

RD AN No. 4640 (4280-A)
March 30, 2012

TO: State Directors, Rural Development
ATTN: Business Programs Directors
SUBJECT: Rural Economic Development Loans
Clarification of Administrative Policies and Procedures

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) is being issued to provide a clarification on Rural Business and Cooperative Service's (Agency) administrative procedures regarding the handling of security which collateralize our Rural Economic Development Loan (REDL) program. The outcome of this revision will provide more flexibility to Intermediaries who must provide collateral for their loans. The Rural Business and Cooperative Service is the Agency, within the Rural Development mission area, that is responsible for administering the REDL program.

COMPARISON WITH PREVIOUS AN:

No previous AN has been issued on this subject.

IMPLEMENTATION:

RD Instruction 4280.17(d) states "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."

Permissible approaches to meeting this requirement include providing an Agency approved unconditional letter of credit from the Ultimate Recipient that will be assigned to the Agency through the Intermediary. A second approach could include providing a letter of credit that is secured by cash or its equivalent (Alternate Security) (e.g. - a certificate of deposit). In either instance, the letter of credit must be approved by the Agency.

EXPIRATION DATE:
March 31, 2013

FILING INSTRUCTIONS:
Preceding RD Instruction 4280-A

Under the second approach, it will be up to the State Office where the project is located to determine, on a case-by-case basis, whether the Alternate Security is warranted and acceptable. If Alternate Security is warranted the following additional requirements have to be met:

1. Prior to the disbursement of funds, the State Office will need a signed opinion letter from the Intermediary's legal counsel that the Alternate Security pledged as collateral for the Letter of Credit is legally enforceable in the State where the project is located. The opinion letter will also certify that the Alternate Security is irrevocably pledged as collateral for the entire term of the loan and the Agency will be the first lien holder on the Alternate Security subject only to those liens approved by the Agency.
2. A Regional Office of the General Counsel (OGC) review is not required with the Intermediary's legal counsel opinion, except in situations where the Agency Approval Official determines there are legal issues with the opinion that should be addressed by OGC. Any other type of Alternate Security offered as collateral for the Letter of Credit that is not cash or its equivalent must be approved by the National Office. When in doubt, you should consult the National Office.

Any questions or comments, please contact Robert Fry, Loan and Grant Analyst, Specialty Programs Division, at (202) 690-2387.

(Signed by Judith A. Canales)

JUDITH A. CANALES
Administrator
Business and Cooperative Programs