

RD AN No. 4450 (1942-G)
June 4, 2009

TO: State Directors, Rural Development

SUBJECT: Rural Business Enterprise Grant Program
Clarification of Items in RD Instruction 1942-G

ATTN: Business Program Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify and provide additional guidance regarding definitions, purposes, use of Rural Business Enterprise Grant (RBEG) program funds, intergovernmental reviews, the RBEG Project Selection Criteria scoresheet, and requests for National Office assistance in determining processing issues such as eligibility requirements.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4371 (1942-G) which expired on May 31, 2009, with the subject “Rural Business Enterprise Grant Program – Clarification of Items in RD Instruction 1942-G.”

IMPLEMENTATION RESPONSIBILITIES:

1. Small and emerging private business enterprise

Section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) states, in part, that the Secretary may make grants to public bodies and private nonprofit corporations for measures designed to finance and facilitate development of small and emerging private business enterprises. RD Instruction 1942-G, section 1942.304, defines a small and emerging private business enterprise as “Any private business which will employ 50 or fewer new employees and has less than \$1 million in projected gross revenues.”

EXPIRATION DATE:
June 30, 2010

FILING INSTRUCTIONS:
Preceding RD Instruction 1942-G

You must ensure that RBEGs are made to eligible applicants by following the requirements in RD Instruction 1942-G, Attachment 1, section A, II., C. In order to be eligible, an entity must be a public body or a private nonprofit corporation. Cooperatives are not eligible unless organized as a private nonprofit corporation. Also, the applicant's case file must be documented reflecting how the business that is to benefit from the RBEG meets the above-cited definition of a small and emerging private business enterprise.

2. Gross revenue

RD Instruction 1942-G does not define gross revenue. For the purposes of the RBEG program, gross revenue is defined as revenue of a business before deductions for any purpose, except for sales returns. In the case of a manufacturing or merchandising business, gross revenue means gross profit (i.e., gross sales or gross receipts less cost of goods sold).

Revenue for a given period consists of the inflow of cash and receivables from sales made in that period. Also, earnings on investments, such as interest earned on a bank savings account or on a Government bond and the dividends received through ownership of capital stock, are part of the gross revenue. Your analysis and determination that the benefiting business meets the definition of a small and emerging private business enterprise for gross revenue should be documented in the applicant's case file as you determine eligibility.

3. Technical assistance

Technical assistance is defined in RD Instruction 1942-G, section 1942.304. The definition should be followed when technical assistance is requested. Any technical assistance provided must benefit small and emerging private business enterprises.

The applicant needs to have technical experts on staff to fulfill the requirements of the needed assistance or be in a position to contract out for the expertise if it is not available in-house. Should a grant be awarded, the grantee may not turn the responsibility of the technical assistance project over to a contracting party. The grantee must oversee and control the project through completion.

4. Rural Housing

RD Instruction 1942-G, section 1942.306(a)(1), regarding the purposes of the RBEG, allows the acquisition and development of land, easements, and rights-of-way. However, this purpose is to specifically assist small and emerging private business enterprises, not to provide land for residential housing.

Through the RBEG revolving loan program, a construction company may receive a loan from a grantee to expand its construction business. It is not acceptable to use RBEG funds to finance housing for residents; Rural Development has other programs in place for site development and residential housing. The RBEG should not be used to duplicate other Rural Development program purposes.

5. Startup costs and working capital

RD Instruction 1942-G, section 1942.306(a)(3), includes as an eligible use: “Loans for startup operating costs and working capital.” Since the instruction specifically states “loans,” the grantee must loan the funds to a small and emerging private business enterprise for startup operating costs and working capital. “Pass-through” grants are not an allowable purpose for the RBEG program.

In addition, RBEG funds cannot be used by the grantee for the grantee’s own startup costs or working capital. However, the grantee can use grant funds for salaries and expenses directly related to providing technical assistance or training to small and emerging private business enterprises.

6. Revolving loan fund

When a revolving loan program is established by use of the RBEG, there must be a Revolving Loan Fund Program Plan developed pursuant to RD Instruction 1942-G, section 1942.313. Also, a Scope-of-Work will be developed as required by RD Instruction 1942-G, section 1942.314.

Applications for grants to provide financial assistance to third-party recipients (revolving loan fund) require completion of a Class II environmental assessment prior to grant approval. The environmental assessment will be done in accordance with RD Instruction 1942-G, section 1942.310(b)(4). Also, after the grant is approved, each third-party project will have an environmental assessment completed as required by RD Instruction 1942-G, section 1942.310(b)(4), until all the Federal funds have been used. In accordance with RD Instruction 1942-G, section 1942.310(i), revolved funds are not subject to this requirement.

Based upon the eligible purposes outlined in RD Instruction 1942-G, RBEG funds cannot be used to purchase portions of loans or interest in loans made by a lending institution. When the grantee makes a request to provide financial assistance to third parties through a loan, the grantee must use RBEG funds to establish a revolving loan program. This does not preclude the joint financing of a third-party loan, through the revolving loan program, with other credit sources.

7. Intergovernmental review

You should review and become knowledgeable of the requirements of RD Instruction 1940-J, regarding Intergovernmental Review of Rural Development Programs and Activities, and RD Instruction 1942-G, Attachment 1, section A, II., A. Also, you may wish to refer to 7 CFR part 3015, subpart V, “Intergovernmental Review of Department of Agriculture Programs and Activities.”

In reviewing the cited instructions, you will observe that any comments received from the State intergovernmental review process (State) must be included with the grantee’s request to use Rural Development Business Programs (Business Programs) grant funds. Any negative comments must be addressed before further processing of the request can be accomplished. In those instances where comments cannot be accommodated, Business Programs will provide the State with a timely explanation of the basis for its decision. It may be necessary to contact the State, both in person and in writing, to discuss the objections raised and determine the next form of action.

8. Project selection criteria scoresheet

RD Instruction 1942-G, section 1942.305(b)(3), does not distinguish between a service-oriented project and a construction project in determining the amount of points to be awarded. There is also no mention of averaging the population of the various communities comprising a service area. The population is determined by the primary **location** of the project. Where the project location is not clearly identifiable, use the largest community in the area to be served as the most densely populated and award points accordingly.

You should average figures for the economic conditions on Attachment 1, section C, RBEG Project Selection Criteria scoresheet. RD Instruction 1942-G, Attachment 1, sections A, II., B., 1., b., c., and d., clearly refer to the area to be served. Each item regarding economic conditions is based upon the average of data for the area to be served by RBEG.

Any RBEG preapplication should identify all areas affected by the proposed project. This may include cities, counties, townships, States, etc.

RD Instruction 1942-G, section 1942.305(b)(3)(iii), regarding experience, allows for 10 points. You are reminded that the applicant (organization) must have at least 5 years of successful experience in the type of activity proposed in the application to receive points. Also, if an applicant is establishing a revolving loan fund, it is not entitled to receive the 10 points for experience, since it is the applicant’s first revolving loan fund.

RD Instruction 1942-G, section 1942.305(b)(3)(iv)(C), regarding the establishment of a revolving loan fund, allows for 25 points. There is an inconsistency between this section and the purposes indicated in Attachment 1, section C, paragraph D.3. Paragraph D.3. states: “For grants to establish a revolving fund, or grant request contains proposed third party recipients.” Points should be awarded here only for a revolving fund. No points should be awarded for technical assistance or any other purpose. You should award points only if the proposed grantee is establishing a revolving loan fund. If the proposed grantee has an existing revolving loan fund from any source, no points will be awarded.

Item D. 7. of Section C RBEG Program Project Selection Criteria (scoresheets) corresponds to RD Instruction 1942-G, section 1942.305(b)(3)(iv)(G). Since Item D. 1. of the scoresheet awards 25 points for assisting small businesses, these 10 additional points are for assisting small and emerging private business enterprises as well as a nonprofit entity or other tax-exempt organization located in a city, town, or unincorporated area with a population of 5,000 or less and which has a principal office on land of an existing or former Native American reservation. The applicant must provide supporting documentation to receive the points.

You must follow RD Instruction 1942-G, section 1942.305(b)(3)(v), when awarding discretionary points. A project that is an initial project receives discretionary points. An initial RBEG is one made to a grantee to do a purpose which has not been done by the grantee with RBEG funds previously. (Subsequent grant example: Once a grantee has received an RBEG for technical assistance, the next request the grantee submits for technical assistance is considered a subsequent project and no discretionary points may be given to the subsequent request or any future requests the grantee has for technical assistance.)

All scoresheets must contain supporting documentation for each item where points are awarded. For any scoresheets submitted to the National Office for funding consideration, your case file must contain copies of your supporting documents for each item where points are awarded. Any items not containing supporting documentation will have the points disallowed for national competition.

9. Application processing

In accordance with RD Instruction 1942-G, section 1942.314, applications involving a purpose other than a construction project to be owned by the applicant shall develop a Scope-of-Work. The Scope-of-Work should be a designed plan to show how the purpose of the grant will be carried out. The following documentation is required and should be part of the case file:

1. specific purposes for which grant funds will be utilized;
2. timeframes or dates by which the use of funds will be accomplished;
3. key personnel to carry out the purpose;
4. how grant purposes will be accomplished;

5. appropriate documentation regarding availability and amount of other funds to be used;
6. for grants involving a revolving fund, the Scope-of-Work should include those items listed above as well as the following:
 - i. information to establish/identify the need for the revolving loan fund;
 - ii. financial statements which demonstrate financial ability to administer the fund;
 - iii. detail on applicant's experience in operating a revolving loan fund; and
7. for technical assistance and television demonstration program projects, Scope-of-Work should include a budget based on the budget contained in the application, modified or revised as appropriate, which includes salaries, fringe benefits, consultant costs, indirect costs, and other appropriate direct costs for the project.

10. Environmental Requirements

In accordance with RD Instruction 1942-G, section 1942.310(b) and RD Instruction 1901-E, section 1901.202(d), the Agency will give particular emphasis to ensuring compliance with the environmental policies. Prospective recipients of grants must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans, grants, and projects that minimize the potential to adversely impact the environment. Environmental justice and Civil Rights Impact findings must be certified on Form RD 2006-38, "Environmental Justice/Civil Rights Impact Analysis and Certification" and included in the applicant's case file along with all applicable attachments to support the assessment. Please refer to Environmental Justice and Civil Rights Impact Analysis administrative notices published periodically for clarification and procedures used in complying with these requirements.

11. Letter of Conditions

Prior to grant approval and obligation of funds, the Agency shall comply with RD Instruction 1942-G, section 1942.315. Please ensure that complete Letter of Conditions are approved in accordance with approved plans and specifications, that the grant funds are expended for authorized purposes, and compliance with the terms of the Scopes-of-Work and requirements as prescribed in Parts 3015 and 3016 of 7 CFR.

Any grant processing request for guidance and comments must include the above information. This must be present for us to accurately provide comments and guidance. The Rural Development State Director or designee must submit any RBEG processing request to the Specialty Programs Division. All requests that do not meet these minimum standards will be returned without action.

SUMMARY

The RBEG program is administered by Business Programs using RD Instruction 1942-G. Business Programs will request an opinion from the Office of the General Counsel Regional Attorney that the applicant for the RBEG is an eligible applicant with authority to carry out the purposes of the proposed grant; definitions in RD Instruction 1942-G, section 1942.304 must be followed; and the eligibility determination and project selection process outlined in RD Instruction 1942-G, section 1942.305 are essential for the RBEG approving official to follow.

The Rural Development State Office is responsible for assuring that the requirements of RD Instruction 1942-G and this AN are adhered to in administering the RBEG program.

If you have any questions concerning the content of this AN, please call Cindy Mason, Loan Specialist, Specialty Programs Division Processing Branch, (202) 690-1433.

(Signed by William F. Hagy III)

WILLIAM F. HAGY III
Deputy Administrator
Business Programs