

**§ 1780.42 Transfer of obligations.**

An obligation of funds established for an applicant may be transferred to a different (substituted) applicant provided:

(a) The substituted applicant is eligible and has the authority to receive the assistance approved for the original applicant; and

(b) The need, purpose(s) and scope of the project for which RUS funds will be used remain substantially unchanged.

**§ 1780.43 [Reserved]****§ 1780.44 Actions prior to loan or grant closing or start of construction, whichever occurs first.**

(a) Applicants must provide evidence of adequate insurance and fidelity or employee dishonesty bond coverage.

(b) *Verification of users and other funds.* In connection with a project that involves new users and will be secured by a pledge of user fees or revenues, the processing office will authenticate the number of users. Ordinarily each signed user agreement will be reviewed and checked for evidence of cash contributions. If during the review any indication is received that all signed users may not connect to the system, there will be such additional investigation made as deemed necessary to determine the number of users who will connect to the system.

(c) *Initial compliance review.* An initial compliance review should be completed under subpart E of part 1901 of this title.

(d) *Applicant contribution.* An applicant contributing funds toward the project cost shall deposit these funds in its project account before start of construction. Project costs paid with applicant funds prior to the required deposit time shall be appropriately accounted for.

(e) *Excess RUS loan and grant funds.* If there is a significant reduction in project cost, the applicant's funding needs will be reassessed. Decreases in RUS funds will be based on revised project costs and current number of users, however, other factors including RUS regulations used at the time of loan or grant approval will remain the same. Obligated loan or grant funds not needed to complete the proposed

project will be deobligated. Any reduction will be applied to grant funds first. In such cases, applicable forms, the letter of conditions, and other items will be revised.

(f) *Evidence of and disbursement of other funds.* Applicants expecting funds from other sources for use in completing projects being partially financed with RUS funds will present evidence of the commitment of these funds from such other sources. An agreement should be reached with all funding sources on how funds are to be disbursed before the start of construction. RUS funds will not be used to prefinance funds committed to the project from other sources.

(g) *Acquisition of land, easements, water rights, and existing facilities.* Applicants are responsible for acquisition of all property rights necessary for the project and will determine that prices paid are reasonable and fair. RUS may require an appraisal by an independent appraiser or Agency employee.

(1) *Rights-of-way and easements.* Applicants will obtain valid, continuous and adequate rights-of-way and easements needed for the construction, operation, and maintenance of the facility.

(i) The applicant must provide a legal opinion relative to the title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. When a site is for major structures such as a reservoir or pumping station and the applicant is able to obtain only a right-of-way or easement on such a site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing ownership of the land and all mortgages or other lien defects, restrictions, or encumbrances, if any.

(ii) For user connections funded by RUS, applicants will obtain adequate rights to construct and maintain the connection line or other facilities located on the user's property. This right may be obtained through formal easement or user agreements.

(2) *Title for land or existing facilities.* Title to land essential to the successful operation of facilities or title to facilities being purchased, must not contain