

Public Law 103-354 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.

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 FmHA or its successor agency under Public Law 103-354 funds under authority of the Consolidated Farm and Rural Development Act, as amended, sec. 310B(j) (7 U.S.C. 1932).

[57 FR 33099, July 27, 1992, as amended at 66 FR 27014, May 16, 2001; 67 FR 77908, Dec. 20, 2002]

§ 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.

(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.

(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.

(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.

(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, FmHA or its successor agency under Public Law 103-354 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 (iv) 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

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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 (1) exceeds the State rate by 25% or more—20 points, (2) exceeds the State rate by less than 25%—10 points, (3) is equal to or less than the 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: (1) Less than poverty line—25 points, (2) more than poverty line but less than 85% of State MHI—15 points, (3) between 85% and 100% of State MHI—10 points, (4) 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 FmHA or its successor agency under Public Law 103-354—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 evi-

dence to FmHA or its successor agency under Public Law 103-354 through loan applications or letters from businesses that the loans are needed by small 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 FmHA or its successor agency under Public Law 103-354. 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.

(v) *Discretionary.* In certain cases, when a grant is an initial grant for funding under this subpart and is not more than \$500,000, FmHA or its successor agency under Public Law 103-354 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.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 30247, Aug. 11, 1988; 55 FR 134, Jan. 3, 1990; 57 FR 33099, July 27, 1992; 57 FR 35627, Aug. 10, 1992; 67 FR 77908, Dec. 20, 2002]

§ 1942.306 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 in-

struction related to potential employment or job advancement for adult students.

(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) FmHA or its successor agency under Public Law 103-354 grant funds may be used jointly with funds furnished by the grantee or from other sources including FmHA or its successor agency under Public Law 103-354 loan funds. Pursuant to Pub. L. 95-334, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with FmHA or its successor agency under Public Law 103-354. 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.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 30248, Aug. 11, 1988; 57 FR 33100, July 27, 1992; 59 FR 26587, May 23, 1994]

§ 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.