

Rural Utilities Service, USDA

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amounts not to exceed the amount needed during 30-day periods.

§ 1780.90 Multiple advances of Agency funds using temporary debt instruments.

When none of the instruments described in §1780.87 are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advances of Agency funds and will be for the full amount of the Agency loan. The instrument will be prepared by bond counsel, or local counsel if bond counsel is not involved, and approved by the State program official and OGC. At the same time the Agency delivers the last advance, the borrower will deliver the permanent bond instrument and the canceled temporary instrument will be returned to the borrower. The approved debt instrument will show at least the following:

- (a) The date from which each advance will bear interest;
- (b) The interest rate as determined by §1780.13;
- (c) A payment schedule providing for interest on outstanding principal at least annually; and
- (d) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instruments and no longer than the 40-year statutory limit.

§§ 1780.91-1780.93 [Reserved]

§ 1780.94 Minimum bond specifications.

The provisions of this section are minimum specifications only and must be followed to the extent legally permissible.

(a) *Type and denominations.* Bond resolutions or ordinances will provide that the instruments be either a bond representing the total amount of the indebtedness or serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than \$1,000). Single bonds may provide for repayment of principal plus interest or amortized installments. Amortized installments are preferred by the Agency.

(b) *Bond registration.* Bonds will contain provisions permitting registration

for both principal and interest. Bonds purchased by the Agency will be registered in the name of "United States of America" and will remain so registered at all times while the bonds are held or insured by the Government. The Agency address for registration purposes will be that of the Finance Office.

(c) *Size and quality.* Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(d) *Date of bond.* Bonds will normally be dated as of the day of delivery. However, the borrower may use another date if approved by the Agency. Loan closing is the date of delivery of the bonds or the date of delivery of the first bond when utilizing serial bonds, regardless of the date of delivery of the funds. The date of delivery will be stated in the bond if different from the date of the bond. In all cases, interest will accrue from the date of delivery of the funds.

(e) *Payment date.* Loan payments will be scheduled to coincide with income availability and be in accordance with State law.

(1) If income is available monthly, monthly payments are recommended unless precluded by State law. If income is available quarterly or otherwise more frequently than annually, payments must be scheduled on such basis. However, if State law only permits principal plus interest (P&I) type bonds, annual or semiannual payments will be used.

(2) The payment schedule will be enumerated in the evidence of debt, or if that is not feasible, in a supplemental agreement.

(3) If feasible, the first payment will be scheduled one full month, or other period, as appropriate, from the date of loan closing or any deferment period. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided. When principal payments are deferred, interest-only payments will be scheduled at least annually.

(f) *Extra payments.* Extra payments are derived from the sale of basic chattel or real estate security, refund of unused loan funds, cash proceeds of

property insurance and similar actions which reduce the value of basic security. At the option of the borrower, regular facility revenue may also be used as extra payments when regular payments are current. Unless otherwise established in the note or bond, extra payments will be applied as follows:

(1) For loans with amortized debt instruments, extra payments will be applied first to interest accrued to the date of receipt of the payment and second to principal.

(2) For loans with debt instruments with P&I installments, the extra payment will be applied to the final unpaid principal installment.

(3) For borrowers with more than one loan, the extra payment will be applied to the account secured by the lowest priority of lien on the property from which the extra payments was obtained. Any balance will be applied to other Agency loans secured by the property from which the extra payment was obtained.

(4) For assessment bonds, see paragraph (k) of this section.

(g) The place of payments on bonds purchased by the Agency will be determined by the Agency.

(h) *Redemptions.* Bonds will normally contain customary redemption provisions. However, no premium will be charged for early redemption on any bonds held by the Government.

(i) *Additional revenue bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless acceptable documentation is provided establishing that net revenues for the fiscal year following the year in which such bonds are to be issued will be at least 120 percent of the average annual debt serviced requirements on all bonds outstanding, including the newly-issued bonds. For purposes of this section, net revenues are, unless otherwise defined by State statute, gross revenues less essential operation and maintenance expenses. This limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then-outstanding principal indebtedness. Junior and subordinate bonds may be issued in accordance with the loan resolution.

(j) *Precautions.* The following types of provisions in debt instruments should be avoided:

(1) Provisions for the holder to manually post each payment to the instrument.

(2) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than the Agency, may post the date and amount of each advance or repayment on the instrument.

(3) Provisions that amend covenants contained in RUS Bulletins 1780-27 or 1780-28.

(4) Defeasance provisions in loan or bond resolutions. When a bond issue is defeased, a new issue is sold which supersedes the contractual provisions of the prior issue, including the refinancing requirement and any lien on revenues. Since defeasance in effect precludes the Agency from requiring refinancing before the final maturity date, it represents a violation of the statutory refinancing requirement; therefore, it is disallowed. No loan documents shall include a provision of defeasance.

(k) *Assessment bonds.* When security includes special assessment to be collected over the life of the loan, the instrument should address the method of applying any payments made before they are due. It may be desirable for such payments to be distributed over remaining payments due, rather than to be applied in accordance with normal procedures governing extra payments, so that the account does not become delinquent.

(1) *Multiple debt instruments.* The following will be adhered to when preparing debt instruments:

(1) When more than one loan type is used in financing a project, each type of loan will be evidenced by a separate debt instrument or series of debt instruments;

(2) Loans obligated in different fiscal years and those obligated with different terms in the same fiscal year will be evidenced by separate debt instruments;

(3) Loans obligated for the same loan type in the same fiscal year with the same term may be combined in the same debt instrument;

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(4) Loans obligated in the same fiscal year with different interest rates that will be closed at the same interest rate may be combined in the same debt instrument.

[62 FR 33478, June 19, 1997, as amended at 64 FR 29947, June 4, 1999]

§ 1780.95 Public bidding on bonds.

Bonds offered for public sale shall be offered in accordance with State law and in such a manner to encourage public bidding. The Agency will not submit a bid at the advertised sale unless required by State law, nor will reference to Agency's rates and terms be included. If no acceptable bid is received, the Agency will negotiate the purchase of the bonds.

§§ 1780.96–1780.100 [Reserved]

PART 1781—RESOURCE CONSERVATION AND DEVELOPMENT (RCD) LOANS AND WATERSHED (WS) LOANS AND ADVANCES

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- 1781.21 Borrower accounting methods, management, reporting, and audits.
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- 1781.24 State supplements and availability of bulletins, instructions, forms, and memorandums.

1781.25–1781.100 [Reserved]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

SOURCE: 62 FR 33500, June 19, 1997, unless otherwise noted.

§ 1781.1 Purpose.

This part prescribes the policies and procedures for making:

(a) Watershed (WS) loans and Watershed (WS) advances for works of improvement in a watershed project; and

(b) Resource Conservation and Development (RCD) loans for measures or projects needed to implement the RCD area plan to achieve objectives in an RCD area.

§ 1781.2 Policy.

(a) Rural Utilities Service (RUS), is an agency of the United States Department of Agriculture established pursuant to section 232 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178), successor to the Farmers's Home Administration. Natural Resources Conservation Service (NRCS), is an agency of the United States Department of Agriculture established pursuant to section 232 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178), successor to the Soil Conservation Service. RUS will make WS and RCD loans available to sponsoring local public bodies, agencies, and nonprofit organizations to assist them in obtaining the local cost of WS works of improvement and RCD measures. Any processing or servicing activity conducted pursuant to this part involving authorized assistance to RUS employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of Part 1900 of this title. Applicants for this assistance are required to identify any known relationship or association with an RUS employee. RUS will assist the local sponsors and the NRCS in making loans from NRCS construction funds as WS advances when needed for the development of future water supplies or for site preservation.

(b) Rural Development State and local offices will administer these programs on behalf of RUS and will coordinate application processing with