

needed to complete a project in addition to RUS loan and/or grant funds, prior to the first advance of RUS funds.

(h) Feasibility studies and/or technical assistance funded with grants under §1703.18 (b) and (c) must be performed by entities which are independent of the Borrower and qualified to provide such services. The project owner, if deemed qualified in accordance with this paragraph, may furnish a feasibility study under §1703.18(b). Entities furnishing technical assistance under §1703.18(c), must be independent of the project owner. To be deemed qualified, entities providing feasibility studies and/or technical assistance must:

(1) Provide sufficient documentation evidencing their proven ability, background and experience to furnish such services; and

(2) Provide sufficient documentation evidencing their legal authority and capacity to furnish such services.

[59 FR 11706, Mar. 14, 1994]

**§1703.20 Ineligible uses of zero-interest loans and grants.**

(a) Zero-interest loans and grants must not be used:

(1) To fund or assist projects of which any director, officer, general manager or significant stockholder of the Borrower, or close relative thereof, is an owner, stockholder, partner or director, or which would, in the judgment of the Administrator, create a conflict of interest or the appearance of a conflict of interest. The Borrower must disclose to the Administrator information regarding any conflict of interest, potential conflict of interest or any appearance of a conflict of interest. The Administrator will determine whether there is a conflict of interest or whether any potential conflict of interest or appearance of a conflict of interest may adversely affect RUS's interests. A Borrower organized as, or consisting of a cooperative, widely held mutual corporation, tribal government, municipal power corporation, public power district, or a similar widely held organization would ordinarily be able to have an ownership interest in or manage a project operated on either a for-profit or non-profit basis. A Borrower organized as a closely held, for-profit

corporation with more than 5 percent of its stock held by one legal person, its subsidiary or an affiliate, would ordinarily be able to own or manage a project operated on a non-profit basis only;

(2) For any costs incurred on the project:

(i) Prior to receipt of the Borrower's completed application by RUS during an application period unless the Administrator has specifically approved such usage in writing; or

(ii) For site development, the destruction or alteration of buildings, or other activities that would adversely affect the environment or limit the choice of reasonable alternatives prior to satisfying the requirements of §1703.32;

(3) By the Borrower to purchase or lease any real property, materials, equipment, or services from its subsidiary, an affiliate, or significant stockholders, officers, managers or directors of the Borrower, or close relatives thereof, where the purchase or lease has not been fully disclosed to the Administrator and received the Administrator's prior written approval;

(4) By the recipient of a pass-through-loan or pass-through-grant to purchase or lease any real property, materials, equipment, or services from the Borrower, its subsidiary, an affiliate of the Borrower, or significant stockholders, officers, managers or directors of the Borrower, or close relatives thereof, where the purchase or lease has not been fully disclosed to the Administrator and received the Administrator's prior written approval;

(5) To pay off or refinance existing indebtedness incurred prior to receipt of the Borrower's completed application by RUS or for refinancing or repaying a loan made under the Act or a program administered by the Administrator;

(6) For any electric or telephone purpose, as determined by the Administrator;

(7) For the Borrower's electric or telephone operations or for any operations affiliated with the Borrower unless the Administrator has specifically informed the Borrower in writing that the operations are part of the approved purposes;

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(8) To pay the salaries of any employee or owner of the Borrower, its subsidiaries, or affiliates. This restriction does not prohibit the use of loan or grant funds for printing and similar costs for project feasibility studies it has prepared, commissioned or purchased if specifically approved by the Administrator. This restriction is subject to the operating expense allowance for revolving loan funds set forth in §1703.22 (a)(6);

(9) To fund feasibility studies and technical assistance as set forth in §1703.18 independently of projects which are funded under the zero-interest loan and grant program;

(10) For community antenna television systems or facilities except as provided in §1703.17(d) of this subpart;

(11) For proposed projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*); or

(12) For anything other than an approved purpose.

(b) [Reserved]

[59 FR 11707, Mar. 14, 1994, as amended at 59 FR 53930, Oct. 27, 1994]

### § 1703.21 Limitations on the use of zero-interest loan and grant funds.

(a) A borrower may not charge interest for the use of the proceeds of the zero-interest loan provided under this program; however, it may charge reasonable loan servicing charges, reasonable legal fees involved in providing the RUS funds to the recipient, and the amount paid for an irrevocable letter of credit made payable to RUS and issued on behalf of the borrower that guarantees repayment of an RUS zero-interest loan, all as determined by the Administrator. A borrower may require the recipient of a pass-through-loan to provide and/or obtain adequate security for the zero-interest loan funds.

(b) A borrower must calculate any costs to charge in connection with the use of grant funds under this program for the project and must temporarily deposit the grant funds in accordance with 7 CFR parts 3015, Uniform Federal Assistance Regulations, and 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, as appropriate. Grant funds will be dis-

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bursed to the Borrower in accordance with §1703.61(b).

(c) A borrower may not make a profit from any zero-interest loan or grant provided from the subaccount, with the exception of the \$500 interest income exclusion in paragraph (d) of this section.

(d) The Borrower may not requisition zero-interest loan funds unless those funds are deposited into the Borrower's RUS construction fund trustee account. The Borrower will be required to set up a separate Federally insured account called the Rural Economic Development Account, if loan funds are not expected to be disbursed within two months after receipt from RUS. All interest earned on temporarily deposited zero-interest loan funds in excess of \$500 per 12-month period must be used for approved purposes or returned to RUS. Interest earned in excess of \$500 per 12 month period and returned to RUS will not be used to reduce the Borrower's principal indebtedness. Grant funds will be disbursed by RUS in accordance with 7 CFR parts 3015 and 3016, and §1703.61(b).

(e) The borrower may not condition the receipt of the proceeds of a zero-interest loan or grant under this subpart with the requirement that the recipient take electric or telephone service from the borrower.

[57 FR 44317, Sept. 25, 1992, as amended at 59 FR 11708, Mar. 14, 1994]

### § 1703.22 Revolving loan program.

Grant funds under this section will be provided only to RUS Borrowers on a non pass-through basis. RUS Borrowers will, in turn, provide loans to foster rural economic development in accordance with this subpart and the specific requirements of this section.

(a) *General.* Grant funds disbursed to RUS Borrowers to establish revolving loan programs under this section are subject to the following requirements:

(1) The uses, restrictions and limitations for zero-interest loans set forth in §§1703.17, 1703.20 and 1703.21 respectively;

(2) Loans made by RUS Borrowers initially lending grant funds disbursed by RUS are limited to types of projects specified in §1703.18 (d), (e), (f), (g) and