

RD AN No. 4703 (1942-G)
December 13, 2012

TO: State Directors, Rural Development
ATTN: Business Programs Directors
SUBJECT: Rural Business Enterprise Grant Program
Clarification of Items in RD Instruction 1942-G

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 and updates RD AN No. 4598 (1942-G) dated September 1, 2011, which expired on August 31, 2012.

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:
December 31, 2013

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 eligible only if 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. Docket preparation

RD Instruction 1942-G, section 1942.315(a), cross references section 1942.5 of Subpart A, Community Facility Loans. Section 1942.5 refers to a form called the Community Facilities Project Summary. The information required to complete this form is now contained in the Guaranteed Loan System (GLS). Since this information is in GLS, this form is no longer necessary and does not need to be completed as part of the application process.

All applicants, in accordance with 2 CFR Part 25, must have a Dun and Bradstreet Data Universal Number System (DUNS) number, which can be obtained at no cost via a toll-free request line at 1-866-705-5711 or online at <http://fedgov.dnb.com/webor>. Similarly, all applicants must be registered in the System for Award Management (SAM) prior to submitting an application. Applicants may register for the SAM at <http://www.sam.gov>. All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR Part 170.

In accordance with the Office of Management and Budget requirements, all applicants must attest that the NON-PROFIT CORPORATION has not been convicted of a felony criminal violation under Federal law in the 24 months preceding the date of signature, nor has any officers of NON-PROFIT CORPORATION been convicted of a felony criminal violation under Federal law in the 24 months preceding the date of signature.

In addition, all applicants must attest that the NON-PROFIT CORPORATION does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

The following guidance is provided regarding the use of Forms AD-3030 “Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants” and Form AD-3031 “Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.”

Form AD-3030 should be obtained at the time an application is filed. The form should be executed by the grantee. Upon approval of the grant, Form AD-3031 should be obtained prior to closing. The form should also be executed by the grantee.

This requirement is applicable to all grant programs administered under Rural Business-Cooperative Service.

8. 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.

9. Project Selection Criteria Scoresheet

All RBEG applications should identify the service area of their proposed project. This may include cities, counties, townships, States, etc. The documentation must be included in the case file. All RBEG projects should be scored based on the documentation maintained in the case file and the scoresheet should contain a brief summary of such documentation so that anyone reviewing the scoresheet can determine that the points awarded are appropriate. Finally, State Offices do not have to award the maximum number of points in each category. This helps in ranking projects.

RD Instruction 1942-G, section 1942.305(b) (3), does not distinguish between projects that serve a single location from those that serve multiple locations in determining the amount of points to be awarded. When the project service area covers multiple locations or large geographical areas such as a county, the population should be determined by the largest community in the area to be served and awarded points accordingly.

RD Instruction 1942-G, section 1942.305(b)(3)(ii)(A)(B), relates to economic conditions including unemployment and median household income. When the project covers multi-locations or larger geographical areas such as one or two counties and specific data is not available for the geographic region, a weighted average based on the population for the project area will be used to determine these points.

RD Instruction 1942-G, section 1942.305(b)(3)(iii), regarding experience, allows for 10 points. You are reminded that the applicant's key personnel 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)(A), regarding evidence that small business development will occur by startup or expansion, allows for 25 points. Acceptable forms of justification should be a commitment in writing from the businesses to be assisted. If the purpose of the project is to assist a number of businesses such as general technical assistance and training, the application should include letters of intent or similar documentation from the number of businesses projected to be assisted.

RD Instruction 1942-G, section 1942.305(b)(3)(iv)(B), regarding evidence of substantial commitment of funds from nonfederal sources, allows for 15 points for more than 50 percent of the project costs; more than 25 percent, but less than 50 percent, 10 points; and between 5 percent and 25 percent, 5 points. An authorized representative of the organization must provide evidence that the nonfederal funds to be committed are available to the grantee and will be used for the proposed project in accordance with the proposed budget and scope of work. In addition, applicant in-kind is not allowed to be counted in this criterion. However, third-party in-kind can be considered as long as it can be valued in accordance with 7 CFR Part 3015.

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.

RD Instruction 1942-G, section 1942.305(b)(3)(iv)(D), regarding evidence that proposed project will create and/or save jobs, allows for 10 points for one job per \$10,000 or less in grants funds and 5 points for one job per each \$25,000 to \$10,000 in grant funds expended. Grantee must provide evidence of the number of jobs to be created and/or saved based on the scope of work and the identified businesses to be assisted. These jobs should be verifiable after completion of project.

Item D.7. of section C, RBEG Program Project Selection Criteria (scoresheets), provides an additional 10 points for assisting small and emerging private business enterprises with a principal office located on land of an existing or former Native American reservation and with a population of 5,000 or less. These points can only be awarded if the project will create, expand or operate value-added processing in connection with production agriculture.

You must follow RD Instruction 1942-G, section 1942.305(b)(3)(v), when awarding discretionary points. A project that is an initial project and is not more than \$500,000 may receive 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.)

Discretionary points should only be awarded and must include written justification to initial projects if one or more of the four criteria found in RD Instruction 1942-G, section 1942.305(b)(3)(v), apply.

Selection of Projects at the State level to be funded with State RBEG allocation:

RD Instruction 1942-G, section 1942.305(b)(3), provides selection process for RBEG projects and outlines how discretionary points can be used to provide points to ensure geographical distribution within the State as well as providing assistance for economically distressed areas and areas which have been declared disaster areas. Once all points have been decided, the RBEG projects received by the State established due date must be funded in order of highest score to lowest score.

States should publish funding cycle due dates by which RBEG grant applications should be received in either the State or Area Office. These due dates should be posted on the State Rural Development website as well as in widely distributed public media throughout the State. Once the due date has passed, all completed applications should be scored including the assigned discretionary points for those projects eligible for discretionary points. The projects should be ranked in order from highest to lowest. When the next lower scoring project has requested more funding than the remaining State allocation, the State Office should approach the potential grantee and offer the remaining funds if the grantee can split or reduce the Scope of Work to make a viable project, the remaining funds should be awarded to this grantee. However, if the grantee cannot make a viable project with the offered funds, then the State may move to the next project in line for funding consideration and continue to fund projects until all State allocations have been depleted. The project which was passed over, due to insufficient funds, will become the State's first choice for the National Office Reserve funding cycle.

In accordance with RD Instruction 1940-L, section 1940.589(j), the State Director has the option to suballocate to District (Area) Offices. Suballocations must be conducted in accordance with section 1940.552(j).

10. 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:

- a. specific purposes for which grant funds will be utilized;
- b. timeframes or dates by which the use of funds will be accomplished, the RBEG appropriations are an annual appropriations and therefore, the timeframe and Scope of Work should not exceed 1 year;
- c. key personnel to carry out the purpose;
- d. how grant purposes will be accomplished;
- e. appropriate documentation regarding availability and amount of other funds to be used;
- f. for grants involving a revolving fund, the Scope of Work should include those items listed above as well as the following:
 - (1) information to establish/identify the need for the revolving loan fund;
 - (2) financial statements which demonstrate financial ability to administer the fund;
 - (3) detail on applicant's experience in operating a revolving loan fund;
- g. 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;
- h. where the project will be located; and
- i. the anticipated results of the successful grant implementation.

11. Environmental Requirements and/or Environmental Justice and Civil Rights Impact Analysis

- a. 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.

- b. Environmental Justice and Civil Rights Impact findings must be certified on Form RD 2006-38, "Environmental Justice and 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.

12. 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 is approved in accordance with approved plans and specifications, that the grant funds are expended for authorized purposes, and in compliance with the terms of the Scopes of Work and requirements as prescribed in Parts 3015 and 3016 of 7 CFR.

13. System for Award Management (SAM)

This is sample language to be used in all RBEG Letter of Conditions:

"You, as the recipient, must maintain the currency of your information in the SAM until you submit the final financial report required under this award and all grant funds under this award have been disbursed or de-obligated, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term."

If you have any questions concerning the content of this AN, please call Cindy Mason, 202-690-1433, Melvin Padgett, 202-720-1495, Lori Washington, 202-720-9815, or Robert Fry, 202-260-8625, Specialty Programs Division.

(Signed by Lillian E. Salerno)

Lillian E. Salerno
Acting Administrator
Rural Business-Cooperative Service