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(d) Funds allocated in accordance with this part will be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have an equal opportunity to participate in this program.

(e) Federal statutes provide for extending the Agency's financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the participant possesses the capacity to enter into legal contracts).

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§ 1777.3 Objective.

The objective of the Section 306C WWD Loans and Grants program is to provide water and waste disposal facilities and services to low-income rural communities whose residents face significant health risks.

§ 1777.4 Definitions.

Applicant. Entity that receives the Agency loan or grant under this part. The entities can be public bodies such as municipalities, counties, districts, authorities, or other political subdivisions of a State, and organizations operated on a not-for-profit basis such as associations, cooperatives, private corporations, or Indian tribes on Federal and State reservations, and other Federally recognized Indian tribes.

Colonia. Any identifiable community designated in writing by the State or county in which it is located; determined to be a colonia on the basis of objective criteria including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing, inadequate roads and drainage; and existed and was generally recognized as a colonia before October 1, 1989.

Cooperative. A cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

Individual. Recipient of a loan or grant through the applicant to facili-

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tate use of the applicant's water and/or waste disposal system.

Rural areas. Includes unincorporated areas and any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States. They can be located in any of the 50 States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

Statewide Nonmetropolitan Median Household Income (SNMHI). Median household income of the State's nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

[62 FR 33473, June 19, 1997, as amended at 69 FR 65519, Nov. 15, 2004]

§§ 1777.5-1777.10 [Reserved]

§ 1777.11 Making, processing, and servicing loans and grants.

Unless specifically modified by this part, loans and/or grants will be made, processed, and serviced in accordance with part 1780 of this chapter.

§ 1777.12 Eligibility.

(a) The provisions of paragraphs (a) (1) and (2) of this section do not apply to a rural area recognized as a colonia. Otherwise, the facility financed under this part must provide water and/or waste disposal services to rural areas of a county where, on the date preapplication is received by the Agency, the:

(1) Per capita income of the residents is not more than 70 percent of the most recent national average per capita income, as determined by the Department of Commerce; and

(2) Unemployment rate of the residents is not less than 125 percent of the most recent national average unemployment rate, as determined by the Bureau of Labor Statistics.

(b) Residents of the rural area to be served must face significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable, water and/or waste disposal systems. The file

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should contain documentation to support this determination.

§ 1777.13 Project priority.

Paragraphs (a) through (d) of this section indicate items and conditions which must be considered in selecting preapplications for further development. When ranking eligible preapplications for consideration for limited funds, Agency officials must consider the priority items met by each preapplication and the degree to which those priorities are met.

(a) *Preapplications.* The preapplication and supporting information submitted with it will be used to determine applicant eligibility and the proposed project's priority for available funds. Applicants determined ineligible will be advised of their appeal rights in accordance with 7 CFR part 11.

(b) *State Office review.* All preapplications will be reviewed and scored for funding priority at each State Office using RUS Bulletin 1777-2. Funds will be requested from the National Office, Attention: Water and Waste Processing, using RUS Bulletin 1777-3. Eligible applicants that cannot be funded should be advised that funds are not available and advised of their appeal rights as set forth in 7 CFR part 11.

(c) *National Office.* The National Office will allocate funds on a project-by-project basis as requests are received. If the amount of funds requested exceeds the amount of funds available, the total project score will be used to select projects for funding. The RUS Administrator may assign up to 35 additional points that will be considered in the total points for items such as geographic distribution of funds, severity of health risks, etc.

(d) *Selection priorities.* The priorities described below will be used to rate preapplications and in selecting projects for funding. Points will be distributed as indicated in paragraphs (d)(1) through (d)(5) of this section and will be used in selecting projects for funding. A copy of RUS Bulletin 1777-2, used to rate applications, should be placed in the case file for future reference.

(1) *Population.* The proposed project will serve an area with a rural population:

- (i) Not in excess of 1,500—30 points.
- (ii) More than 1,500 and not in excess of 3,000—20 points.
- (iii) More than 3,000 and not in excess of 5,500—10 points.

(2) *Income.* The median household income of population to be served by the proposed project is:

- (i) Not in excess of 50 percent of the statewide nonmetropolitan median household income—40 points.
- (ii) More than 50 percent and not in excess of 60 percent of the statewide nonmetropolitan median household income—20 points.
- (iii) More than 60 percent and not in excess of 70 percent of the statewide nonmetropolitan median household income—10 points.

(3) *Joint financing.* The amount of joint financing committed to the proposed project is:

- (i) Twenty percent or more private, local, or State funds except Federal funds channeled through a State agency—10 points.
- (ii) Five to 19 percent private, local, or State funds except Federal funds channeled through a State agency—5 points.

(4) *Colonia.* (See definition in § 1777.4). The proposed project will provide water and/or waste disposal services to the residents of a colonia—50 points.

(5) *Discretionary.* In certain cases, the State Program Official may assign up to 15 points for items such as natural disaster, to improve compatibility/coordination between the Agency's and other agencies' selection systems, to assist those projects that are the most cost effective, high unemployment rate, severity of health risks, etc. A written justification must be prepared and attached to RUS Bulletin 1777-2 each time these points are assigned.

§§ 1777.14–1777.20 [Reserved]

§ 1777.21 Use of funds.

- (a) *Applicant.* Funds may be used to:
- (1) Construct, enlarge, extend, or otherwise improve community water and/or waste disposal systems. Otherwise