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§ 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 re-

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sult 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 \$200,000 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 \$200,000.

(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.

[69 FR 59772, Oct. 6, 2004, as amended at 86 FR 14526, Mar. 17, 2021]

§ 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.

PART 1784—RURAL ALASKAN VILLAGE GRANTS

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SOURCE: 80 FR 52609, Sept. 1, 2015, unless otherwise noted.

Subpart A—General Provisions

§ 1784.1 Purpose.

This part sets forth the policies and procedures that will apply when the Rural Utilities Service (RUS) makes grants under the Rural Alaska Village Grant (RAVG) program (7 U.S.C. 1926d) to native villages in Alaska. The grants will be provided directly to a native village or jointly with either The State of Alaska, Department of Environmental Conservation (DEC) or The Alaska Native Tribal Health Consortium (ANTHC) for the benefit of native villages in Alaska.

[85 FR 23212, Apr. 27, 2020]

§ 1784.2 Definitions.

The following definitions apply to subparts A through E of this part.

ANTHC means the Alaska Native Tribal Health Consortium.

CONACT means the Consolidated Farm and Rural Development Act.

DEC means the State of Alaska, Department of Environmental Conservation.

Dire sanitation conditions means:

(1) Recurring instances of illness reasonably attributed to waterborne communicable disease have been documented or insufficient access to clean water creates a persistent threat of water-washed diseases; or

(2) No community-wide water and sewer system exists and individual residents must haul water to or human waste from their homes and/or use pit privies; or

(3) An appropriate federal agency (such as the Centers for Disease Control and Prevention) or regulatory Agency of the State of Alaska determines that the drinking water and/or sewer system does not meet current regulatory requirements.

Grant recipient means an applicant that has been awarded a Rural Alaskan Village Grant under this part.

IHS means the United States Department of Health and Human Services, Indian Health Service.

Native Villages in Alaska means a Native village in Alaska which meets the definition of a village as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

Owner means Grant recipient.

RAVG means Rural Alaskan Village Grant, a grant awarded by RUS, DEC, and/or ANTHC to a grant recipient under this part.

RD means Rural Development, a federal agency mission area delivering the United States Department of Agriculture's programs to rural communities.

Recipient community means a community that has been awarded a grant under this part.

RUS means the Rural Utilities Service, a federal agency mission area delivering the United States Department of Agriculture's rural utilities programs.

Short-lived assets means repair and replacement items expended each year that are not included in the annual

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Operational and Maintenance expenses as annual repair and maintenance.

Statewide nonmetropolitan median household income (SNMHI) means the median household income of the State's nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

USDA means the United States Department of Agriculture.

VSW means Village Safe Water Program authorized under the Village Safe Water Act, Alaska Statute Title 46, Chapter 7 (AS 46.07).

[80 FR 52609, Sept. 1, 2015, as amended at 85 FR 23212, Apr. 27, 2020]

§ 1784.3 Objective.

The objective of the RAVG Program is to assist the residents of rural or native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages through removal of dire sanitation conditions.

§§ 1784.4–1784.7 [Reserved]

Subpart B—Grant Requirements

§ 1784.8 Eligibility.

(a) Grants may be made to the following eligible applicants:

- (1) Native village in Alaska; or
- (2) DEC on behalf of one or more recipient communities in Alaska; or
- (3) ANTHC on behalf of one or more recipient communities in Alaska.

(b) Grants made to DEC or ANTHC may be obligated through a master letter of conditions for more than one recipient community; however, DEC or ANTHC together with each individual recipient community beneficiary shall execute a grant agreement on a project by project basis. Expenditures for projects will be based on specific scope and be requested on a project by project basis.

(c) For grants proposed to be administered directly by a community, the responsibility to meet the requirements outlined in this part will be met by the community. RUS will be the lead agency on direct administration projects.

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(d) The median household income of the recipient community cannot exceed 110 percent of the statewide nonmetropolitan household income (SNMHI), according to US Census American Community Survey. Alaska census communities considered to be high cost isolated areas or “off the road systems” (*i.e.*, communities that cannot be accessed by roads) may utilize up to 150 percent of SNMHI.

(e) For design and construction projects: A dire sanitation condition as defined in § 1784.2 must exist in the village served by the proposed project. For those projects identified under paragraphs (1) and (3) of the dire sanitation definition in § 1784.2, a notice of violation, consent order or other regulatory action from the appropriate regulatory agency must be provided to document the dire sanitation condition. In cases where there is scientific evidence or reports with substantiated evidence of associated health issues, documentation may be accepted from an appropriate federal agency.

(f) In individual cases where a proposed project does not meet the definition of “Dire sanitation condition” in § 1784.2, an applicant may request a special review and eligibility determination from the RUS Administrator in cases where the applicant is able to satisfactorily demonstrate that a water or sewer system is deficient and negatively impacts the health or safety of the community. The decision to review an eligibility determination request and any determinations made subject to this paragraph are not subject to administrative appeal.

(g) In order for an eligible applicant to receive a grant under the Rural Alaska Village Grant program, the State of Alaska shall provide 25 percent in matching funds from non-Federal sources.

(h) In processing grants through DEC and ANTHC, a public meeting must be held to inform the general public regarding the development of any proposed project. Documentation of the public meeting must be received with construction applications.

(1) A notice of intent must be published in a newspaper of general circulation in the proposed area to be served.

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(2) For projects where there are no newspapers of general circulation, a posting of the notice in a community building (post office, washeteria, clinic, etc.) frequented by village residents may be used to meet the requirement. This alternative form of notice has been authorized by the RUS Administrator.

[80 FR 52609, Sept. 1, 2015, as amended at 85 FR 23212, Apr. 27, 2020]

§ 1784.9 Grant amount.

Grants will be made for up to 75 percent of the project development and/or construction costs, which does not include project administrative costs. Pursuant to 7 U.S.C. 1926d, the State of Alaska shall provide 25 percent in matching funds from non-Federal sources.

§ 1784.10 Eligible grant purposes.

Grant funds may be used for the following purposes:

(a) To pay reasonable costs associated with providing potable water or waste disposal services to residents of recipient communities. Reasonable costs include construction, planning, pre-development costs (including engineering, design, and rights-of-way establishment), and technical assistance as further defined in paragraphs (a)(1) through (3) of this section:

(1) *Planning*. Grants can be made specifically for planning report costs (including Master Plans, Feasibility Studies, and Detection or Source Studies) associated with the prioritization process.

(2) *Pre-development*. Grants can be made for pre-development costs such as preliminary engineering, environmental, application development, review and establishment of rights-of-way and easement, and full construction design for up to \$1,000,000 for each eligible village. Prior to approving additional pre-development costs, a preliminary engineering report (PER) and/or approved PER like document, such as the Cooperative Project Agreement and supplemental documents from ANTHC and an environmental report shall be reviewed and concurred by RUS, DEC, ANTHC, and IHS.

(3) *Training and technical assistance*. Grant funding for technical assistance

and training will be available in accordance with Section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) and appropriations current at the time of application. Grants for this purpose will be processed in accordance with 7 CFR part 1775.

(b) To pay reasonable costs associated with the use of a recipient community's equipment during construction. (*i.e.* maintenance, minor repairs, and operational costs). A cost accounting system that is accurate to track expenses must be in place. Use of ANTHC or State of Alaska equipment fleet rental costs will also be eligible. RUS concurrence in the allocation method is required.

(c) *Individual installations*. (1) Individual service installation relates to residential homes only and does not include public facilities or commercial facilities. The only exception to serving a public facility is when the facility is necessary for the successful operation and maintenance of the water or sanitation system (*i.e.* the facility utilized for accepting utility payments and/or holding public meetings for the utility system).

(2) Individual home installations, including wells, septic system, flush tank and haul, in-house plumbing, etc., may be provided. The following guidelines must be followed for individual installations. A certification will be required with the application that provides documentation of the following:

(i) The residents are unable to afford to make the improvements on their own.

(ii) An agreement outlining the installation, operation, and maintenance of facilities must be in place.

(iii) An adequate method for denying service in the event of non-payment of user fees if such fees are required.

(iv) All residents of the community are treated equally.

(v) The improvements provided are reasonable and modest.

(vi) Legal authority (*i.e.* easements) is obtained to construct these improvements.

(vii) Documentation must be provided to RUS indicating the quantity

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and quality of the individual installations that may be developed; cost effectiveness of the individual facility compared with initial and long term user costs on a central system; health and pollution problems attributable to individual facilities; operational or management problems peculiar to individual installations; and permit of regulatory agency requirements.

[80 FR 52609, Sept. 1, 2015, as amended at 85 FR 23212, Apr. 27, 2020]

§ 1784.11 Restrictions.

Grant funds may *not* be used to:

(a) Pay any annual recurring costs that are considered to be operational expenses of a facility.

(b) Pay basic/rental fee or depreciation for the use of the recipient community's equipment.

(c) Purchase existing systems.

(d) Pay for items not associated with Rural Utilities Service's approved scope of work. This includes projects developed from other funding sources.

(e) Except as provided in this part, finance any public or commercial facility.

§§ 1784.12–1784.15 [Reserved]

Subpart C—Application Processing

§ 1784.16 General.

(a) DEC and ANTHC utilize the National Indian Health Service, Sanitation Deficiency System (SDS) database as a comprehensive source of rural sanitation needs in Alaska. The database provides an inventory of the sanitation deficiencies including water, sewer, and solid waste facilities for existing homes. The sanitation deficiencies data are updated annually by DEC and ANTHC in consultation with the respective recipient communities. The SDS system is utilized in the RAVG program to help prioritize applications under the Village Safe Water Program.

(b) A prioritized list of projects will be developed each year by RUS, DEC, and ANTHC applying prioritization criteria to the sanitation needs database. Prioritization criteria established by the RUS, DEC, ANTHC, and IHS will be based, at a minimum, on relative

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health impacts, drinking water and wastewater regulatory requirements, the sanitation conditions in each community and project readiness. The VSW Program process and associated prioritization criteria will be used to prioritize projects and place them on a priority list. The process will be reviewed and approved by RUS, DEC, ANTHC, and IHS. Projects will be funded from the priority list as they meet established planning, design, and construction requirements, subject to available funding.

[80 FR 52609, Sept. 1, 2015, as amended at 85 FR 23212, Apr. 27, 2020]

§ 1784.17 Application for Planning grants.

(a) Entities identified in § 1784.8 may submit a completed Standard Form 424 to apply for funding to establish a Planning report for a recipient community.

(b) Funding for planning grants will be allocated annually by RUS, DEC, and ANTHC according to the prioritization list described in § 1784.16(b) of this part.

[80 FR 52609, Sept. 1, 2015, as amended at 85 FR 23212, Apr. 27, 2020]

§ 1784.18 Application for Pre-development grants.

(a) Entities identified in § 1784.8 of this part may submit a completed Standard Form 424, Standard Form 424A, and Standard Form 424B to apply for funding for pre-development costs. Pre-development costs are described in § 1784.10 (a)(1)(iii) of this part.

(b) Funding for pre-development grants will be allocated annually by RUS, DEC, and ANTHC according to the prioritization list described in § 1784.16(b) of this part.

(c) Projects submitted for design only under the pre-development grant, must have RUS approval of a planning or pre-development report prior to consideration for funding.

§ 1784.19 Application for Construction grants.

(a) An application for a construction grant shall include:

(1) Completed Standard Form 424, Standard Form 424C and Standard

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Form 424D. Current versions of these forms may be found at Grants.gov.

(2) Preliminary Engineering Report, Environmental Report, or approved PER like document, including ANTHC's Cooperative Project Agreement and associated supplemental attachments;

(3) Population and median household income of the area to be served;

(4) Description of the project; and

(5) Approved business plan, including resolution adopting the plan, for the recipient community. The business plan will outline the proposed operation and management costs, rate structures, short-lived asset schedule and associated materials.

(6) Projects submitted for construction must have RUS and ANTHC or DEC approval of a planning or pre-development report prior to consideration for funding.

(b) Funding for construction grants will be allocated annually by RUS, DEC, and ANTHC according to the prioritization list described in § 1784.16(b) of this part.

§ 1784.20 Applications accepted from DEC or ANTHC.

(a) In cases where applications are accepted from DEC or ANTHC, one master application may be submitted covering recipient communities to be funded, however, each individual project will be broken out and (for construction grants) each will require its own PER, or PER-like document and Environmental Report.

(b) Each project will be processed individually with individual grant agreements, as appropriate.

(c) Expenditures for projects will be based on specific scope and be requested on a project by project basis.

(d) Funding amounts, as indicated in each grant agreement and letter of conditions, will be for the approved scope of work.

[80 FR 52609, Sept. 1, 2015, as amended at 85 FR 23212, Apr. 27, 2020]

§ 1784.21 Other forms and certifications.

(a) Referenced bulletins, instructions and forms are for use in administering grants made under this part and are available from any USDA/Rural Devel-

opment office or the Rural Utilities Service, U. S. Department of Agriculture, Washington, DC 20250-1500.

(b) Applicants will be required to submit the following items to the processing office, upon notification from the processing office to proceed with further development of the full application:

(1) Form RD 400-1, Equal Opportunity Agreement;

(2) Form RD 400-4, Assurance Agreement;

(3) Form AD 1047, Certification Regarding Debarment, Suspension and other Responsibility Matters;

(4) Form AD 1048, Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions;

(5) Form AD 1049, Certification regarding Drug-Free Workplace Requirements (Grants) Alternative I for Grantees Other Than Individuals;

(6) RUS Form 266, Compliance Assurance form or written self-certification statement—Civil Rights Compliance;

(7) Standard Form LLL, Disclosure of Lobbying Activities;

(8) RD Instruction 1940-Q, Exhibit A-1, Certifications for Contracts, Grants, and Loans (Regarding Lobbying); and

(9) Certification regarding prohibited tying arrangements. Applicants that provide electric service must provide the Agency a certification that they will not require users of a water or waste facility financed under this part to accept electric service as a condition of receiving assistance.

(c) In the case of grants made to DEC and ANTHC, DEC and ANTHC will certify that the above requirements are included in their agreements with the Villages. The certification and forms listed above must be provided from DEC and ANTHC on an annual basis for utilization in proposed applications.

(d) When favorable action is not taken on an application, the applicant will be notified in writing by the Rural Development State Program Official of the reasons why the request was not favorably considered. Notification to the applicant will state that a review of this decision by the Agency may be requested by the applicant in accordance with 7 CFR part 11.

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(e) When favorable action is taken on an application, the applicant will be notified by a letter which establishes conditions that must be understood and agreed to before further consideration may be given to the application. In cases where a master application is submitted by DEC or ANTHC, the letter of conditions will include all projects, and their funding amounts, included in the master application on which favorable action will be taken. The letter of conditions does not constitute loan and/or grant approval, nor does it ensure that funds are or will be available for the project. The grant will be considered approved on the date a signed copy of Form RD 1940-1, Request for Obligation of Funds, is mailed to the applicant.

§ 1784.22 Other requirements.

Other Federal statutes and regulations are applicable to grants awarded under this part. These include but are not limited to:

(a) 7 CFR part 1, subpart A—USDA implementation of Freedom of Information Act.

(b) 7 CFR part 3—USDA implementation of OMB Circular No. A-129 regarding debt collection.

(c) 7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

(d) 7 CFR part 1970.

(e) 7 CFR part 1901, subpart E—Civil Rights Compliance Requirements.

(f) 2 CFR part 200—Uniform Guidance.

(g) 2 CFR part 215—General Program Administrative Requirements.

(h) 2 CFR part 418—New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

(i) 2 CFR parts 400 and 415—USDA implementation of Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations.

(j) 2 CFR part 180, as adopted by USDA through 2 CFR 417, Government-wide Debarment and Suspension (Non-procurement); 2 CFR part 182, as adopt-

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ed by USDA through 2 CFR 421, Government-wide Requirements for Drug-Free Workplace (Federal Assistance), implementing Executive Order 12549 on debarment and suspension and the Drug-Free Workplace Act of 1988 (41 U.S.C. 701).

(k) 2 CFR part 200, subpart F—USDA implementation of audit requirements for non-federal organizations.

(l) 29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in federally assisted programs.

(m) Floodplains. The agencies follow the eight-step decision-making process referenced in Section 2(a) of Executive Order 11988, Floodplain Management, when undertaking actions located in floodplains. Pursuant to E. O. 11988, the IHS uses a Class Review process to exclude certain actions from further review under the eight-step process. For all actions that do not qualify for IHS Class Review, the eight-step process shall be completed. All practicable measures to minimize development in floodplains and reduce the risk to human safety, health, and welfare shall be followed, including elevating a new water or wastewater facility at least one foot above the base flood elevation as determined by the Army Corp of Engineers, other qualified survey, or best available data. Since they are considered “critical facilities” as defined by the Federal Emergency Management Agency (FEMA), water and wastewater facilities may be subject to more stringent standards such as relocation out of the floodplain, higher elevation, or other flood proofing measures. If an area has been designated a floodplain by FEMA Flood Insurance Rate Map (FIRM) coverage, flood insurance shall be required for facilities located in flood plains. If an area has no FEMA FIRM coverage the requirement to obtain flood insurance does not apply. If a community is located within a mapped FEMA Flood Insurance Rate Map (FIRM) 100-year floodplain, but is not a participating National Flood Insurance Program (NFIP) community member, then RUS may not fund the project according to 7 CFR 1806 Subpart B.

(n) Project planning, including engineering reports and environmental review documentation, to the maximum extent feasible, must address all water or waste disposal needs for a community in a coordinated manner with other community development projects and take into consideration information presented in available community strategic and comprehensive plans. Any reports or designs completed with funds must be consistent with sound engineering practices and USDA regulations, including 7 CFR part 1970.

[80 FR 52609, Sept. 1, 2015, as amended at 81 FR 11029, Mar. 2, 2016]

§ 1784.23 Lead Agency Environmental Review.

(a) The Agency designated as the lead agency for the purposes of this grant program, will fulfill and agree to be responsible for complying with lead agency requirements for:

(1) National Environmental Policy Act (NEPA) as outlined in 40 CFR 1501.5, Lead agencies;

(2) National Historic Preservation Act (NHPA) Section 106 review process as outlined in 36 CFR part 800.2(a)(2) Lead Federal agency; and

(3) Section 7 of the Endangered Species Act as outlined in 50 CFR 402.07, Designation of lead agency.

(b) All environmental findings and determinations made by the lead agency represent those of the cooperating agencies and will be completed in accordance with the procedures outlined in this section.

(c) RUS will, to the extent possible and in accordance with 40 CFR 1506.2 and 7 CFR part 1970, participate with DEC, IHS, and ANTHC to cooperatively or jointly prepare environmental review documents so that one document will comply with all applicable laws.

(d) For projects administered by DEC and ANTHC, RUS agrees to participate as a cooperating agency in accordance with 40 CFR 1501.6 and 7 CFR part 1970, and relies upon those agencies' procedures for implementing NEPA as further described below.

(e) The lead agency will indicate that RUS is a cooperating agency in all NEPA-related notices published for the proposed action.

(f) A construction grant may not be approved until all environmental findings and determinations have been made according to the following:

(1) *Rural Utilities Service Lead Agency.* If RUS is the lead agency, the environmental review process, including all findings and determinations, will be completed in accordance with 7 CFR part 1970.

(2) *DEC Lead Agency.* In the event DEC is the lead agency, the environmental review process, including all findings and determinations will be completed in accordance with the environmental review process outlined in Appendix A to the June 15, 2011 MOU.

(3) *IHS Lead Agency.* For projects administered by ANTHC, IHS will be the lead agency for the environmental review process, including all findings and determinations. The environmental review process, including all findings and determinations will be completed in accordance with the Department of Health and Human Services policies and procedures in General Administration Manual, Part 30, Council on Environmental Quality regulations at 40 CFR 1500-1508 and with procedures published by IHS in the FEDERAL REGISTER, Vol. 58, No.3, page 569, January 6, 1993. The ANTHC shall notify the funding agencies and the IHS if a change in the project or project scope occurs which could change any previously prepared environmental findings or determinations or could adversely impact the environment. In the event of an unanticipated discovery of a historic property or other environmental resource, the ANTHC shall stop construction activity in the area of the discovery and notify the appropriate authority and the IHS. Mitigation options resulting from unanticipated discoveries, including but not limited to changes in project scope or cancellation of the project will be evaluated by the funding agencies in collaboration with the ANTHC and IHS. If appropriate and necessary, mitigation plans will be negotiated and approved by all parties. When the funding agencies have approved a mitigation plan and IHS has reaffirmed its environmental review process, including all findings and determinations, the ANTHC will be authorized to initiate the agreed to

mitigation plan. The IHS shall bear no mitigation costs as it is not a funding agency for projects under this part.

(g) RUS will have an opportunity to review the IHS or DEC environmental review documents, including all findings and determinations to ensure consistency with this part and agency procedures. Where an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is required by the lead agency's environmental policies and procedures, the lead agency will ensure that the scope and content of the EA or EIS satisfies the statutory and regulatory requirements applicable to RUS. Where an EA and EIS is not required under the applicable lead agency's procedures for implementing NEPA, the review by RUS will be limited to ensure that the applicable lead agency's procedures were followed.

(h) The National Historic Preservation Act Section 106 review requirements completed for ANTHC administered projects will be carried out in accordance with the process described in Appendix B of the June 15, 2011 MOU.

[80 FR 52609, Sept. 1, 2015, as amended at 81 FR 11029, Mar. 2, 2016]

§§ 1784.24–1784.25 [Reserved]

Subpart D—Grant Processing

§ 1784.26 Planning, development, and procurement.

(a) If RUS is the lead agency and will provide oversight for the project, a certification should be obtained from the State agency, or the Environmental Protection Agency if the State does not have primacy, stating that the proposed improvements will be in compliance with requirements of the Safe Drinking Water Act and/or Clean Water Act and the applicable requirements of 2 CFR part 200 and 2 CFR part 400.

(b) Applicants that will bid and construct a project in phases, must provide assurance that the full scope of each specific phase of the project will be functional. In the event that the actual cost is anticipated to exceed the funding originally allocated for the project, all potential options will be reviewed and considered, including but not limited to acquiring additional funds or a reduction in project scope.

RUS, ANTHC, and VSW will ensure that all items that were funded and within the scope of the project, including all phases, are functional when all funds have been disbursed.

§ 1784.27 Grant closing and disbursement of Funds.

(a) The Water and Waste Grant Agreement for rural and native villages in Alaska, or other approved form(s) will be executed by all applicants. To view all forms and agreements, refer to the USDA RUS Water and Environmental Programs Web site.

(b) Grant funds will be distributed from the Treasury at the time they are actually needed by the applicant using multiple advances. Instructions regarding disbursement of funds can be found in the Letter of Conditions.

(c) If there is a significant reduction in project costs, the applicant's funding needs will be reassessed. Decreases in RUS funds will be based on revised project costs and current number of users. Other factors, including RUS regulations used at the time of grant approval, will continue to be used as published at the time of grant approval. Obligated grant funds not needed to complete the proposed project will be deobligated. In such cases applicable forms, the letter of conditions, and other items will be revised.

§ 1784.28 Grantee accounting methods, management reporting, and audits.

(a) All Agency grantees will follow the reporting requirements as outlined in 7 CFR 1782.

(b) Other reporting requirements are as follows:

(1) During the construction period, for the reporting of expenses incurred for projects under this part, the party responsible for the administration of the project will complete an audit report in accordance with § 1782.10 (which includes GAGAS and 2 CFR part 200 Subpart F “Audit Requirements”). RUS may request a copy of this report.

(2) After the construction period and for the life of the facility, the recipient community will be responsible to meet the requirements outlined in 2 CFR parts 200, 400, 415, 416, and 7 CFR part 1780.47 paragraphs a through d. These

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requirements must be outlined in funding documents from RUS, ANTHC, and VSW and in agreements with the recipient communities. RUS may request this information for the life of the facility.

(c) The requirements found in 2 CFR parts 200, 400, 415 and 416 shall apply to all grants made under the RAVG program and shall be set forth in the respective grant agreement where required.

§ 1784.29 Grant servicing and accountability.

(a) Grants will be serviced in accordance with 7 CFR part 1782.

(b) RUS reserves the right to request and review project files from grantees at any time.

(c) If at any time an application is determined ineligible, 7 CFR part 11 will be followed.

§ 1784.30 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this part. The initial and subsequent grants made to complete a previously approved project must comply with the maximum grant requirements set forth in § 1784.8(f) of this part.

§ 1784.31 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this part which is not inconsistent with the authorizing statute or other applicable law and is determined to be in the Government's best interest.

§§ 1784.32–1784.34 [Reserved]

Subpart E—Design, Procurement, Construction, and Inspection

§ 1784.35 General.

This subpart is specifically designed for use by owners including the professional or technical consultants or agents who provide assistance and services such as engineering, environmental, inspection, financial, legal or other services related to planning, designing, bidding, contracting, and constructing water and waste disposal facilities. The selection of engineers for a project design shall be done by a re-

quest for proposals by the applicant. These procedures do not relieve the owner of the contractual obligations that arise from the procurement of these services. For this subpart, an owner is defined as the grant recipient.

§ 1784.36 Procurement by applicants eligible under this part

(a) For applicants eligible under § 1784.8(a)(2) and (3), contracting and procurement activities will follow DEC or ANTHC policies, procedures and methods which are based on and shall follow Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200). In specifying materials, DEC and ANTHC will consider all materials normally suitable for the project based on sound engineering practices and project requirements.

(b) Contracts for procurement must contain applicable contract provisions listed at Appendix II to 2 CFR part 200.

(c) For grants proposed to be administered directly by applicants eligible under § 1784.8(a)(1), the requirements outlined in 7 CFR part 1780, subpart C will be met by those eligible applicants with the exception of the following requirements:

(1) Preliminary engineering reports and Environmental Reports (§ 1780.55). Refer to the requirements of this subpart and subpart C § 1784.22(n).

(2) Metering devices in § 1780.57(m).

(3) Utility Purchase Contracts in § 1780.62.

(4) Sewage treatment and bulk water sales contracts in § 1780.63.

§ 1784.37 Procurement of recovered materials.

When a grant is made to the DEC, the state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the

quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§§ 1784.38–1784.99 [Reserved]

PART 1785—LOAN ACCOUNT COMPUTATIONS, PROCEDURES AND POLICIES FOR ELECTRIC AND TELEPHONE BORROWERS

Subpart A [Reserved]

Subpart B—RUS Cushion of Credit Account Computations and Procedures

Sec.

1785.66 General.

1785.67 Definitions.

1785.68 RUS cushion of credit payment accounts.

1785.69 Cushion of credit payment account computations.

1785.70 Application of Rural Electric and Telephone Revolving Fund (RETRF) cushion of credit payments.

AUTHORITY: 7 U.S.C. 901 *et seq.*; Title I, Subtitle D, sec. 1403, Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

Subpart A [Reserved]

Subpart B—RUS Cushion of Credit Account Computations and Procedures

SOURCE: 54 FR 13669, Apr. 5, 1989, unless otherwise noted.

§ 1785.66 General.

This subpart sets forth policies and procedures on the Rural Utilities Service (RUS) cushion of credit payments program. The cushion of credit payments program will be maintained only for accounts in existence on December 20, 2018. Once an account has been closed, it may not be reopened. Deposits in the borrower's cushion of credit account may only be used as described in this subpart and applicable law.

[87 FR 74502, Dec. 6, 2022]

§ 1785.67 Definitions.

Accumulated (deferred) interest means interest allowed to accumulate up to, and including, the basis date of RUS notes covering loans approved before June 5, 1957. The accumulated interest is payable in equal periodic installments over the remaining life of the notes.

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

Advance payment means a voluntary unscheduled payment on an RUS note, made prior to October 2, 1987, credited to the advance payment account of a borrower.

Cushion of Credit Payment means a voluntary unscheduled payment on an RUS note made after October 1, 1987, credited to the cushion of credit account of a borrower.

Current interest means interest payable periodically as it accrues.

Fund means the Rural Electrification and Telephone Revolving Fund established pursuant to the Act.

Interest credit means interest earned on balances in advance payment or cushion of credit accounts. Since the periodic installments are established by the terms of the notes, the interest credits cannot serve to change the total amount of each installment; therefore, an amount equal to the interest credits is added to the principal installment due. On receipt of the full installments, amounts equal to the interest credits (the principal offsets) are added to the respective advance payment accounts.

Prepayment means a voluntary unscheduled payment which the borrower instructs RUS to apply directly and immediately to the principal of an RUS note.

RUS notes means those notes, bonds, or other obligations evidencing indebtedness created by loans made by RUS pursuant to titles I, II, or III of the Act.

Subaccount means the *Rural Economic Development Subaccount* established pursuant to the Act as part of the Fund.