

§ 1780.45

7 CFR Ch. XVII (1-1-03 Edition)

the advice and counsel of OGC, as necessary.

(h) *Obtaining loan closing instructions.* The information required by OGC will be transmitted to OGC with request for closing instructions. Upon receipt of closing instructions, the processing office will discuss with the applicant and its engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing. State program officials have the option to work with OGC to obtain waivers for closing instructions in certain cases. Closing instructions are not required for grants.

§ 1780.45 Loan and grant closing and delivery of funds.

(a) *Loan closing.* Notes and bonds will be completed on the date of loan closing except for the entry of subsequent RUS multiple advances where applicable. The amount of each note will be in multiples of not less than \$100. The amount of each bond will ordinarily be in multiples of not less than \$1,000.

(1) Form RD 440-22, "Promissory Note (Association or Organization)," will ordinarily be used for loans to non-public bodies.

(2) RUS Bulletins 1780-27, "Loan Resolution (Public Bodies)," or 1780-28, "Loan Resolution Security Agreement," will be adopted by public and other-than-public bodies. These resolutions supplement other provisions in this part.

(3) Subpart D of this part contains instructions for preparation of notes and bonds evidencing indebtedness of public bodies.

(b) *Loan disbursement.* (1) Multiple advances. Multiple advances will be used only for loans in excess of \$100,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30-day period.

(i) Subpart D of this part contains instructions for making multiple advances to public bodies.

(ii) Advances will be requested by the borrower in writing. The request should be in sufficient amounts to pay cost of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The borrower may use Form RD 440-11, "Estimate of

Funds Needed for 30 Day Period Commencing XXX," to show the amount of funds needed during the 30-day period.

(2) RUS loan funds obligated for a specific purpose, such as the paying of interest, but not needed at the time of loan closing will remain in the Finance Office until needed unless State statutes require all funds to be delivered to the borrower at the time of closing. Loan funds may be advanced to prepay costs under § 1780.9 (e)(2)(iv). If all funds must be delivered to the borrower at the time of closing to comply with State statutes, funds not needed at loan closing will be handled as follows:

(i) Deposited in an appropriate borrower account, such as debt service or construction accounts; or

(ii) Deposited in a joint bank account under paragraph (e)(3) of this section.

(c) *Grant closing.* RUS Bulletin 1780-12 "Water or Waste System Grant Agreement" of this part will be completed and executed in accordance with the requirements of grant approval. The grant will be considered closed when RUS Bulletin 1780-12 has been properly executed. Processing or approval officials are authorized to sign the grant agreement on behalf of RUS. For grants that supplement RUS loan funds, the grant should be closed simultaneously with the closing of the loan. However, when grant funds will be disbursed before loan closing, as provided in paragraph (d)(1) of this section, the grant will be closed not later than the delivery date of the first advance of grant funds.

(d) *Grant disbursements.* RUS policy is not to disburse grant funds from the Treasury until they are actually needed by the applicant. Applicant funds will be disbursed before the disbursal of any RUS grant funds. RUS loan funds will be disbursed before the disbursal of any RUS grant funds except when:

(1) Interim financing of the total estimated amount of loan funds needed during construction is arranged; and

(2) All interim funds have been disbursed; and

(3) RUS grant funds are needed before the RUS loan can be closed.

(e) *Use and accountability of funds.* (1) Arrangements will be agreed upon for the prior concurrence by the Agency of

the bills or vouchers upon which warrants will be drawn. Form RD 402-2, "Statement of Deposits and Withdrawals," or similar form will be used by the Agency to monitor funds. Periodic reviews of these accounts shall be made by the Agency.

(2) *Pledge of collateral for grants to nonprofit organizations.* Grant funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. Also, if the balance in the account containing grant funds exceeds the FDIC insurance coverage, the excess amount must be collaterally secured. The pledge of collateral for the excess will be in accordance with Treasury Circular 176.

(3) *Joint RUS/borrower bank account.* RUS funds and any funds furnished by the borrower including contributions to purchase major items of equipment, machinery, and furnishings will be deposited in a joint RUS/borrower bank account if determined necessary by the approval official. When RUS has a Memorandum of Understanding with another agency that provides for the use of joint RUS/borrower accounts, or when RUS is the primary source of funds for a project and has determined that the use of a joint RUS/borrower bank account is necessary, project funds from other sources may also be deposited in the joint bank account. RUS shall not be accountable to the source of the other funds nor shall RUS undertake responsibility to administer the funding program of the other entity. Joint RUS/borrower bank accounts should not be used for funds advanced by an interim lender. When funds exceed the FDIC insurance coverage, the excess must have a pledge of collateral in accordance with Treasury Circular 176.

(4) *Payment for project costs.* Project costs will be monitored by the RUS processing office. Invoices will be approved by the borrower and their engineer, as appropriate, and submitted to the processing office for concurrence. The review and acceptance of project costs, including construction pay estimates, by RUS does not attest to the correctness of the amounts, the quantities shown or that the work has been performed under the terms of the agreements or contracts.

(f) *Use of remaining funds.* Funds remaining after all costs incident to the basic project have been paid or provided for will not include applicant contributions. Funds remaining, may be considered in direct proportion to the amounts obtained from each source. Remaining funds will be handled as follows:

(1) Remaining funds may be used for eligible loan or grant purposes, provided the use will not result in major changes to the facility(s) and the purpose of the loan and grant remains the same;

(2) RUS loan funds that are not needed will be applied as an extra payment on the RUS indebtedness unless other disposition is required by the bond ordinance, resolution, or State statute; and

(3) Grant funds not expended under paragraph (f)(1) of this section will be canceled. Prior to the actual cancellation, the borrower, its attorney and its engineer will be notified of RUS's intent to cancel the remaining funds. The applicant will be given appropriate appeal rights.

(g) *Post review of loan closing.* In order to determine that the loan has been properly closed the loan docket will be reviewed by OGC. The State program official has the option to consult with OGC to obtain waivers of this review.

[62 FR 33478, June 19, 1997, as amended at 64 FR 29946, June 4, 1999]

§ 1780.46 [Reserved]

§ 1780.47 Borrower accounting methods, management reporting and audits.

(a) Borrowers are required to provide RUS an annual audit or financial statements.

(b) *Method of accounting and preparation of financial statements.* Annual organization-wide financial statements must be prepared on the accrual basis of accounting, in accordance with generally accepted accounting principles (GAAP), unless State statutes or regulatory agencies provide otherwise, or an exception is granted by the Agency. An organization may maintain its accounting records on a basis other than