

Rural Utilities Service, USDA

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population to be served by the proposed project is:

(1) Less than the poverty line if the poverty line is less than 80% of the statewide nonmetropolitan median household income—30 points;

(2) Less than 80 percent of the statewide nonmetropolitan median household income—20 points;

(3) Equal to or more than the poverty line and between 80% and 100%, inclusive, of the State's nonmetropolitan median household income—15 points.

(d) *Other priorities.* (1) The proposed project will: merge ownership, management, and operation of smaller facilities providing for more efficient management and economical service—15 points;

(2) The proposed project will enlarge, extend, or otherwise modify existing facilities to provide service to additional rural areas—10 points;

(3) Applicant is a public body or Indian tribe—5 points;

(4) Amount of other than RUS funds committed to the project is:

(i) 50% or more—15 points;

(ii) 20% to 49%—10 points;

(iii) 5%—19%—5 points;

(5) Projects that will serve Agency identified target areas—10 points;

(6) Projects that primarily recycle solid waste products thereby limiting the need for solid waste disposal—5 points;

(7) The proposed project will serve an area that has an unreliable quality or supply of drinking water—10 points.

(e) In certain cases the State program official may assign up to 15 points to a project. The points may be awarded to projects in order to improve compatibility and coordination between RUS's and other agencies' selection systems, to ensure effective RUS fund utilization, and to assist those projects that are the most cost effective. A written justification must be prepared and placed in the project file each time these points are assigned.

(f) *Cost overruns.* An application may receive consideration for funding before others at the State or National Office level when it is a subsequent request for a previously approved project which has encountered construction cost overruns. The cost overruns must be due to high bids or unexpected con-

struction problems that cannot be reduced by negotiations, redesign, use of bid alternatives, rebidding or other means. Cost overruns exceeding 20% of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will not be considered under this paragraph.

(g) *National office priorities.* In selecting projects for funding at the National Office level State program official points may or may not be considered. The Administrator may assign up to 15 additional points to account for items such as geographic distribution of funds, the highest priority projects within a state, and emergency conditions caused by economic problems or natural disasters. The Administrator may delegate the authority to assign the 15 points to appropriate National Office staff.

§ 1780.18 Allocation of program funds.

(a) *General.* (1) The purpose of this part is to set forth the methodology and formulas by which the Administrator of the RUS allocates program funds to the States. (The term "State" means any of the States of the United States, the Commonwealth of Puerto Rico, any territory or possession of the United States, or the Western Pacific Areas.)

(2) The formulas in this part are used to allocate program loan and grant funds to Rural Development State offices so that the overall mission of the Agency can be carried out. Considerations used when developing the formulas include enabling legislation, congressional direction, and administration policies. Allocation formulas ensure that program resources are available on an equal basis to all eligible individuals and organizations.

(3) The actual amounts of funds, as computed by the methodology and formulas contained herein, allocated to a State for a funding period, are distributed to each State office. The allocated amounts are available for review in any Rural Development State office.

(b) *Definitions.*—(1) *Amount available for allocations.* Funds appropriated or otherwise made available to the Agency for use in authorized programs. On occasion, the allocation of funds to

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States may not be practical for a particular program due to funding or administrative constraints. In these cases, funds will be controlled by the National Office.

(2) *Basic formula criteria, data source and weight.* Basic formulas are used to calculate a basic State factor as a part of the methodology for allocating funds to the States. The formulas take a number of criteria that reflect the funding needs for a particular program and through a normalization and weighting process for each of the criteria calculate the basic State factor (SF). The data sources used for each criteria are believed to be the most current and reliable information that adequately quantifies the criterion. The weight, expressed as a percentage, gives a relative value to the importance of each of the criteria.

(3) *Basic formula allocation.* The result of multiplying the amount available for allocation less the total of any amounts held in reserve or distributed

by base or administrative allocation times the basic State factor for each State. The basic formula allocation (BFA) for an individual State is equal to:

$$BFA = (\text{Amount available for allocation} - \text{NO reserve} - \text{total base and administrative allocations}) \times SF.$$

(4) *Transition formula.* (i) A formula based on a proportional amount of previous year allocation used to maintain program continuity by preventing large fluctuations in individual State allocations. The transition formula limits allocation shifts to any particular State in the event of changes from year to year of the basic formula, the basic criteria, or the weights given the criteria. The transition formula first checks whether the current year's basic formula allocation is within the transition range (plus or minus 20 percentage points of the proportional amount of the previous year's BFA). The formula follows:

$$\text{Transition Range} = 1.0 + \frac{\text{maximum 20\%}}{100} \times \frac{(\text{Amount available for allocation this year} \times \text{State previous year BFA})}{(\text{Amount available for allocation previous year})}$$

(ii) If the current year's State BFA is not within the transition range in paragraph (b)(4)(i) of this section, the State formula allocation is changed to the amount of the transition range limit closest to the BFA amount. After having performed this transition adjustment for each State, the sum of the funds allocated to all States will differ from the amount of funds available for BFA. This difference, whether a positive or negative amount, is distributed to all States receiving a formula allocation by multiplying the difference by the SF. The end result is the transition formula allocation. The transition range will not exceed 40% (plus or minus 20%), but when a smaller range is used it will be stated in the individual program section.

(5) *Base allocation.* An amount that may be allocated to each State dependent upon the particular program to provide the opportunity for funding at least one typical loan or grant in each Rural Development State office. The

amount of the base allocation may be determined by criteria other than that used in the basic formula allocation such as Agency historic data.

(6) *Administrative allocations.* Allocations made by the Administrator in cases where basic formula criteria information is not available. This form of allocation may be used when the Administrator determines the program objectives cannot be adequately met with a formula allocation.

(7) *Reserve.* An amount retained under the National Office control for each loan and grant program to provide flexibility in meeting situations of unexpected or justifiable need occurring during the fiscal year. The Administrator may make distributions from this reserve to any State when it is determined necessary to meet a program need or Agency objective. The Administrator may retain additional amounts to fund authorized demonstration programs.

(8) *Pooling of funds.* A technique used to ensure that available funds are used in an effective, timely and efficient manner. At the time of pooling those funds within a State's allocation for the fiscal year or portion of the fiscal year, depending on the type of pooling, that have not been obligated by the State are placed in the National Office reserve. The Administrator will establish the pooling dates for each affected program.

(i) *Mid-year:* Mid-year pooling occurs near the midpoint of the fiscal year.

(ii) *Year-end:* Year-end pooling usually occurs near the first of August.

(iii) *Emergency:* The Administrator may pool funds at any time that it is determined the conditions upon the initial allocation was based have changed to such a degree that it is necessary to pool funds in order to efficiently carry out the Agency mission.

(9) *Availability of the allocation.* Program funds are made available to the Agency on a quarterly basis.

(10) *Suballocation by the Rural Development State Director.* The State Director may be directed or given the option of suballocating the State allocation to processing offices. When suballocating the State Director may retain a portion of the funds in a State office reserve to provide flexibility in situations of unexpected or justified need. When performing a suballocation the State Director will use the same formula, criteria and weights as used by the National Office.

(c) *Water and waste disposal loans and grants—(1) Amount available for allocations.* See paragraph (b)(1) of this section.

(2) *Basic formula criteria, data source and weight.* See paragraph (b)(2) of this section.

(i) The criteria used in the basic formula are:

(A) State's percentage of national rural population will be 50 percent.

(B) State's percentage of national rural population with incomes below the poverty level will be 25 percent.

(C) State's percentage of national nonmetropolitan unemployment will be 25 percent.

(ii) Data source for each of these criterion is based on the latest census data available. Each criterion is as-

signed a specific weight according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at a State factor (SF). The SF cannot exceed .05, as follows:

$$SF = (\text{criterion in paragraph (b)(1)(i) of this section} \times 50 \text{ percent}) + (\text{criterion in paragraph (b)(1)(ii) of this section} \times 25 \text{ percent}) + (\text{criterion in paragraph (b)(1)(iii) of this section} \times 25 \text{ percent})$$

(3) *Basic formula allocation.* See paragraph (b)(3) of this section. States receiving administrative allocations do not receive formula allocations.

(4) *Transition formula.* See paragraph (b)(4) of this section. The percentage range for the transition formula equals 30 percent (plus or minus 15%).

(5) *Base allocation.* See paragraph (b)(5) of this section. States receiving administrative allocations do not receive base allocations.

(6) *Administrative allocation.* See paragraph (b)(6) of this section. States participating in the formula and base allocation procedures do not receive administrative allocations.

(7) *Reserve.* See paragraph (b)(7) of this section. Any State may request reserve funds by forwarding a request to the National Office. Generally, a request for additional funds will not be honored unless the State has insufficient funds to obligate the loan requested.

(8) *Pooling of funds.* See paragraph (b)(8) of this section. Funds are generally pooled at mid-year and year-end. Pooled funds will be placed in the National Office reserve and will be made available administratively.

(9) *Availability of the allocation.* See paragraph (b)(9) of this section. The allocation of funds is made available for States to obligate on an annual basis although the Office of Management and Budget apportions it to the Agency on a quarterly basis.

(10) *Suballocation by the State Director.* See paragraph (b)(10) of this section. The State Director has the option to suballocate funds to processing offices.

§ 1780.19 Public information.

(a) *Public notice of intent to file an application with the Agency.* Within 60 days of filing an application with the