

RD AN No. 4684 (1942-A)
(3570-B)
(3575-A)

October 4, 2012

TO: State Directors
Rural Development

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Program

SUBJECT: Guidance for Determining Eligibility of Faith-Based and Neighborhood Partnerships Project Eligibility and Requirements

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) issuance is intended to provide guidance on determining the eligibility of faith-based and community organizations for Community Facilities (CF) loans, grants, and loan guarantees. This AN clarifies project requirements for CF faith-based and neighborhood partnership applicants. This guidance will also provide consistency in the review of faith based applications, and ensure that the Agency is adhering to the requirements of 7 CFR Part 16, "Equal Opportunity for Religious organizations."

COMPARISON WITH PREVIOUS AN:

This AN replaces and updates RD AN No. 4488 (1942-A, 3570-B, & 3575-A) dated January 11, 2010, which expired January 31, 2011.

IMPLEMENTATION RESPONSIBILITIES:

It is the responsibility of all Community Facilities Program Directors to ensure that all staff members involved in outreach, application review, application approval, and oversight of Community Facilities projects are aware of the information in this AN. The intent of the faith based and neighborhood partnership initiative is to eliminate barriers to the full participation of faith based and neighborhood partnerships in United States Department of Agriculture (USDA) programs. There will be no discrimination for or against an organization based on the organization's religious character or affiliation.

EXPIRATION DATE:
October 31, 2013

FILING INSTRUCTIONS:
Preceding RD Instruction
1942-A, 3570-B, and 3575-A

Applicant Eligibility: Religious organizations that participate in USDA assistance programs will retain their independence and may continue to carry out their mission, provided that they do not use USDA funds for inherently religious activities. If an organization conducts religious activities, they must be offered separately, in time, or location from programs or services supported with USDA assistance, and participation must be voluntary, and not mandatory, for the beneficiaries of the program or services receiving USDA assistance. The Community Facilities regulations limit eligible applicants to public bodies, Indian tribes, and organizations operated on a not-for-profit basis. RD Instruction 1942-A, § 1942.17(b)(1); RD Instruction 3570-B, § 3570.61(a)(2); and RD Instruction 3575-A, § 3575.20(c)(3) require non-profit organizations to exhibit significant ties to the local community in order to ensure that the facility financed will carry out a public purpose and continue to primarily serve rural areas.

The regulations cite two examples which would satisfy the community ties requirement: 1) substantial public funding through taxes, revenue bonds, or other local Government sources, and/or substantial voluntary community funding, such as would be obtained through a community-wide funding campaign; and, 2) broadly-based ownership and control by members of the community. A non-profit organization may also demonstrate significant ties to the local rural community when:

- 1) Its members are primarily from the local rural community,
- 2) Its membership is open to all adults in the local rural community,
- 3) Its members have ultimate control of the proposed community facility; and
- 4) It receives the majority of its funding from its members or their volunteer efforts.

All faith based and neighborhood partnership applicant's organizational documents should be reviewed by the office of the General Counsel (OGC) to expedite eligibility determinations. Your submission to OGC should identify the applicant as a faith based entity.

Project Requirements: The following information, in accordance with 7 CFR Part 16 will affect project eligibility.

- Rural Development funds may not be used to support any inherently religious activities, such as:
 - Worship,
 - Religious Instruction or
 - Proselytisation
- Organizations may not discriminate against a program beneficiary or prospective program beneficiary, on the basis of religion or religious beliefs.
- Sanctuaries, chapels, or other rooms that an organization uses as its principal place of worship are ineligible for USDA funded improvements.

All applicants inquiring about projects with faith based aspects should be provided with a copy of 7 CFR Part 16 to clarify what is, and is not, allowable when federal funds are involved. The Agency should request a detailed description of the proposed project from the applicant so an eligibility determination, with the guidance of the Regional Attorney,

may be made on a timely basis. We recommend that all Rural Development staff involved with the CF program read 7 CFR Part 16 and become familiar with its content. In addition to the standard information you provide your Regional Attorney, you will need to provide them with the answers to the following questions when a faith based review is needed.

- What type of CF funding is involved, i.e., direct loan, guaranteed loan, grant?
- If loan funds are being used, what is the collateral?
- What is the purpose of the project?
- Is there any religious aspect to the project?
- Is the project open to the entire community, regardless of an individual's religious preference?

If you have any questions concerning this issue, please contact Karen Safer, at (202)720-0974.