(e) No fees or charges are assessed for any type of loan or guarantee provided by RUS or the Rural Telephone Bank (RTB).

(f) The Administrator may use consultants funded by the borrower for financial, legal, engineering, and other technical advice in connection with the review of a borrower's loan application.

(g) For the purpose of paragraph (a)(2) of this section, rural areas means any area, as confirmed by the latest decennial census of the Bureau of the Census, which is not located within:

(1) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or

(2) An urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants, for the purpose of the definition of rural areas in this section, an urbanized area means a densely populated territory as defined in the latest decennial census of the U.S. Census Bureau.

[58 FR 66253, Dec. 20, 1993, as amended at 59 FR 17464, Apr. 13, 1994; 65 FR 42619, July 11, 2000; 65 FR 54403, Sept. 8, 2000; 76 FR 56093, Sept. 12, 2011]

§ 1735.11 Area coverage.

Borrowers must make adequate telephone service available to the widest practical number of rural subscribers during the life of the loan. Both the nature of the service area and the cost per subscriber must be fully considered. The borrower must seek to provide service to all interested potential subscribers in the service area. Borrowers are not required to extend service in situations where the costs would be exorbitant. The loan contract shall contain appropriate provisions to effect this requirement. See 7 CFR 1737.11(a), Preapplication Determinations: Area to be Served.

§ 1735.12 Nonduplication.

(a) In states having a state regulatory body with authority to regulate telephone service and to require certificates of convenience and necessity, the borrower must obtain such a certificate before RUS will make a loan. Facilities or services not specifically covered by such certificate will be subject to the provisions of § 1735.12(b).

(b) In states where there is no such regulatory body, a loan will not be made unless the Administrator determines that no duplication of lines, facilities, or systems already providing reasonably adequate services shall result from such a loan.

(c) RUS shall consider the following criteria for any wireline local exchange service or similar fixed-station voice service provided by a local exchange carrier (LEC) in determining whether such service is reasonably adequate:

(1) The LEC is providing area coverage as described in § 1735.11.

(2) The LEC is providing all one-party service or, if the State commission has mandated a lower grade of service, the LEC is eliminating that service in accordance with the requirements of the Telecommunications Act of 1996, 47 U.S.C. 151 *et seq.*

(3) The LEC's network is capable of providing transmission and reception of data at a rate of at least 1,000,000 bits per second (1 Mbps) with reasonable modification to any subscriber who requests it.

(4) The LEC makes available custom calling features (at a minimum, call waiting, call forwarding, abbreviated dialing, and three-way calling).

(5) The LEC is able to provide E911 service to all subscribers, when requested by the government entity responsible for this service.

(6) The LEC is able to offer local service with blocked toll access to those subscribers who request it.

(7) The LEC's network is capable of accommodating Internet access at speeds of at least 28,800 bits per second (28.8 Kbps) via modem dial-up from any subscriber location.

(8) There is an absence of frequent service interruptions.

(9) The LEC is interconnected with the public switched network.

(10) No Federal or State regulatory commission having jurisdiction has determined that the quality, availability, or reliability of the service provided is inadequate.

(11) Services are provided at reasonably affordable rates.

(12) Any other criteria the Administrator determines to be applicable to the particular case.