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Title 7 –Agriculture

Subtitle B –Regulations of the Department of Agriculture

Chapter XVII –Rural Utilities Service, Department of Agriculture

Part 1776 Rural Decentralized Water Systems

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PART 1776—RURAL DECENTRALIZED WATER SYSTEMS

Authority: 7 U.S.C. 1926e.

Source: 70 FR 28788, May 19, 2005, unless otherwise noted.

Subpart A—General

§ 1776.1 Purpose.

This part sets forth the policies and procedures for Rural Utilities Service making grants to private nonprofit organizations for the purpose of providing loans and subgrants to eligible individuals for the construction, refurbishing, and servicing of individually owned household water well systems and individually owned decentralized wastewater systems in rural areas that are or will be owned by the eligible individuals.

[85 FR 23211, Apr. 27, 2020]

§ 1776.2 Uniform Federal Assistance Provisions.

- (a) This program is subject to the general provisions that apply to all grants made by USDA and that are set forth in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by USDA through 2 CFR part 400, as well as the following:
- (1) 2 CFR part 415—General Program Administrative Requirements.
 - (2) 2 CFR part 180, as adopted by USDA through 2 CFR part 417, Nonprocurement Debarment and Suspension, implementing Executive Order 12549 on debarment and suspension.
 - (3) 2 CFR part 418, New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.
 - (4) 2 CFR part 421, Requirements for Drug-Free Workplace (Financial Assistance), implementing the Drug-Free Workplace Act of 1988 (41 U.S.C 8102).
- (b) [Reserved]

[81 FR 7697, Feb. 16, 2016]

§ 1776.3 Definitions.

Administrative expenses means expenses incurred by a grant recipient that are of the type more particularly described in Section 13 of this part.

Applicant means a private, non-profit organization that applies for a DWS grant under this part.

Centralized Servicing Center (CSC) means the centralized loan servicing center within the United States Department of Agriculture, Rural Development. CSC provides nationwide services for borrowers that have received financing from Rural Development programs.

Construction means building or assembling a water well system or portion thereof, that is not a water well system or portion thereof being constructed in connection with a new building.

Contamination means any physical, chemical, biological, or radiological substance of matter in water, either exceeding or having potential to exceed State or Federal standards.

Decentralized Water System (DWS) means either a household water well or a septic system. This definition also includes decentralized wastewater systems which are onsite or clustered systems used to collect, treat, and disperse or reclaim wastewater from a small community or service area.

Eligible individual means an individual who is a member of a household the members of which have a combined income (for the most recent 12-month period for which the information is available) that is not more than 60 percent of the median nonmetropolitan household income for the State or territory in which the individual resides, according to 5-year income data from the American Community Survey (ACS) or, if needed, other Census Bureau data. If there is reason to believe that the ACS or other Census Bureau data does not accurately represent the median nonmetropolitan household income for the State or territory in which the individual resides, the reasons will be documented and the applicant may furnish, or RD may

obtain, additional information regarding such median household income data. Information must consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source.

Funding opportunity announcement (FOA) means a publicly available document by which a Federal agency makes known its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. FOA announcements may be known as program announcements, notices of funding availability, solicitations, or other names depending on the agency and type of program. FOA announcements can be found at www.Grants.gov in the Search Grants tab and on the funding agency's or program's website.

Grant agreement means the contract between RUS and the grant recipient which sets forth the terms and conditions governing a particular grant awarded under this part.

Grant recipient means an applicant that has been awarded a DWS grant under this part.

Loan recipient means an eligible individual who has received a DWS loan.

Refurbishing means to renovate or to restore a water well system or portion thereof to near new condition.

Revolved funds means the cash portion of the revolving loan fund that is not composed of DWS grant funds, including repayments of revolving DWS loans, fees, and interest collected on DWS loans.

Revolving loan fund means the loan fund established by the grant recipient to carry out the purposes of this part, such fund comprising the proceeds of a DWS grant and other related assets.

Rural area means any area other than a city or town that has a population of greater than 50,000 inhabitants, the urbanized area contiguous and adjacent to such city or town, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

RUS means the Rural Utilities Service, a Federal agency delivering the United States Department of Agriculture's Rural Development Utilities Program.

Septic System means systems designed to treat wastewater from household plumbing fixtures through both natural and technological processes.

Servicing means making repairs or performing maintenance on a water well system or portion thereof.

Subgrants means a grant awarded to a decentralized water system owner in order to refurbish or replace a well or septic system.

USDA means the United States Department of Agriculture.

[70 FR 28788, May 19, 2005, as amended at 80 FR 9862, Feb. 24, 2015; 83 FR 45033, Sept. 5, 2018; 85 FR 23211, Apr. 27, 2020; 87 FR 38643, June 29, 2022]

§ 1776.4 [Reserved]

Subpart B—DWS Grants

§ 1776.5 Eligibility to receive a DWS grant.

- (a) The applicant must be a private organization.
- (b) The applicant must be organized as a non-profit organization.

- (c) The applicant must have legal capacity and lawful authority to perform the obligations of a grant recipient under this part. Example 1: If the organization is incorporated as a non-profit corporation, it must have corporate authority under state law and its corporate charter to engage in the practice of making loans to individuals. Example 2: if the organization is an unincorporated association, state law may prevent the organization from entering into binding contracts, such as a grant agreement.
- (d) The applicant must have sufficient expertise and experience in lending and in promoting the safe and productive use of individually-owned decentralized water systems and ground water to assure the likelihood that the objectives of this part can be achieved.

§ 1776.6 Funding availability.

A FOA will be posted to www.Grants.gov in fiscal years that funds are available for this program. The FOA will establish the period during which applications for such funds may be submitted for consideration.

[83 FR 45034, Sept. 5, 2018]

§ 1776.7 DWS Grant application process.

- (a) The applicant must complete and submit the following standard forms to RUS to apply for a DWS grant under this part:
 - (1) Application for Federal Assistance: *Standard Form 424*,
 - (2) Budget Information—Non-Construction Programs: *Standard Form 424A*, and
 - (3) Assurances—Non-Construction Programs: *Standard Form 424B*.
- (b) The applicant must submit a written work plan that demonstrates the feasibility of the applicant's lending program to meet the objectives of this part.
- (c) The applicant should submit a narrative establishing the basis for any claims that it has substantial expertise in promoting the safe and productive use of individually-owned decentralized water systems. The Secretary will give priority to an applicant that demonstrates it has substantial experience of this type.
- (d) The applicant must submit:
 - (1) A pro forma balance sheet at start-up and projected balance sheets for at least three additional years,
 - (2) Financial statements for the last three years, or from inception of the operations of the grant recipient if less than three years, and
 - (3) Projected cash flow and earnings statements for at least three years, supported by a list of assumptions showing the basis for the projections. The projected earnings statement and balance sheets must include one set of projections specific to the revolving loan fund, and a separate set of projections that detail the proposed applicant organization's total operations.
- (e) The applicant may submit such additional information as it elects to support and describe its plan for achieving the objectives of this part.

§ 1776.8 Methods for submitting applications.

- (a) Applications may be filed in either paper or electronic format. RUS will not accept applications by fax or e-mail.

- (b) Paper applications for DWS grants may be delivered by the U.S. Postal Service (USPS) or courier delivery services. Applications submitted by mail or courier must be postmarked no later than the filing deadline to be considered for the grant period. Applications delivered by mail or courier must be addressed to the attention of the Assistant Administrator, Water and Environmental Programs as follows: ATTN: Assistant Administrator, WEP, Rural Utilities Service, Stop 1548 Room 5145 South, 1400 Independence Ave. SW., Washington, DC 20250-1548.
- (c) Electronic applications may be filed through Grants.gov, the official Federal Government Web site at <http://www.grants.gov>. The applicant must be registered with Grants.gov before they can submit a grant application. The applicant should refer to instructions found on the Grants.gov Web site for procedures for registering and using this facility. An applicant who is not registered on Grants.gov should allow a sufficient number of business days to complete the process. Applications submitted electronically must be show an electronic date and time stamp on or before the filing deadline to be considered for the grant period.
- (d) The methods of submitting applications may be changed from time to time to reflect changes in addresses and electronic submission procedures. The applicant should refer to the most recent FOA for notice of any such changes. In the event of any discrepancy, the most recent FOA must be followed.

[70 FR 28788, May 19, 2005, as amended as 83 FR 45033, Sept. 5, 2018]

§ 1776.9 Scoring applications.

- (a) Applications that are incomplete or ineligible will be returned to the applicant, accompanied by a statement explaining why the application is being returned.
- (b) Promptly after an application period closes, all applications that are complete and eligible will be ranked competitively based on the following scoring criteria:
 - (1) Degree of expertise and experience in promoting the safe and productive use of individually-owned decentralized water systems and ground water. Up to 30 points
 - (2) Degree of expertise and successful experience in making and servicing loans to individuals. Up to 20 points
 - (3) Percentage of applicant contributions. Points allowed under this paragraph will be based on written evidence of the availability of funds from sources other than the proceeds of a DWS grant to pay part of the cost of a loan recipient's project. In-kind contributions will not be considered. Funds from other sources as a percentage of the DWS grant and points corresponding to such percentages are as follows:
 - (i) 0 to 9 percent—ineligible;
 - (ii) 10 to 25 percent—5 points;
 - (iii) 26 to 30 percent—10 points;
 - (iv) 31 to 50 percent—15 points; and
 - (v) 51 percent or more—20 points
 - (4) Extent to which the work plan demonstrates a well thought out, comprehensive approach to accomplishing the objectives of this part, clearly defines who will be served by the project, and appears likely to be sustainable. Up to 20 points

- (5) Extent to which the goals and objectives are clearly defined, tied to the work plan, and measurable. Up to 10 points
 - (6) Lowest ratio of projected administrative expenses to loans advanced. 10 points
 - (7) Administrator's discretion, considering such factors as creative outreach ideas for marketing DWS loans to rural residents, the amount of funds requested in relation to the amount of needs demonstrated in the work plan, previous experiences demonstrating excellent utilization of a revolving loan fund grant, and optimizing the use of agency resources. Up to 10 points
- (c) All qualifying applications under this part will be scored based on the criteria contained in this section. Awards will be made based on the highest ranking applications and the amount of financial assistance available for DWS grants. All applicants will be notified in writing of the score each application receives.

§ 1776.10 Grant agreement.

- (a) RUS and the grantee will enter into an agreement setting forth the terms and conditions governing a particular DWS grant award. RUS will furnish the form of grant agreement. No funds awarded under this part shall be disbursed to the grant recipient before the grant agreement is binding and RUS has received a fully executed counterpart of the grant agreement.
- (b) The grantee or RUS may initiate an amendment or modification to the grant agreement to provide for a loan limit up to \$15,000. No change in the grant agreement requested by the grant recipient will be effective unless approved in writing by RUS.

[73 FR 68294, Nov. 18, 2008, as amended at 85 FR 23211, Apr. 27, 2020]

§ 1776.11 Revolving loan fund.

The grant recipient shall establish and maintain a revolving loan fund for the purposes set forth in § 1776.12. All loans made to loan recipients shall be drawn from the revolving loan fund. The loans shall be serviced, and the revolving loan fund shall be maintained, as set forth in § 1776.17.

§ 1776.12 Use of DWS Grant proceeds.

- (a) Except as otherwise provided in the next paragraph. The DWS grant process shall be used solely for the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual decentralized water systems in rural areas that are or will be owned by the eligible individuals.
- (b) A grant recipient may use DWS grant funds to pay administrative expenses associated with providing the assistance described in the immediately preceding paragraph.
- (c) A grant recipient may not use grant funds in any manner inconsistent with the terms of the grant agreement.
- (d) In the event of ground well water contamination, the Secretary shall allow a loan or subgrant to be made with grant funds under this section for the installation of water treatment where needed beyond the point of entry, with or without the installation of a new water well system.
- (e) Any entities responsible for fouling a drinking water supply are not eligible to be the recipients of an award for this program.

[70 FR 28788, May 19, 2005, as amended at 85 FR 23211, Apr. 27, 2020]

§ 1776.13 Administrative expenses.

- (a) Subject to the limitations provided in paragraphs (b), (c) and (d) of this section, the grant recipient may use grant funds to pay administrative expenses associated with providing DWS loans.
- (b) Administrative expenses incurred in any calendar year which exceed 10 percent of the DWS loans made by the grant recipient during that same period do not qualify for reimbursement.
- (c) Administrative expenses incurred prior to the execution of the grant agreement by RUS do not qualify for reimbursement.
- (d) Allowability of administrative expense costs shall be determined in accordance with 2 CFR part 200, as adopted by USDA through 2 CFR part 400.

[70 FR 28788, May 19, 2005, as amended at 79 FR 76005, Dec. 19, 2014]

Subpart C—DWS Loans

§ 1776.14 Eligibility to receive a DWS loan.

- (a) The loan recipient must be an eligible individual.
- (b) The loan recipient must either own and occupy the home being improved with the proceeds of the DWS loan, or be occupying the home as the purchaser under a legally enforceable land purchase contract which is not in default by either the seller or the purchaser.
- (c) The home using the water well system being funded from proceeds of the DWS loan must be located in a rural area.
- (d) The water well system being funded from the proceeds of the DWS loan may not be associated with the construction of a new dwelling.
- (e) The water well system being funded from the proceeds of the DWS loan may not be used to substitute for water service available from collective water systems. Example: Loan recipient wishes to restore an old well which had been abandoned when the dwelling was connected to a water line belonging to a water district.
- (f) A loan recipient must not be suspended or debarred from participation in Federal programs.

§ 1776.15 Terms of loans.

- (a) DWS loans under this part—
 - (1) Shall have an interest rate of 1 percent;
 - (2) Shall have a term not to exceed 20 years; and
 - (3) Shall not exceed \$15,000 for each water well system or decentralized wastewater system described in § 1776.1.
- (b) The grant recipient must set forth the DWS loan terms in written documentation signed by the loan recipient.
- (c) Grant recipients must develop and use DWS loan documentation that conforms to the terms of this part, the grant agreement, and the laws of the state or states having jurisdiction.

- (d) The Agency will determine the maximum subgrant limit for each DWS applicant.
- (e) The applicant will determine subgrant funding levels to individual subgrantees based on established criteria described in the workplan.

[70 FR 28788, May 19, 2005, as amended at 73 FR 68295, Nov. 18, 2008; 85 FR 23211, Apr. 27, 2020]

§ 1776.16 Loan servicing.

- (a) If RUS determines that DWS loans may be serviced by CSC, then the grant recipient will enter into an agreement with the Centralized Servicing Center for servicing all DWS loans made from the revolving loan fund. All DWS loan payments will be received by and processed at the Centralized Servicing Center. The grant recipient will be charged a fee for this service, and such fee should be included in the projected financial statements and work plan submitted as part of the grant application. This fee may be reimbursed as an administrative expense as provided in § 1776.13.
- (b) If RUS determines that CSC is not able to service DWS loans, then the grant recipient shall be responsible for servicing, or causing to be serviced, all DWS loans. Servicing will include preparing loan agreements, processing loan payments, reviewing financial statements and debt reserves balances, and other responsibilities such as enforcement of loan terms. Loan servicing will be in accordance with the work plan RUS approved when the grant was awarded. It will continue as long as any loan made in whole or in part with RUS grant funds is outstanding.

§ 1776.17 Revolving loan fund maintenance.

As long as any part of the DWS grant remains available for lending, and loans made from the revolving loan fund have an outstanding balance due, the grant recipient must maintain the revolving loan fund for the purposes set forth in § 1776.13.

- (a) All DWS grant funds received by a grant recipient must be deposited into the revolving loan fund.
- (b) The grant recipient may transfer additional assets into the revolving loan fund.
- (c) All cash and other assets of the revolving loan fund shall be deposited in a separate bank account or accounts.
- (d) No cash or other assets of any other fund maintained by the grant recipient shall be commingled with the cash and other assets of the revolving loan fund.
- (e) All moneys deposited in such bank account or accounts shall be money of the revolving loan fund.
- (f) Loans to loan recipients are advanced from the revolving loan fund.
- (g) The revolving loan fund will consist of receivables created by making loans, the grant recipient's security interest in collateral pledged by loan recipients, collections on the receivables, interest, fees, and any other income or assets derived from the operation of the revolving loan fund.
- (h) The portion of the revolving loan fund that consists of DWS grant funds, on a last-in-first-out basis, may be used for only those purposes set forth in this part.

- (i) The grant recipient must submit an annual budget of proposed administrative costs for RUS approval. The amount removed from the revolving loan fund for administrative costs in any year must be reasonable; must not exceed the actual cost of operating the revolving loan fund, including loan servicing and providing technical assistance; and must not exceed the amount approved by RUS in the grant recipient's annual budget.
- (j) A reasonable amount of revolved funds must be used to create a reserve for bad debts. Reserves should be accumulated over a period of years. The total amount should not exceed maximum expected losses, considering the quality of the grant recipient's portfolio of loans. Unless the grant recipient provides loss and delinquency records that, in the opinion of RUS, justifies different amounts, a reserve for bad debts of 6 percent of outstanding loans must be accumulated over three years and then maintained as set forth in the grant agreement.
- (k) Any cash in the revolving loan fund from any source that is not needed for debt service, approved administrative costs, or reasonable reserves must be available for additional loans to loan recipients.
- (l) All reserves and other cash in the revolving loan fund not immediately needed for loans to loan recipients or other authorized uses must be deposited in accounts in banks or other financial institutions. Such accounts must be fully covered by Federal deposit insurance or fully collateralized with U.S. Government obligations, and must be interest bearing. Any interest earned thereon remains a part of the revolving loan fund.