the application, the State Office will provide a letter to the Intermediary acknowledging receipt of the application and citing the date of receipt. This date is critical since no costs incurred on the project prior to this date are eligible for funding in accordance with § 4280.27(b). The acknowledgement letter will inform the Intermediary accordingly. A sample letter is provided in Guide 4. A checklist to assist the State Office in determining completeness of the application is set forth in Guide 5.

(5) The State Office is responsible for entering the necessary data concerning the application into the Guaranteed Loan System (GLS).

(6) If the State Office determines that an application is not eligible for funding, the Intermediary will be informed, by the State Office, in writing. The notification letter will include the reason for ineligibility.
See § 4280.62 for appeal information.

§ 4280.40 [Reserved]

§ 4280.41 Environmental review of the application.

(a) Rural Development will conduct a review for the potential of any environmental impacts resulting from the proposed Project identified in the application and inform the Intermediary of any additional information Rural Development needs and any subsequent environmental requirements necessary for Rural Development to make a finding.

(b) Rural Development will conduct all necessary environmental reviews as prescribed in 7 CFR part 1940, subpart G, or its successor regulations.
These reviews must be completed before the application can be considered for approval.

(c) Contact your State Environmental Coordinator for additional guidance on the environmental review process.

§ 4280.42 Application evaluation and selection.

(a) Rural Development will evaluate the application and score it based on the selection factors in this section. All applications will be ranked on a nationwide basis, based on the total points scored.

(b) The application will be evaluated and scored using the information provided in accordance with § 4280.39(b)(2) of this subpart.

(1) Nature of the Project. Rural Development will award up to 60 points based on whether the Project:

(i) Is a for-profit business, Business Incubator, industrial building or park, or an infrastructure connection project (such as streets or utilities) — 20 points;

(ii) Provides Technical Assistance to rural businesses or rural residents, or educates or provides medical care to rural residents — 20 points;

(iii) Will enhance rural economic development by providing Advanced Telecommunications services and computer networks for medical, educational, and job training services. This review will be based on the application's telecommunications design - 20 points.

(2) Number of direct full-time equivalent jobs created or saved within a 3-year period. To calculate full-time equivalent Direct-Jobs, count two part-time jobs as one full-time job or three part-time or seasonal jobs as one full-time job. If the total numbers of part-time and seasonal jobs add up to a fraction, round up to the next whole number after combining same. Indirect-Jobs or non-Rural jobs cannot be used for this calculation.

If the number of Rural full-time Equivalent Direct-Jobs jobs created or saved per $100,000 of total Project cost is:	Then Rural Development will award:
(i) Greater than five.....	25 points;
(ii) From one to five.....	15 points.

(3) Supplemental funds for the Project. Points will be based on a calculation of the amount of supplemental funds to be provided to the Project. All supplemental funds used in the following calculation must be disbursed to the Project between the date of Rural Development receipt of the application and 1 year after the first advance of funds by Rural Development:

If supplemental funds as a percentage of the Rural Development loan or Grant to be provided to the Project are:	Then Rural Development will award:
(i) Greater than 200%.....	20 points;
(ii) From 100% to 200%.....	10 points;
(iii) From 50% to less than 100%.....	5 points.

(4) Unemployment rate for the county(ies) where the Project is physically located. Rural Development will compare the current unemployment rate(s) in the county(ies) to the State and national unemployment rates, and, if applicable, award points under the following categories, whichever is greater:

If the unemployment rate(s) in the county(ies) where the Project will be located:	Then Rural Development will award:
(i) Exceeds the national unemployment rate by 30% or more.	15 points;
(ii) Is greater than the national unemployment rate, but exceeds it by less than 30%	5 points;
(iii) Exceeds the State unemployment rate by 30% or more.	10 points;
(iv) Is greater than the State unemployment rate but exceeds it by less than 30%.	5 points.

(5) Per capita personal income for the county(ies) where the Project is physically located. Rural Development will compare the per capita personal income in the county(ies) where the Project will be located to the national and State per capita personal income levels, and, if applicable, award points under the following categories, whichever is greater:

If the per capita personal income level in the county(ies) is:	Then Rural Development will award:

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(i) Less than or equal to 90% of the national level.	15 points;
(ii) Between 90 and 100% of the national level.	5 points;
(iii) Less than or equal to 90% of the State level	10 points;
(iv) Between 90 and 100% of the State level.	5 points.

(6) Rural Area location.

(a) If the Project is physically located in an incorporated city or town or equivalent having a population of 1,249 or less, or if it is physically located in an unincorporated area, Rural Development will award 20 points.

(b) If the Project is physically located in an incorporated area having a population of 1,250 to 2500, Rural Development will award 10 points.

(7) Decline in population for the county where the Project is physically located. If there has been a decline in population in the county where the Project will be located over the time period covered by the two most recent decennial censuses of the United States to the present, Rural Development will award 10 points.

(8) Cushion of Credit Payments. Rural Development will determine the level of Cushion of Credit Payments on deposit by the Intermediary, as follows:

If the Intermediary's Cushion of Credit account level is:	Then Rural Development will award:
(i) In excess of $300,000, or a dollar amount in excess of three percent of the Intermediary's total assets, whichever is less.	15 points;

(ii) Within the range of $100,000 to $299,999.99, or a dollar amount that is within the range of one percent to 2.99 percent of Intermediary's total assets, whichever is less.	10 points;
(iii) Within the range of $10,000 to $99,999.99, or a dollar amount that is within the range of 0.5 percent to .99 percent of Intermediary's total assets, whichever is less.	5 points.

The State Office will contact the Finance Office in St. Louis for Cushion of Credit balances. An electronic message should be sent to ret@stl.rural.usda.gov. Points will be awarded based on the amount in the applicant's Cushion of Credit account. States will obtain and refer to RUS Form 7 or similar financial information to determine the assets of the Intermediary. All Intermediaries must have an annual independent audit. State Offices should be certain to obtain a copy of the audit from the RUS General Field Representative (GFR) for current RUS Borrowers or directly from the Intermediary.

(9) Initial loan and Grant. If the loan or Grant application will result in the first award to an Intermediary under these Programs, Rural Development will award 10 points.

(10) County participation. If the Project will be the first REDLG Project financed in a county Rural Development will award 10 points. *The State Office must ensure that no other loan or Grant funds have been awarded for any REDLG project in the subject county through any Intermediary. If another project has been financed in the county the score will be zero.*

(11) The business plan for the Applicant's Ultimate Recipient will be evaluated by Rural Development and must include:

(i) A description of the business or Project plans, its management, and, if applicable, its products and operating plans. (The business plan evaluated by Rural Development for Advanced Telecommunications will be its telecommunications and engineering design) - up to 15 points; and

(ii) An appropriate financial plan, including actual balance sheets and income statements covering the most recent 3-year period (for applicants who have been in business this long), and projected balance sheets, income statements, and cash flow statements for the ensuing 3-year period, supported by assumptions showing the basis for the projections - up to 20 points.

(12) The State Office will evaluate the application material and present an analysis of the project using Guide 6. The State Office is to address the nature of the project, the long-term financial viability of the project, and the degree of probability that the project will be successful in creating the long-term jobs cited in the application and in producing economic development that will result in long-term benefits to rural areas.

(13) Priority points will be assigned for selection factors in accordance with this Section. If the project does not fit one of the categories listed, it receives no points for that factor. For all factors *requiring mathematical computations, the State Office will show the method of calculation in determining the number of priority points assigned to the factor. The source of data used in determining priority points for all factors must be documented in the project file. See Guide 6.*

§ 4280.43 Discretionary points.

The RBS Administrator has the discretion to designate up to 25 points (no more than 5 points for each of the following elements) based on whether the Project:

(a) Is located in a Rural Empowerment Zone, Rural Economic Area Partnership Zone, Rural Enterprise Community, or Champion Community;

(b) Is located in a county that has experienced the loss, removal, or closing of a major source or sources of employment in the last 3 years which causes an increase of 2 percentage points or more in the county's most recent unemployment rate compared with the same period immediately before the dislocation;

(c) Is located in a county that has experienced chronic or long-term economic deterioration;

(d) Is located in a county that was designated a disaster area by the President of the United States that significantly affected rural economic development and job creation. The county must have been designated within 3 years prior to filing of the completed application with Rural Development; or

(e) Is consistent with the Rural Development State Office's approved strategic plan and mission area objectives and is identified as a priority area for assistance in the States' plan. *(Revised 07-01-11, SPECIAL PN.)*

§ 4280.44 Limitation on number of loans or Grants to an Intermediary.

Depending on the amount of funds available, Rural Development may publish, in the Federal Register, an announcement limiting an Intermediary to one selected Grant application and two selected loan applications in a fiscal year

§§ 4280.45 - 4280.46 [Reserved]

§ 4280.47 Non-selection of applications.

Provided the application requirements have not changed, an application not selected will be reconsidered in 3 subsequent funding competitions for a total of four funding competitions. If an application is withdrawn, it can be resubmitted and will be evaluated as a new application.

(a) The Intermediary may elect to submit revisions to the application and the application will be reconsidered in subsequent funding competitions for the remaining balance of the four funding competitions.

(b) The Intermediary may submit a new application and be considered for another four selection competitions.

(c) If the application is not selected at the conclusion of any funding competition, Rural Development will notify the Intermediary.

§ 4280.48 Post selection period.

Rural Development will notify the Intermediary in writing if the application is selected. The documents to be executed by the Intermediary will include:

(a) For a loan:

(1) A Letter of Conditions with Project-specific terms and conditions;

(2) A loan agreement with general terms and conditions;

(3) A note covering the repayment terms of the loan; and

(4) A legal opinion concerning the authority of the Intermediary to engage in the Project.

(b) For a Grant:

(1) A Letter of Conditions with Project-specific terms and conditions;

(2) A Grant agreement with general terms and conditions; and

(3) A legal opinion concerning the authority of the Intermediary to participate in the Revolving Loan Fund and to engage in the Project.

(c) No later than 45 days after announcement of funding, the State Office will prepare the legal documents for execution by the State Director and for submission to the Intermediary. Guidelines on preparation of these documents are set forth in Guide 8.

(d) The Regional Attorney's review of the loan and Grant documents is required prior to execution of the documents by the State Director and forwarding to the Intermediary. At the State Director's option, however, the State Office may choose to:

(i) request that the Office of the General Counsel (OGC) provide a one-time review and approval of the standardized loan and Grant documents with the understanding that further OGC review would be necessary only if changes are made to the standardized documents or if special circumstances warrant, or

(ii) continue providing legal documents for OGC review and approval for each individual loan or Grant.

(e) Upon selection of applications for funding by Rural Development, the National Office will allocate funds to the State Office account. Rural Development will provide written notification of selection to the State Office. The State Office will take the appropriate action to obligate the funds for the project. Form RD 1940-1, will be prepared and executed by the State Office approving official and placed in the project file. The date of execution by the State Office approving official will be considered as the loan or Grant approval date. Form RD 1940-1 will not be provided to the Intermediary for any purpose. The State Office will provide the Intermediary with appropriate written notification of funding selection. A sample notification letter is shown in Guide 7.

(f) For obligation purposes, the GLS fund codes (FC) and type of assistance (TOA) codes assigned for electric and telecommunications loans and Grants are:

	Loans		*Grants*	
	FC	*TOA*	*FC*	*TOA*
Electric	*58*	*227*	*00*	*229*
Telecommunications	*59*	*228*	*00*	*230*

(g) If Rural Development determines that it is unable to provide assistance for the project due to lack of available fiscal year funding, the State Office will revise Guide 7 to notify the Intermediary accordingly.

§ 4280.49 [Reserved]

§ 4280.50 Disbursement of Zero-Interest Loan funds.

(a) For a REDL loan, Rural Development will disburse Zero-Interest Loan funds to the Intermediary in accordance with the terms of the executed loan agreement. All loan funds will be disbursed either as an advance to the Intermediary, in multiple advances, or as a reimbursement for eligible project costs, once the Intermediary has complied with Rural Development requirements. *The State Office will not advance funds without having in its possession a duly executed promissory note, bearing original signatures, from the Intermediary. The original promissory note will be retained by the State Office and safeguarded in a fireproof safe.*

(b) The Intermediary must provide to the Ultimate Recipient all loan funds that the Intermediary receives from Rural Development within one year of receiving them. If the Intermediary does not re-lend the Rural Development funds within one year, the loan funds, and all interest earned on the loan funds, must be returned to Rural Development. *The State Office will closely monitor the disbursement of funds to ensure that the Intermediary re-lends the loan proceeds to the Ultimate Recipient within one year of the date of Rural Development advance. Loan funds that have not been re-lent within this one year period are to be returned to Rural Development as a payment on the Note. All interest earned on the loan proceeds while in the possession of the Intermediary must be returned to Rural Development as miscellaneous income.*

(c) For a REDG loan, Rural Development will disburse Grant funds to the Intermediary in accordance with 7 CFR parts 3015 and 3019, as applicable. Specifically, Rural Development will disburse the Grant funds in advance if the following requirements are met:

(1) The Intermediary has established written procedures that will minimize the time elapsing between the transfer of funds from Rural Development and their disbursement to the Ultimate Recipient;

(2) The management system of the Intermediary meets the requirements of 7 CFR parts 3015 and 3019, as applicable;

(3) All necessary supplemental funds for the Project have been obligated or committed to the Revolving Loan Fund; and

(4) The requests for cash advances made by the Intermediary are limited to the minimum amounts needed and timed to be in accordance with the actual immediate cash needs of the Ultimate Recipient for carrying out the Project.

(d) The State Office will advance loan and Grant funds using the Automated Discrepancy Processing System (ADPS) or other such system as directed by Rural Development. At the time of advance of loan funds by Rural Development, the State Office will provide a copy of the Intermediary's executed Note to the Finance Office, Direct Loan and Grant Branch, RUS Loan Servicing Team, FC 340, or other such office as directed by Rural Development. The copy of the Note will be prominently marked with the REDL loan number in the top right corner and the borrower RUS identification number in the top left corner.

(e) Guide 10 contains a checklist of standard conditions that must be satisfied by the Intermediary before Rural Development will advance loan funds. Guide 11 contains a sample letter for informing the Intermediary of the advance of loan funds.

(f) Guide 12 contains a checklist of standard conditions that must be satisfied by the Intermediary before Rural Development will advance Grant funds.

§§ 4280.51 - 4280.52 [Reserved]

§ 4280.53 Loan payments.

The Intermediary must make all REDL payments to Rural Development by electronic funds transfer or other means as specified in the loan documents. *The Debt Collection Improvement Act of 1996 requires that Federal payments be made by electronic funds transfer. The electronic system used by Intermediaries is the Automated Clearing House - Customer Initiated Payment (ACH-CIP) system. (This payment system will allow the Intermediary to call a toll-free number and speak to a bank representative or, by using a touch-tone phone keypad, authorize a REDLG payment one or more days before it is due. Payments may also be made via computer terminal with modem. The ACH-CIP account allows the Intermediary to maintain control of the payment date, the payment amount, avoid delays, and save time and expense involved in check writing or making payments through other electronic means.) In addition to making REDLG loan payments, the Intermediary can utilize this same ACH-CIP account for making payments to the government on other RUS loans.*

§ 4280.54 Construction procurement requirements.

Construction, including bidding and awarding of contracts, must be conducted in a manner that provides maximum open and free competition.

§ 4280.55 Monitoring responsibilities.

(a) The Intermediary must monitor the Project to ensure that:

(1) Funds are used only for the approved purposes as specified in the legal documents;

(2) Disbursements and expenditures of funds are properly supported with certifications, invoices, contracts, bills of sale, or other forms of evidence, which are maintained on the premises of the Intermediary;

(3) Project time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved; and

(4) The Project is in compliance with all applicable regulations.

(b) Rural Development may inspect and copy records and documents that pertain to the Project. The Intermediary must retain these records for the term of the Project loan plus 2 years. In addition, Rural Development may also perform Project site visits and reviews of the use of loan or Grant proceeds.

(c) Rural Development will review and monitor Grants in accordance with 7 CFR parts 3015, 3017, 3018, 3019, 3021, and 3052.

(d) For loans and Grants, the State Office will conduct project site reviews within 1 year after completion of the project.

(e) For Grants, the State Office will conduct reviews of the Revolving Loan Fund activity every 3 years after the initial review in accordance with §4280.55(d) to verify that Grant funds are being used for authorized purposes in accordance with the regulation, the Grant agreement, and any other conditions imposed by Rural Development. Guidelines to assist in the review of the activities of the Revolving Loan Fund are outlined in Guide 3. Upon completion of a review, a letter is to be sent to the Intermediary citing those issues that require immediate attention. A time period will be cited in the letter by which the Intermediary is to rectify conditions to bring the Revolving Loan Fund into compliance.

(f) The Intermediary is to be informed, in writing, that failure to operate the Revolving Loan Fund in a financially responsible manner or in accordance with the Rural Development-approved Revolving Loan Fund Plan will result in the termination of the fund and repayment of the Grant. Termination action will also result from the lack of use of the Revolving Loan Fund in making other loans within a reasonable length of time (3 years) or the lack of use of the Intermediary's 20 percent contribution for loan making purposes within 3 years of the date of the Grant agreement. Further, the Intermediary is to be informed that its 20 percent contribution cannot be used for any other loan purpose except as provided in the Revolving Loan Fund Plan, nor can the 20 percent contribution be used or removed from the fund for short-term investment purposes. Such actions will result in termination of the fund.

§ 4280.56 Submission of reports and audits.

(a) In addition to any reports required by 7 CFR parts 3015 and 3019, the Intermediary must submit the following monitoring reports to Rural Development:

(1) Loan. The Intermediary must submit Form RD 4280-1 ``Survey of Recipients of Rural Economic Development Loan and Grant Program'' to Rural Development on an annual basis until it no longer owes money to USDA under the REDLG Program.

(2) Grant (Revolving Loan Fund). The Intermediary must submit the Form RD 4280-1 to Rural Development on an annual basis until all projects financed with Rural Development Grant proceeds have been repaid or are otherwise retired, whichever occurs last. Thereafter, on a triennial basis until the fund is terminated, the Intermediary will submit to Rural Development the Form RD 4280-1, reporting on the activity of all loans made from the Revolving Loan Fund.

(b) If the Intermediary does not have an existing loan with RUS, the Intermediary will submit a copy of its annual audit to Rural Development within 90 days of its completion. All REDL audits must be conducted in accordance with Generally Accepted Government Auditing Standards or Generally Accepted Accounting Principles and REDG audits in accordance with 7 CFR part 3052.

(c) Rural Development may require Ultimate Recipients that receive loans financed with Grant funds provided under the REDG Program to submit annual audits to comply with Federal audit regulations. In accordance with 7 CFR part 3052, Ultimate Recipients that are nonprofit entities, or a State or local government, may be required to submit an audit subject to the threshold established in OMB Circular No. A-133.

(d) By the terms of the Rural Development Loan Agreement (Form RD 4280-5) and the Rural Development Grant Agreement (Form RD 4280-3), the Intermediary is required to provide the government with a report as to the accomplishments of the project financed with loan and Grant proceeds. Form RD 4280-1 is to be used to report such accomplishments. For loans, the Intermediary must submit the form on an annual basis, no later than 90 days after December 31 of each year, until the project has been completed. For Grants, the Intermediary must submit the form on an annual basis, no later than 90 days after December 31 of each year, in accordance with 7 CFR part 3019, until the Grant is terminated. The report is to provide an aggregate list of projects funded, the amount financed from the Revolving Loan Fund for each project, the project repayment terms, a brief description of each project, the project objectives, and the payment status of each loan.

(e) Rural Development can terminate the Revolving Loan Fund and require repayment of Grant funds if it is determined that the Revolving Loan Fund is not being operated according to the terms of the approved Revolving Loan Fund Plan, or if the Intermediary fails to make loans in accordance with the Revolving Loan Fund Plan. If no loans have been made in a 3-year period, the State Office will inform the Intermediary that the fund will be terminated since no need has been shown to support the continued existence of the fund.

§§ 4280.57 - 4280.61 [Reserved]

§ 4280.62 Appeals.

An Intermediary may appeal any appealable adverse decision made by Rural Development that affects the Intermediary in accordance with 7 CFR Part 11.

§ 4280.63 Exception authority.

The Administrator of RBS may, in individual cases, Grant an exception to any non-statutory requirement or provision of this subpart, provided the Administrator determines in writing that the application of the requirement or provision would adversely affect USDA's financial interest. *Requests for exceptions must be made in writing by the State Director. Requests must be supported with documentation to explain the adverse effect on Rural Development's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.*

§§ 4280.64 - 4280.99 [Reserved]

§ 4280.100 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0035. A person is not required to respond to this collection of information unless it displays a currently valid OMB control number.

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SAMPLE OUTLINE OF REVOLVING LOAN FUND PLAN

(For reference purposes only)

REVOLVING LOAN FUND (RLF) PROGRAM OBJECTIVES
(Include statement on objectives of Intermediary for operating a Revolving Loan Fund program in its local communities)

RLF POLICY STATEMENTS

The Intermediary will accept and consider applications for loans from the RLF for projects that will significantly benefit rural areas, without restriction to the Intermediary's service area or any other area.

Intermediary will not condition the approval of a loan from the RLF with the requirement that the prospective recipient take electric service from the Intermediary or any other associated electric utility.

The Board of Directors of the Intermediary is the sole authority for approval or denial of loans from the RLF and is responsible for all decisions and actions of the RLF. The RLF will be operated and maintained solely by the Intermediary.

It is the intent of the Intermediary that funds from the RLF program serve as seed money to generate economic development. The Intermediary will work with local lenders and others to maximize the leverage of the RLF dollars so that the result is the maximum possible economic development. It is further intended that the Intermediary use the RLF program to supplement, but not compete with, capital that may already exist within the communities.

LENDING PARAMETERS

ELIGIBLE APPLICANTS:

Business Ventures, including:
Corporations, Partnerships, Sole Proprietorships, Cooperatives

Governmental Units, including:
Local Townships, Municipals or Boroughs, County Government, Regional Authorities

Nonprofit Entities

Tribal Authorities

TYPES OF PROJECTS ELIGIBLE FOR RLF FUNDING:

Projects must create or retain employment or provide needed community facilities and services such as:

- Industrial/Commercial Development
- Small Business Expansion or Startup
- Business Incubators
- Community Infrastructure
- Community Facilities
- Medical Facilities

- Training/Educational Facilities
- Tourism

TYPES OF PROJECTS/ACTIVITIES INELIGIBLE FOR RLF FUNDING:

- Refinancing of existing debt, or payment to business owners or partners;
- Projects without any supplemental financing;
- Activities determined to be for investment purposes;
- General improvement loans related to normal replacement needs of a business and unrelated to business expansion/job creation;
- Agricultural production costs (i.e., cultivation, production, harvesting);
- Vehicles used for general purposes or that may be considered for personal use;
- Projects that are primarily working capital with limited security;
- Construction projects of an individual residential nature;
- Illegal activities and legalized activities (e.g. gambling casinos) that in the opinion of the Board of Directors adversely affect RLF interests;
- Projects in which any director, officer, general manager, or supervisory employee of the Intermediary, or close relative thereof, has a financial interest; projects in which any subsidiary or affiliated organization of Intermediary has a financial interest; or projects which, based on the judgment of the Board, would create a conflict of interest, potential for conflict of interest, or any appearance of a conflict of interest.

TYPES OF FINANCING AVAILABLE:

Fixed Asset Financing including:

- Land, buildings, manufacturing equipment, office and work equipment.
- Infrastructure improvements.

Working Capital Financing:

- Available in a limited amount only in conjunction with other RLF financing.

LOAN TERMS AND CONDITIONS

Amount

The RLF will not lend more than _____% of the total amount that is needed for a project. The maximum amount of a single loan may not exceed $_____. The minimum RLF loan amount is $_____.

Interest Rates

The maximum interest rate for loans made from the RLF is the prime rate as published in the Wall Street Journal on the date of loan closing. A system that considers owner's equity and risk factors is used to determine the interest rate on each loan. The minimum interest rate will be _____ percent.

Servicing Fee

A servicing fee will be applicable for all loans. The fee will be no more than one percent (1%) per year of the outstanding principal loan balance on the first day of each year of the loan and will be used to cover the Intermediary's administration costs in connection with operation of the RLF. (At the Intermediary's option, the servicing fee may be retained by the Intermediary to cover its expenses, or deposited in the RLF account to enhance the fund. Administrative costs cannot be paid from interest earnings of the RLF.)

Annual budgets will be submitted to Rural Development Business Programs setting forth the costs of operating the RLF.

Legal Fees

The loan recipient will reimburse the Intermediary for all loan closing and legal fees incurred by the Intermediary in connection with the loan. Legal fees will be limited, however, to no more than $_____.

Repayment Terms

Repayment terms will not exceed ____ years. The following maturities will be used as a general guideline:

Building	10 years
Real Estate	10 years
Equipment	5 to 7 years or depreciable life
Working Capital	1 to 3 years

The loan committee will provide a recommendation on term options and loan repayment schedules (annual, quarterly, monthly) on a project-by-project basis.

Supplemental Financing

RLF loans are limited to financing _____% of a project. Supplemental financing of _____% will be required. Evidence of availability of supplemental financing will be required prior to advance of RLF funds.

Security

The Intermediary will work with the potential borrower to obtain security that is adequate for the term of the loan. The nature of the collateral pledged shall be determined by the loan committee on a project-by-project basis. Generally, security will consist of a first lien position on real property. If the same collateral is used in joint financing, the RLF will require a parity position with other lenders. Other types of security may include:

- Letters of credit from acceptable financial institutions;
- Machinery and equipment which have a developed market;
- Accounts receivable and inventory for short-term loans; and
- Securities issued by the Federal government or its agencies.

The loan recipient will be required to maintain fire insurance, and flood insurance if necessary, on secured assets. In some cases, credit life or key man insurance will be required with the RLF as loss payee.

Personal guarantees from partners or majority stockholders may be required for all corporate or partnership borrowings where the equity requirement is not met by cash.

APPLICATION PROCESS:
All applicants for RLF funding will be required to complete an application form, providing verifiable data which demonstrates that their proposed projects are economically feasible, sustainable, and will provide benefits to rural areas, either through job creation or infrastructure improvements.

APPLICATION SELECTION PROCESS:
(Discuss the process proposed by the Intermediary for reviewing and nominating applications for loan approval. Include written selection criteria. Note: Final loan approval authority must remain with the Board of Directors. It cannot be delegated to others.)

CLOSING AND DISBURSEMENT PROCESS:
(Discuss the process proposed by the Intermediary for loan closing; including loan agreement, promissory note, collateral/lien/UCC financing statement filing requirements, and disbursement of RLF funds to recipients, i.e., up-front advance, or periodic reimbursement basis, as well as documentation needed to support the advance of funds, etc.)

LOAN MONITORING:
Loan monitoring will require regular reporting by the loan recipient. This includes, at the option of the Intermediary, the following:

Annual income statements and balance sheets. Depending on the nature of the project and security arrangements, the Intermediary reserves the right to require the submission of annual financial reports as audited by a certified public accountant.

Periodic management information reports. Management reports will be required on a semi-annual basis beginning six months after the advance of RLF funds and continuing semi-annually thereafter for a period of 3 years or until completion of the project, whichever is the later period.

Management reports will include:

(A) information on the number of jobs created or retained during the reporting period;

(B) a comparison of accomplishments during the reporting period to the objectives established for the project, and

(C) a description of any problems, delays, or adverse conditions which will materially affect the attainment of planned project objectives and a statement of action taken or contemplated to resolve the situation.

The Intermediary reserves the right to require these reports on a more frequent basis if it is determined to be in the best interest of the RLF.

Telephone contact and site visits. At a minimum, semi-annually, a representative of the Intermediary will initiate a phone call to the loan recipient to review performance and issues. On-site visits will be conducted annually to verify and evaluate the use of RLF funds.

An annual review and report of the outstanding loans of the RLF, including job creation totals and community benefits, will be compiled by the loan committee for presentation to the entire Board of Directors.

FILE RETENTION:
All RLF files will be retained for a period of not less than 2 full years after the loan has been paid in full. After 2 years, the files will be destroyed by shredding or incineration. Files will be secured in a locked, safe place and access will be limited to Intermediary staff with RLF responsibilities only. Other security measures will be initiated as needed to protect confidentiality of loan documents.

AMENDMENTS:
Amendments to this rural development plan will require the approval of the Intermediary’s Board of Directors. No action will be taken to amend this plan without the prior written approval of RBS, its successors or assigns.

(Add signature and date lines for authorized official of Board of Directors or attach certified copy of the Board of Directors resolution showing adoption of the RLF Plan)

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REVOLVING LOAN FUND PLAN CHECKLIST

The Revolving Loan Fund Plan (Plan) will guide the Intermediary in its operations after it fully revolves its original funding. The Plan must be comprehensive. Policy statements must be clearly set forth to ensure that loans are made to Ultimate Recipients solely for rural job creation and community development projects. Interest earned on loans made from the RLF as well as the Intermediary's 20% matching contribution, must be retained in the Fund to be used for making additional loans.

Check the following items for completeness. In reviewing the plan, does it:

		Yes	**No**
1.	Provide for making loans to eligible entities without restricting loans to Intermediary's service area, as encouraged by REDLG policy?	_____	_____
2.	Discuss Intermediary's intent to coordinate its lending activities in a complementary manner with other local financial organizations as encouraged under REDLG policy?	_____	_____
3.	Provide that authority for approval or denial of RLF loans rests solely with Intermediary's Board of Directors as required?	_____	_____
4.	Contain a provision making any project ineligible where the Intermediary, its official(s), supervisory employee(s), subsidiary, or affiliated organization, has a financial interest in the project or would otherwise create or appear to create *conflict of interest?)*	_____	_____
5.	Tie the loan arrangement to subscribing to electric or telecommunications service from the Intermediary as is prohibited?	_____	_____
6.	List types of eligible applicants?	_____	_____
7.	List eligible and ineligible loan purposes?	_____	_____
8.	Set forth minimum and maximum loan amounts?	_____	_____

9.	Limit interest rates to a published prevailing prime rate?	_____	_____
10.	Discuss fees to be charged (e.g. loan servicing, legal)?	_____	_____
12.	Provide for reasonable repayment terms?	_____	_____
13.	Require supplemental financing for each project?	_____	_____
14.	Discuss security/collateral requirements for each type of loan?	_____	_____
15.	Describe the application review and selection process indicating that loan approval authority resides solely with the Board of Directors and cannot be delegated to any other entity?	_____	_____
16.	Describe the Intermediary’s procedures for monitoring projects?	_____	_____
17.	Include a provision that amendments to the RLF plan will not be made without prior written approval of Rural Development Business Programs?	_____	_____
18.	Include a nondiscrimination policy statement?	_____	_____

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GUIDELINES FOR SERVICING VISITS FOR REDGRANTS

Servicing visits to Intermediaries should be conducted every 3 years. The purpose of a servicing visit is to verify that the Intermediary is operating its REDG Grant Revolving Loan Fund (RLF) in accordance with its Rural Development-approved Plan. Prior to making the visit, the USDA employee (reviewer) should become familiar with the subject RLF Plan which should spell out pertinent policies and procedures regarding management of the loan fund. Each REDG Grant is awarded for the express purpose of operating an RLF for rural economic development and/or job creation purposes. If this mission is not being met, the Intermediary must be counseled accordingly and made aware that non-compliance is cause for termination.

The following items should be included in the review. Action should be taken to ensure corrections on the part of the Intermediary as needed:

The reviewer should randomly select Ultimate Recipient (UR) files for inspection. The reviewer is to ensure that inspected loans have been made to eligible URs for eligible purposes. The reviewer should further ensure that the files are in compliance with the approved RLF Plan.

Look at available Intermediary records to determine the number of loans made from the RLF. Check to see if outstanding loan and cash balances concur with reports provided to Rural Development and with the latest RLF bank statements.

Ensure that UR interest rates comply with regulation and the RLF Plan.

Ensure that loan-servicing fees are in compliance with regulatory limits (no more than 1% per year on the annual outstanding principal balance). Loan servicing fees (charged separately from annual interest) are to be used to reimburse the Intermediary for administrative fees and not to supplement the RLF. For record tracking purposes, collected fees may be temporarily deposited to the RLF for immediate issuance of a check issued to the Intermediary to cover its supportable administrative costs. The Intermediary should be reminded that principal repayments and interest earnings (on UR loans as well as RLF cash balances) cannot be used to pay for administrative costs, but must be used solely to replenish the RLF for loan making purposes only.

Ensure that “other” charges (e.g., legal fees) being assessed to the UR are in accordance with the RLF Plan.

Determine if the UR’s repayment terms comply with the RLF Plan and are reasonable. If a loan maturity term appears to be too long based on the nature of the project, (e.g., 10 years on an equipment loan that has a depreciable life of 5 years) advise the Intermediary accordingly. Check to ensure that principal and interest payments are being collected on a regular basis (monthly, quarterly), so as to efficiently manage the return of capital to the RLF for use in further lending.

Ensure that the RLF account is maintained in a Federally insured depository account. If funds exceed the insured limit, check to see if the excess amount is adequately collateralized. Rural Development recommends that the RLF account be established in an interest-bearing account with the interest remaining in the fund for loan making purposes.

Ensure that appropriate checks and balances are in place to protect Federal dollars. Verify that all employees handling receipts and disbursements from the RLF are covered by fidelity bonding insurance and that RLF disbursement checks must be countersigned.

If the RLF Plan requires supplemental funding from each UR in a specified amount or percentage, check to see that the Intermediary requires compliance by following up to ensure UR investment in the project at the appropriate level.

Check records, and inspect if possible, the security/collateral required for the UR loan. Determine if the Intermediary has taken steps to properly record, in public records, its interest in the loan collateral (Uniform Commercial Code filing statements, recorded liens, mortgages, deeds of trust, etc.). Keep in mind that a creditor has 2 main concerns if a debtor defaults – satisfaction of the debt out of certain pre-designated property and priority over other creditors. Intermediaries should perfect security interests where possible and keep public recordings current.

If the Intermediary places specific conditions on maintenance of the collateral by the UR (insurance coverage, payment of taxes, etc.), determine that it requires compliance via follow-up records.

Determine that the Intermediary is properly safeguarding its UR promissory notes/bonds/loan agreements/security instruments in a secure, locked, and fireproof location.

Determine if the RLF account is routinely audited by the Certified Public Accountant as a part of the annual audit of the Intermediary's electric or telecommunications operations. If exceptions were noted in the audit, address them during the review.

Determine that the Intermediary is not investing idle RLF funds in other investment methods. Grants are awarded for re-lending purposes only and may not be invested whether on the short- or long-term. Some investment vehicles, such as repurchase agreements, mutual funds, private money market accounts, and sweep accounts may not be Federally insured and are particularly risky. The Intermediary has no authority to put the RLF at risk due to such investments.

Verify that the Intermediary is processing applications in the manner set forth in the RLF Plan. If the RLF Plan requires a loan committee, verify that one exists and is actively instrumental in eligibility and credit review of UR applications.

By terms of the Rural Development grant agreement, only the Intermediary's Board of Directors has authority to approve or deny UR loans. This authority cannot be delegated to any other entity. Verify that evidence exists of Board action on approval or denial of all UR loans, (e.g., board meeting minutes, signed loan endorsement statements by the Board members, etc.) If the board is not maintaining responsibility for actions taken on the RLF applications, remind the Intermediary that the Board is exposing the Intermediary to liability for actions taken by others without board knowledge.

Reasons for denial of UR applications should be well documented in the Intermediary's files, including evidence of Board action authorizing the application rejection. Letters of denial should be issued on a timely basis.

Check to ensure that there have been no loans made to the Intermediary's Board members, management, supervisory employees, affiliated organizations, etc., which would constitute, or appear to constitute, a conflict of interest.

Determine the actions taken by the Intermediary to follow-up on collection of delinquent accounts, liquidation of collateral, or write-off of uncollectible defaulted loans. Ensure that liquidation proceeds are being deposited in the RLF. Also determine whether or not collection costs are reasonable based on the amount of the UR loan.

Determine the manner by which the Intermediary monitors its UR loans in terms of financial health (audits, financial reports) and program compliance (reports from UR on job creation, economic impact, community improvement).

Inquire as to the number of jobs created and/or saved by each UR project. Compare the current number of jobs to that proposed in the application. Verify new data as required in the Guaranteed Loan System.

Inquire as to the Intermediary's RLF marketing methods. The Intermediary should demonstrate that its marketing program reaches the widest practicable number of potential applicants. Determine whether or not all reasonable sources of outreach are utilized (i.e., bill stuffers, local and stakeholder level advertising, meetings with financial institutions, etc.)

The Intermediary is responsible for ensuring that each UR complies with applicable Civil Rights laws, has executed an Assurance Agreement, and has posted in noticeable places in the UR facility the appropriate USDA EEO posters. If the Intermediary is not aware of these responsibilities, remind it accordingly in writing. Request evidence of compliance in your final report.

Conduct an exit interview with the Intermediary's management, and key personnel if appropriate. During the interview, review preliminary findings, compare the RLF Plan with actual program and fund management policies, procedures and practices. Discuss the organization's strengths and weaknesses and state your concerns. Commit to providing the Intermediary with a follow-up report in writing.

After the site visit, but as a part of the inspection, review the Intermediary's level of compliance with reporting requirements. As required by this subpart and the Grant Agreement, the Intermediary must provide, on a semiannual basis, a report (Form RD 1951-4, "Report of IRP/RDLF Lending Activity) to Rural Development listing all UR loans with associated loan information, i.e., original loan amount, current outstanding principal balance, interest rate, jobs created. If the Intermediary is non-compliant in terms of reporting, ensure that it corrects its status by providing the required information within a given time frame. Refer to the Grant Agreement for any sanctions that may be utilized in the event of continued non-compliance.

Finally, complete a post-visit report. Send a letter to the Intermediary outlining any noted strengths and deficiencies. Offer suggestions for improvement in areas of weakness. If areas of weakness include the need for corrections to the RLF Plan, inform the Intermediary that Plan amendments are subject to prior written approval by Rural Development and, once approved, must be duly adopted by the Intermediary's Board of Directors. A copy of the adopting board resolution (with amended RLF Plan attached) must be provided to the State Office for its files. Provide a deadline for rectification of all noted deficiencies.

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SAMPLE APPLICATION ACKNOWLEDGMENT LETTER

Mr. _____
President
Pine Electric Cooperative
P.O. Box 100
Smithville, Pennsylvania 10000

Dear Mr./Mrs. _____:

This will acknowledge receipt of your application in the amount of $_____ for a Rural Economic Development Loan under the USDA Rural Development Business Programs Rural Economic Development Loan and Grant Programs. The loan will be used to finance the construction of a building and the purchase of manufacturing equipment for the ABC Precision Steel Company located in Smithville, Pennsylvania.

This application was received by Business Programs on February 12, 2003. Please be advised that loan funds cannot be used to pay for any project costs or to retire any indebtedness which was incurred on the project prior to this application receipt date.

PLEASE NOTE: If your application is requesting financing for site development, the destruction or alteration of buildings, or other activities that may adversely affect the environment, you should not proceed with construction until you receive notice of environmental clearance from Business Programs.

(Add following paragraph where applicable)

Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that appropriate seismic safety be considered in the design and construction of all building projects to be financed with Federal funds. Since Federal funds are being requested to construct a building for ABC Precision Steel Company, you must provide Business Programs with written acknowledgment from the building project's registered architect or engineer that the building design will comply with applicable seismic design criteria. The written acknowledgment is to include a description of the building project, estimated cost, approximate square footage, the seismic factor for the building location, and the identification and date of the model code to be used in the seismic design of the building. The acknowledgment

should show the architect’s or engineer’s registration number for the State in which the building project is located. This written acknowledgment should be provided to Business Programs prior to the preparation of the plans and specifications for the building. If the building is exempt in accordance with the model code, a written acknowledgment to this effect should be submitted to Rural Development Business Programs with the appropriate information.

We will notify you if additional information is needed to complete the review of the loan application.

Sincerely,

State Director

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APPLICATION CHECKLIST

Check the following items for completeness

Form 424, Application for Federal Assistance (§4280.39(a)(1)

Note: The form must be completed in its entirety. Specifically check:

		Yes	**No**
a.	Intermediary ID provided under Applicant Identifier	___	___
b.	Intermediary's Legal Name provided	___	___
c.	Ultimate Recipient's Legal Name provided	___	___
d.	Total Project Cost provided	___	___
e.	State Single Point of Contact, if applicable	___	___
f.	Federal debt delinquency	___	___
g.	Original signature in certification block	___	___

Intermediary Board Resolution (Section 4280.39(a)(2):

a.	Includes request for loan or grant by amount and purpose	___	___
b.	Includes combined deferment/repayment period (if less than 10 years)	___	___
c.	Includes statement that borrower has legal authority under its charter or Articles of Incorporation to enter into a loan or grant agreement in accordance with the provisions of 7 CFR Part 4280	___	___
d.	(For RLF grants only) Includes commitment to provide and maintain general funds of no less than 20% of the grant amount in RLF account	___	___
e.	Includes certification that borrower will comply with provisions of 7 CFR 4280, including assurance the project will not violate provisions listed in §4280.27, Ineligible Purposes, and compliance with provisions of §4280.30, Restrictions on Use of REDL or REDG Funds	___	___
f.	Includes certification by Secretary of Board	___	___

Miscellaneous Federal Forms/Certifications (Section 4280.39(a3-a9)):

a. Form AD 1047, Debarment Certification, Primary Covered Transactions	___	___
b. Form AD 1048, Debarment Certification, Lower Tier Covered Transactions	___	___
c. If real estate is involved, Form RD 400-4, Assurance Statement (Uniform Relocation Assistance and Real Property Acquisition Policy Act)	___	___
d. Lobbying Certification if loan is greater than $150,000 and grant is greater than $100,000	___	___
e. Form LLL, Disclosure of Lobbying Activities, if applicable	___	___
f. (For grants) Form AD 1049, Drug-Free Workplace Certification	___	___
g. Seismic certification if building construction is proposed	___	___
h. Request for Environmental Information, RD Form 1940-20	___	___

Narrative section addressing project description and project costs (§4280.39(b)(1):

a. Corporate history of Ultimate Recipient was provided	___	___
b. A detailed breakdown of total project costs was provided	___	___
c. A detailed summary of supplemental funds was provided	___	___
d. Status of commitment of supplemental funds was addressed	___	___
e. Specific purposes of loan funds were identified	___	___
f. New and existing employment was addressed	___	___
g. Loan terms and security arrangements between the Intermediary and Ultimate Recipient were addressed	___	___

Narrative section addressing Selection Factors per Section 4280.42(b)

a. Is Ultimate Recipient's legal structure documented? ___ ___
b. Will the 20% minimum financing be provided to the project after the date of application receipt? (See Section 4280.29) ___ ___
c. Is location of the project in a Rural Area or will it significantly benefit residents of rural areas? ___ ___
d. Was number and description of proposed jobs provided? ___ ___
e. Did the application contain the recipient's business plan? ___ ___
f. Did the application contain the required 3 years of financial projections? ___ ___
g. Are financial projections reasonable and indicative of ability to meet all debt service requirements for repayment of the loan? ___ ___

If "NO" is answered to any question above, further information should be requested.

Check for ineligibility of project costs per §4280.27:

a. Will the loan refinance existing debt of the project? ___ ___
b. Are project costs incurred before the application receipt date requested as part of the REDL loan request? ___ ___

c. Will the loan create a conflict, or the appearance of a conflict of interest? ___ ___
d. Will the project be used for other purposes as listed in Section 4280.27? ___ ___

If "YES" is answered to any statement above, the project may be ineligible for financing.

For RLF grants, the Intermediary's Revolving Loan Fund Program Plan was provided ___ ___

If applicable, a design for the telecommunications project per § 4280.42(b)(1)(iii) was submitted. ____ ___

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APPLICATION ANALYSIS AND PROJECT EVALUATION SUMMARY

INTERMEDIARY: (Insert Intermediary Name and RUS ID number)

PROJECT: (Insert Name of Ultimate Recipient)

APPLICATION AMOUNT: $

LOAN OR GRANT: (Indicate Whether Loan or Grant)

Project Description

Provide a summary of the project. Describe the nature and location (town and county) of the business, products or services produced, brief corporate history, existing employment level, number and type of new projected jobs, and any other pertinent information concerning the future viability of the project.

Describe the proposed project. Provide a breakdown of total project costs showing the dollar amount and source of funding for each element. Include a short paragraph entitled “Use of Rural Development Business Programs Funds.” Under this heading, describe the work to be specifically performed with Rural Development funds.

Indicate whether supplemental funds are committed to the project.

For the project, indicate type of environmental assessment performed. Indicate flood hazard area status.

Address conflict of interest. Indicate that the project does not violate the provisions of §4280.27.

If grant application, indicate that Intermediary has committed its 20 percent match to the Revolving Loan Fund. Discuss major elements of the borrower’s Revolving Loan Fund plan.

Add the following statement for all loan or grant requests:

On ____(date)_____, the Intermediary submitted in proper format a completed application as described in §4280.39. The Intermediary is eligible for financing under 7 CFR Part 4280, §4280.13.

TOTAL ASSIGNED POINTS _____

1. Nature of the Project

i. Is a for-profit business, Business Incubator, industrial building or park, or an infrastructure connection project (such as streets or utilities), assign 20 points. _____

(Describe how project meets this element.)

ii. If the project provides technical assistance to rural businesses or rural residents, or educates or provides medical care to rural residents, assign 20 points _____

(Describe how project meets this element.)

iii. If the project will enhance rural economic development by providing advanced telecommunications services and computer networks for medical, educational, and job training services, assign 20 points _____

(Describe project's telecommunications design and how it will provide medical, educational, and job training services.)

2. Number of Direct Full-Time Jobs

If the number of direct full-time rural jobs either created or saved per $100,000 of total project costs is

i. Greater than 5, assign 25 points _____

ii. From 1 to 5, assign 15 points _____

(Indicate number of direct jobs created or saved. Show mathematical calculation based on $100,000 units of total project cost.)

3. Supplemental Funds

Note: All supplemental funds used in this calculation must be disbursed to the project between the date of Rural Development receipt of the application and 1 year after our first advance of funds.

If supplemental funds as a percentage of Rural Development loan or grant is:

i. Greater than 200%, assign 20 points
_____

ii. From 100% to 200%, assign 10 points
_____

iii. From 50% to less than 100%, assign 5 points _____

Show mathematical calculation:

$_____ / $_____ = _____
(Supplemental Funds / Rural Development Funds = Percent)

4. Unemployment Rates

A comparison will be made of the unemployment rate in the county where the project is physically located to the state and national unemployment rates.

(Show source of data for national and state unemployment rate)

(Show mathematical calculation)
County Rate divided by National Rate = Percentage
(_____) / (_____) = _____%

i. Exceeds the national rate by 30% or more, assign 15 points _____

or,

ii. Exceeds the national rate by less than 30%, assign 5 points _____

County Rate divided by State Rate = Percentage
(_____) / (_____) = _____%

i. Exceeds the state rate by 30% or more,
assign 10 points _____

or,

ii. Exceeds the state rate by less than 30%
assign 5 points _____

5. Per Capita Income

A comparison will be made of the Per Capita Income level in the county where the project is physically located to the state and national Per Capita Income levels.

(Show source of data for national and state Per Capita Income level)

(Show mathematical calculation)
County level divided by National level = Percentage
($_____) / ($_____) = _____%

i. Less than or equal to 90% national level,
assign 15 points _____

or,

ii. Between 90 and 100% of national level
assign 5 points _____

County level divided by State level = Percentage
($_____) / ($_____) = _____%

i. Less than or equal to 90% state level,
assign 10 points _____

or,

ii. Between 90 and 100% of the state level,
assign 5 points _ _____

6. Location _____

(i) If the project is physically located in an unincorporated area or an incorporated city or town or equivalent, having a population of 1,249 or less, or if it is physically located in an unincorporated area, Rural Development will award 20 points.

_____

(ii) If the project is physically located in an incorporated area having a population of 1,250 to 2500, Rural Development will award 10 points.

_____

_____

	Yes
No	
Area is unincorporated	_____
_____	
Area is incorporated with a population of Less than 2,500.	_____
_____	

Population as of 2000 Census _____

7. Population Decline

Based on the two most recent census periods, if there has been a long-term decline in population in the county where the project is physically located, assign 10 points _____

Show decline in county population:

1990 Census _____
2000 Census _____

8. Cushion of Credit Payments

As of _____, the Intermediary had a balance of $_____ in its Cushion of Credits Account with RUS.

i. The account holds $300,000 or greater or, the dollar amount is 3% or more of total assets, whichever is less, assign 15 points _____

ii. The account balance is between $100,000 and $299,999.99, or the dollar amount is within the range of 1% to less than 3% of total assets, whichever is less, assign 10 points _____

iii. The account balance is between $10,000 and $99,999.99, or the dollar amount is within the range of 0.5% to less than 1% of total assets, whichever is less, assign 5 points _____

9. Initial Loan or Grant

If this loan or grant is the first loan or grant awarded to the Intermediary under the REDLG programs, assign 10 points _____

10. County Participation

If the project is the first project financed by REDLG in the county, provide the County name and assign 10 points _____ _____
name of county

11. Ultimate Recipient Business or Telecommunications Plan

i. If a comprehensive business plan has been provided that includes a description of the project including the business, its management, its products, planned production or accomplishments as a result of funding, the market area, and an operating plan, assign up to 15 points _____

If a business plan is not provided or insufficient, no points are awarded

(Note: For projects that provide advanced telecommunications services, the telecommunications and engineering design must be evaluated.)

ii. If a financial plan with 3 years of projected balance sheets, income statements, and cash flow projections with supporting assumptions has been reviewed and, based on this review, the project is determined to be a viable business operation capable of producing sufficient revenues in excess of operating expenses to repay the loan, assign up to 20 points _____

(Document your financial analysis)

SUB-TOTAL OF ASSIGNED POINTS (add items 1 through 11) _____

12. Discretionary Points

The Administrator has the discretion to designate up to 25 additional points to applications that have documented the following conditions in the county where the project is located. Document each element where points are awarded. The total points assigned cannot exceed 25 points.

i. If the project is located in a Rural Empowerment Zone, a Rural Enterprise Community, Rural Economic Area Partnership Zone, or a Champion Community, name the designation _____, and assign 5 points _____

ii. The project is in a county that experienced the loss, removal, or closing of a major employment source during the last 3 years, causing an increase of 2% or more in the county's most recent unemployment rate as compared to the period immediately before the dislocation, assign 5 points

_____

Provide date of loss of employer_____

Previous unemployment rate_____
Current unemployment rate_____.

Show calculation or source of data.

iii. The project is located in a county that has experienced chronic or long-term economic deterioration over the last 30 years. Show documentation, and assign 5 points. _____

iv. The project is located in a county that, within 3 years prior to the application, was designated as a disaster area by the President of the United States that significantly affected rural economic development and job creation. Show date and type of designation and explain its effect on economic development and, assign 5 points.

_____

v. The project is consistent with the State Office approved strategic plan and mission area objectives. Explain how the project meets the objectives, and assign 5 points. _____

SUB-TOTAL ADMINISTRATOR'S DISCRETIONARY POINTS _____

TOTAL POINTS (Items 1-11 and Discretionary Points) _____

Management and Financial Situation of Intermediary
(Discuss management and current financial position of Intermediary.)

Financial position of the Intermediary as of _____(date)

Total Assets: $_____
Equity/Asset Ratio: _____
Times Interest Earned Ratio (TIER): _____
Debt Service Coverage: _____
Net Margins: $_____

The management of the Intermediary is considered to be satisfactory for the success of the program and (repayment of the REDL loan) or (operation of the Revolving Loan Fund grant).

Intermediary's Loan Security
(Discuss security arrangement for the loan between the Intermediary and the Ultimate Recipient.)

Status of Prior Rural Economic Development Loans and Grants

(Discuss status of all outstanding RED Loans, citing original amount and unpaid balance, and payment status on each as of most recent end of month.

(Discuss status of Revolving Loan Fund grant, citing number and nature of loans made from revolved funds, payment status of each loan, jobs created, etc. Indicate current RLF cash balance and intended use of cash balance.

State Office Recommendation

I have determined that the Intermediary and the Ultimate Recipient project are eligible for funding under this subpart. I recommend the project for selection and funding.

_____ _____
Program Director, Business Programs Date
Rural Development

oOo

SAMPLE LOAN APPROVAL ANNOUNCEMENT LETTER

Mr./Mrs. _____ [Title and Name]
President [Corporate Title]
[Name of Utility]
[Address]
[City State Zip code]

Dear Ms. _____: [Name]

Rural Development Business Programs has completed the selection process under its Rural Economic Development Loan and Grant Programs for loan and grant applications submitted during the third quarter Fiscal Year _____ application period. Business Programs selected ____loan applications for funding totaling $_____ million and ___ grant applications totaling $_____million.

Business Programs is pleased to inform you that we have selected your application for a REDL loan in the amount of $_____ to finance the expansion of the [Ultimate Recipient's name]. In the near future, we will be sending you the legal documents listing the terms and conditions of the loan award.

Sincerely,

(State Director)

cc:
Project File

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GUIDELINES FOR PREPARATION OF LOAN AND GRANT DOCUMENTS

LETTER OF CONDITIONS (LOC)

Always address the LOC to the president of the utility or the Chairman of the Board. The general manager is an employee of the utility, not a member of the Board of Directors, and usually does not have the authority to act on behalf of the Intermediary in making loan decisions.

Always use the utility's legal corporate name as shown in its Articles of Incorporation (no abbreviations) on the LOC, promissory note and loan agreement. Use of anything other than the legal corporate name may result in instruments being invalid or unenforceable.

Always cite the exact legal name of the Ultimate Recipient in the LOC and Loan Agreement. You must ensure that the Ultimate Recipient has the legal and corporate authority to incur debt.

In the LOC, define the "Project" in terms that are broad enough to cover all construction proposed in the application. Include the name of the project site (city and county) for reference and clarification purposes.

In the LOC, define the "Approved Purpose" in terms that are specific enough to identify those items that are being financed with Rural Development loan funds. Refer to the section of the project analysis entitled "Use of Rural Development Business Programs Funds." Use of Rural Development loan funds for any purpose other than those defined as the "approved purpose" should be disallowed by the State Office when you review/audit the project, regardless of whether or not the loan funds were used elsewhere on the "Project".

In preparing the LOC, cite the application receipt date (as noted in the State Office letter acknowledging receipt of the application).

The LOC, Loan Agreement, and Promissory Note all contain "defined" terms. The Rural Development Business Programs (Business Programs) "loan" is defined as (the Loan) in the LOC, using a capital "L". These Loan funds are then re-loaned by the Intermediary to the Ultimate Recipient. Reference to the Ultimate Recipient loan is made with a lower-case "l".

Once a term has been defined, continue to use the "defined term" throughout the document.

The LOC includes both “conditions” and “covenants.” Conditions are phrased “Business Programs shall be under no obligation to [Intermediary]_ until the following conditions are met:” Conditions are those requirements that must be satisfied prior to the advance of any Federal funds.

Covenants are promises made by the Intermediary to comply with a specific requirement at some future point. Covenants are phrased “The Intermediary covenants that…., etc.” The State Office is charged with the responsibility of ensuring that the covenants are fulfilled as soon as possible after the advance of Federal funds.

PROMISSORY NOTE

In preparing the Promissory Note, always round the monthly payment up to the nearest dollar. For example, a $450,000 loan with a ten year maturity and a one year deferment period would be repaid over 108 monthly payments (9 years). $450,000 divided by 108 results in a payment of $4,166.67 or $4,167. This amount time 108 = $450,036. This over-calculates for the full amount of the debt, helping to protect the taxpayer. To correct for the over calculation, the final payment must be indicated on the Promissory Note as reduced by the amount of the over calculation, in this example, $36 (Thirty-six dollars).

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Sample Letter of Approval – Revolving Loan Fund Plan

Mr./Mrs. _____ [Title and Name]
President [Corporate Title]
[Name of Utility]
[Address]
[City State Zip code]

Dear M__. _____ : [Name]

Rural Development Business Programs has reviewed the Revolving Loan Fund Plan (RLF Plan) submitted by the _____[Name of Utility]_____in connection with its application for grant funds under the Rural Economic Development Loan and Grant Programs.

Business Programs finds that the RLF Plan is satisfactorily comprehensive in detail, setting forth the operating policies, eligibility requirements, loan terms, collateral, and servicing policies for loans to be made from the Revolving Loan Fund. Please keep in mind that the RLF Plan will guide your organization in the future operation of the fund. No changes to the RLF Plan can be made by your organization without the prior written approval of Business Programs.

At the next regularly scheduled meeting of the Board of Directors of the _____[Name of Utility]_____, please present the RLF Plan for review and adoption. A certified copy of the adopting resolution must be provided to Business Programs for our files prior to the advance of any grant funds to your organization.

If you have any questions concerning the RLF Plan, or the operation of your company's Revolving Loan Fund, please do not hesitate to contact this office.

Sincerely,

State Director or designee
Business Programs
Rural Development

Cc: Official File

(06-29-07) SPECIAL PN

Checklist for Release of Loan Funds

	Yes	No
1. Business Programs Letter of Conditions properly executed by the Intermediary	___	___
2. Business Programs Loan Agreement properly executed by Intermediary	___	___
3. Promissory Note property executed by Intermediary	___	___
4. Legal opinion in proper form from Intermediary's attorney	___	___
5. Supplemental Financing Evidence on file	___	___
6. Loan Agreement/Note between Intermediary and Ultimate Recipient approved by Business Programs	___	___
7. Automated Clearing House (ACH) payment system established for Intermediary	___	___

(If the ACH payment system cannot be established without delaying the advance of funds, loan funds may be advanced provided that the ACH system is set up no later than 3 months prior to first payment date.)

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Announcement Letter on Advance of Funds

(Date)

M_. _____ [Title and Name]
President [Corporate Title]
[Name of Utility]
[Address]
[City State Zip code]

Dear M__. _____: [Name]

This is to advise you that your organization has complied with all requirements of its Letter of Conditions regarding the rural development loan for ___[Ultimate Recipient]___. Loan funds in the amount of $_____under the Business Programs, Rural Economic Development Loan Program are being advanced to your organization for the purpose of financing the purchase of equipment for ___[Ultimate Recipient]___. Funds in the amount of $_____will be electronically deposited in your account shortly.

Until disbursed to ____[Ultimate Recipient]___, we suggest that these funds be maintained in a Federally insured, interest bearing, deposit account. As required by 7 CFR §4280.50(b), you are required to re-loan these funds to ____[Ultimate Recipient]___within one year of receipt of the funds. Any undisbursed funds remaining after the one year period must be returned to Business Programs along with all interest earnings relating to the funds. Please retain a copy of all correspondence, checks, invoices, and receipts in connection with this loan for future audit by the government.

Special Notice Regarding the Use of Loan Funds and Maintaining Proper Documentation. Please pay special attention to the requirement regarding the use of loan funds for Approved Purposes as specified in the Letter of Conditions. When auditing the loan, the government will check, among other things, that (1) disbursements were made for the approved purposes, (2) disbursements were made in proper amounts, and (3) disbursements are supported by proper documentation. Loan disbursements that are disallowed as a result of the audit review must be repaid to the government by your organization. Proper documentation of the use of funds for construction of facilities could include construction contracts, invoices, and cancelled checks. Similarly, proper documentation of the use of funds for purchasing property or equipment could include deeds, bills of sale, invoices, and cancelled checks.

By the terms of your organization's promissory note to the government in connection with this loan, payments are to be made on a monthly basis, with the first monthly payment of **$**_____ due on the last day of the month beginning **1 year** from the date of the note. Since the note is dated ___[Month, Day, Year]___, the first payment is due on ____[last day of month stated, next year]. Please be advised that no invoices will be sent to you on this loan. According to the terms of your loan agreement, payments to the government must be made utilizing the automated clearinghouse (ACH) electronic funds transfer method. If you have any questions concerning the payment system, or if your organization is not set up to make payments using the ACH system, please immediately contact this office so that arrangements can be made to establish this system for your use.

We also remind you that Form RD 4280-1, "Survey of Recipients of Rural Economic Development Loan and Grant Program" is to be submitted to us on an annual basis until the project is completed.

If you have any questions concerning this advance, please contact this office on _____.

Sincerely,

State Director or designee

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Checklist for Release of Grant Funds

The following are standard conditions that must be satisfied by the Intermediary **prior** to the advance of Grant funds:

	Yes	No
1. Rural Development Business Programs' Letter of Conditions properly executed by the Intermediary	___	___
2. Rural Development Business Programs' Grant Agreement properly executed by the Intermediary	___	___
3. Legal opinion in proper form from Utility attorney	___	___
4. Supplemental Financing Evidence on file	___	___
5. Draft form of Loan Agreement/Note between the Intermediary and Ultimate Recipient approved by Business Programs	___	___
6. Establishment of FDIC-insured Bank Account to house RLF	___	___
7. Evidence of deposit of 20% match by Intermediary in RLF	___	___
8. Revolving Loan Fund Plan approved by Business Programs and adopted by the Intermediary's Board of Directors	___	___
9. Fidelity Bond Coverage evidence on file	___	___

Certified true and correct by_____
(Rural Development Business Programs personnel)

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Assurances Statement

ASSURANCES REQUIRED BY 49 CFR & 24.4(A)
(54 FED.REG.8931)

The assures that it will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), 42 U.S.C. 4601-4655, and with implementing Federal regulations in 49 CFR Part 24 and 7 CFR Part 21.

Specifically, the _____
assures that:

Whenever Federal financial assistance is used to pay for any part of the cost of a program or project which will result in the displacement of any person:

(a) Fair and reasonable relocation payments and assistance shall be provided to or for displaced persons in accordance with sections 202, 203, and 204 of the Uniform Act,

(b) Relocation assistance programs offering the services described in section 205 of the Uniform Act shall be provided to displaced persons, and

(c) Within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with section 205(c)(3) of the Uniform Act.

_____
Signature of President or Authorized Official of Ultimate Recipient

_____
Date

oOo