

RD AN No. 4642 (1942-G)
April 9, 2012

TO: State Directors, Rural Development
ATTN: Business Programs Directors
SUBJECT: Rural Business Enterprise Grant Program
Clarification of Eligibility with Respect to Credit Unions

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify and provide guidance regarding the issue of the eligibility of credit unions to participate, as grantees, in the Rural Business Enterprise Grant (RBEG) program. This is intended to provide guidance until we can develop a change to RD Instruction 1942-G to further clarify requirements.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4564 (1942-G) dated April 5, 2011, which will expire on April 30, 2012, with the subject, "Rural Business Enterprise Grant Program – Clarification of Eligibility with Respect to Credit Unions."

IMPLEMENTATION RESPONSIBILITIES:

Section 310B(c) of the Consolidated Farm and Rural Development Act (CONACT) as found in 7 USC 1932(c) states, in part, that the Secretary may make grants to public bodies for measures designed to facilitate development of small and emerging private business enterprises. Further, RD Instruction 1942-G, with respect to eligibility states: "RBE grants may be made to public bodies and private nonprofit corporations serving rural areas."

EXPIRATION DATE:
April 30, 2013

FILING INSTRUCTION:
Community/Business Programs

CONACT and RBEG instructions limit grantee eligibility to public bodies and nonprofit corporations. It has been determined that cooperatives are not eligible grantees, and previous instructions have been issued to that effect. It is your responsibility to determine whether an RBEG applicant is a public body, a private nonprofit organization, or a cooperative.

You must ensure that RBEG applicants are eligible by following the requirements of RD Instruction 1942-G, Attachment 1, section A, II., C. Unless advised otherwise by your Regional Attorney, Office of the General Counsel (OGC), you should request their opinion that:

- (1) the credit union is eligible and has authority to administer the proposed grant as intended;
- (2) the proposed RBEG purpose is eligible; and
- (3) the credit union has the authority (in its organizational documents) to make loans for eligible RBEG purposes.

It is your responsibility to relate to OGC your observations and questions arising from review of the applicants' organizational documents. This should include the nature of the organizational structure of the applicants, e.g. nonprofit corporation, private nonprofit corporation, or cooperative. If your OGC does not provide you an opinion on these three eligibility issues, it is incumbent upon you to determine them based upon organizational documentation required of the grant applicant.

There has been a presumption that credit unions were defined as cooperatives as organized under the Federal Credit Union Act. It has been brought to the attention of the Agency that credit unions may be properly organized as either a private nonprofit corporation or a cooperative. Thus, credit unions could be eligible for the RBEG program, depending upon the exact nature of their organizational structure.

If a Federal credit union is deemed an eligible grantee, and the credit union is seeking to use the grant for a revolving loan fund, you must further examine the characterization of the borrowers, the ultimate recipients of the loan funds. Again, the Federal Credit Union Act limits credit unions to making loans to its members, other credit unions, and to other credit union organizations. It must also be clear from the grant application that the credit union has members that would be eligible ultimate recipients.

SUMMARY

The RBEG program is administered by Rural Development using RD Instruction 1942-G. Unless otherwise directed by OGC, the State Office will request an opinion from the OGC as to whether a credit union applicant for RBEG meets certain eligibility requirements. It is essential that eligibility be considered by approving officials pursuant to RD Instruction 1942-G, section 1942.305, in accordance with definitions in section 1942.304. Rural Development State Offices are responsible for assuring that requirements of RD Instruction 1942-G, and clarification of this AN are met.

If you have any questions, please contact Specialty Programs Division, at (202) 720-1400.

(Signed by JUDITH A. CANALES)

JUDITH A. CANALES
Administrator
Business and Cooperative Programs