

**§ 1776.18 OMB control number.**

The information collection requirements in this part are approved by the Office of Management and Budget (OMB) and assigned OMB control number 0572-0139.

Dated: September 2, 2004.

**Curtis M. Anderson,**

*Acting Administrator, Rural Utilities Service.*  
[FR Doc. 04-22448 Filed 10-5-04; 8:45 am]

**BILLING CODE 3410-15-P**

**DEPARTMENT OF AGRICULTURE****Rural Utilities Service****7 CFR Part 1783**

**RIN 0572-AB95**

**Grant Program To Establish a Fund for Financing Water and Wastewater Projects (Revolving Fund Program (RFP))**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS or the Agency) is issuing a regulation to establish the Grant Program to Establish a Fund for Financing Water and Wastewater Projects (Revolving Fund Program (RFP)) as authorized by the Consolidated Farm and Rural Development Act (CONACT), as amended by section 6002 of the Farm Security and Rural Investment Act of 2002 (Farm Bill). The Secretary may make grants to qualified, private, non-profit entities. Grant Recipients will make loans to eligible entities to finance pre-development costs associated with proposed water and wastewater projects or with existing water and wastewater systems, and short-term costs incurred for replacement equipment, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

**DATES:** This rule will become effective November 22, 2004, unless RUS receives written adverse comments or a written notice of intent to submit adverse comments on or before November 5, 2004. If RUS receives such comments or notice, the Agency will publish a timely notice in the **Federal Register** withdrawing the rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held. Comments must be received by RUS or

carry a postmark or equivalent no later than November 5, 2004. Comments regarding the information collection requirements under the Paperwork Reduction Act must be received on or before December 6, 2004, to be assured of consideration.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instruction for submitting comments.
- Agency Web Site: <http://www.usda.gov/rus/index2.Comments.htm>. Follow the instructions for submitting comments.
- E-mail: [RUSComments@usda.gov](mailto:RUSComments@usda.gov). Include in the subject line of the message "7 CFR 1783."
- Mail: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, STOP 1522, Washington, DC 20250-1522.
- Hand Delivery/Courier: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, SW., Room 5168-S, Washington, DC 20250-1522.

**Instructions:** All submissions received must include "Rural Utilities Service" and the subject heading "7 CFR 1783." All comments received must identify the name of the individual (and the name of the entity, if applicable) who is submitting the comment. All comments received will be posted without change to <http://www.usda.gov.rus.index2.Comments.htm>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Stephen Saulnier, Loan Specialist, Water Programs Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2235-S, Stop 1570, Washington, DC 20250-1570. Telephone (202) 690-2526. E-Mail: [stephen.saulnier@usda.gov](mailto:stephen.saulnier@usda.gov).

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This direct final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

**Executive Order 12372**

This rule is not subject to the requirements of Executive Order 12372,

"Intergovernmental Review of Federal Programs", as implemented under USDA's regulations at 7 CFR Part 3015.

**Executive Order 12988**

This direct final rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in section 3 of the Executive Order. In addition all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to the rule; and, in accordance with Section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be exhausted prior to initiating any action against the Department or its agencies.

**Regulatory Flexibility Act Certification**

Pursuant to 5 U.S.C. 553(a)(2), this proposed rule related to grants is exempt from the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, including the requirement to provide prior notice and an opportunity for public comment. Because this proposed rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

**Executive Order 13132, Federalism**

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on states and local governments. Therefore, consultation with states is not required.

**Information Collection and Recordkeeping Requirements**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) RUS is requesting comments on the information collection incorporated in this proposed rule. Comments on this information collection must be received by December 6, 2004.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the

agency's estimate of the burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Title:** 7 CFR part 1783, Revolving Fund Program.

**OMB Control Number:** 0582-0138.

**Type of Request:** Approval for collection.

**Abstract:** The information collections contained in this rule are requirements prescribed by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926(a)), as amended.

The primary reason for the promulgation of the proposed collection of information under this rule is to implement the Revolving Fund Program.

RUS applicants would submit an application for consideration of grant funding, and if selected for funding, submit quarterly reports, as prescribed by the rule. The collection of information is only that information which is essential for RUS to award and service grants in the best interest of the Government.

**Estimate of Burden:** Public reporting burden for this collection of information is estimated to average 8.2 hours per response.

**Respondents:** Not-for-profit institutions.

**Estimated Number of Respondents:** 5.

**Estimated Number of Responses per Respondents:** 7.6.

**Estimated Total Annual Burden on Respondents:** 313 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, Rural Utilities Service. Telephone: (202) 720-7853.

Send comments regarding this information collection requirement to Richard Annan, Acting Director, Program Development and Regulatory Analysis, USDA, Rural Utilities Service, 1400 Independence Ave., SW., Room 5168, Stop 1522, Washington, DC 20250-1522.

Comments must be received on or before 30 days of publication in the **Federal Register**. All comments will become a matter of public record.

#### National Environmental Policy Act Certification

The Administrator of RUS has determined that this proposed rule will

not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

#### Catalog of Federal Domestic Assistance

The programs described by this proposed rule are listed in the Catalog of Federal Domestic Assistance Programs under numbers 10-864, Revolving Fund Program Grant. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC, 20402-9325, telephone number (202) 512-1800.

#### Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus this rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandates Reform Act of 1995.

#### Background

On May 13, 2002, the Farm Security and Rural Investment Act of 2002 (Farm Bill) was signed into law as Public Law 107-171. Section 6002 of the Farm Bill amended the Consolidated Farm and Rural Development Act (CONACT), by adding a grant program to establish a revolving loan fund. The Secretary may make grants to qualified, private, non-profit entities. The grant recipients will use the grant funds to establish a revolving loan fund. The loans will be made to eligible entities to finance predevelopment costs of water or wastewater projects, or short-term small capital projects not part of the regular operation and maintenance of current water and wastewater systems.

Eligible entities for the revolving loan fund will be the same entities eligible to obtain a loan, loan guarantee, or grant from the Rural Utilities Service Water and Waste Disposal and Wastewater loan and grant programs. The amount of financing to an eligible entity shall not exceed \$100,000.00 and shall be repaid in a term not to exceed 10 years. The rate shall be determined in the approved grant work plan.

No funds were appropriated for the grant program for fiscal years (FY) 2002 and FY 2003. However, the Consolidated Appropriations Act, 2004 (Pub. L. 108-199) included \$500,000.00 for the grant program. Therefore, we are

developing the regulation to implement the grant program.

The Administrator of RUS is required to prescribe regulations to implement the provisions of the CONACT. Rural Utilities Service will be relying heavily on existing regulations within the Rural Development Program in order to develop regulations for this new program.

A Notice of Inquiry was published in the **Federal Register**, Thursday, February 12, 2004 at 69 CFR Part 6937, requesting interested parties to review the CONACT and comment on six topics. The comment period closed on March 15, 2004. RUS received responses from six parties; National Rural Water Association (NRWA), Association of State Drinking Water Administrators (ASDWA), Rural Community Assistance Program (RCAP), Midwest Assistance Program (MAP), Community Resource Group (CRG), and South Central Illinois Regional Planning & Development Commission (SCIRP&DC). The topics, comments, and Agency responses as follows:

(1) RUS is seeking comments on a requirement for current lending experience of potential grant applicants.

ASDWA did not feel they were able to comment on this topic. SCIRP&DC was in favor of requiring current lending experience of potential grant applicants. CRG, MAP, and RCAP believe that the applicant should have the demonstrated capacity and financial ability to provide on-site technical assistance to the borrowers, both before and after a loan is made. RCAP further recommends that RUS base its criteria for determining applicants' qualifications on the criteria outlined in regulations for USDA's Intermediary Relending Program (7 CFR Part 4274). RCAP believes this would allow the Agency flexibility to award a grant to a non-profit that may not have significant loan making experience.

The Agency's position is that in order to fulfill its fiduciary and oversight responsibilities, the primary experience for an applicant is a successful record of making and servicing loans.

(2) RUS is also interested in comments regarding a proposed minimum 20 percent matching funds contribution by the grant recipient. Should in-kind contributions be accepted as part of the 20 percent minimum?

All respondents except NRWA agree with a minimum 20 percent match. NRWA did not comment on this topic. CRG believes that above a 20 percent match should not favor one area of the country above another and the cash match should be proportionate to every loan. All loan losses should come out of

the matching funds. MAP recommends that more points should be given for a greater than 20 percent match only when two or more applications are from the same region of the country. RCAP recommends that priority points be awarded for a match above 20 percent.

The Agency's position is to require a minimum 20 percent matching funds contribution by the grant recipient. Contributions by the grant recipient signal a serious intent to invest in the project as well as increasing the overall size of the loan fund from which loans shall be made, thereby increasing the number of potential loan recipients. The Agency agrees with RCAP's recommendation and will award priority points for greater than 20 percent match.

(3) RUS is interested in comments regarding the percentage of the grant funds that may be used for administrative or servicing fees.

ASDWA believes that 6 percent would be reasonable although the current allowable percentage for the Drinking Water State Revolving Fund is 4 percent. SCIRP&DC recommends a rate of 2 to 3 percent is adequate. SCIRP&DC further recommends 0.5 percent be incorporated into the loan rate for debt servicing. CRG believes that no Federal or match funds should be used for administrative fees. Interest and fees earned from loans should be used to fund loan loss reserves. MAP believes that allowable eligible costs as described in the authorizing Farm Bill language are adequate. RCAP recommends that Federal funds not be used for administrative costs. Administrative costs should come from matching funds. NRWA believes that administrative costs and overhead should be minimal.

The Agency's position is to maximize the use of limited grants dollars in order to fund the greatest number of projects possible, therefore, grant funds may not be used for payment of the intermediary's administrative cost or expenses. Interest collected from loans made by the intermediary may be used to cover reasonable administrative costs.

(4) RUS is seeking comments on the issue of the revolving fund paying up to a maximum of 75 percent of the project costs, with the other 25 percent of project costs paid from non-Federal sources.

ASDWA had no objection. SCIRP&DC has some confusion between the organization's match funding a maximum of 75 percent of project costs. CRG believes limiting Federal participation to no more than 75 percent of project costs is reasonable. Both MAP

and RCAP believe that the 75 percent maximum may restrict or deter borrowers from seeking financing through this program. MAP further believes that this requirement will create a financial burden to low-income communities.

The Agency's response is to establish a maximum loan amount of the lesser of \$100,000 or 75 percent of the total costs of the project in order to focus program funding of small capital projects. The authorizing legislation sets a maximum loan amount of \$100,000. The Agency believes that the lesser of \$100,000 or 75 percent of the cost of the project will allow for a greater number of loans to be made and also comply with the authorizing legislation.

(5) RUS is interested in comments regarding the use of the Central Servicing Center ([http://www.rurdev.usda.gov/rhs/sfh/bor\\_sfh.htm](http://www.rurdev.usda.gov/rhs/sfh/bor_sfh.htm)) for servicing loans made from the revolving loan fund, to include processing loan payments, reviewing financial statements, and other responsibilities involved in loan servicing.

ASDWA had no comment. SCIRP&DC wants to service the loans in house and has a proven track record. MAP recommends not utilizing the Central Servicing Center. Both CRG and RCAP believe maintaining servicing in house allows the lender to stay close to borrowers and alerts the lender to any potential problems. Also, using a third party for servicing would raise costs.

The Agency agrees with SCIRP&DC, MAP, CRG, and RCAP that the grant recipient should service loans made from the Revolving Fund Program. The direct final rule, 7 CFR Part 1783, does not require loans made from the Revolving Fund Program to be serviced by the Central Servicing Center.

(6) RUS is also seeking comments on the definition of eligible and ineligible projects for the loans made from the revolving loan fund.

ASDWA wants the lender to consult with state agencies in defining eligible projects. SCIRP&DC believes that reasonable administrative fees for providing guidance/technical assistance should be an eligible project. CRG recommends that pre-development, upgrades, or extending service should have the same eligibility requirements as the regular RUS Water and Waste Disposal Loan Program. RCAP believes that projects financed under this program should be coordinated with the State Rural Development Office. RCAP also presents a long list of eligible projects they feel should be included.

The Agency is required to follow the definition of eligible as set forth in the authorizing legislation of the CONACT. The Agency will, to the extent possible within the parameters of the authorizing legislation, be flexible in determining the specific projects that qualify as eligible.

#### General Comments

(1) ASDWA believes that, historically, the primary vehicle to provide low-interest loans water and wastewater systems is through the Drinking Water State Revolving Funds and the Clean Water State Revolving Funds and that Federal funds should be channeled through these mechanisms. ASDWA believes all water projects should be aligned with state drinking water priorities.

The Agency's response is that it is not authorize to roll funds for the Revolving Fund Program into the existing USDA loan and grant program or through the Drinking Water State Revolving Funds and the Clean Water State Revolving Funds.

(2) SCIRP&DC suggest that revolving fund grants be made to regional planning commissions that are familiar with state and local funding options. NRWA believes funds for the Revolving Fund Program would be more effectively used within the existing USDA loan and grant program. Cost of administering such a small program will significantly outweigh any potential benefits.

The Agency's response is that the CONACT, as amended by the Farm Bill, added a grant program to establish a revolving loan fund. The Secretary may make grants to qualified, private, non-profit entities, not state agencies. As with current RUS water and waste disposal projects, loans made under this program will be coordinated with state agencies.

All comments received were taken into consideration in developing the regulation.

#### List of Subjects in 7 CFR Part 1783

Business and industry, Community development, Community facilities, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

For reasons set forth in the preamble, RUS amends chapter XVII of Title 7 of the Code of Federal Regulations by adding a new Part 1783 to read as follows:

**PART 1783—REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS (REVOLVING FUND PROGRAM)****Subpart A—General**

Sec.

1783.1 What is the purpose of the Revolving Fund Program?

1783.2 What Uniform Federal Assistance Provisions apply to the Revolving Fund Program?

1783.3 What definitions are used in this regulation?

1783.4 [Reserved]

**Subpart B—Revolving Loan Program Grants**

1783.5 What are the eligibility criteria for grant recipients?

1783.6 When will applications for grants be accepted?

1783.7 What is the grant application process?

1783.8 What are the acceptable methods for submitting applications?

1783.9 What are the criteria for scoring applications?

1783.10 What is the grant agreement?

1783.11 What is the revolving loan fund?

1783.12 What are eligible uses of grant proceeds?

1783.13 What administrative expenses may be funded with grant proceeds?

**Subpart C—Revolving Loan Program Loans**

1783.14 What are the eligibility criteria for RFP loan recipients?

1783.15 What are the terms of RFP loans?

1783.16 How will loans from the revolving fund be serviced?

**Authority:** 7 U.S.C. 1926 (a)(2)(B).**Subpart A—General****§ 1783.1 What is the purpose of the Revolving Fund Program?**

This part sets forth the policies and procedures for making grants to qualified private, non-profit entities to capitalize revolving funds for the purpose of providing financing to eligible entities for pre-development costs associated with proposed water and wastewater projects or with existing water and wastewater systems, and short-term costs incurred for replacement equipment, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

**§ 1783.2 What Uniform Federal Assistance Provisions apply to the Revolving Fund Program?**

(a) This program is subject to the general provisions that apply to all grants made by USDA and that are set forth in 7 CFR Part 3015—Uniform Federal Assistance Regulations.

(b) This program is subject to the uniform administrative requirements that apply to all grants made by USDA to non-profit organizations and that are set forth in 7 CFR Part 3019—Uniform Administrative Requirements for Grants And Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

(c) This program is subject to OMB Circular No. A-122 (Revised): Cost Principles for Non-Profit Organizations.

**§ 1783.3 What definitions are used in this regulation?**

*Administrative expenses* means expenses incurred by a grant recipient that are of the type more particularly described in § 1783.12.

*Applicant* means a private, non-profit organization that applies for an RFP grant under this part.

*CONACT* means the Consolidated Farm and Rural Development Act.

*Eligible entity* means an entity eligible to obtain a loan, loan guarantee or grant under paragraph 1 or paragraph 2 of section 306(a) the CONACT (codified at 7 U.S.C. 1926(a)(1) and (2)).

*Grant agreement* means the contract between RUS and the grant recipient which sets forth the terms and conditions governing a particular grant awarded under this part.

*Grant recipient* means a private, non-profit entity that has been awarded a grant under this part.

*Loan recipient* means an eligible entity that has received an RFP loan.

*Revolved funds* means the cash portion of the revolving loan fund that is not composed of RFP grant funds, including cash comprising repayments of RFP loans, fees relating to RFP loans and interest collected on RFP loans.

*Revolving loan fund* means the loan fund established by the grant recipient to carry out the purposes of this part, such fund comprising the proceeds of an RFP grant and other related assets.

*RFP* means Revolving Fund Program.

*RFP grant* means a grant from RUS to a grant recipient under this part.

*RFP loan* means a loan from a grant recipient using the direct or indirect proceeds of an RFP grant awarded under this part.

*Rural and rural area* means a city, town or unincorporated area that has a population of no more than 10,000 inhabitants, according to the latest decennial census of the United States.

*RUS* means the Rural Utilities Service, a Federal agency delivering the USDA's Rural Development Utilities Program.

*USDA* means the United States Department of Agriculture.

**§ 1783.4 [Reserved]****Subpart B—Revolving Loan Program Grants****1783.5 What are the eligibility criteria for grant recipients?**

(a) The applicant must be a private entity.

(b) The applicant must be organized as a non-profit entity.

(c) The applicant must have the legal capacity and lawful authority to perform the obligations of a grantee under this part.

*Example 1 to paragraph (c):* If the organization is incorporated as a non-profit corporation, it must have corporate authority under state law and its corporate charter to engage in the practice of making loans to legal entities.

*Example 2 to paragraph (c):* If the organization is an unincorporated association, state law may prevent the organization from entering into binding contracts, such as a grant agreement.

(d) The applicant must have sufficient expertise and experience in making and servicing loans to assure the likelihood that the objectives of this part can be achieved.

**§ 1783.6 When will applications for grants be accepted?**

In Fiscal Year 2004, applications will be accepted for this RFP grant program from October 6, 2004, until December 6, 2004, at which time the initial application period shall close. An applicant may withdraw, substitute, amend or supplement its application at any time prior to the closing of the initial application period. Once the initial application period has closed, all applications shall be considered final. For subsequent fiscal years, if any funds for this program are available, the Secretary will publish a notice to that effect. The notice will establish the period during which applications for such funds may be submitted for consideration.

**§ 1783.7 What is the grant application process?**

(a) The applicant must complete and submit the following items to RUS to apply for a grant under this part:

(1) Application for Federal Assistance: *Standard Form 424*;

(2) Budget Information—Non-Construction Programs: *Standard Form 424A*;

(3) Assurances—Non-Construction Programs: *Standard Form 424B*;

(4) Evidence of applicant's legal existence and authority in the form of certified copies of organizational documents and a certified list of directors and officers with their respective terms;

(5) Evidence of tax exempt status, and  
 (6) Most recent annual audit conducted by an independent auditor.

(b) The applicant must submit a written work plan that demonstrates the ability of the applicant to make and service loans to eligible entities under this program and the feasibility of the applicant's lending program to meet the objectives of this part.

(c) The applicant should submit a narrative establishing the basis for any claims that it has substantial expertise in making and servicing loans. The Secretary will give priority to an applicant that demonstrates it has substantial experience of this type.

(d) The applicant may submit such additional information as it elects to support and describe its plan for achieving the objectives of the part.

**§ 1783.8 What are the acceptable methods for submitting applications?**

(a) Applications for RFP grants may be submitted by U.S. Mail. Applications submitted by mail must be addressed as follows: Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1548, Washington, DC 20250-1548. The outside of the application should be marked: "Attention: Assistant Administrator, Water and Environmental Programs." Applications submitted by mail must be postmarked not later than the filing deadline to be considered during the period for which the application was submitted.

(b) In lieu of submitting an application by U.S. Mail, an applicant may file its application electronically by using the Federal Government's eGrants Web site (Grants.gov) at <http://www.grants.gov>. Applicants should refer to instructions found on the Grants.gov Web site for procedures for registering and using this facility. Applicants who have not previously registered on Grants.gov should allow a sufficient number of business days to complete the process necessary to be qualified to apply for Federal Government grants using electronic submissions. Electronic submissions must be filed not later than the filing deadline to be considered during the period for which the application was submitted.

(c) The methods of submitting applications may be changed from time to time to reflect changes in addresses and electronic submission procedures. Applicants should refer to the most recent notice of funding availability for notice of any such changes. In the event of any discrepancy, the information contained in the notice must be followed.

**§ 1783.9 What are the criteria for scoring applications?**

(a) Applications that are incomplete or ineligible will be returned to the applicant, accompanied by a statement explaining why the application is being returned.

(b) Promptly after an application period closes, all applications that are complete and eligible will be ranked competitively based on the following scoring criteria:

(1) Degree of expertise and successful experience in making and servicing commercial loans, with a successful record, for the following number of full years:

(i) At least 1 but less than 3 years—5 points

(ii) At least 3 but less than 5 years—10 points

(iii) At least 5 but less than 10 years—20 points

(iv) 10 or more years—30 points

(2) Extent to which the work plan demonstrates a well thought out, comprehensive approach to accomplishing the objectives of this part, clearly defines who will be served by the project, clearly articulates the problem/issues to be addressed, identifies the service area to be covered by the RFP loans, and appears likely to be sustainable. Up to 40 points.

(3) Percentage of applicant contributions. Points allowed under this paragraph will be based on written evidence of the availability of funds from sources other than the proceeds of an RFP grant to pay part of the cost of a loan recipient's project. In-kind contributions will not be considered. Funds from other sources as a percentage of the RFP grant and points corresponding to such percentages are as follows:

(i) Less than 20%—ineligible

(ii) At least 20% but less than 50%—10 points

(iii) 50% or more—20 points

(4) Extent to which the goals and objectives are clearly defined, tied to the work plan, and are measurable. Up to 15 points.

(5) Lowest ratio of projected administrative expenses to loans advanced. Up to 10 points.

(6) The evaluation methods for considering loan applications and making RFP loans are specific to the program, clearly defined, measurable, and are consistent with program outcomes. Up to 20 points.

(7) Administrator's discretion, considering such factors as creative outreach ideas for marketing RFP loans to rural residents; the amount of funds requested in relation to the amount of needs demonstrated in the work plan;

previous experiences demonstrating excellent utilization of a revolving loan fund grant; and optimizing the use of agency resources. Up to 10 points.

(c) All qualifying applications under this part will be scored based on the criteria contained in this section.

Awards will be made based on the highest ranking applications and the amount of financial assistance available for RFP grants. All applicants will be notified of the results in writing on form AD-622.

**§ 1783.10 What is the grant agreement?**

RUS and the grant recipient will enter into a contract setting forth the terms and conditions governing a particular RFP grant award. RUS will furnish the form of grant agreement. No funds awarded under this part shall be disbursed to the grant recipient before the grant agreement is binding and RUS has received a fully executed counterpart of the grant agreement.

**§ 1783.11 What is the revolving loan fund?**

The grant recipient shall establish and maintain a revolving loan fund for the purposes set forth in § 1783.12. The revolving loan fund shall be comprised of revolving loan fund grant funds and the grant recipient's contributed funds. All revolving loan fund loans made to loan recipients shall be drawn from the revolving loan fund. All revolving loan fund loans shall be serviced and the revolving loan fund maintained, in accordance with this part and applicable law.

**§ 1783.12 What are eligible uses of grant proceeds?**

(a) Grant proceeds shall be used solely for the purpose of establishing the revolving loan fund to provide loans to eligible entities for:

(1) Pre-development costs associated with proposed water and wastewater projects or with existing water and wastewater systems, and

(2) Short-term costs incurred for replacement equipment, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

(b) A grant recipient may not use grant funds in any manner inconsistent with the terms of the grant agreement.

**§ 1783.13 What administrative expenses may be funded with grant proceeds?**

RFP grant funds may not be used for any purposes not described in § 1783.12, including, without limitation, payment or reimbursement of any of the grant recipient's administrative costs or expenses. Administrative expenses may,

however, be paid or reimbursed from revolving loan fund assets that are not RFP grant funds, including revolved funds and cash originally contributed by the grant recipient.

### Subpart C—Revolving Fund Program Loans

#### § 1783.14 What are the eligibility criteria for RFP loan recipients?

- (a) A loan recipient must be an eligible entity as defined in § 1783.3.
- (b) The loan recipient must be unable to finance the proposed project from their own resources or through commercial credit at reasonable rates and terms.
- (c) The loan recipient must have or will obtain the legal authority necessary for owning, constructing, operating and maintaining the proposed service or facility, and for obtaining, giving security for, and repaying the proposed loan.
- (d) The project funded by the proceeds of an RFP loan must be located in, or the services provided as the result of such project must benefit, rural areas.

#### § 1783.15 What are the terms of RFP loans?

- (a) RFP loans under this part—
  - (1) Shall have an interest rate that is determined by the grant recipient and approved by RUS;
  - (2) Shall have a terms not to exceed 10 years; and
  - (3) Shall not exceed the lesser of \$100,000 or 75 percent of the total cost of a project. The total outstanding balance for all loans under this program to any one entity shall not exceed \$100,000.
- (b) The grant recipient must set forth the RFP loan terms in written documentation signed by the loan recipient.
- (c) Grant recipients must develop and use RFP loan documentation that conforms to the terms of this part, the grant agreement, and the laws of the state or states having jurisdiction.

#### § 1783.16 How will the loans given from the revolving fund be serviced?

The grant recipient shall be responsible for servicing all loans, to include preparing loan agreements, processing loan payments, reviewing financial statements and debt reserves balances, and other responsibilities such as enforcement of loan terms. Loan servicing will be in accordance with the work plan approved by the Agency when the grant is awarded for as long as any loan made in whole or in part with Agency grant funds is outstanding.

Dated: September 2, 2004.

**Curtis M. Anderson,**  
*Acting Administrator, Rural Utilities Service.*  
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**BILLING CODE 3410-15-P**

### FEDERAL ELECTION COMMISSION

#### 11 CFR Parts 104 and 110

[Notice 2004-13]

#### Presidential Inaugural Committee Reporting and Prohibition on Accepting Donations From Foreign Nationals

**AGENCY:** Federal Election Commission.  
**ACTION:** Final rules and transmittal of regulations to Congress.

**SUMMARY:** The Federal Election Commission is promulgating new rules regarding disclosure requirements for Presidential inaugural committees. The new rules also ban inaugural committees from accepting donations from foreign nationals. These regulations implement requirements of the Bipartisan Campaign Reform Act of 2002. Further information is provided in the Supplementary Information that follows.

**EFFECTIVE DATE:** November 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brad C. Deutsch, Assistant General Counsel, or Ms. Esa L. Sferra, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** Section 308 of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Public Law 107-155, 116 Stat. 81 (March 27, 2002), amended 36 U.S.C. 510 by establishing new requirements for Presidential inaugural committees regarding reporting and acceptance of certain donations. The Commission is issuing these final rules to implement these new requirements for inaugural committees.

The Presidential inaugural committee is appointed by the President-elect to be in charge of the Presidential inaugural ceremony and the functions and activities connected with the ceremony. 36 U.S.C. 501(1). The inaugural committee plans and finances all inaugural events, other than the swearing-in ceremony at the Capitol and the luncheon honoring the President and Vice-President,<sup>1</sup> including opening

<sup>1</sup> The Joint Congressional Committee on Inaugural Ceremonies, which is formed by a Congressional resolution every four years, several months in advance of the Presidential election, plans and finances the Presidential inaugural events held at the Capitol, including the swearing-in ceremony and the Congressional luncheon to honor the President and Vice-President.

ceremonies, the parade, galas, and balls. The inaugural committee also receives special privileges in the District of Columbia beginning five days before and ending four days after the inaugural ceremony. Chapter 5 of title 36 of the United States Code authorizes Congress to make appropriations for the inauguration, however, the appropriations are limited to funding for the District of Columbia to pay for the costs of municipal services associated with the inaugural events. Accordingly, the inaugural committee accepts donations to cover the costs associated with all other inaugural events.

BCRA section 308 amended 36 U.S.C. 510 to require the inaugural committee to disclose, in a report filed with the Commission within 90 days after the inaugural ceremony, certain donations made to the inaugural committee, and to ban the inaugural committee from accepting donations from foreign nationals. Accordingly, the Commission is adding new 11 CFR 104.21 to its reporting rules, in 11 CFR part 104, to set forth inaugural committee reporting requirements. The Commission is also adding to the rules regarding foreign nationals at 11 CFR 110.20 a new paragraph banning both the acceptance by inaugural committees of donations from foreign nationals, as well as the making of such donations.

Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate and publish them in the **Federal Register** at least 30 calendar days before they take effect. The final rules on inaugural committees were transmitted to Congress on September 30, 2004.

### Explanation and Justification

On April 7, 2004, the Commission published a Notice of Proposed Rulemaking (“NPRM”) in the **Federal Register** containing proposed rules to implement BCRA’s amendment to 36 U.S.C. 510 that requires disclosure of certain donations to Presidential inaugural committees and bans the acceptance of donations from foreign nationals by Presidential inaugural committees. 69 FR 18301 (April 7, 2004). The Commission sought comments on several issues raised in the NPRM and on the proposed rules in general. The comment period ended May 7, 2004. The Commission received three comments, two from individuals