



BILLING CODE: 3410-15P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1709, 1739, 1776, and 1783

RIN 0572-AC39

Announcement Process for Rural Utilities Service Grant Programs

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is issuing a final rule to conform with newly implemented uniform posting requirements for federal grants, so that interested applicants need only search one federal posting site on grant opportunities.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Regulations Team Lead, Rural Development Innovation Center, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW, Washington, DC 20250-1550, Telephone number: (202) 690-1078.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this 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 this 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 must be exhausted before an action against the Department or its agencies may be initiated.

Executive Order 12372

This final rule is not subject to the requirements of Executive Order 12372, “Intergovernmental Review,” as implemented under USDA’s regulations at 2 CFR part 415, subpart C.

Executive Order 13771

The programs affected by this rulemaking are not subject to Executive Order 13771 as they are considered transfer programs and are exempt from the Executive Order.

Regulatory Flexibility Act Certification

RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The matter covered by this rulemaking is administrative, concerning the Agency’s process for implementation of the program.

Environmental Impact Statement

This final rule has been examined under Agency environmental regulations at 7 CFR part 1970. The Administrator has determined that this is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an Environmental Impact Statement is not required.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) numbers assigned to these programs are 10.859, “Assistance to High Energy Cost Rural Communities,” 10.862, “Household Water Well System Grant Program,” 10.863, “Community Connect Grant Program,” and 10.864 “Grant Program to Establish a Fund for Financing Water and Wastewater Projects.” The Catalog is available on the Internet at <http://www.cfda.gov>. The CFDA Web site also contains a PDF file version of the Catalog.

Unfunded Mandates

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

E-Government Act Compliance

RUS is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Executive Order 13132, Federalism

The policies contained in this final 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 final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Rural Development has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe would like to engage in consultation with

Rural Development on this rule, please contact Rural Development's Native American Coordinator at (720) 544-2911 or AIAN@wdc.usda.gov.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for

Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: 1 (833) 256-1665; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

Information Collection and Recordkeeping Requirements

This final rule contains no new reporting or recordkeeping burdens under OMB control numbers 0572-0127, 0572-0136, 0572-0138, and 0572-0139 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Background

Rural Development is a mission area within the USDA comprised of the Rural Utilities Service, Rural Housing Service, and Rural Business/Cooperative Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants, and technical assistance through more than 40 programs aimed at creating and improving housing, businesses, and infrastructure throughout rural America.

In accordance with Executive Order 13777, Enforcing the Regulatory Reform Agenda, RUS was tasked with identifying duplicative actions that can be streamlined which could result in time and cost savings. In doing so, RUS identified certain RUS grant regulations require that a Notice of Funds Availability (NOFA) be published in the Federal Register on an annual basis to announce the open/close period for the grant programs. Given that federal agencies must now publish grant Funding Opportunity Announcements (FOA) on www.Grants.gov, several agency regulations must now be amended to conform with the Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards in 2 CFR part 200. All pertinent

information that the public will need to apply for each of the grant programs will be included in the FOA as required by 2 CFR 200.203. In addition, the agency will include the information on the program website and in the program application guide, which will be linked to the FOA.

Interested parties may subscribe to funding opportunities on Grants.gov by logging in to www.Grants.gov and choosing the “Connect” tab to access the “Connect Center.” Subscribing to opportunities, will allow users to receive updates and notifications for specific funding opportunities.

To implement these changes, RUS is publishing this action as a final rule. The Administrative Procedures Act exempts from prior notice rules any actions “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts” (5 U.S.C. 553(b)(A)).

List of Subjects

7 CFR Part 1709

Administrative practice and procedure, Electric power, Grant programs-energy, Loan programs-energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1739

Grant programs – communications, Rural areas, Telecommunications, Telephone.

7 CFR Part 1776

Agriculture, Community development, Community facilities, Credit, Grant programs-housing and community development, Nonprofit organizations, Reporting and recordkeeping

requirements, Rural areas, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds.

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.

Accordingly, for reasons set forth in the preamble, 7 CFR parts 1709, 1739, 1776, and 1783 are amended as follows:

PART 1709—ASSISTANCE TO HIGH COST ENERGY COMMUNITIES

1. The authority citation for part 1709 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 901 *et seq.*

Subpart A – General Requirements

2. Amend § 1709.3 by adding a definition for “Funding opportunity announcement” in alphabetical order to read as follows:

§ 1709.3 Definitions.

* * * * *

Funding opportunity announcement (FOA) means a publicly available document by which a Federal agency makes know its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. FOA announcements may be known as program announcements, notices of funding availability, solicitations, or other names depending on the agency and type of program. FOA announcements can be found at www.Grants.gov in the Search Grants tab and on the funding agency’s or program’s web site.

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Subpart B – RUS High Energy Cost Grant Program

3. Revise § 1709.114 to read as follows:

§ 1709.114 Application process.

The RUS will request applications for high energy cost grants on a competitive basis by posting a FOA on www.Grant.gov. The FOA will establish the amount of funds available, the application package contents and additional requirements, the availability of application materials, high energy cost community eligibility benchmarks, selection criteria and weights, priority considerations, deadlines and procedures for submitting applications. This information will also be made available in the RUS High Energy Cost Grant program application guide and the RUS High Energy Cost Grant program web site.

4. Amend § 1709.121 by revising paragraph (d) to read as follows:

§ 1709.121 Administrator’s review and selection of grant awards.

* * * * *

(d) In the event an insufficient number of eligible applications are received in response to a FOA and selected for funding to exhaust the funds available, the Administrator reserves the discretion to reopen the application period and to accept additional applications for consideration under the terms of the FOA. Another FOA regarding the reopening of an application period will be announced on www.Grants.gov.

PART 1739 – BROADBAND GRANT PROGRAM

5. The authority citation for part 1739 continues to read as follows:

Authority: Title III, Pub. L. 108-199, 118 Stat. 3.

Subpart A – Community Connect Grant Program

6. Amend § 1739.1 by revising the third sentence of paragraph (a) to read as follows:

§ 1739.1 Purpose.

(a) * * * The Agency will give priority to rural areas that have the greatest need for broadband services, based on the criteria contained herein and in the RUS Community Connect Program application guide and/or the Community Connect Program web site and in the funding opportunity announcement (FOA) posted on www.Grants.gov.

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7. Revise § 1739.2 to read as follows:

§ 1739.2 Funding availability and application dates and submission.

(a) The Agency will post a FOA on www.Grants.gov that will set forth the total amount of funding available; the maximum and minimum funding for each grant; funding priority; the application submission dates; and the appropriate addresses and agency contact information. The FOA will also outline and explain the procedures for submission of applications, including electronic submissions. The Agency may publish more than one FOA should additional funding become available. This information will also be made available in the RUS Community Connect Grant program application guide and on the RUS Community Connect Grant program web site.

(b) Notwithstanding paragraph (a) of this section, the Agency may, in response to a surplus of qualified eligible applications which could not be funded from the previous fiscal year, decline to post a FOA for the following fiscal year and fund said applications without further public notice.

8. Amend § 1739.3 by revising the first sentence of the definitions of “Broadband Grant Speed” and “Broadband service” and by adding the definition of “Funding opportunity agreement” in alphabetical order to read as follows:

§ 1739.3 Definitions.

* * * * *

Broadband Grant Speed means the minimum bandwidth described in the funding opportunity that an applicant must propose to deliver to every customer in the proposed funded service area in order for the Agency to approve a broadband grant. * * *

Broadband service means any terrestrial technology having the capacity to provide transmission facilities that enable subscribers of the service to originate and receive high-quality voice, data, graphics, and video at the minimum rate of data transmission described in the funding opportunity. * * *

* * * * *

Funding opportunity announcement (FOA) means a publicly available document by which a Federal agency makes known its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. FOA announcements may be known as program announcements, notices of funding availability, solicitations, or other names depending on the agency and type of program. FOA announcements can be found at www.Grants.gov in the Search Grants tab and on the funding agency's or program's web site.

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9. Amend § 1739.15 by revising the introductory text to read as follows:

§ 1739.15 Completed application.

Applications should be prepared in conformance with the provisions of this part and all applicable regulations, including 2 CFR part 200, as adopted by USDA through 2 CFR part 400. Applicants must also conform to the requirements of the FOA posted on www.Grants.gov, the

RUS Community Connect Grant program application guide, and the Community Connect Grant program web site. Applicants should refer to the FOA and the application guide for submission directions. The application guide contains instructions and forms, as well as other important information needed to prepare an application and is updated on an annual basis. Paper copies of the application guide can be requested by contacting the Loan Origination and Approval Division at 202-720-0800. Completed applications must include the following documentation, studies, reports and information, in form and substance satisfactory to the Agency:

* * * * *

10. Amend § 1739.16 by revising the first sentence of paragraph (a) to read as follows:

§ 1739.16 Review of grant applications.

(a) All applications for grants must be delivered to the Agency at the address and by the date specified in the FOA, the Community Connect Grant program application guide and the Community Connect Grant program web site (*see* §1739.2) to be eligible for funding. * * *

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11. Amend § 1739.17 by revising paragraph (d)(7) to read as follows:

§ 1739.17 Scoring of applications.

* * * * *

(d) * * *

(7) Any other additional factors that may be outlined in the FOA, the Community Connect Grant program application guide, and the Community Connect Grant program web site.

PART 1776 – HOUSEHOLD WATER WELL SYSTEM GRANT PROGRAM

12. The authority citation for part 1776 continues to read as follows:

Authority: 7 U.S.C. 1926e.

13. Amend § 1776.3 by adding a definition for “Funding opportunity announcement” in alphabetical order to read as follows:

§ 1776.3 Definitions.

* * * * *

Funding opportunity announcement (FOA) means a publicly available document by which a Federal agency makes known its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. FOA announcements may be known as program announcements, notices of funding availability, solicitations, or other names depending on the agency and type of program. FOA announcements can be found at www.Grants.gov in the Search Grants tab and on the funding agency’s or program’s web site.

* * * * *

14. Revise § 1776.6 to read as follows:

§ 1776.6 Funding availability.

A FOA will be posted to www.Grants.gov in fiscal years that funds are available for this program. The FOA will establish the period during which applications for such funds may be submitted for consideration.

15. Amend § 1776.8 by revising paragraph (d) to read as follows:

§ 1776.8 Methods for submitting applications.

* * * * *

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

PART 1783—REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS (REVOLVING FUND PROGRAM)

16. The authority citation for part 1783 continues to read as follows:

Authority: 7 U.S.C. 1926 (a)(2)(B).

Subpart A – General

17. Amend § 1783.3 by adding a definition for “Funding opportunity announcement” in alphabetical order to read as follows:

§ 1783.3 What definitions are used in this regulation?

* * * * *

Funding opportunity announcement (FOA) means a publicly available document by which a Federal agency makes known its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. FOA announcements may be known as program announcements, notices of funding availability, solicitations, or other names depending on the agency and type of program. FOA announcements can be found at Grants.gov in the Search Grants tab and on the funding agency’s or program’s web site.

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Subpart B - Revolving Loan Program Grants

18. Revise § 1783.6 to read as follows:

§ 1783.6 When will applications for grants be accepted?

A FOA will be posted to www.Grants.gov in fiscal years that funds are available for this program. The FOA will establish the period during which applications for such funds may be submitted for consideration.

19. Amend § 1783.8 by revising the second sentence of paragraph (c) to read as follows:

§ 1783.8 What are the acceptable methods for submitting applications?

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(c) * * * Applicants should refer to the most recent FOA for notice of any such changes. In the event of any discrepancy, the information contained in the FOA must be followed. * * *

Dated: August 27, 2018.

Christopher A. McLean,
Acting Administrator,
Rural Utilities Service.

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