

to the number of communities with a population of 2,500 inhabitants or less in all states, territories, and insular possessions. Population will be based upon the Bureau of the Census' latest decennial census.

(b) To be considered eligible for funding from the State reserve during the fiscal year, an application, determined by RUS to be complete, must be postmarked no later than January 31 of the fiscal year.

(c) On April 1 of each fiscal year, RUS will return all unobligated amounts in each state's reserve to the national reserve and will make the national reserve available to eligible entities in any state.

(d) To be considered eligible for funding from the national reserve during the current fiscal year, a completed application, satisfactory to RUS, must be postmarked no later than July 31 of the fiscal year.

(e) Completed applications that are economically and technically feasible, as determined by RUS, will be considered for funding in accordance with the priority requirements set forth in §1738.15 of this part.

§1738.14 One-time priority for unfunded applications from the broadband pilot program.

(a) Each application that was submitted and remains unfunded from the broadband pilot program will be given a one-time priority for funding for a loan under this part.

(b) Each applicant will be given 30 days from the date of publication of this part in the FEDERAL REGISTER to resubmit a completed application in accordance with the provisions of this part.

(c) Completed applications submitted within the 30-day time-frame will be considered for financing:

(1) First, where broadband service is not available to residential customers, as set forth in §1738.11 of this part.

(i) Completed applications will be funded on a first-in, first-out basis, as long as funds remain available in the applicable state's reserve.

(ii) When the state reserve is not adequate to fund the next completed application on a first-in, first-out basis, RUS will consider subsequent com-

pleted applications for that state for funding on a first-in, first-out basis. All unfunded, completed applications will be carried forward for consideration for funding from the national reserve.

(2) Second, where broadband service is available to residential customers:

(i) On January 1, 2003, after all new applications submitted under this part proposing to provide service where none is available have been considered under §1738.15(b) of this part, all completed applications will be considered for funding on a first-in, first-out basis, as long as funds remain available in the applicable state's reserve.

(ii) When the state reserve is not adequate to fund the next completed application on a first-in, first-out basis, RUS will consider subsequent completed applications for that state for funding on a first-in, first-out basis. All unfunded, completed applications will be carried forward for consideration for funding from the national reserve.

§1738.15 Priorities.

Subject to the one-time priority set forth in §1738.14 of this part, in making loans under this part, priority will be given to eligible entities submitting completed applications for the construction, improvement, or acquisition of facilities and equipment for broadband service in eligible rural communities as follows:

(a) As of October 1 of the fiscal year, completed applications remaining unfunded from the previous fiscal year where broadband service is not available to residential customers, as set forth in §1738.11(b)(1) of this part, will be considered for funding on a first-in, first-out basis, as long as funds remain available in the applicable state's reserve. When the state reserve is not adequate to fund the next completed application on a first-in, first-out basis, RUS will consider subsequent completed applications for that state for funding on a first-in, first-out basis. All unfunded, completed applications will be carried forward for consideration for funding from the national reserve.

(b) New completed applications proposing to provide service where none is

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available to residential customers, as set forth in § 1738.11 of this part, will be considered for funding, from the state reserve prior to April 1 and the national reserve after April 1, on a first-in, first-out basis, as long as funds remain available. As applications are processed using the first-in, first-out process, RUS may expedite for consideration for funding applications proposing to provide service where none is available, as set forth in § 1738.11(b)(1). When funds are not adequate to fund the next completed application on a first-in, first-out basis, RUS will consider subsequent completed applications for funding on a first-in, first-out basis.

(c) On January 1, March 30, April 1, July 1 and September 30 of the fiscal year, all unfunded, completed applications on hand will be prioritized and considered for funding, from the state reserve prior to April 1 and the national reserve after April 1, as follows:

(1) First, where broadband service is not available to residential customers, as set forth in § 1738.11(b)(1) of this part, on a first-in, first-out basis, as long as funds remain available.

(2) Second, where broadband service is not available to residential customers, as set forth in § 1738.11(b)(2) and (3) of this part, on a first-in, first-out basis, as long as funds remain available.

(3) Third, where broadband service is available to residential customers, on a first-in, first-out basis, so long as funds remain available.

§ 1738.16 Eligible entities.

(a) RUS makes broadband loans to legally organized entities providing, or proposing to provide, broadband services in eligible rural communities.

(1) Types of eligible entities include cooperative, nonprofit, limited dividend or mutual associations, limited liability companies, commercial organizations and Indian tribes and tribal organizations as defined in 25 U.S.C. 450b (b) and (c). Individuals or partnerships of individuals are not eligible entities.

(2) An entity is not eligible if it serves more than 2 percent of the telephone subscriber lines installed in the United States.

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(3) To be eligible, an entity must have sufficient authority to enter into a contract with RUS and to carry out the purposes of the proposed loan.

(b) A State or local government, including any agency, subdivision, or instrumentality thereof (including consortia thereof) shall be eligible for a broadband loan only if, not later than April 30, 2003, no other eligible entity is already offering or has committed to offer broadband services to the eligible rural community. RUS will determine whether the commitment is sufficient for purposes of this paragraph.

§ 1738.17 Civil rights.

Applicants are required to comply with certain regulations on non-discrimination and equal employment opportunity. See RUS Bulletin 1790-1, “Nondiscrimination Among Beneficiaries of RUS Programs” and RUS Bulletin 20-15:320-15, “Equal Employment Opportunity in Construction Financed with RUS Loans”; 7 CFR parts 15 and 15b and 45 CFR part 90.

§ 1738.18 Minimum and maximum loan amount.

Recognizing plant costs, the applicant’s cost of system design, and RUS’ administrative costs, RUS will not consider applications for loans or loan guarantees of less than \$100,000. Maximum loan amounts apply only to an applicant for a direct 4-percent broadband loan, as provided for in § 1738.30(b)(2) of this part.

§ 1738.19 Facilities financed.

(a) RUS makes broadband loans to finance the construction, improvement, and acquisition of facilities and equipment to provide broadband service in eligible rural communities.

(b) RUS makes broadband loans to finance broadband facilities leased under the terms of a capital lease as defined in generally accepted accounting principles. RUS will not make a broadband loan to finance facilities leased under the terms of an operating lease as defined in generally accepted accounting principles.