

Rural Utilities Service, USDA

§ 1738.202

(b) The Agency may reduce the security requirements discussed in §1738.154(a) to ensure that the security is commensurate with the risk involved.

§ 1738.156 Other Federal requirements.

(a) To receive a broadband loan, the applicant must certify or agree in writing to comply with a variety of Federal regulations including, but not limited to:

(1) The nondiscrimination and equal employment opportunity requirements of Title VI of the Civil Rights Act of 1964, as amended (7 CFR part 15);

(2) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 *et seq.*; 7 CFR part 15b);

(3) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*; 45 CFR part 90);

(4) Executive Order 11375, amending Executive Order (E.O.) 11246, Relating to Equal Employment Opportunity (3 CFR, 1966–1970). See 7 CFR parts 15 and 15b and 45 CFR part 90, RUS Bulletin 1790-1 (“Nondiscrimination Among Beneficiaries of RUS Programs”), and RUS Bulletin 20-15:320-15 (“Equal Employment Opportunity in Construction Financed with RUS Loans”);

(5) The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 *et seq.*);

(6) The Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101-19.6);

(7) The requirements of the National Environmental Policy Act of 1969 (NEPA), as amended;

(8) The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA and certain related Federal environmental laws, statutes, regulations, and Executive Orders found in 7 CFR part 1794;

(9) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 *et seq.*, and with implementing Federal regulations in 49 CFR part 24 and 7 CFR part 21;

(10) The regulations implementing E.O. 12549, Debarment and Suspension, 7 CFR 3017.510, Participants’ Responsibilities;

(11) The requirements regarding Lobbying for Contracts, Grants, Loans, and

Cooperative Agreements in 31 U.S.C. 1352;

(12) Certification regarding Flood Hazard Area Precautions;

(13) Certification regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions; and

(14) Certification that the borrower is not delinquent on any Federal debt and has been informed of the collection options the Federal Government may use to collect delinquent debt.

(b) Applicants must agree in writing to comply with all Federal, State and local laws, rules, regulations, ordinances, codes, and orders applicable to the project.

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Subpart E—Application Review and Underwriting

§ 1738.201 Application submission.

(a) Loan applications must be submitted directly to the Agency’s National Office or to the General Field Representative (GFR) that is assigned to the area where the applicant’s headquarters are located. A list of GFRs and the areas they are assigned can be found on the Agency’s Web site. All applications must contain two hard copies and an electronic copy of the entire application. An application is considered received upon receipt of the hard and electronic copies by the National Office. The date and time of that receipt will establish the application’s placement in the processing queue.

(b) The Agency may publish additional application submission requirements in the FEDERAL REGISTER.

§ 1738.202 Elements of a complete application.

An applicant must submit to the Agency a complete application in a format as required by the Agency in the Rural Broadband Access Loan and Loan Guarantee Program Application Guide (the Application Guide). To be considered complete, the application must contain at least the following items, each of which must be completed in a manner acceptable to the Agency:

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(a) A completed RUS Form 532, including any additional items required by the form;

(b) Information required for the public notice to determine service area eligibility (see § 1738.204);

(c) Documentation demonstrating how the applicant will meet the equity requirement (see § 1738.207);

(d) A market survey, unless not required by § 1738.209(b);

(e) A competitive analysis (see § 1738.210);

(f) Required financial information (see § 1738.211);

(g) A network design (see § 1738.212);

(h) A legal opinion that addresses the applicant's ability to enter into a loan as requested in the loan application, to pledge security as required by the Agency, to describe all pending litigation matters, and such other requirements as are detailed in the Application Guide;

(i) All required licenses and regulatory approvals for the proposed operation or the status of obtaining these items; and

(j) Additional items that may be required by the Administrator through a notice in the FEDERAL REGISTER.

§ 1738.203 Priority for processing loan applications.

(a) Except as provided in Section 306F of the RE Act (SUTA) and section 1738.3 herein, in making or guaranteeing loans, the Agency shall give priority to applications in the following order:

(1) Applications in which no broadband service is available in any funded service area;

(2) Applications in which at least 75 percent of households in the funded service area have no incumbent service provider. For applications with multiple funded service areas, the 75 percent calculation is based on all funded service areas combined;

(3) Applications in which at least 50 percent of households in the funded service area have no incumbent service provider. For applications with multiple funded service areas, the 50 percent calculation is based on all funded service areas combined;

(4) Applications in which at least 25 percent of households in the funded

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service area have no incumbent service provider. For applications with multiple funded service areas, the 25 percent calculation is based on all funded service areas combined; and

(5) All other applications.

(b) Once applications have been prioritized according to the criteria listed in paragraph (a) of this section, the applications will be processed on a first-in, first-out basis within each priority category.

(c) The Agency shall establish the National and State reserve levels in accordance with Title VI of the RE Act. In instances when funds in a particular area are insufficient to cover a loan request, priority will be given to processing applications for which funding is available.

§ 1738.204 Public notice.

(a) The Agency will publish a public notice of each application. The application must provide a summary of the information required for such public notice including all of the following information:

(1) The identity of the applicant;

(2) A map of each service area showing the rural area boundaries and the underserved areas using the Agency's Mapping Tool;

(3) The estimated number of underserved households in each service area;

(4) The estimated number of households without terrestrial-based broadband service in each service area; and

(5) A description of all the types of services that the applicant proposes to offer in each service area.

(b) The Agency will publish the public notice on an Agency webpage after the application has been received in the Agency's National Office. The notice will remain on the webpage for a period of 30 calendar days. The notice will ask existing service providers to submit to the Agency, within this 30-day period, the following information:

(1) The number of residential and business customers within the applicant's service area that are currently offered broadband service by the existing service provider;