

PART 1777 - SECTION 306C WWD LOANS AND GRANTS

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

PART 1777 - SECTION 306C WWD LOANS AND GRANTS

§1777.1 General{tc "1777.1 General "}

- (a) This part outlines Rural Utilities Service (RUS) policies and procedures for making Water and Waste Disposal (WWD) loans and grants authorized under Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(c)), as amended.
- (b) Agency officials will maintain liaison with officials of other Federal, State, regional, and local development agencies to coordinate related programs to achieve rural development objectives.
- (c) Agency officials shall cooperate with appropriate State agencies in making loans and/or grants that support State strategies for rural area development.
- (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).

§1777.2 [Reserved]{tc "1777.2 [Reserved]"}

§1777.3 Objective{tc "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{tc "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 facilitate 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.

§§1777.5 - 1777.10 [Reserved]{tc "1777.5 - 1777.10 [Reserved]"}

§1777.11 Making, processing, and servicing loans and grants{tc "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{tc "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 should contain documentation to support this determination.

§1777.13 Project priority{tc "1777.13 Project priority "}

Paragraphs (a) through (d) 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]{tc "1777.14 - 1777.20 [Reserved]"}

§1777.21 Use of funds{tc "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 improve would include extending service lines to and/or connecting residence's plumbing to the system.

(2) Make loans and grants to individuals for extending service lines to and/or connecting residences to the applicant's system. The approval official must determine that this is a practical and economical method of connecting individuals to the community water and/or waste disposal system. Loan funds can only be used for loans, and grant funds can only be used for grants.

(3) Make improvements to individual's residence when needed to allow use of the water and/or waste disposal system.

(4) Grants can be made up to 100 percent of eligible project costs.

(b) Individuals. Funds may be used to:

(1) Extend service lines to residence.

(2) Connect service lines to residence's plumbing.

(3) Pay reasonable charges or fees for connecting to a community water and/or waste disposal system.

(4) Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities. This is limited to one bathtub, sink, commode, kitchen sink, water heater, and outside spigot.

(5) Construction and/or partitioning off a portion of dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.

- (6) Pay reasonable costs for closing abandoned septic tanks and water wells when necessary to protect the health and safety of recipients of a grant in paragraphs (b)(1) or (b)(2) of this section and is required by local or State law.

§§1777.22 - 1777.30 [Reserved]{tc "1777.22 - 1777.30 [Reserved]"}

§1777.31 Rates{tc "1777.31 Rates "}

- (a) Applicant loans will bear interest at the rate of 5 percent per annum.
- (b) Individual loans will bear interest at the rate of:
 - (1) Five percent per annum; or
 - (2) The Federal Financing Bank rate for loans of a similar term at the time of Agency loan approval, whichever is less.

§§1777.32 - 1777.40 [Reserved]{tc "1777.32 - 1777.40 [Reserved]"}

§1777.41 Individual loans and grants{tc "1777.41 Individual loans and grants "}

- (a) The amount of loan and grant funds approved by the Agency will be based on the need shown in the application and an implementation plan submitted by the applicant. The implementation plan will include such things as: purpose, how funds will be used, proposed application process, construction requirements, control and disbursement of funds, etc. The implementation plan will be attached to RUS Bulletin 1777-1.
- (b) RUS Bulletin 1777-1 is a Memorandum of Agreement which sets forth the procedures and regulations for making and servicing loans and grants made by applicants to individuals. The State Program Official is authorized to enter into a Memorandum of Agreement with any applicant providing loans and/or grants to individuals. The Memorandum of Agreement can be amended to comply with State law and recommendations by the Office of General Counsel. It may also be amended to eliminate references to loans and/or grants if no loan and/or grant is involved. The State Program Official is responsible for:
 - (1) Ensuring that all provisions of the Agreement are understood.
 - (2) Determining that the applicant has the ability to make and service loans and/or grants in the manner outlined in the Agreement.
- (c) Agency funds remaining after providing individual loans and/or grants will be returned to the Agency. The funds should be disbursed to individuals within 1 year from the date water and/or waste disposal service is available to the individuals. The State Program Official can make an exception to this 1 year requirement if written justification is provided by the applicant.

RUS Instruction 1777

§1777.42 Delegation of authority{tc "1777.42 Delegation of authority "}

The State Program Official is responsible for the overall implementation of the authorities contained in this part and may redelegate any such authority to appropriate Agency employees.

§1777.43 Bulletins{tc "1777.43 Bulletins "}

RUS Bulletin 1780-12 referenced in part 1780 of this chapter and RUS Bulletins 1777-1, 1777-2 and 1777-3 are for use in administering loans and/or grants made under this part. Bulletins, instructions and forms are available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, D.C. 20250-1500.

§§1777.44 - 1777.99 [Reserved]{tc "1777.44 - 1777.99 [Reserved]"}

§1777.100 OMB control number{tc "1777.100 OMB control number "}

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and assigned OMB control number 0570-0001. Public reporting burden for this collection of information is estimated to vary from 5 to 30 hours per response with an average of 17.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Memorandum of Agreement Between

and the Rural Utilities Service (RUS)

This Memorandum of Agreement establishes authorities and procedures whereby

the _____

_____ (Name of Organization),

_____ (Address),

_____, (Phone No.), a _____ system, (enter type of

system such as waste disposal, or water) hereinafter referred to as the "system," will process and service water and waste loans and grants authorized under Section 306C of the Consolidated Farm and Rural Development Act, as amended, to facilitate individual's use of the system. It is agreed that the system will receive applications, process, close, and service loans or grants as provided in this agreement and the attached implementation plan. The system's files should be adequately documented to show the basis for individual loan and grant eligibility.

Effective date of this agreement: This agreement shall be effective on the date of the last signature and date hereto.

Duration of agreement: This agreement shall continue to be in effect until all loans made are collected or otherwise satisfied by the system and any loan made by the Agency for such purpose is paid in full or otherwise satisfied.

Purpose: The system will inform individual residents that loans and/or grants will be made available to eligible users through the system. Loans and grants will only be made to users to extend service to, connect their residence to, or make improvements needed to facilitate use of the system. Regulations and guidance for loan/grant making and loan servicing are provided in this part of the agreement. The individuals must reside in a community whose residents face significant health risks due to the fact that a significant portion of the community's residents do not have access to, or are not served by, adequate, affordable, water supply systems or waste disposal facilities.

A. Loan Eligibility.

Loans may be made to individuals who:

1. Are individuals who are neither eligible for, nor have received a grant under this agreement; and
2. Have an ownership interest in the dwelling to be connected to the system or improved and located in a rural area; and
3. Have a total taxable household income of not more than 125 percent of the most recent poverty income guidelines established by Department of Health and Human Services. The household income will be based on the latest Federal income tax form or signed statement that their income is below the level required to file a Federal income tax form from all individuals residing in the household; and
4. Are unable to pay for the costs of improvements without a loan.

B. Grant Eligibility.

Grants may be made to individuals who:

1. Have an ownership interest in the dwelling to be connected to the system or improved and located in a rural area; and
2. Have a total taxable household income that is below the most recent poverty income guidelines established by Department of Health and Human Services. The household income will be based on the latest Federal income tax form or signed statement that their income is below the level required to file a Federal income tax form from all individuals residing in the household; and
3. Are unable to repay a loan under paragraph A of this bulletin if funds are available.

C. Terms.

1. The interest rate on loans made under this agreement will be_ percent per annum.
2. Loan repayment terms will not exceed the Agency loan repayment terms.
3. Loans will be evidenced by a promissory note developed in accordance with State law by the system.
4. The loan will be collected at the same time as the regular service bill is collected for such residence. Payments of the loan will be considered as part of the service rendered to users of the service until the loan is paid or otherwise satisfied.

D. Loan/Grant Purposes.

Funds may be used to:

1. Extend service lines to, or connect the dwelling's plumbing to, the system to allow use of the system.
2. Pay reasonable costs of connection fees and other charges regularly charged by the system.
3. Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities. This is limited to one bathtub, sink, commode, kitchen sink, water heater, and outside spigot.
4. Construction and/or partitioning off a portion of the dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.
5. Pay reasonable costs for closing abandoned septic tanks and water wells when necessary to protect the health and safety of recipients of a grant in paragraphs D.1. or D.2. of this bulletin and is required by local or State law.

E. Restrictions on Use of Funds.

Funds cannot be used to:

1. Make improvements to the residence, except for the improvements authorized by paragraph D of this bulletin.
2. Pay individuals for their own labor.

F. Loan/Grant Processing.

1. The system will develop its own application for processing loans and grants.
2. The system will assist individuals in completing an application and promissory note.
3. The system will provide or arrange for technical assistance, as needed, to determine improvements to be made, their costs, and that the costs are reasonable.
4. The system may contract with the individuals to do the work or arrange for the improvements to be installed by a contractor satisfactory to the system and the individual. In either case, the individual will sign a contract agreement covering the planned improvements.

G. Payment for the Work.

1. The system will pay the contractor after making such inspection of the work as it deems necessary and acceptance by the individual. The agreement between the contractor and the individual must require the contractor to warrant and guarantee, for a period of 12 months from the date of completion, that the work is free from all defects due to faulty materials or workmanship, and that the contractor shall promptly make such corrections as may be necessary by reason of such defects.
2. The system will advance funds, as needed, to individuals acting as his/her own contractor, to pay for materials and labor other than labor of the individual. The system will inspect the work as it deems necessary to assure that the improvements are being installed satisfactorily.

H. Account Servicing.

1. The system will follow generally acceptable accounting practices in maintaining and servicing the borrower's account during the life of the loan. Scheduled note payments will be collected with the borrower's utility service billing and be deposited in the account used to make Agency's loan payment.
2. Interest on unpaid interest shall not be charged.
3. Late charges may be assessed at the option of the system on delinquent accounts.

I. Inspection of Records.

The system will provide the Agency (or other appropriate Federal agencies), at all reasonable times, access to all books and records relating to loans made under the provisions of this Agreement.

J. Personal Benefit Clause

No member of or delegate to Congress or residence commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom, unless it be made with a corporation for its general benefit.

K. Payment for Services.

Individuals may be charged customary fees for technical services provided in determining the type and amount of improvements, obtaining costs estimates, and for inspections made to insure that the improvements have been properly completed. Loan funds may only be used for these purposes to the extent set forth in paragraph D of this bulletin. However, neither the Agency nor the system will pay a loan origination or packaging fee, nor will a fee be paid for servicing the account during the life of the loan.

L. Administrative Policy.

1. The State Program Official will provide to the system the most recent poverty income guidelines.
2. The State Program Official will provide guidance needed by the system in carrying out this program.
3. When all funds covered by this agreement have been disbursed by the system, the system will provide the State Program Official a report on how the funds were used. The report will include the names of individuals that received assistance, the type of assistance (loan or grant), and the amount of assistance.

(Name)

(Title of System Representative)

Date: _____

(Name)

(State Program Official)

Date: _____

Section 306C WWD Loans and Grants

Project Selection Criteria

State Program Official's Project Score _____

Name of Applicant _____

State _____ County _____

Per Capita Income of County _____ Percent of National Average _____

Unemployment Rate of Residents _____ Percent of National Average _____

Statewide Median Household Income _____

Median Household Income of Population Served _____

Congressional District No. _____

Loan Request \$ _____ Grant Request \$ _____

<u>Priorities</u>	<u>Points</u>
A. Population: The proposed project will serve an area with a rural population:	
1. Not in excess of 1,500	30
2. More than 1,500 and not in excess of 3,000	20
3. More than 3,000 and not in excess of 5,500	10
B. Income: The median household income of population to be served by the proposed project is:	
1. Not in excess of 50 percent of the statewide nonmetropolitan median household income	40
2. More than 50 percent and not in excess of 60 percent of the statewide nonmetropolitan median household income	20

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- 3. More than 60 percent and not in excess of 70 percent of the statewide nonmetropolitan median household income 10
- C. Joint financing: The amount of joint financing committed to the proposed project is:
 - 1. Twenty percent or more private, local, or State funds except Federal funds channeled through a State agency 10
 - 2. Five to 19 percent private, local, or State funds except Federal funds channeled through a State agency 5
- D. Colonia: The proposed project will provide water and/or waste disposal services to the residents of a colonia 50
- E. Discretionary: In certain cases, the State Program Official may assign up to 15 points for items such as natural disaster, 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 this bulletin each time the State Program Official assigns these points. Enter number of discretionary points, if any, assigned by the State Program Official _____

Date State Program Official

Instructions: In parts A through E of this bulletin, circle the points for those priorities that are met by the proposed project and enter the total project score on page one. The State Program Official can recommend discretionary points by providing a written justification which is attached to this bulletin. If necessary discretionary points will be assigned by the RUS Administrator.

TO: Administrator, RUS
Washington, DC 20250

Attention: Water and Waste
STOP: 1570

State _____

Name of Applicant _____

Amount of Section 306C loan funds requested \$ _____

Amount of Section 306C grant funds requested \$ _____

The proposed project serves a colonia _____ Yes _____ No

Comments:

Date

State Program Official

FOR USE BY NATIONAL OFFICE

State Program Official's Project Score _____

Administrator's Discretionary Points _____

Total Project Score _____

Instructions: This bulletin is the transmittal memorandum used for requesting funds from the National Office. Complete and attach this bulletin to the front of RUS Bulletin 1777-2 of this part and submit to the National Office.