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(2) The Escrow Account from which payment is to be made;

(e) A requirement that the Final Invoice for a Task Order be clearly identified as such;

(f) A description of the services to be provided by the Consultant to RUS and the applicable time frames for the provision of such services;

(g) Agreement that the Borrower shall pay for the Consultant services provided to RUS under the applicable contract through an Escrow Account established pursuant to an Escrow Agreement, the Consultant shall not provide services to RUS under the applicable contract unless there are sufficient funds in the Escrow Account to pay for such services, the Consultant shall seek compensation for services provided under the applicable contract from, and only from, funds made available through the Escrow Account, and the Consultant must submit all Invoices to the government for approval.

(h) A form of Escrow Agreement satisfactory to the Borrower, Consultant and the designated Third-party Commercial Institution;

(i) A schedule setting forth when and in what amounts the Borrower shall fund the Escrow Account;

(j) Acknowledgment by the Consultant of the Indemnification Agreement provided by the Borrower to the government; and

(k) The Funding Agreement shall not be effective unless and until approved in writing by RUS.

§ 1789.167 Terms and conditions of escrow agreement.

Escrow Agreements between and among the Borrower, Consultant and Third-party Commercial Institution shall be in form and substance satisfactory to RUS and provide for, among other matters, the following:

(a) Specific reference by number to the applicable contract for services;

(b) Specific reference by number to the applicable Task Order;

(c) Specific reference by number to the Escrow Account into which funds are to be deposited;

(d) Invoices to specifically identify the applicable contract and Task Order(s);

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(e) Funds to be held in the Escrow Account by the escrow agent until paid to the Consultant pursuant to the government's authorization;

(f) The Escrow Account to be closed and all remaining funds remitted to the Borrower after payment of the Final Invoice, unless otherwise directed by the government;

(g) The government, the Consultant and the Borrower to have the right to be informed, in a timely manner and in such form as they may reasonably request, as to the status of and activity in the Escrow Account; and

(h) The Escrow Agreement shall not be effective unless and until approved in writing by RUS.

§§ 1789.168-1789.175 [Reserved]

PART 1792—COMPLIANCE WITH OTHER FEDERAL STATUTES, REGULATIONS, AND EXECUTIVE ORDERS

Subparts A-B [Reserved]

Subpart C—Seismic Safety of Federally Assisted New Building Construction

Sec.

1792.101 General.

1792.102 Definitions.

1792.103 Seismic design and construction standards for new buildings.

1792.104 Seismic acknowledgments.

AUTHORITY: 7 U.S.C. 901 et seq., 1921 et seq., 6941 et seq.; 42 U.S.C. 7701 et seq.; E.O. 12699 (3 CFR, 1990 Comp., p. 269).

SOURCE: 58 FR 32437, June 10, 1993, unless otherwise noted.

Subparts A-B [Reserved]

Subpart C—Seismic Safety of Federally Assisted New Building Construction

§ 1792.101 General.

(a) The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) was enacted to reduce risks to life and property through the establishment and maintenance of an effective earthquake hazards reduction program (the National Earthquake Hazards Reduction Program or NEHRP). The Federal Emergency Management Agency

(FEMA) is designated as the agency with the primary responsibilities to plan and coordinate the NEHRP. This program includes the development and implementation of feasible design and construction methods to make structures earthquake resistant. Executive Order 12699 of January 5, 1990, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (3 CFR, 1990 Comp., p. 269), requires that measures to assure seismic safety be imposed on federally assisted new building construction.

(b) This subpart identifies acceptable seismic standards which must be employed in new building construction funded by loans, grants, or guarantees made by the Rural Utilities Service (RUS) or the Rural Telephone Bank (RTB) (or through lien accommodations or subordinations approved by RUS or RTB).

[58 FR 32437, June 10, 1993, as amended at 65 FR 76916, Dec. 8, 2000]

§ 1792.102 Definitions.

As used in this subpart, the following terms have the following meaning:

Administrator—Administrator of RUS or the Governor of the Rural Telephone Bank or his or her designee.

Borrower—An entity which borrows or seeks to borrow money from, or arranges financing with the assistance of RUS through guarantees, lien accommodations or lien subordinations.

Building—Any structure, fully or partially enclosed, used or intended for sheltering persons or property.

Federally assisted—The provision of financing assistance by RUS through loans, loan guarantees, grants, and lien accommodations and subordinations.

Grant recipient—Any entity which receives a grant from RUS.

Lien accommodation—The consensual sharing of the government's (RUS's) lien on property or the release of government's lien on property.

Lien subordination—Agreement that the government's (RUS) lien on property will rank below the lien of another entity.

Model Code—A building code developed for the adoption of local or state authorities or to be used as the basis of a local or state building code.

NEHRP—National Earthquake Hazards Reduction Program.

Registered—A person licensed by the State(s) or Authority(ies) to perform architectural or engineering services in the State(s) where construction occurs.

RUS—Rural Utilities Service, and for the purposes of this subpart, shall include the Rural Telephone Bank. For the purposes of RTB borrowers, as used in this subpart, RUS means RTB and Administrator means Governor.

State—Each of the 50 States of the United States, the District of Columbia, and territories and possessions of the United States which are authorized to receive loans, loan guarantees, or grants from RUS.

[58 FR 32437, June 10, 1993, as amended at 59 FR 66440, Dec. 27, 1994; 65 FR 76916, Dec. 8, 2000; 69 FR 23642, Apr. 30, 2004]

§ 1792.103 Seismic design and construction standards for new buildings.

(a) In the design and construction of federally assisted buildings, the borrowers and grant recipients must utilize the seismic provisions of the most recent edition of those standards and practices that are substantially equivalent to or exceed the seismic safety level in the 2000 edition of the NEHRP Recommended Provisions for the Development of Seismic Regulation for New Buildings.

(b) Each of the following model codes or standards provides a level of seismic safety substantially equivalent to that provided by the 2000 NEHRP Recommended Provisions and are appropriate for federally assisted new building construction:

(1) *2003 NFPA 5000 Building Construction and Safety Code*. Copies of the book are available from the NFPA (National Fire Protection Association), 1 Batterymarch Park, Quincy, MA 02269-7471. Telephone: (617) 770-3000. Fax: (617) 770-0700.

(2) 2002 American Society of Civil Engineers (ASCE) 7, *Minimum Design Loads for Buildings and Other Structures*. Copies are available from the American Society of Civil Engineers, Publications Marketing Department, 1801 Alexander Bell Drive, Reston, VA 20191-4400. E-mail: marketing@asce.org. Telephone: (800) 548-2723. Fax: (703) 295-6211.

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(3) 2003 International Code Council (ICC) International Building Code (IBC). Copies of the book or CD-ROM are available from the International Conference of Building Officials, 4051 West Flossmoor Rd., Country Club Hill, IL 60478. Telephone: (800) 786-4452. Fax: (800) 214-7167.

(c) The NEHRP Recommended Provisions for the Development of Seismic Regulations for New Buildings is available from the Office of Earthquakes and Natural Hazards, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

[69 FR 23642, Apr. 30, 2004, as amended at 71 FR 60658, Oct. 16, 2006]

§ 1792.104 Seismic acknowledgments.

For each applicable building, borrowers and grant recipients must provide RUS a written acknowledgment from a registered architect or engineer responsible for the building design stating that seismic provisions pursuant to §1792.103 of this subpart will be used in the design of the building.

(a) For projects in which plans and specifications are required to be submitted to RUS, this acknowledgement shall be on the title page of the drawings included with the final plans and specifications. This acknowledgement will include the identification and date of the model code or standard that is used in the seismic design of the building project. The plans and specifications must be dated, signed, and sealed by the registered architect or engineer.

(b) For projects in which plans and specifications are not submitted, this acknowledgement shall be in the form of a statement from the architect or engineer responsible for the building design. The statement shall identify the model code or standard identified that is used in the seismic design of the building or buildings and, shall be dated and signed.

[69 FR 23642, Apr. 30, 2004]

PART 1794—ENVIRONMENTAL POLICIES AND PROCEDURES

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