PART 1942 - ASSOCIATIONS

Subpart G - Rural Business Enterprise Grants and Television Demonstration Grants

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PART 1942 - ASSOCIATIONS

Subpart G - Rural Business Enterprise Grants and Television Demonstration Grants

§ 1942.301 Purpose.

This subpart outlines Rural Development policies and authorizations and sets forth procedures for making grants to finance and facilitate development of private business enterprises. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Rural Development employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of Subpart D of Part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with a Rural Development employee. (Revised 02-04-93, SPECIAL PN.)

§ 1942.302 Policy.

(a) The grant program will be used to support the development of small and emerging private business enterprises in rural areas.

(b) Rural Development officials will maintain liaison with officials of other Federal, State, regional, and local development agencies to coordinate related programs to achieve rural development objectives.

(c) Rural Development officials shall cooperate with appropriate State agencies in making grants that support State strategies for rural area development.

(d) Funds allocated for use in accordance with this subpart are also to be considered for use of Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity along with other rural residents to participate in the benefits of these programs. This includes equal application of outreach activities of Rural Development Area and Local Offices.

§ 1942.303 Authorities, delegation, and redelegation.

The State Director is responsible for implementing the authorities contained in this subpart and to issue State supplements redelegating these authorities to appropriate Rural Development employees. Grant approval authorities are contained in Subpart A of Part 1901 of this chapter.

§ 1942.304 Definitions.

Project. For rural business enterprise grants, the result of the use of program funds, i.e., a facility whether constructed by the applicant or a third party from a loan made with grant funds, technical assistance, startup operating costs, or working capital. A revolving fund established in whole or in part with grant funds will also be considered a project for the purpose of Intergovernmental and Environmental Review under § 1942.310 (b) and (c), of this subpart as well as the specific uses of the revolving funds. For television demonstration grants, television programming developed on issues of importance to farmers and rural residents.

Regional Commission grants. Grants made from funds made available to Rural Development by the Appalachian Regional Commission (ARC) or other Federal Regional Commissions designated under Title V of the Public Works and Economic Development Act of 1965.

Rural and Rural Area. Any area other than a city or town that has a population of greater than 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town according to the latest decennial census of the United States. (Revised 12-20-02, SPECIAL PN.)

Rural Business Enterprise (RBE) grants. Grants made to finance and facilitate development of small and emerging private business enterprises in rural areas. Grants are made from Rural Development funds under authority of the Consolidated Farm and Rural Development Act, as amended, Sec. 310B(c) (7 U.S.C. 1932).

Small and emerging private business enterprise. Any private business which will employ 50 or fewer new employees and has less than $1 million in projected gross revenues. (Revised 05-16-01, SPECIAL PN.)

Technical Assistance. A function performed for the benefit of a private business enterprise and which is a problem solving activity, such as market research, product and/or service improvement, feasibility study, etc.

Television demonstration program. Grants made for television programming developed to demonstrate the effectiveness of providing information on agriculture and other issues of importance to farmers and other rural residents. Grants are made from Rural Development funds under authority of the Consolidated Farm and Rural Development Act, as amended, Sec. 310B(j) (7 U.S.C. 1932).

§ 1942.305 Eligibility and priority.

(a) Eligibility.

(1) RBE grants may be made to public bodies and private nonprofit corporations serving rural areas. Public bodies include States, counties, cities, townships, and incorporated town and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations and other Federally recognized Indian Tribal groups in rural areas. (Revised 12-20-02, SPECIAL PN.)

(2) The end result of the project must finance or develop a small and emerging private business enterprise. The small business receiving assistance must meet the definition contained in § 1942.304. However, if the small and emerging private business enterprise is an eligible nonprofit entity or other tax-exempt organization located in a city, town or unincorporated area with a population of 5,000 or less and has a principal office on land of an existing or former Native American reservation, the small and emerging private business enterprise is exempt from meeting the definition contained in § 1942.304. (Added 12-20-02, SPECIAL PN.)

(3) Regional Commission Grant applicants must meet eligibility requirements of the Regional Commission and also of the Agency, in accordance with paragraph (a)(1) of this section, for the Agency to administer the Regional Commission Grant under this subpart. (Renumbered 12-20-02, SPECIAL PN.)

(4) Television demonstration grants may be made to statewide, private, nonprofit, public television systems whose coverage is predominantly rural. An eligible applicant must be organized as a private, nonprofit, public television system, licensed by the Federal Communications Commission, and operated statewide and within a coverage area that is predominantly rural. (Renumbered 12-20-02, SPECIAL PN.)

(b) Project selection process. The following paragraphs indicate items and conditions which must be considered in selecting RBE applications for further development. When ranking eligible RBE applications for consideration for limited funds, Agency officials must consider the priority items met by each RBE application and the degree to which those priorities are met, and apply good judgment. Due to the small number of applicants eligible for television demonstration grants, such applicants will not compete for priority points against RBE applicants.

(1) Applications. The application and supporting information submitted with it will be considered in determining the proposed project's priority for available funds.

(2) State Office review. All applications will be reviewed and scored for funding priority. Eligible applicants that cannot be funded should be advised by the State Director that funds are not available, and requested to advise whether they wish to have their application maintained in an active file for future consideration.

(3) Selection priorities. The priorities described below will be used by the State Director to rate applications. Points will be distributed as indicated in paragraphs (b)(3)(i) through (v) of this section. A copy of the score sheet should be placed in the case file for future reference.

(i) Population. Proposed project(s) will primarily be located in a community of (1) between 15,000 and 25,000 population - 5 points, (2) between 5,000 and 15,000 population - 10 points, (3) under 5,000 population - 15 points.

(ii) Economic conditions.

(A) Proposed project(s) will primarily be located in areas where the unemployment rate exceeds the State rate by 25 percent or more - 20 points; exceeds the State rate by less than 25 percent - 10 points; is equal to or less than State rate - 0 points.

(B) Proposed project(s) will primarily be located in areas where Median Household Income (MHI) as prescribed by Section 673 (2) of the Community Services Block Grant Act (42 U.S.C 9902 (2)) for a family of 4 for the State is: less than poverty line - 25 points; more than poverty line but less than 85 percent of State MHI - 15 points; between 85 percent and 100 percent of State MHI - 10 points; equal or greater than State MHI - 0 points.

(iii) Experience. Applicant has evidence of at least 5 years of successful experience in the type of activity proposed in the application for funds under this subpart. Evidence of successful experience may be (1) a description of experience supplied and certified by the applicant, or (2) a letter of support from appropriate local elected officials explaining the applicant's experience. Experience - 10 points.

(iv) Other.

(A) Applicant has evidence that small business development will occur by startup or expansion as a result of the activities to be carried out under the grant. Written evidence of commitment by small business must be provided to Rural Development - 25 points.

(B) Applicant has evidence of substantial commitment of funds from nonfederal sources for proposed project. An authorized representative of the source organization of the nonfederal funds must provide evidence that the funds are available and will be used for the proposed project. More than 50 percent of the project costs from nonfederal sources - 15 points; more than 25 percent, but less than 50 percent, of project costs from nonfederal sources - 10 points; between 5 percent and 25 percent of project costs from nonfederal sources - 5 points.

(C) For a grant to establish a revolving fund, the applicant provides evidence to the Agency through loan applications or letters from businesses that the loans are needed by small and emerging businesses in the proposed project area - 25 points.

(D) The anticipated development, expansion, or furtherance of business enterprises as a result of the proposed project will create and/or save jobs associated with the affected businesses. The number of jobs must be evidenced by a written commitment from the business to be assisted. One job per each $10,000 or less in grant funds expended - 10 points. One job per each $25,000 to $10,000 in grant funds expended - 5 points.

(E) The proposed grant project is consistent with, and does not duplicate, economic development activities for the project area under an existing community or economic development plan covering the project area. If no local plan is in existence for the project area, an areawide plan may be used. The plan used must be adopted by the appropriate governmental officials/entities as the area's community or economic development plan. Appropriate plan references and copies of appropriate sections of the plan, as well as evidence of plan adoption by appropriate governmental officials, should be provided to the Agency. Project is reflected in a plan - 5 points.

(F) Grant projects utilizing funds available under this subpart of less than $100,000 - 25 points, $100,000 to $200,000 - 15 points, more than $200,000 but not more than $500,000 - 10 points.

(G) The project will assist a small and emerging private business enterprise as described in §1942.305 (a) (2) of this subpart – 10 points. (Added 12-20-02, SPECIAL PN.)

(v) Discretionary. In certain cases, when a grant is an initial grant for funding under this subpart and is not more than $500,000, Rural Development may assign up to 50 points in addition to those that may be assigned in paragraphs (b)(3)(i) through (iv) of this section. Use of these points must include a written justification, such as geographic distribution of funds, criteria which will result in substantial employment improvement, mitigation of economic distress of a community through the creation or saving of jobs, or emergency situations. For grants of less than $100,000 - 50 points; $100,000 to $200,000 - 30 points; more than $200,000, but not more than $500,000 - 20 points.

§ 1943.306 Purposes of grants.

(a) Grant funds may be used to finance and/or develop small and emerging private business enterprises in rural areas including, but not limited to, the following:

(1) Acquisition and development of land, easements, and rights-of-way.

(2) Construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, utilities, and pollution control and abatement facilities.

(3) Loans for startup operating cost and working capital.

(4) Technical assistance for private business enterprises.

(5) Reasonable fees and charges for professional services necessary for the planning and development of the project including packaging. Services must be provided by individuals licensed in accordance with appropriate State accreditation associations.

(6) Refinancing of debts exclusive of interest incurred by or on behalf of an association before an application for a grant when all of the following exist:

(i) The debts were incurred for the facility or part thereof or service to be installed or improved with the grant, and

(ii) Arrangements cannot be made with the creditors to extend or modify the terms of the existing debt.

(7) Providing financial assistance to third parties through a loan.

(8) Training, when necessary, in connection with technical assistance.

(9) Production of television programs to provide information on issues of importance to farmers and rural residents.

(10) Create, expand, and operate rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement for adult students. (Added 05-23-94, SPECIAL PN.)

(b) Grants, except grants for television demonstration programs, may be made only when there is a reasonable prospect that they will result in development of small and emerging private business enterprises.

(c) Rural Development grant funds may be used jointly with funds furnished by the grantee or from other sources including Rural Development loan funds. Pursuant to P.L. 95-334, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with Rural Development. The amount of participation by the other department, agency, or executive establishment shall only be limited by its authorities other than authorities which impose restrictions on joint financing.

§ 1942.307 Limitations on use of grant funds.

(a) Funds will not be used:

(1) To produce agriculture products through growing, cultivation, and harvesting either directly or through horizontally integrated livestock operations except for commercial nurseries, timber operations, or limited agricultural production related to technical assistance projects.

(2) To finance comprehensive areawide type planning. This does not preclude the use of grant funds for planning for a given project.

(3) For loans by grantees when the rates, terms, and charges for those loans are not reasonable or would be for purposes not eligible under § 1942.306 of this subpart.

(4) For programs operated by cable television systems.

(5) To fund a part of a project which is dependent on other funding unless there is a firm commitment of the other funding to ensure completion of the project.

(6) To pay for technical assistance as defined in this subpart which duplicates assistance provided to implement an action plan funded by the Forest Service (FS) under the National Forest-Dependent Rural Communities Economic Diversification Act for 5 continuous years from the date of grant approval by the FS. To avoid duplicate assistance, the grantee shall coordinate with FS and Rural Business and Cooperative Development Service (RBCDS) to ascertain if a grant has been made in a substantially similar geographical or defined local area in a State for technical assistance under the above program. The grantee will provide documentation to FS and RBCDS regarding the contact with each agency. Under its program, the FS assists rural communities dependent upon national forest resources by establishing rural forestry and economic diversification action teams which prepare action plans. Action plans are intended to provide opportunities to promote economic diversification and enhance local economies dependent upon national forest resources. (Added 10-11-95, PN 252.)

(b) At least 51 percent of the outstanding interest in the project has membership or is owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§ 1942.308 Regional Commission grants.

(a) Grants are sometimes made by Federal Regional Commissions for projects eligible for Agency assistance. Agency has agreed to administer such funds in accordance with Agency regulations and the requirements of the Commission.

(b) The transfer of funds from a Regional Commission to Agency will be based on specific applications determined to be eligible for an authorized purpose in accordance with the requirements of Agency and the Regional Commission.

(c) ARC is authorized under the Appalachian Regional Development Act of 1965, as amended, to serve the Appalachian region. ARC grants are handled in accordance with the ARC Agreement which applies to all ARC grants administered by the Agency. Therefore, a separate Project Management Agreement between Agency and ARC is not needed for each ARC grant. (Revised 06-19-97, SPECIAL PN.)

(d) Other Federal Regional Commissions are those authorized under Title V of the Public Works and Economic Development Act of 1965. Grants by these commissions are handled in accordance with a separate Project Management Agreement between the respective Regional Commission and Agency for each Commission grant administered by Agency (Guide 1 of this subpart). The agreement should be prepared by the Rural Development State Director and the appropriate Commission official when the State Director receives a notice from the Commission of the amount of the grant to be made.

§ 1942.309 [Reserved]

§ 1942.310 Other considerations.

(a) Civil Rights compliance requirements. All grants made under this subpart are subject to the requirements of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin as outlined in Subpart E of Part 1901 of this chapter. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap, the requirements of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age, and Title III of the Americans with Disabilities Act, Pub. L. 101-336, which prohibits discrimination on the basis of disability by private entities in places of public accommodations. When Agency is administering a Federal Regional Commission grant and no Agency RBE/television demonstration grant funds are involved, the

Federal Regional Commission may make its own determination of compliance with the above Acts, unless Agency is designated compliance review responsibilities. Agency shall in all cases be made aware of any findings of discrimination or noncompliance with the requirements of the above Acts.

(b) Environmental requirements.

(1) General applicability. Unless specifically modified by this section, the requirements of Subpart G of Part 1940 of this chapter apply to this subpart. Agency will give particular emphasis to ensuring compliance with the environmental policies contained in §§ 1940.303 and 1940.304 in Subpart G of Part 1940 of this chapter. Although the purpose of the grant program established by this subpart is to improve business, industry, and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environmental resources of rural areas such as important farmland and forestlands, prime rangelands, wetland and floodplains. Prospective recipients of grants, therefore, 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.

(2) Technical assistance. The application for a technical assistance project is generally excluded from Agency's environmental review process by §1940.310(e)(1) of subpart G of part 1940 of this chapter. However, as further specified in §1940.333 of subpart G of part 1940 of this chapter, the grantee for a technical assistance grant, in the process of providing technical assistance, must consider the potential environmental impacts of the recommendations provided to the recipient of the technical assistance.

(3) Applications for direct construction project. The application by a potential grantee who intends to directly use grant funds for a nontechnical assistance project, such as a construction project, shall be reviewed and processed under the applicable requirements of Subpart G of Part 1940 of this chapter.

(4) Applications for grants to provide financial assistance to third party recipients. As part of the preapplication, the applicant must provide a complete Form RD 1940-20, "Request for Environmental Information," for each project specifically identified in its plan to provide financial assistance to third parties who will undertake eligible projects with such assistance. Agency will review the preapplication, supporting materials and any required Forms RD 1940-20 and initiate a Class II assessment for the preapplication. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects and that can be identified at this time from the information submitted. Because Agency's approval of this type of grant application does not constitute Agency's commitment to the use of grant funds for any identified third party projects (see §1942.316 of this subpart), no public notification requirements for a Class II assessment

will apply to the preapplication. After the grant is approved, each third party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in Subpart G of Part 1940 of this chapter, prior to Rural Development providing its consent to the grantee to assist the third party project. If the preapplication reflects only one specific project which is specifically identified as the third party recipient for financial assistance, Rural Development may perform the appropriate environmental assessment in accordance with the requirements of Subpart G of Part 1940 of this chapter, and forego initiating a Class II assessment with no public notification. However, the applicant must be advised that if the recipient or project changes after the grant is approved, the project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in Subpart G of Part 1940 of this chapter.

(5) Combined applications. Whenever an applicant files a preapplication that includes a direct construction project and a plan to provide financial assistance to third parties who will undertake eligible projects, the following environmental requirements will apply:

(i) The proposed direct construction project(s) will be reviewed under the requirements of paragraph (b)(3) of this section prior to authorization of the application.

(ii) The plan to provide financial assistance to third parties will be reviewed and processed under the requirements of paragraph (b)(4) of this section. Additionally, the Class II assessment required for the plan shall address and analyze the cumulative impacts of all proposed projects, direct or third party, identified within the preapplication.

(c) Excess capacity or transfer of employment.

(1) If a proposed grant is for more than $1 million and will increase direct employment by more than 50 employees, the applicant will be requested to provide a written indication to Rural Development which will enable Rural Development to determine that the proposal will not result in a project which is calculated to, or likely to, result in:

(i) The transfer of any employment or business activity from one area to another (this limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations), or

(ii) An increase in the production of goods, materials, or commodities or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area. The applicant's written indication will consist of a resolution from the applicant and Form RD 449-22, "Certification of Non-Relocation and Market and Capacity Information Report," from each existing and future occupant of the site. The applicant may use Guide 2 of this subpart as an example in preparing the resolution. Future occupants of the site must be certified by Department of Labor (DOL) as outlined in paragraph (c)(3) of this section for a period of 3 years after the initial certification by DOL.

(2) The State Director will check each document for completeness and accuracy and submit nine copies of each to the National Office for forwarding to DOL. The submittal to the National Office should be accompanied by a cover memorandum giving the amount and purpose of the grant. Information should <u>not</u> be submitted directly to DOL from the applicant of the State Office.

(3) Grants shall not be made if the Secretary of Labor certifies within 30 days after the matter has been submitted by the Secretary of Agriculture that the provisions of § 1942.310 (c)(1) of this subpart have not been complied with.

Information for obtaining this certification will be submitted in writing by the applicant to Rural Development. The information will be submitted to DOL by the Rural Development National Office. Grant approval may be given and funds may be obligated subject to the DOL certification being received provided Rural Development has made its own separate determinations of (c)(1)(i) and (ii) of this section when the project is in excess of $1 million and affects over 50 employees.

(4) When a grant is being administered for a Federal Regional Commission and no Rural Development grant funds are being used, the requirements for DOL determinations may be waived upon written request from the Commission. If the Commission so desires, the request will be included in the letter from the Commission to Rural Development that gives notice of transfer of funds and conditions under which the funds are to be made available to the grantee. In such cases the letter of conditions from Rural Development to the grantee will not include the requirement for DOL determinations.

(d) Management assistance. Grant recipients will be supervised as necessary to assure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this subpart will be administered under and are subject to 7 CFR 3015, 7 CFR 3016, and 7 CFR 3017, as appropriate, and established Rural Development guidelines.

(e) National Historic Preservation Act of 1966. All projects will be in compliance with the National Historic Preservation Act of 1966 in accordance with Subpart F of Part 1901 of this chapter.

(f) Uniform Relocation and Real Property Acquisition Policies Act. All projects must comply with the requirements set forth in Title 7, Subtitle A, Part 21 of the Code of Federal Regulations.

(g) Floodplains and wetlands. All projects must comply with Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands."

(h) Flood or mudslide hazard area precautions. If the grantee financed project is in a flood or mudslide area, then flood or mudslide insurance must be provided.

(i) Termination of Federal requirements. Once the grantee has provided assistance to projects from a revolving fund, in an amount equal to the grant provided by Rural Development, the requirements imposed on the grantee shall not be applicable to any new projects thereafter financed from the revolving fund. Such new projects shall not be considered as being derived from Federal funds.

§ 1942.311 Application processing.

(a) Preapplication and applications.

(1) The application review and approval procedures outlined in § 1942.2 of Subpart A of Part 1942 of this chapter will be followed as appropriate. The State Director should assist the applicant in application assembly and processing. The applicant shall use Standard Form (SF) 424.1, "Application for Federal Assistance (For Non-Construction)," or SF 424.2, "Application for Federal Assistance (For Construction)," as applicable, when requesting financial assistance under this program.

(2) Each application for assistance will be carefully reviewed in accordance with the priorities established in § 1942.305 (b)(3) of this subpart. A priority rating will be assigned to each application. Applications selected for funding will be based on the priority rating assigned each application and the total funds available. All applications submitted for funding should contain sufficient information to permit Rural Development to complete a thorough priority rating.

(b) Review of decision. When the District Director is informed that favorable action will not be taken on a preapplication or application, the applicant will be notified in writing of the reasons why the request was not favorably considered. The notification to the applicant will State that a review of this decision by Rural Development may be requested by the applicant in accordance with subpart B of Part 1900 of this chapter.

§ 1942.312 [Reserved]

§ 1942.313 Plan to provide financial assistance to third parties.

(a) For applications involving establishment of a revolving fund to provide financial assistance to third parties, the applicant shall develop a plan which outlines the purpose and administration of the fund. The plan will include:

(1) Planned projects to be financed.

(2) Sources of all non-RBE funds

(3) Amount of technical assistance (if any).

(4) Purpose of the loans.

(5) Number of jobs to be created/saved with each project.

(6) Project priority and length of time involved in completion of each project.

(7) Other information required by the State Office.

(b) Each third party project receiving funds will be reviewed for eligibility. When the applicant does not have a list of projects to be completed, the applicant should advise Rural Development at the time a preapplication is submitted.

§ 1942.314 Grants to provide financial assistance to third parties, television demonstration projects, and technical assistance programs.

For applications involving a purpose other than a construction project to be owned by the applicant, the applicant shall develop a Scope of Work. The Scope of Work will be used to measure the performance of the grantee. As a minimum, the Scope of Work should contain the following:

(a) The specific purposes for which grant funds will be utilized, i.e., Technical Assistance, Revolving Fund, etc.

(b) Timeframes or dates by which action surrounding the use of funds will be accomplished.

(c) Who will be carrying out the purpose for which the grant is made (key personnel should be identified).

(d) How the grant purposes will be accomplished.

(e) Documentation regarding the availability and amount of other funds to be used in conjunction with the funds from the RBE/Television Demonstration program.

(f) For grants involving a revolving fund, the Scope of Work should include those items listed in paragraphs (a) through (e) of this section as well as the following:

(1) Information which will establish/identify the need for the revolving loan fund.

(2) Financial statements which will demonstrate the financial ability of the applicant to administer the revolving loan fund. As a minimum, the financial statements will include:

(i) Balance sheet.

(ii) Income statement.

(3) Detail on the applicant's experience in operating a revolving loan fund.

(g) For technical assistance and television demonstration program projects, the 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.

§ 1942.315 Docket preparation and Letter of Conditions.

(a) The applicable provisions of § 1942.5 of Subpart A of Part 1942 of this chapter relating to preparation of loan dockets will be followed in preparing grant dockets.

(b) The State Director or the State Director's designated representative will prepare a Letter of Conditions outlining the conditions under which the grant will be made. It will include those matters necessary to assure that the proposed development is completed in accordance with approved plans and specifications, that grant funds are expended for authorized purposes, and that the terms of the Scope of Work and requirements as prescribed in Parts 3015 and 3016 of 7 CFR are complied with. The Letter of Conditions will be addressed to the applicant, signed by the State Director or other designated Rural Development representative, and mailed or handed to appropriate applicant officials. Each Letter of Conditions will contain the following paragraphs.

"This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application."

"This letter is not to be considered as grant approval nor as a representation as to the availability of funds. The docket may be completed on the basis of a grant not to exceed $_____."

"Please complete and return the attached Form RD 1942-46, `Letter of Intent to Meet Conditions,' if you desire further consideration be given your application."

Other items in the Letter of Conditions should include those relative to: maximum amount of grant; contributions; final plans and specifications; construction contract documents and bidding; required project audit; evidence of compliance with all applicable Federal, State, and local requirements; closing instructions, DOL certifications; compliance with any required environmental mitigation measures; and other requirements including those of Regional Commissions when a grant is being made by a Regional Commission.

§ 1942.316 Grant approval, fund obligation, and third party financial assistance.

(a) Grant approval. Rural Development State Directors are authorized to approve grants made in accordance with this subpart and Subpart A of Part 1901 of this chapter.

(b) Fund obligation and approval announcement. Funds will be obligated and approval announcement made in accordance with the provisions of §1942.5 (d) of Subpart A of Part 1942 of this chapter.

(c) Third party financial assistance. Approval of a grant to an applicant who will use grant funds to provide financial assistance to a third party does not constitute approval of the projects financed by the grantee. The review, approval, and disbursement of funds for specific projects financed by grantees will be completed in accordance with applicable parts of this subpart.

§§ 1942.317 - 1942.347 [Reserved]

§ 1942.348 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute, an applicable law or decision of the Comptroller General, if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest and show how the adverse impact will be eliminated or minimized if the exception is made.

§ 1942.349 Forms, guides, and attachments.

Guides 1 and 2 of this subpart, Attachment 1 of this subpart, and Forms referenced (all available in any Rural Development office) are for use in administering RBE/television demonstration grants. (Revised 06-19-97, SPECIAL PN.)

§ 1942.350 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0132. Public reporting burden for this collection of information is estimated to vary from one-half to 40 hours per response, with an average of 1.8 hours per response including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Attachments: Guides 1 and 2; and Attachment 1.

oOo

Page No.

PROJECT MANAGEMENT AGREEMENT

BETWEEN THE

_____ REGIONAL COMMISSION

AND

RURAL DEVELOPMENT, DEPARTMENT OF AGRICULTURE

PERTAINING TO

_____
(grantee)

_____ COUNTY, _____

1 INTRODUCTION

A. The _____ Regional Commission is providing a (basic or supplemental) grant for_____(purpose)_____ to_____(grantee)_____, and the U.S. Department of Agriculture, Rural Development has approved and will administer that grant. Rural Development has determined that funds (can or cannot) be made available under its funding program for this fiscal year for the project. The project does meet all the requisites for assistance under Section 310(B) of the Consolidated Farm and Rural Development Act, as amended (7 USC 1926). In order to accomplish these purposes, the _____ Regional Commission's Federal Cochairman and the Rural Development State Director hereby enter into this Memorandum of Understanding which is in accordance with 31 USC 686.

B. This agreement is intended to cover the application phase, construction phase, and final audit.

II GENERAL

A. Project Cost

The project costs for the purposes of this agreement shall include the costs of construction, technical services, legal services, land acquisition, permits and rights-of-way, interest during construction and contingencies.

B. Grant

The _____ Regional Commission shall make a (basic or supplemental) grant of $_____up to but not exceeding _____% of the total cost of the project. These funds will be transferred to the Treasury Account of the Rural Development by Standard Form 1151, "Nonexpenditure Transfer Authorization."

C. The undersigned Rural Development State Director on behalf of Rural Development, in concurring to this Project Management Agreement, hereby assures the Federal Cochairman that:

1. The estimated cost of the project is reasonable and the (basic or supplemental) grant, with the funds to be supplied by the applicant, are, in its judgement, sufficient to complete the project.

2. The funds to be supplied by the applicant are available or Rural Development is reasonably satisfied that the applicant has the capability of supplying such funds.

3. Rural Development is reasonably satisfied that the facility will be properly and efficiently administered, operated, and maintained and that the applicant will provide sufficient funds to assure the successful and continuing operation of the facility.

D. The ____(grantee)_____ is subject to Executive Order 11246 and will be required to evidence compliance by execution of the following:

1. Equal Opportunity Agreement Form RD 400-1

2. Nondiscrimination Agreement Form RD 400-4

E. The _____(grantee)_____ shall execute assurances of nonrelocation. (If applicable.)

III CONSTRUCTION MANAGEMENT

A. The forms and format for the documents shall conform to the requirements in Subpart A of Part 1942 of this Chapter. Generally, the following items shall be included:

1. Contract Documents

2. Specifications

3. Plans

B. Rural Development will approve the plans and specifications.

C. Rural Development will obtain a certification of adequacy from the Federal Environmental Protection Agency (include only when applicable).

D. Rural Development will obtain a non-pollution certificate from the __(state) _____(agency)_____ (include only when applicable).

E. Rural Development will make monthly inspections.

F. Contract change orders will not become effective until approved by Rural Development.

G. Final inspection will be conducted by Rural Development.

IV FINANCIAL MANAGEMENT

A. Financial management of the project shall be according to Subpart A of Part 1942 of this Chapter.

B. Rural Development will provide the _____ Regional Commission with a copy of the audit report.

C. If actual costs fall below the costs on which the grant was calculated, the Federal and non-Federal shares will be reduced proportionately.

D. Rural Development will conform to the financial reporting requirements for transferred funds as required by the attached copy of "Reporting of Funds Transfer by Participating Agencies."

V COMPENSATION

Services rendered by Rural Development for the processing and administration of Commission grants in cases where neither Rural Development loan nor grant funds are involved shall be on a reimbursable basis. Reimbursement will be based on five percent of the amount of the grant up to $50,000 and an additional one percent of any amount over the first $50,000 of the Commission grant. The full amount of the reimbursement will be transferred to Rural Development at the time the grant funds are transferred to Rural Development.

VI No provision in this agreement shall abrogate the legal requirements of administrative responsibilities as set forth in the Consolidated Farm and Rural Development Act or Section 509 of the Public Works and Economic Development Act of 1965, as amended.

For the	For the
_____ Regional Commission	Rural Development, USDA
_____	_____
(name)	(name)
_____	_____
Federal Cochairman	State Director
_____, 20__	_____, 20__

oOo

RESOLUTION

Whereas the _____
(hereinafter called public body) desires to obtain financial assistance from the Rural Development, United States Department of Agriculture, pursuant to Section 310 B of the Consolidated Farm and Rural Development Act, for the purpose of providing _____

_____
(describe briefly the nature of the project
_____

(herein referred to as the facility) and as a condition to and in consideration of receiving financial assistance from the Rural Development this resolution is being adopted.

Therefore, in consideration of the premises the public body agrees as follows:

1. No private business enterprises shall be allowed to use or occupy the facility if such use or occupancy would be calculated to, or is likely to, result in the transfer from one area to another of any employment or business activity provided by operations of the private business enterprises. This limitation shall not be construed to prohibit use and enjoyment of the facility by such private business entity through the establishment of a new branch, affiliate, or subsidiary if the establishment of such branch, affiliate, or subsidiary will not result in the increase in unemployment in the area of original location (or in any other area where such entity conducts business operations), unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location (or in any other area where it conducts such operation).

2. No private business enterprises shall be allowed to use or occupy the facilities if such use or occupancy would be calculated to, or is likely to, result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, where there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the sufficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse affect upon existing competitive enterprises in the area.

3. Prior to allowing the use or occupancy of the facilities by any private business enterprise, the public body shall clear such use or occupancy with the Manpower Administration, Department of Labor, Washington, DC, by submitting information required by the Department of Labor for certification under the Act. This information shall be submitted to Rural Development for transmittal to the Department of Labor. The public body agrees to make no final commitment with any private business enterprise regarding such use or occupancy if the Department of Labor issues a negative certification under the Act. The public body shall obtain prior clearance in this matter for a period of three years after the date of an affirmative certification by the Department of Labor on the application for financial assistance now pending before the Rural Development.

This resolution shall be in force and effect immediately.

The voting was yeas _____, nays _____, absent _____.

_____
(Name of public body)

by_____
(Name and Title)

Certification

I the undersigned as (Secretary) (Town Clerk) of the _____ do hereby certify that the foregoing resolution was duly adopted at a meeting of_____ duly called and held on the _____ day of _____ , and that such resolution has not been rescinded or amended in any way. Dated this _____ day of _____.

(Seal)

(Town Clerk) (Secretary) of _____

oOo

GENERAL REQUIREMENTS FOR ADMINISTRATION OF RURAL BUSINESS ENTERPRISE AND TELEVISION DEMONSTRATION GRANTS

I. Introduction.

The provisions for Rural Development internal operations of the Rural Business Enterprise (RBE) and Television Demonstration grant programs are contained in this Attachment. This Attachment is only a supplement to the information contained in the main body of the instruction and does not contain information which would be of benefit to the public. This Attachment has three sections: Section A - General Requirements; Section B – Attachment to Form RD 1940-1, "Request for Obligation of Funds," (Responsibilities of the Grantee); and Section C - Project Selection Criteria.

Section A

II. General Requirements.

A. Intergovernmental review. RBE/Television Demonstration grant projects are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. For each project to be assisted with a grant under this subpart and for which the State has elected to review the project under their intergovernmental review process, the State Point of Contact must be notified. Notification, in the form of a project description, can be initiated by the grantee. Any comments from the State must be included with the grantee's request to use Rural Development grant funds for the specific project. Prior to Rural Development's decision on the request, compliance with requirements of intergovernmental consultation must be demonstrated for each project. These requirements should be carried out in accordance with 7 CFR 3015, Subpart V, "Intergovernmental Review of Rural Development Programs and Activities," (see RD Instruction 1970-I, available in any Rural Development office). In those instances where a State's comments cannot be accommodated, Rural Development will provide the State with a timely explanation of the basis for its decision. Rural Development will not implement its decision for 15 days after the State receives the explanation, unless unusual circumstances make the 15-day waiting period not feasible. The explanation will take the form of a written explanation and may be supplemented by telephone, meeting, or other telecommunication. (Revised 01-18-12, SPECIAL PN.)

B. Selection priorities/State Office review (§ 1942.305 of this subpart).

1. All applications shall be accompanied by sufficient information to permit the numerical ranking established by § 1942.305 (b)(3) of this subpart. Such information should include:

a. A description of proposed service(s) to be provided/projects to be funded.

b. Income data on area to be served.

c. Unemployment rate of the area to be served.

d. Median household income of area to be served.

e. Grantee's experience in providing the proposed service.

2. When ranking applications see items b through d of paragraph II B 1 of this Attachment, the entire area to be served should be considered when assigning discretionary points.

3. If an application involves the establishment of a revolving fund, the following additional information should be provided in accordance with § 1942.311 (a)(2) of this subpart.

a. Grantee's financial ability to administer a revolving loan fund (at a minimum, the information should include a balance sheet and an income statement).

b. The need for a revolving fund.

c. Other funds available to leverage funds made available under this program.

C. Office of General Counsel (OGC) review. Rural Development will request an opinion from the Regional Attorney, OGC, that the applicant is an eligible applicant with authority to carry out the purposes of the proposed grant. The applicant will provide the necessary information to Rural Development for submission to the Regional Attorney.

D. Application processing (§ 1942.311 of this subpart). The applicant shall be advised of the conditions/requirements (outlined in this attachment) for receipt of RBE monies at the time of preapplication conference. Upon notification on Form AD-622, "Notice of Preapplication Review Action," that the applicant is eligible for funding, the following will be submitted to Rural Development.

1. Standard Form (SF) 424.1, "Application for Federal Assistance (For Non-construction)," or SF-424.2, "Application for Federal Assistance (For Construction)," will be used for making application under this program, as applicable.

2. For grants to establish a revolving loan fund, a proposed Scope of Work detailing:

a. Information as prescribed in § 1942.314 of this subpart.

b. Proposed project budget.

c. Other requested information needed by Rural Development to make a grant award determination.

3. For grants to establish a revolving fund and/or to provide technical assistance, the following forms and documents will be part of the grant docket:

a. Form RD 400-1, "Equal Opportunity Agreement."

b. Form RD 400-4, "Assurance Agreement (Under Title VI, Civil Rights Act of 1966)."

c. Scope of Work prepared by the applicant.

d. Form RD 1940-1, "Request for Obligation of Funds," (with the required attachment).

4. Dockets for nonrevolving fund grants will contain those items specified in paragraphs II D (3)(a), (b), and (d) of this Attachment, as well as other appropriate items specified in Subpart A of Part 1942 of this chapter.

5. All dockets will contain executed Forms AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions," and AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals," required in RD Instruction 1940-M, "Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace," available in any Rural Development office.

E. Appraisals. When land is to be purchased in accordance with § 1942.306 (a) of this subpart, the State Director, to establish "fair market value," may require the applicant to provide an appraisal report prepared by an independent qualified appraiser.

F. Planning and performing development. The applicable provisions of § 1942.18 of Subpart A of Part 1942 of this chapter related to planning and performing development are to be adhered to for construction of RBE grant projects. This includes requirements for actions pertaining to:

1. Professional services, design policies, preliminary engineering and architectural reports and construction bids, contract awards, and construction inspections.

2. Concurrence in agreements between grantees and third parties.

3. Preconstruction conferences.

G. Letter of Conditions (§ 1942.315 of this subpart).

1. The applicable provisions of § 1942.5 of Subpart A of Part 1942 of this chapter regarding the Letter of Conditions should be followed.

2. The Letter of Conditions will include those matters as prescribed in § 1942.315 of this subpart and should be attached to the Form RD 1940-1 (see Section A, paragraph II H of this Attachment).

3. The Letter of Conditions will also include the following paragraphs, as appropriate:

a. For revolving loan and technical assistance grants include, "You must certify that each project is located in a rural area." If technical assistance grant funds are involved, include also, "You must certify that the technical assistance provided is benefiting a rural area."

b. "You must certify at least 51 percent of the outstanding interest in the project has membership or is owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence."

c. "You must execute Form AD-1047 to certify that your organization is not debarred or suspended from Government assistance. You also must obtain a certification on Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," from any person or entity you do business with as a result of this Government assistance that they are not debarred or suspended from Government assistance."

d. "You must execute Form AD-1049 to certify that you will provide a drug-free awareness program for employees."

H. Grant approval, obligation of funds, grant closing. Section B of this Attachment shall become a permanent part of Form RD 1940-1 when RBE grant funds are involved, and the following paragraph will appear in the comment section of that form.

"The grantee understands the requirements for receipt of funds under the Rural Business Enterprise grant program. The grantee assures and certifies that it is in compliance with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those set out in Part 1942, Subpart G, Attachment 1, "General Requirements for Administration of Rural Business Enterprise and Television Demonstration Grants," 7 CFR, Parts 3015, 3016, 3017, 3018, 3019, and 3052 including revisions through _____ (date of grant approval) and the Letter of Conditions. (Revised 07-16-03, PN 361.)

For grants involving the establishment of a revolving loan program, the following statement shall also be added to the comment section of Form RD 1940-1: "The grantee furthermore agrees to use grant funds for the purposes outlined in the Scope of Work approved by Rural Development."

1. Grants will be approved and closed in accordance with the applicable parts of Subpart A of Part 1942 of this chapter, including §§ 1942.7 and 1942.17 (o), this Attachment, and any instructions from the Regional Attorney, OGC.

2. An executed copy of the Scope of Work will be sent to the applicant on the obligation date, along with a copy of Form RD 1940-1 and the required attachment.

3. When Form RD 1940-1 has been executed by all parties, the grant is closed.

4. If the grant is not approved, the applicant will be notified in writing of the reason(s) for rejection. The notification to the applicant will state that a review of this decision by Rural Development may be requested by the applicant under Subpart B of Part 1900 of this chapter. (Renumbered 07-16-03, PN 361.)

I. Fund disbursement. Except for grants for revolving loans, grant funds will be disbursed by Rural Development on a reimbursement basis. Requests should not exceed one advance every 30 days. The financial management system of the recipient organization shall provide for effective control and accountability of all funds, property, and other assets.

1. As needed, but not more frequently than once every 30 days, an original and one copy of SF-270, "Request for Advance or Reimbursement," may be submitted to Rural Development. Recipient's request for advance shall not be made in excess of reasonable outlays for the month covered.

2. Grantee shall provide satisfactory evidence to Rural Development that all officers of grantee organization authorized to receive and/or disburse Federal funds are covered by such bonding and/or insurance requirements as are normally required by the grantee.

3. Release of technical assistance funds.

a. The grantee will provide the District Office with a project description and intergovernmental review data as defined in Section A, paragraph II A of this Attachment.

b. The servicing official will review the project for eligibility. Once determined eligible and satisfactory intergovernmental review clearances have been received, the grantee may request funds as outlined above in paragraph II I 1 of this Attachment.

4. For grants to provide assistance to third parties, through a revolving fund, funds will be disbursed in accordance with USDA's Uniform Federal Assistance Regulations, the items listed above in paragraph II I 3 a of this Attachment and the following:

a. The grantee is responsible for providing Rural Development with environmental review data. Each project will undergo the applicable environmental review in accordance with §1942.310 (b) of this subpart.

b. The grantee is responsible for providing Rural Development with intergovernmental review clearances in accordance with Section A, paragraph II A of this Attachment. Each project will undergo the intergovernmental review process.

c. Once the State Office has received clearances for intergovernmental review and the environmental assessment is completed, the grantee may request grant funds for that purpose by use of SF-270 as outlined above in paragraph II I 1 of this Attachment.

J. Reporting. Forms SF-269, "Financial Status Report," and a Project Performance Activity Report will be required of all grantees on a quarterly basis (due 15 working days after end of quarter). A final Project Performance Report will be required with the last SF-269. The final report may serve as the last quarterly report. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved.

The project performance reports shall include, but not be limited to, the following:

1. A comparison of actual accomplishments to the objectives established for that period;

2. Reasons why established objectives were not met;

3. Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

4. Objectives and timetables established for the next reporting period.

K. Audit requirements. Audit requirements only apply to the year(s) in which Agency grant funds are expended. Grantees expending $300,000 or more of Federal assistance per year must submit an audit in accordance with the requirements of OMB Circular A-133 as codified in 7 CFR 3052. Grantees that expend less than $300,000 a year in Federal award are exempt from Federal audit requirements for that year except as noted in 7 CFR 3052.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office. (Revised 07-17-02, PN 348.)

L. Programmatic changes. The recipient shall obtain prior approval for any change to the scope or objectives of the approved project. (For construction projects, any material change in approved space utilization or functional layout shall be considered a change in scope). Failure to obtain prior approval of changes to the scope can result in suspension/termination of grant funds.

M. Grant cancellation. Grants may be cancelled by the grant approval official by use of Form RD 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation." The State Director will notify the applicant by letter that the grant has been cancelled. A copy of the letter will be sent to the applicant's attorney and engineer and to the Regional Attorney, OGC, if the Regional Attorney has been involved.

N. Grant servicing. Grants will be serviced in accordance with Subpart E of Part 1951 of this chapter.

O. Subsequent grants. Subsequent grants will be processed in accordance with the requirements set forth in this subpart.

Section B

III. Responsibilities of the Grantee

This section contains information regarding the responsibilities of the grantee for receipt of monies under the RBE/television demonstration grant program. This section shall become a permanent attachment to Form RD 1940-1 as outlined in Section A, paragraph II. H. of this Attachment. These requirements do not supersede the requirement for receipt of Federal funds as stated in Parts 3015, 3016, and 3019 of the Uniform Federal Assistance Regulations; however, specific areas related to the RBE/television demonstration grant program are cited below. (Revised 07-16-03, PN 361.)

Grantee agrees to:

A. Comply with property management standards established by 7 CFR Parts 3015, 3016, and 3019 for real and personal property. "Personal property" means property of any kind except real property. It may be tangible - having physical existence - or intangible - having no physical existence; such as patents, inventions, and copyrights. "Nonexpendable personal property" means tangible personal property having a useful life of more than 1 year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above. "Expendable personal property" refers to all tangible personal property other than nonexpendable property. When real property or nonexpendable property is acquired by a grantee with project funds, title shall not be taken by the Federal Government but shall be vested in the grantee subject to the following conditions: (Revised 07-16-03, PN 361.)

1. Right to transfer title. For items of real or nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

a. The property shall be appropriately identified in the grant or otherwise made known to the grantee in writing.

b. The Agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Agency fails to issue disposition instructions within the 120 calendar day period, the grantee shall apply the standards of Section B, paragraphs III. A. 2. and 3. of this Attachment.

c. When the Agency exercises its right to take title, the personal property shall be subject to the provisions for federally owned nonexpendable property discussed in Section B, paragraphs III. A. 2. and 3. of this Attachment.

d. When title is transferred either to the Federal Government or to a third party and the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

2. Use of other real or nonexpendable personal property for which the grantee has title.

a. The grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When it is no longer needed for the original project or program, the grantee shall use the property in connection with its other federally sponsored activities in the following order of priority:

i. Activities sponsored by Rural Development.

ii. Activities sponsored by other Federal agencies.

b. Shared use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to projects or programs sponsored by Rural Development; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use for other activities not sponsored by the Federal Government shall be permissible if authorized by Rural Development. User charges should be considered, if appropriate.

3. Disposition of real or nonexpendable personal property. When the grantee no longer needs the property as provided in Section B, paragraph III A 2 of this Attachment, the property may be used for other activities in accordance with the following standards:

a. Personal property with a unit acquisition cost of less than $1,000. The grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

b. Real or nonexpendable personal property with a unit acquisition cost of $1,000 or more. The grantee may retain the property for other use provided that compensation is made to Rural Development or its successor. The amounts of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to current fair market value of the property. If the grantee has no need for the property and the property has further use value, the grantee shall request disposition instructions from the original grantor agency.

c. Rural Development shall determine whether the property can be used to meet the agency's requirements. If no need exists within Rural Development, the General Services Administration's Federal Property Management Regulations (FPMR) will be used by Rural Development to determine whether a need for the property exists in other Federal agencies. Rural Development shall issue instructions to the grantee no later than 120 days after the grantee request and the following procedures shall govern:

i. If so instructed, or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse Rural Development an amount computed by applying to the original project or program. However, the grantee shall be permitted to deduct and retain from the Federal share $100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

ii. If the grantee is instructed to dispose of the property other than as described in Section B, paragraphs III A 2 and 3 of this Attachment, the grantee shall be reimbursed by Rural Development for such costs incurred in its disposition.

iii. Property management standards for nonexpendable personal property. The grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:1111

a. Property records shall be maintained accurately and shall include:

i. A description of the property.

ii. Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

iii. Sources of the property including grant or other a agreement number.

iv. Whether title vests in the grantee or the Federal Government.

v. Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

vi. Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government).

vii. Location, use, and condition of the property and the date the information was reported.

viii. Unit acquisition cost.

ix. Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a grantee compensates the Federal agency for its share.

b. Property owned by the Federal Government must be marked to indicate Federal ownership.

c. A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

d. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or the theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the grantee shall promptly notify Rural Development.

e. Adequate maintenance procedures shall be implemented to keep the property in good condition.

f. Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for completion to the extent practicable and result in the highest possible return.

g. Expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

This Attachment covers the following described personal property and any additional property acquired wholly or in part with grant funds (use continuation sheets as necessary):

When real property is no longer needed as provided above, return all real property, furnished or purchased wholly with Federal grant funds to the grantor. In the case of property purchased in part with Federal grant funds, the grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

This Attachment covers the following described real property purchased/to be purchased wholly or in part with grant funds (use continuation sheets as necessary):

B. Cause said program to be completed within the total sums available to it, including said grant, in accordance with the program plan and any necessary modifications thereof prepared by grantee and approved by grantor.

C. Permit periodic inspection of the program operations by a representative of grantor.

D. Make the program available to all persons in grantee's service area without regard to race, color, national origin, religion, sex, marital status, age, physical or mental handicap who have also received Rural Development related assistance from the grantee.

E. Not use grant funds to replace any financial support previously provided or assured from any other source. The grantee agrees that the general level of expenditure by the grantee for the benefit of program area and/or program covered by this attachment shall be maintained and not reduced as a result of the Federal share of funds received under this grant.

F. No nonexpendable personal property to be owned or used by the borrower or its affiliate(s) for use other than the grant purposes will be acquired wholly or in part with grant funds.

G. Use of the property including land, land improvement, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed. The grantee shall obtain approval of the grantor before using the real property for other purposes when the grantee determines that the property is no longer needed for the original grant purposes.

H. Provide financial management systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supporting activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over, and accountability for, all funds. Grantees shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

I. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing except that the records shall be retained beyond the 3-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee governments which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

J. Provide information as requested by the grantor to determine the need for and complete any necessary environmental assessments or Environmental Impact Statements.

K. Grantees expending $300,000 or more of Federal assistance in the year(s) that Agency grant funds are expended shall submit an audit in accordance with OMB Circular A-133 as codified in 7 CFR 3052. Grantees that expend less than $300,000 a year in Federal award are exempt from Federal audit requirements for that year except as noted in 7 CFR 3052.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office. (Revised 07-17-02, PN 348.)

L. Provide grantor with such periodic reports as it may require and permit periodic inspection of its operations by a designated representative of the grantor.

M. Not to encumber, transfer, or dispose of the property or any part thereof, furnished by the grantor or acquired wholly or in part with grantor funds without the written consent of the grantor except as provided in Section B, paragraph III. A. of this Attachment.

N. Execute Form RD 400-1, Form RD 400-4, and any other agreements required by grantor to implement the civil rights requirements. If any such form has been executed by grantee as a result of a loan being made to grantee by grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

O. In contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Applies only where Davis Bacon requirements apply.

P. Include in all contracts in excess of $100,000 a provision for compliance with all applicable standards, orders, or regulations issued pursuant to the Clear Air Act of 1970. Violations shall be reported to the grantor and the Regional Office of the Environmental Protection Agency.

Q. Upon any default under its representations or agreements set forth in this instrument, grantee, at the option and the demand of grantor, will, to the extent legally permissible, repay to grantor forthwith the original principal amount of the grant stated hereinabove, with interest equal to the rate of interest paid on U.S. 26-week Treasury Bills adjusted quarterly from the date of the default. The provisions of this Attachment may be enforced by grantor at its option and without regard to prior waivers by it of previous defaults of grantee, by judicial proceedings to require specific performance of the terms of this Attachment or by such other proceedings in law or equity, in either Federal or State courts as may be deemed necessary by grantor to ensure compliance with the provisions of this Attachment and the laws and regulations under which this grant is made.

R. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may rise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

S. That all nonconfidential information resulting from its activities shall be made available to the general public on an equal basis.

T. That the purpose and Scope of Work for which this grant is made shall not duplicate programs for which monies have been received, are committed, or are applied to from other sources, public or private.

U. That grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or in part, the material shall contain notice and be identified by language to the following effect: "The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source."

V. That the grantee shall abide by the policies promulgated in 7 CFR Parts 3015, 3016, and 3019 which provides standards for use by grantees in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds. (Revised 07-16-03, PN 361.)

W. To the following termination provisions:

1. Termination for cause: The grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The grantor agency shall promptly notify the grantee in writing of the determination and the reasons for termination, together with the effective date.

2. Termination for convenience: The grantor agency or grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The grantor agency shall allow full credit to the grantee for the Federal share of the noncancelable obligations, properly incurred by the grantee prior to termination.

X. That grantee will remit interest earned on grant funds deposited in an interest bearing account in accordance with 7 CFR Parts 3015, 3016, and 3019. (Revised 07-16-03, PN 361.)

Section C

Rural Business Enterprise and Television Demonstration Grant Program

Project Selection Criteria

Project Score _____

Name of Applicant_____

State _____ County_____

Grant $_____ Initial or Subsequent _____

Amount of previous Rural Development funding for this project
$_____

Purpose: Revolving Fund: |_| Technical Assistance: |_|

Industrial Site: |_| Other Business Development: |_|

Brief description of the proposed facility:

_____

_____

Priorities	Points
A. Population.	
Proposed project is located in a rural community having a population:	
Between 15,000 and 25,000	5
Between 5,000 and 15,000	10
Under 5,000	15

B. Economic conditions.

1. Proposed project will be located in areas where the unemployment rate exceeds the State unemployment rate by:

a. 25 percent or more	20
b. less than 25 percent	10
c. equal to or less than State rate	0

2. Proposed project will be located in areas where the median household income (MHI) of the population to be served by the proposed facility is:

a. Less than the poverty line for a family of four as prescribed by Section 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).	25
b. More than the poverty line and less than 85 percent of the State's MHI.	15
c. More than the poverty line and between 85 percent and 100 percent of the State's MHI.	10
d. Equal or greater than State MHI.	0

C. Experience. Applicant has substantial experience in administering a rural economic development program. 10
(Revision 03-20-02, PN 343.)

D. Other.

1. Applicant has written evidence of commitment from small business that small business development will occur by startup or expansion as a result of the grant. 25

2. Grant request contains evidence that a substantial commitment of funds from nonfederal sources for proposed project is:

a. more than 50 percent	15
b. more than 25 percent and less than 50 percent	10
c. between 5 percent and 25 percent	5

3. For grants to establish a revolving fund, or grant request contains proposed third party recipients. 25

4. The proposed project will create and/or save jobs at:

a. one job per each $10,000 or less in grant funds expended	10
b. one job per each $25,000 to $10,000 in grant funds expended	5

5. Proposed project is consistent with, and is reflected in, local plans for the area. 5

6. Grant projects utilizing funds available under this subpart are:

a. less than $100,000	25
b. $100,000 to $200,000	15
c. more than $200,000 to $500,000	10

7. The project will assist a small and emerging private business enterprise as described in §1942.305 (a)(2) of this subpart. 10
(Revised 12-20-02, SPECIAL PN.)

E. Discretionary points for initial grants of not more than $500,000 in accordance with §1942.305 (b)(3)(v) of this subpart. Give written justification. __
(Revised 12-20-02, SPECIAL PN.)

_____

_____

_____

_____ _____
Chief, Community and Business Programs Date

Directions: Complete the information requested on pages 17-19 of this Attachment. In paragraphs A-D of Section C, circle the points for those priorities which apply to, and are met by, the preapplication under consideration. Determine and justify the number of discretionary points, if any, to be awarded in paragraph E of Section C of this Attachment and add up the total number of points scored.

(08-20-92) SPECIAL PN

TO: Administrator, Rural Business-Cooperative Service
Washington, DC 20250

Attention: _____ Specialty Lenders Division

State: _____

Name of Applicant: _____

A. Amount $_____

B. State the priority of this project in relation to all others on hand at the time of submission to the National Office. (Attach a revised priority listing for previously submitted projects, if necessary.) _____

C. Is this project ready for obligation? _____Yes _____ No.
If no, give estimated date project will be ready for obligation of funds.
_____

D. If other funds are involved in this project, have they been committed?
____Yes ____No.

_____ _____
State Director Date

Directions: To request an allocation of funds from the National Office, State Offices should complete this part of Attachment 1, Section C, attach it to the project selection criteria, and submit both to the National Office.