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PART 1700—GENERAL INFORMATION

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AUTHORITY: 5 U.S.C. 301, 552; 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 7 CFR 2.7.

SOURCE: 63 FR 16085, Apr. 2, 1998, unless otherwise noted.

Subpart A—General

§ 1700.1 General.

(a) The Rural Electrification Administration (REA) was established by Executive Order No. 7037 on May 11, 1935. Statutory authority was provided by the Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 901). The RE Act established REA as a lending agency with responsibility for developing a program for rural electrification.

(b) The Secretary of Agriculture (Secretary) established the Rural Utilities Service (RUS) on October 20, 1994, pursuant to the Department of Agriculture Reorganization Act of 1994, (7 U.S.C. 6941 *et. seq.*). RUS was assigned responsibility for administering electric and telecommunications loan and loan guarantee programs previously administered by REA, including water and waste loans and grants previously administered by the Rural Development Administration, along with other functions as the Secretary determined appropriate. The rights, interests, obligations, duties, and contracts previously vested in REA were transferred to, and vested in RUS.

[63 FR 16085, Apr. 2, 1998, as amended at 84 FR 59920, Nov. 7, 2019]

§ 1700.2 Availability of information.

(a) The offices of RUS are located in the South Building of the United States Department of Agriculture at 1400 Independence Avenue, SW, Washington, DC 20250–1500. Hours of operation are from 8:15 AM to 4:45 PM, Eastern time on Federal Government business days.

(b) Information about RUS is available for public inspection and copying as required by the Freedom of Information Act, 5 U.S.C. 552 *et seq.* Information about availability and costs of agency publications and other agency materials is available from the Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, Room 5159–S, 1400 Independence Avenue, SW., STOP 1530, Washington, DC 20250–1530. Phone 202–720–9450. FAX 202–720–8435.

(c) RUS issues indexes of publications in conformance with the Freedom of

Information Act and Department of Agriculture regulations at 7 CFR part 1. Many RUS documents, including regulations and delegations of authority for headquarters and field staff are available on the world wide web at *http://www.usda.gov/rus*.

[63 FR 16085, Apr. 2, 1998, as amended at 71 FR 8435, Feb. 17, 2006]

§ 1700.3 Requests under the Freedom of Information Act.

Department of Agriculture procedures for requests for records under the Freedom of Information Act are found at 7 CFR part 1. Requests must be in writing and may be submitted in person or by mail to United States Department of Agriculture, Rural Utilities Service, Room 5159–S, 1400 Independence Avenue, SW., STOP 1530, Washington, DC 20250–1530; or by FAX to 202–401–1977. As set forth in 7 CFR 1.16, fees may be charged for processing of requests for records. An appeal of the agency determination concerning the request for official records shall be made in writing to the Administrator, Rural Utilities Service, United States Department of Agriculture, Room 5135–S, 1400 Independence Avenue, SW., STOP 1510, Washington, DC 20250–1510.

[71 FR 8435, Feb. 17, 2006]

§ 1700.4 Public comments on proposed rules.

RUS requires that all persons submitting comments to a proposed rule or other document published by the agency in the FEDERAL REGISTER, submit comments as specified in the published notice. Copies of comments submitted are available to the public in conformance with 7 CFR part 1.

[71 FR 8435, Feb. 17, 2006]

§§ 1700.5–1700.24 [Reserved]

Subpart B—Agency Organization and Functions

§ 1700.25 Office of the Administrator.

The Administrator of the Rural Utilities Service (RUS) is appointed by the President. The Under Secretary, Rural Development delegated to the Administrator, in 7 CFR part 2, responsibility for administering the programs and activities of RUS. The Administrator is aided directly by Deputy Administrators and by Assistant Administrators for the electric program, telecommunications program, the water and environmental programs, and program accounting and regulatory analysis, and by other staff offices. The work of the agency is carried out as described in this part.

[79 FR 44117, July 30, 2014, as amended at 84 FR 59920, Nov. 7, 2019]

§ 1700.26 Deputy Administrator.

The Deputy Administrator aids and assists the Administrator. The Deputy Administrator provides overall policy direction to all RUS programs. The Deputy Administrator reviews agency policies and, as necessary, implements changes and participates with the Administrator and other officials in planning and formulating the programs and activities of the agency, including the making and servicing of loans and grants.

[79 FR 44117, July 30, 2014]

§ 1700.27 Chief of Staff.

The Chief of Staff aids and assists the Administrator and the Deputy Administrator. The Chief of Staff advises the Administrator regarding policy initiatives and operational issues and assists the Administrator and the Deputy Administrator in developing and planning agency program initiatives. The Chief of Staff is responsible for implementation of overall policy initiatives and provides direction to all RUS programs.

[71 FR 8436, Feb. 17, 2006]

§ 1700.28 Electric Program.

RUS, through the Electric Program, makes loans and loan guarantees for rural electrification and the furnishing of electric service to persons in rural areas.

(a) *The Assistant Administrator, Electric Program,* directs and coordinates the rural electrification programs, participating with the Administrator, and others, in planning and formulating the programs and activities of the agency, and performs other activities as the Administrator may prescribe from time to time.

(b) *Primary point of contact with borrowers.* Two regional divisions, one for the Northern Region and one for the Southern Region, are the primary points of contact between RUS and its electric distribution borrowers. Each office administers the rural electric program for its assigned geographical area through headquarters staff and general field representatives. The Power Supply Division is the primary point of contact between RUS and its electric power supply borrowers.

(c) *Staff office.* The Electric Staff Division is responsible for engineering aspects of RUS' standards, specifications and other requirements for design, construction, and technical operation and maintenance of RUS borrowers' electric systems. The Electric Staff Division oversees the activities of Technical Standards Committees ''A'' and ''B'', Electric, which determine whether engineering specifications, drawings, material and equipment are acceptable for use in RUS borrowers' electric systems. The Office of the Assistant Administrator prepares analyses of loan making activities and the business and regulatory environment of RUS borrowers and recommends policies and procedures.

[63 FR 16085, Apr. 2, 1998. Redesignated at 71 FR 8436, Feb. 17, 2006]

§ 1700.29 Telecommunications Program.

RUS, through the Telecommunications Program, make loans and loan guarantees to furnish and improve telecommunications service in rural areas.

(a) *The Assistant Administrator, Telecommunications Program,* directs and coordinates the rural telecommunications programs, including the distance learning and telemedicine program, and in conjunction with the Administrator and Deputy Administrator, and others, the planning and formulating of programs and activities of the agency, and performs other activities as the Administrator may prescribe from time to time.

(b) *Primary point of contact with borrowers.* Area offices are the primary points of contact between RUS and all telecommunications program borrowers. Each office administers the rural telecommunications program for its assigned geographical area with assistance of field representatives located in areas assigned to them.

(c) *Staff offices.* The Telecommunications Staff Division is responsible for engineering aspects of design, construction, and technical operation and maintenance of rural telecommunications systems and facilities, including the activities of Technical Standards Committees ''A'' and ''B'', Telecommunications, which determine whether engineering specifications, drawings, material, and equipment are acceptable for use in RUS financed telecommunications systems. The Advanced Telecommunications Services office prepares analyses of loan making activities and the business and regulatory environment of RUS borrowers and recommends policies and procedures.

[63 FR 16085, Apr. 2, 1998; 63 FR 18307, Apr. 15, 1998. Redesignated at 71 FR 8436, Feb. 17, 2006, as amended at 84 FR 59920, Nov. 7, 2019]

§ 1700.30 Water and Environmental Programs.

RUS, through the Water and Environmental Programs, provides loan and grant funds for water and waste disposal projects serving the most financially needy rural communities.

(a) *The Assistant Administrator, Water and Environmental Programs,* develops and institutes plans, procedures, and policies for the effective, efficient, and orderly management of Water and Environmental Programs responsibilities; provides leadership to ensure execution of policies and procedures by the Water and Waste Disposal programs and support functions; and performs other activities as the Administrator or Deputy Administrator may prescribe from time to time.

(b) *Primary point of contact.* The State Rural Development Offices are the primary points of contact between RUS and loan and grant recipients.

(c) *The Engineering and Environmental Staff* is responsible for engineering staff activities at all stages of Water and Waste Disposal programs implementation, including review of preliminary engineering plans and specifications, procurement practices, contract awards, construction monitoring, and system operation and maintenance.

This staff develops agency engineering practices, policies, guidelines, and technical data relating to the construction and operation of water and waste disposal systems, and for implementing the National Environmental Policy Act, and other environmental requirements as they apply to all agency programs and activities.

[63 FR 16085, Apr. 2, 1998. Redesignated at 71 FR 8436, Feb. 17, 2006]

§ 1700.31 Distance Learning and Telemedicine Loan and Grant Program.

RUS, through the Telecommunications Program, makes grants and loans to furnish and improve telemedicine services and distance learning services in rural areas.

(a) *The Assistant Administrator, Telecommunications Program,* directs and coordinates the distance learning and telemedicine program.

(b) *Primary point of contact with borrowers.* The area offices, described in §1700.28(b) support the distance learning and telemedicine program. Each office administers the distance learning and telemedicine program for its assigned geographical area with assistance of field representatives located in areas assigned to them.

[63 FR 16085, Apr. 2, 1998; 63 FR 18307, Apr. 15, 1998. Redesignated at 71 FR 8436, Feb. 17, 2006]

§ 1700.32 Program Accounting and Regulatory Analysis.

RUS, through Program Accounting and Regulatory Analysis, monitors and administers applicable regulations, RUS policy, and accounting requirements. The staffs assist the Assistant Administrator with respect to management, information systems, budgets, and other such matters.

(a) *The Assistant Administrator, Program Accounting and Regulatory Analysis,* directs and coordinates program accounting and financial services with respect to electric and telecommunications borrowers and directs and coordinates the regulatory actions of the agency.

(b) This division monitors borrowers' accounting operations in order to ensure compliance with applicable statutory and regulatory requirements and with the requirements of the Office of Management and Budget.

(c) The two regional branches (the Northern Region and the Southern Region) work directly with borrowers. Each regional office has a staff of headquarters and field accountants. The Technical Accounting and Auditing Staff monitors industry developments, including the standards of the Financial Accounting Standards Board, and recommends Agency policies and procedures.

(d) Program Development and Regulatory Analysis directs and administers the preparation, clearance, processing, and distribution of RUS submissions to the Office of the Federal Register in the form of proposed and final rules and notices and RUS bulletins and staff instructions.

[63 FR 16085, Apr. 2, 1998. Redesignated at 71 FR 8436, Feb. 17, 2006]

§ 1700.33 Financial Services Staff.

The Financial Services Staff evaluates the financial condition of financially troubled borrowers in order to protect the Government's interests.

[63 FR 16085, Apr. 2, 1998. Redesignated at 71 FR 8436, Feb. 17, 2006]

§ 1700.34 Assistance to High Energy Cost Rural Communities.

RUS, through the Electric Program, makes grants and loans to assist high energy cost rural communities. The Assistant Administrator, Electric Program, directs and coordinates the assistance to high energy cost rural communities program and serves as the primary point of contact for applicants, grantees, and borrowers.

[70 FR 5351, Feb. 2, 2005. Redesignated at 71 FR 8436, Feb. 17, 2006]

§§ 1700.35–1700.49 [Reserved]

Subpart C—Loan and Grant Approval Authorities

§§ 1700.50–1700.52 [Reserved]

§ 1700.54 Electric Program.

(a) *Administrator:* The authority to approve the following loans, loan guarantees, and lien accommodations and

subordinations of liens is reserved to the Administrator:

(1) All discretionary hardship loans.

(2) All loans, loan guarantees, and lien accommodations and subordinations of liens to finance operating costs.

(3) All loans, loan guarantees, and lien accommodations and subordinations of liens of more than $20,000,000 for distribution borrowers or more than $50,000,000 for power supply borrowers.

(4) All loans, loan guarantees, and lien accommodations and subordinations of liens for distribution borrowers that are members of a power supply borrower that is in default of its obligations to the Government or that is currently assigned to the Financial Services Staff, unless otherwise determined by the Administrator.

(5) All loans, loan guarantees, and lien accommodations and subordinations of liens that require an Environmental Impact Statement.

(6) Certifications and findings required by the RE Act or other applicable laws and regulations, the placing and releasing of conditions precedent to the advance of funds, and all security instruments, loan contracts, and all other necessary documents relating to the authorities reserved in this section.

(7) Execution of all loan contracts, security instruments, and all other documents in connection with loans, loan guarantees, and lien accommodations approved by the Administrator.

(b) *The Assistant Administrator, Electric Program,* has the authority to approve the following loans, loan guarantees, and lien accommodations and subordinations of liens, except for those approvals reserved to the Administrator:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens for distribution borrowers in amounts not exceeding $20,000,000.

(2) Loans, loan guarantees, and lien accommodations and subordinations of liens for power supply borrowers in amounts not exceeding $50,000,000.

(3) Execution of all loan contracts, security instruments, and all other documents in connection with loans, loan guarantees, and lien accommodations approved by the Assistant Administrator, Electric Program.

(c) *Directors, Regional Divisions,* have the authority to approve, for distribution borrowers:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens in amounts not exceeding $15,000,000 except for those approvals reserved to the Administrator.

(2) All certifications and findings required by the RE Act or other applicable laws and regulations, the imposing and releasing of conditions precedent to the advance of loan funds, and all security instruments, loan contracts, and all other documents relating to the delegations set forth in paragraph (c)(1) of this section.

(d) *Director, Power Supply Division,* has the authority to approve for power supply borrowers:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens in amounts not exceeding $30,000,000, except for those approvals reserved to the Administrator.

(2) All certifications and findings required by the RE Act or other applicable laws and regulations, the placing and releasing of conditions precedent to the advance of funds, and all security instruments, loan contracts or all other documents relating to the delegations set forth in paragraph (d)(1) of this section.

§ 1700.55 Telecommunications Program.

(a) *Administrator:* The authority to approve the following loans, loan guarantees, and lien accommodations is reserved to the Administrator:

(1) All loans, loan guarantees, and lien accommodations and subordinations of liens to finance operating costs.

(2) All loans, loan guarantees, or lien accommodations and subordinations of liens of $25,000,000 or more.

(3) Loans and loan guarantees with acquisition costs of $5,000,000 or more.

(4) Loans and loan guarantees containing funds to refinance outstanding debt of more than $5,000,000.

(5) All loan contracts, security instruments, and all other documents to be executed in connection with loans

and loan guarantees approved by the Administrator.

(b) *Assistant Administrator, Telecommunications Program,* has the authority to approve the following loans, loan guarantees, and lien accommodations, except for those approvals reserved to the Administrator:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens not to exceed $25,000,000 except for those reserved to the Administrator.

(2) Loans and loan guarantees with acquisition costs where the acquisition portion of the loan is less than $5,000,000.

(3) Loans and loan guarantees including refinancing amounts that do not exceed $5,000,000.

(4) Distance learning and telemedicine loans and loan guarantees that do not exceed $5,000,000.

(5) Loan contracts, security instruments, and other documents to be executed in connection with loans and loan guarantees approved by the Assistant Administrator, Telecommunications Program.

(c) *Area Directors* have the authority to approve the following loans, loan guarantees, and lien accommodations, except for those approvals reserved to the Administrator:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens of less than $10,000,000.

(2) Loans and loan guarantees with acquisition costs of less than $2,000,000.

(3) Loans and loan guarantees including refinancing amounts of less than $2,000,000.

(4) Any modifications in the method of carrying out loan purposes.

§ 1700.56 Water and Environmental Programs.

The State Rural Development Offices have the responsibility for making and servicing water and waste loans and grants.

§ 1700.57 Distance Learning and Telemedicine Loan and Grant Program.

(a) *Administrator:* The authority to approve the following loans and lien accommodations is reserved to the Administrator:

(1) Grants or loan and grant combinations.

(2) The number selected from each state for financial assistance for grant approval and loans or grants approved.

(3) Extension of principal and interest repayments for rural development purposes.

(4) Loan contracts, security instruments, and all other documents to be executed in connection with loans and loan guarantees approved by the Administrator.

(b) *Assistant Administrator, Telecommunications Program,* has the authority to approve the following loans and lien accommodations and subordinations of liens:

(1) Loans, that do not also include requests for grant funds, except for those reserved to the Administrator.

(2) Loan contracts, security instruments, and all other documents to be executed in connection with loans and loan guarantees approved by the Assistant Administrator, Telecommunications Program.

§ 1700.58 Assistance to high energy cost rural communities.

(a) *Administrator:* The authority to approve the following is reserved to the Administrator:

(1) Allocation of appropriated funds among high energy cost community assistance programs;

(2) Awards of grants and loans to extremely high energy cost communities;

(3) Awards of grants and loans to the Denali Commission;

(4) Awards of grants to State entities for State bulk fuel revolving funds; and

(5) Grant agreements, loan contracts, security instruments and all other documents executed in connection with grants and loans agreements approved by the Administrator.

(b) *The Assistant Administrator, Electric Program* has the authority to make any required certifications and to approve all grant and loan servicing actions not specifically reserved to the Administrator.

[70 FR 5351, Feb. 3, 2005]

§§ 1700.59–1700.99 [Reserved]

Subpart D—Substantially Underserved Trust Areas

SOURCE: 77 FR 35250, June 13, 2012, unless otherwise noted.

§ 1700.100 Purpose.

This subpart establishes policies and procedures for the Rural Utilities Service (RUS) implementation of the Substantially Underserved Trust Areas (SUTA) initiative under section 306F of the Rural Electrification Act of 1936, as amended (7 U.S.C. 906f). The purpose of this rule is to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

§ 1700.101 Definitions.

Administrator means the Administrator of the Rural Utilities Service, or designee or successor.

Applicant means an entity that is eligible for an eligible program under that program's eligibility criteria.

Borrower means any organization that has an outstanding loan or loan guarantee made by RUS for a program purpose.

Completed application means an application that includes the elements specified by the rules for the applicable eligible program in form and substance satisfactory to RUS.

ConAct means the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1921 *et seq.*).

Credit support means equity, cash requirements, letters of credit, and other financial commitments provided in support of a loan or loan guarantee.

Eligible community means a community as defined by 7 CFR 1700.103.

Eligible program means a program as defined by 7 CFR 1700.102.

Financial assistance means a grant, combination loan and grant, loan guarantee or loan.

Financial feasibility means the ability of a project or enterprise to meet operating expenses, financial performance metrics, such as debt service coverage requirements and return on investment, and the general ability to repay debt and sustain continued operations at least through the life of the RUS loan or loan guarantee.

Matching fund requirements means the applicant's financial or other required contribution to the project for approved purposes.

Nonduplication generally means a restriction on financing projects for services in a geographic area where reasonably adequate service already exists as defined by the applicable program.

Project means the activity for which financial assistance has been provided.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture, successor to the Rural Electrification Administration.

Substantially underserved trust area means a community in trust land with respect to which the Administrator determines has a high need for the benefits of an eligible program.

Trust land means ''trust land'' as defined in section 3765 of title 38, United States Code as determined by the Administrator under 7 CFR 1700.104.

Underserved means an area or community lacking an adequate level or quality of service in an eligible program, including areas of duplication of service provided by an existing provider where such provider has not provided or will not provide adequate level or quality of service.

§ 1700.102 Eligible programs.

SUTA does not apply to all RUS programs. SUTA only applies to eligible programs. An eligible program means a program administered by RUS and authorized in paragraph (a) of the RE Act, or paragraphs (b)(1), (2), (14), (22), or (24) of section 306(a) (7 U.S.C. 1926(a)(1), (2), (14), (22), (24)), or sections 306A, 306C, 306D, or 306E of the Con Act (7 U.S.C. 1926a, 1926c, 1926d, 1926e).

§ 1700.103 Eligible communities.

An eligible community is a community that:

(a) Is located on Trust land;

(b) May be served by an RUS administered program; and

(c) Is determined by the Administrator as having a high need for benefits of an eligible program.

§ 1700.104 Financial feasibility.

Pursuant to normal underwriting practices, and such reasonable alternatives within the discretion of RUS that contribute to a financial feasibility determination for a particular eligible program or project, the Administrator will only make grants, loans and loan guarantees that RUS finds to be financially feasible and that provide eligible program benefits to substantially underserved trust areas. All income and assets available to and under the control of the Applicant will be considered as part of the Applicant's financial profile.

§ 1700.105 Determining whether land meets the statutory definition of "trust land."

The Administrator will use one or more of the following resources in determining whether a particular community is located in Trust land:

(a) Official maps of Federal Indian Reservations based on information compiled by the U. S. Department of the Interior, Bureau of Indian Affairs and made available to the public;

(b) Title Status Reports issued by the U. S. Department of the Interior, Bureau of Indian Affairs showing that title to such land is held in trust or is subject to restrictions imposed by the United States;

(c) Trust Asset and Accounting Management System data, maintained by the Department of the Interior, Bureau of Indian Affairs;

(d) Official maps of the Department of Hawaiian Homelands of the State of Hawaii identifying land that has been given the status of Hawaiian home lands under the provisions of section 204 of the Hawaiian Homes Commission Act, 1920;

(e) Official records of the U.S. Department of the Interior, the State of Alaska, or such other documentation of ownership as the Administrator may determine to be satisfactory, showing that title is owned by a Regional Corporation or a Village Corporation as such terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq*);

(f) Evidence that the land is located on Guam, American Samoa or the Commonwealth of the Northern Mariana Islands, and is eligible for use in the Veteran's Administration direct loan program for veterans purchasing or constructing homes on communally-owned land; and

(g) Any other evidence satisfactory to the Administrator to establish that the land is ''trust land'' within the meaning of 38 U.S.C. 3765(1).

§ 1700.106 Discretionary provisions.

(a) To improve the availability of eligible programs in eligible communities determined to have a high need for the benefits of an eligible program, the Administrator retains the discretion, on a case-by-case basis, to use any of the following SUTA authorities individually or in combination to:

(1) Make available to qualified applicants financing with an interest rate as low as 2 percent;

(2) Extend repayment terms;

(3) Waive (individually or in combination) non-duplication restrictions, matching fund requirements, and credit support requirements from any loan or grant program administered by RUS; and

(4) Give the highest funding priority to designated projects in substantially underserved trust areas.

(b) Requests for waivers of non-duplication restrictions, matching fund requirements, and credit support requirements, and requests for highest funding priority will be reviewed on a case-by-case basis upon written request of the applicant filed pursuant to 7 CFR 1700.108.

(c) Notwithstanding the requirements in paragraph (b) of this section, the Administrator reserves the right to evaluate any application for an eligible program for use of the discretionary provisions of this subpart without a formal, written request from the applicant.

§ 1700.107 Considerations relevant to the exercise of SUTA discretionary provisions.

(a) In considering requests to make available financing with an interest

rate as low as 2 percent, and extended repayment terms, the Administrator will evaluate the effect of and need for such terms on the finding of financial feasibility.

(b) In considering a request for a non-duplication waiver, the Administrator will consider the offerings of all existing service providers to determine whether or not granting the non-duplication waiver is warranted. A waiver of non-duplication restrictions will not be given if the Administrator determines as a matter of financial feasibility that, taking into account all existing service providers, an applicant or RUS borrower would not be able to repay a loan or successfully implement a grant agreement. Requests for waivers of non-duplication restrictions will be reviewed by taking the following factors into consideration:

(1) The size, extent and demographics of the duplicative area;

(2) The cost of service from existing service providers;

(3) The quality of available service; and

(4) The ability of the existing service provider to serve the eligible service area.

(c) Requests for waivers of matching fund requirements will be evaluated by taking the following factors into consideration:

(1) Whether waivers or reductions in matching or equity requirements would make an otherwise financially infeasible project financially feasible;

(2) Whether permitting a matching requirement to be met with sources not otherwise permitted in an affected program due to regulatory prohibition may be allowed under a separate statutory authority; and

(3) Whether the application could be ranked and scored as if the matching requirements were fully met.

(d) Requests for waivers of credit support requirements will be evaluated taking the following factors into consideration:

(1) The cost and availability of credit support relative to the loan security derived from such support;

(2) The extent to which the requirement is shown to be a barrier to the applicant's participation in the program; and

(3) The alternatives to waiving the requirements.

(e) The Administrator may adapt the manner of assigning highest funding priority to align with the selection methods used for particular programs or funding opportunities.

(1) Eligible programs which use priority point scoring may, in a notice of funds availability or similar notice, assign extra points for SUTA eligible applicants as a means to exercise a discretionary authority under this subpart.

(2) The Administrator may announce a competitive grant opportunity focused exclusively or primarily on trust lands which incorporates one or more discretionary authorities under this subpart into the rules or scoring for the competition.

§ 1700.108 Application requirements.

(a) To receive consideration under this subpart, the applicant must submit to RUS a completed application that includes all of the information required for an application in accordance with the regulations relating to the program for which financial assistance is being sought. In addition, the applicant must notify the RUS contact for the applicable program in writing that it seeks consideration under this subpart and identify the discretionary authorities of this subpart it seeks to have applied to its application. The required written request memorandum or letter must include the following items:

(1) A description of the applicant, documenting eligibility.

(2) A description of the community to be served, documenting eligibility in accordance with 7 CFR 1700.103.

(3) An explanation and documentation of the high need for the benefits of the eligible program, which may include:

(i) Data documenting a lack of service (i.e. no service or unserved areas) or inadequate service in the affected community;

(ii) Data documenting significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable service.

(iii) Data documenting economic need in the community, which may include:

(A) Per capita income of the residents in the community, as documented by the U.S. Department of Commerce, Bureau of Economic Analysis;

(B) Local area unemployment and not-employed statistics in the community, as documented by the U.S. Department of Labor, Bureau of Labor Statistics and/or the U.S. Department of the Interior, Bureau of Indian Affairs;

(C) Supplemental Nutrition Assistance Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Economic Research Service;

(D) National School Lunch Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Food and Nutrition Service;

(E) Temporary Assistance for Needy Families Program participation and benefit levels in the community, as documented by the U.S. Department of Health and Human Services, Administration for Children and Families;

(F) Lifeline Assistance and Link-Up America Program participation and benefit levels in the community, as documented by the Federal Communications Commission and the Universal Service Administrative Company;

(G) Examples of economic opportunities which have been or may be lost without improved service.

(H) Data maintained and supplied by Indian tribes or other tribal or jurisdictional entities on ''trust land'' to the Department of Interior, the Department of Health and Human Services and the Department of Housing and Urban Development that illustrates a high need for the benefits of an eligible program.

(4) The impact of the specific authorities sought under this subpart.

(b) The applicant must provide any additional information RUS may consider relevant to the application which is necessary to adequately evaluate the application under this subpart.

(c) RUS may also request modifications or changes, including changes in the amount of funds requested, in any proposal described in an application submitted under this subpart.

(d) The applicant must submit a completed application within the application window and guidelines for an eligible program.

§ 1700.109 RUS review.

(a) RUS will review the application to determine whether the applicant is eligible to receive consideration under this subpart and whether the application is timely, complete, and responsive to the requirements set forth in 7 CFR 1700.107.

(b) If the Administrator determines that the application is eligible to receive consideration under this subpart and one or more SUTA requests are granted, the applicant will be so notified.

(c) If RUS determines that the application is not eligible to receive further consideration under this subpart, RUS will so notify the applicant. The applicant may withdraw its application or request that RUS treat its application as an ordinary application for review, feasibility analysis and service area verification by RUS consistent with the regulations and guidelines normally applicable to the relevant program.

§§ 1700.110–1700.149 [Reserved]

§ 1700.150 OMB Control Number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and have been assigned OMB control number 0572–0147.

PART 1703—RURAL DEVELOPMENT

Subparts A–B [Reserved]

Subpart C—Rural Business Incubator Program [Reserved]

Sec.
1703.80–1703.99 [Reserved]

Subparts D–G [Reserved]

Subpart H—Deferments of RUS Loan Payments for Rural Development Projects

1703.300 Purpose.
1703.301 Policy.