

§§ 1779.14–1779.16

7 CFR Ch. XVII (1–1–10 Edition)

be appealed only by the lender. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be handled in accordance with the regulations of the National Appeals Division, U.S. Department of Agriculture, published at 7 CFR part 11.

§§ 1779.14–1779.16 [Reserved]

§ 1779.17 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this part which is not inconsistent with the authorizing statute or other applicable law and is determined to be in the Government's interest.

§§ 1779.18–1779.19 [Reserved]

§ 1779.20 Eligibility.

(a) *Availability of credit from other sources.* The Agency must determine that the borrower is unable to obtain the required credit without the loan guarantee from private, commercial, or cooperative sources at reasonable rates and terms for loans for similar purposes and periods of time. The Agency must also determine if an outstanding judgment obtained by the United States in a Federal Court (other than the U.S. Tax Court) has been entered against the borrower or if the borrower has an outstanding delinquent debt with any Federal agency. Such judgment or delinquency shall cause the potential borrower to be ineligible to receive a loan guarantee until the judgment is paid in full or otherwise satisfied or the delinquency is cured.

(b) *Legal authority and responsibility.*

(1) Each borrower must have, or will obtain, the legal authority necessary to construct, operate, and maintain the proposed facility and services. They must also have legal authority for obtaining, giving security for, and repaying the proposed loan.

(2) The borrower shall be responsible for operating, maintaining, and managing the facility and services, and providing for the continued availability and use of the facility and services at reasonable rates and terms.

(c) *Applicant.* Eligible entities are:

(1) A public body such as a municipality, county, district, authority, or other political subdivision of a State located in a rural area.

(2) An organization operated on a not-for-profit basis, such as an association, cooperative, or private corporation. The organization must be an association controlled by a local public body or bodies, or have a broadly based ownership by or membership of people of the local community; or

(3) Indian tribes on Federal and State reservations and other federally recognized Indian tribes.

(d) *Facility location.* Facilities must be located in rural areas, except: For utility services such as drinking water, sanitary sewer, solid waste disposal or storm drainage facilities serving both rural and non-rural areas. In such cases, Agency funds may be used to finance only that portion serving rural areas, regardless of facility location.

(e) *Facilities for public use.* All facilities financed under the provisions of this part shall be for public purposes.

(1) Facilities will be installed to serve any user within the service area who desires service and can be feasibly and legally served.

(2) In no case will boundaries for the proposed service area be chosen in such a way that any user or area will be excluded because of race, color, religion, sex, marital status, age, disability, or national origin.

(3) The lender will determine that, when feasible and legally possible, inequities within the proposed project's service area for the same type service proposed will be remedied by the owner on, or before, completion of the project. Inequities are defined as unjustified variations in availability, adequacy, or quality of service. User rate schedules for portions of existing systems or facilities that were developed under different financing, rates, terms, or conditions do not necessarily constitute inequities.

§§ 1779.21–1779.23 [Reserved]

§ 1779.24 Eligible loan purposes.

(a) To construct, enlarge, extend, or otherwise improve rural drinking