

PART 1940 - GENERAL

Subpart T - System For Delivery of Certain Rural Development Programs

TABLE OF CONTENTS

<u>Sec.</u>		<u>Page</u>
1940.951	General.	1
1940.952	[Reserved]	1
1940.953	Definitions.	2
1940.954	State participation.	3
	(a) Application.	3
	(b) Selecting States.	4
	(c) Notification of selection.	5
	(d) Determining State eligibility.	5
	(e) Eligibility requirements.	5
1940.955	Distribution of program funds to designated States.	6
1940.956	State rural economic development review panel.	6
	(a) General.	6
	(b) Duties and responsibilities.	7
	(c) Membership.	11
	(d) Failure to appoint panel members.	14
	(e) Panel vacancies.	14
	(f) Chairperson and vice chairperson.	14
	(g) Compensation to panel members.	14
	(h) Rules governing panel meetings.	14
	(i) Federal Advisory Committee Act.	15
	(j) Liability of members.	15
1940.957	State coordinator.	15
1940.958	Designated agency.	15
1940.959	Area plan.	15
1940.960	Federal employee panel members.	17
1940.961	Allocation of appropriated funds.	18
	(a) Initial allocation.	18
	(b) Reserve.	18
	(c) Pooling.	18
	(d) Request for funds.	19
1940.962	Authority to transfer direct loan amounts.	19
	(a) Transfer of funds.	19
	(b) Limitation on amounts transferred.	19
	(c) National Office concurrence.	19

RD Instruction 1940-T
Table of Contents
Page 2

<u>Sec.</u>		<u>Page</u>
1940.963	Authority to transfer guaranteed loan amounts.	20
	(a) Transfer of funds.	20
	(b) Limitation on amounts transferred.	20
	(c) National Office concurrence.	20
1940.964	[Reserved]	20
1940.965	Processing project preapplications/applications.	20
	(a) Preapplications/applications.	20
	(b) Rural Development review.	20
	(c) Applicant notification.	21
	(d) Information to State coordinator.	21
	(e) Rural Development review of priority funding list.	21
	(f) Obligation of funds.	21
1940.966	- 1940.967 [Reserved]	22
1940.968	Rural Economic Development Review Panel Grant.	22
	(a) General.	22
	(b) Objective.	22
	(c) Authorities, delegations, and redelegations.	22
	(d) Joint funds.	22
	(e) Eligibility.	22
	(f) Purpose.	22
	(g) Limitations.	23
	(h) Other considerations.	23
	(i) Application processing.	24
	(j) Grant approval, obligation of funds, and grant closing.	25
	(k) Fund disbursement.	26
	(l) Title.	26
	(m) Costs.	26
	(n) Budget changes.	26
	(o) Programmatic changes.	26
	(p) Financial reporting.	27
	(q) Audit requirements.	27
	(r) Grant cancellation.	27
	(s) Grant servicing.	27
	(t) Subsequent grants.	27
1940.969	Forms, exhibits, and subparts.	27
1940.970	[Reserved]	28
1940.971	Delegation of authority.	28
1940.972	- 1940.999 [Reserved]	28
1940.1000	OMB control number.	28
Exhibit A	- Requirements for Administration of Rural Economic Development Review Panel Grants (Panel Grants)	

Part 1940 - GENERAL

Subpart T - System For Delivery of Certain Rural Development Programs

§1940.951 General.

This subpart sets forth Rural Development policies and procedures for the delivery of certain rural development programs under a rural economic development review panel established in eligible States authorized under Sections 365, 366, 367, and 368 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.), as amended.

(a) If a State desires to participate in this pilot program, the Governor of the State may submit an application to the Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Room 219-A, Administration Building, Washington, DC 20250 in accordance with §1940.954 of this subpart.

(b) The Under Secretary shall designate not more than five States in which to make rural economic development review panels applicable during any established time period for the purpose of reviewing and ranking applications submitted for funding under certain rural development programs. The following time periods have been established for participation in this pilot program:

- First period - Balance of fiscal year (FY) 1992 to September 30, 1993;
- Second period - October 1, 1993 to September 30, 1994;
- Third period - October 1, 1994 to September 30, 1995; and
- Fourth period - October 1, 1995 to September 30, 1996.

The State will be bound by the provisions of this pilot program only during the established time period(s) for which the State is designated. If a designated State does not remain an eligible State during the established time period(s) for which the State was designated, the State will not be eligible to participate in this program and cannot revert to the old ranking and applicant selection process.

(c) Assistance under each designated rural development program shall be provided to eligible designated States for qualified projects in accordance with this subpart.

(d) Federal statutes provide for extending Rural Development financially supported programs without regard to race, color, religion, sex, national origin, marital status, age, familial status, or physical/mental handicap (provided the participant possesses the capacity to enter into legal contracts.)

§1940.952 [Reserved]

DISTRIBUTION: WSDC

Loan and Grant Making
General

§1940.953 Definitions.

For the purpose of this subpart:

Administrator. The Administrator of Rural Development.

Area plan. The long-range development plan developed for a local or regional area in a State.

Designated agency. An agency selected by the Governor of the State to provide the panel and the State coordinator with support for the daily operation of the panel.

Designated State. A State selected by the Under Secretary, in accordance with §1940.954 of this subpart, to participate in this program.

Designated rural development program. A program carried out under Sections 304(b), 306(a), or subsections (a) through (f) and (h) of Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), as amended, or under Section 1323 of the Food Security Act of 1985, for which funds are available at any time during the FY under such section, including, but not limited to, the following:

- (1) Water and Waste Disposal Insured or Guaranteed Loans;
- (2) Development Grants for Community Domestic Water and Waste Disposal Systems;
- (3) Technical Assistance and Training Grants;
- (4) Emergency Community Water Assistance Grants;
- (5) Community Facilities Insured and Guaranteed Loans;
- (6) Business and Industry Guaranteed Loans;
- (7) Industrial Development Grants;
- (8) Intermediary Relending Program;
- (9) Drought and Disaster Relief Guaranteed Loans;
- (10) Disaster Assistance for Rural Business Enterprises;
- (11) Nonprofit National Rural Development and Finance Corporations.

Eligible State. With respect to a FY, a State that has been determined eligible in accordance with §1940.954 (e) of this subpart.

Nondesignated State. A State that has not been selected to participate in this pilot program.

Qualified project. Any project:

- (1) For which the designated agency has identified alternative Federal, State, local or private sources of assistance and has identified related activities in the State; and
- (2) To which the Administrator is required to provide assistance.

State. Any of the fifty States.

State coordinator. The officer or employee of the State appointed by the Governor to carry out the activities described in §1940.957 of this subpart.

State Director. The head of Rural Development at the local level charged with administering designated rural development programs.

State rural economic development review panel or "panel". An advisory panel that meets the requirements of §1940.956 of this subpart.

Under Secretary. In the U. S. Department of Agriculture, the Under Secretary for Small Community and Rural Development.

§1940.954 State participation.

(a) Application. If a State desires to participate in this pilot program, the Governor may submit an original and one copy of Standard Form (SF) 424.1, "Application for Federal Assistance (For Non-construction)," to the Under Secretary. The five States designated by the Under Secretary to participate in the first established time period will be selected from among applications received not later than 60 calendar days from the effective date of this subpart. If a designated State desires to participate in additional time periods, applications are not required to be resubmitted; however, the Governor must notify the Under Secretary, in writing, no later than July 31 of each FY, and the State must submit evidence of eligibility requirements each FY in accordance with §1940.954 (e) (2) of this subpart. Beginning in FY 1993, applications must be submitted to the Under Secretary no later than July 31 if a State desires to be selected to fill vacancies that occur when designated States do not roll over into another established time period. States should include the following information with SF 424.1:

RD Instruction 1940-T
§1940.954 (a) (Con.)

(1) A narrative signed by the Governor including reasons for State participation in this program and reasons why a project review and ranking process by a State panel will improve the economic and social conditions of rural areas in the State. The narrative will also include the time period(s) for which the State wishes to participate.

(2) A proposal outlining the method for meeting all the following eligibility requirements and the timeframes established for meeting each requirement:

(i) Establishing a rural economic development review panel in accordance with §1940.956 of this subpart. When established, the name, title, and address of each proposed member should be included and the chairperson and vice chairperson should be identified.

(ii) Governor's proposed designation of a State agency to support the State coordinator and the panel. The name, address, and telephone number of the proposed agency's contact person should be included.

(iii) Governor's proposed selection of a State coordinator in accordance with §1940.957 of this subpart, including the title, address, and telephone number.

(iv) Development of area development plans for all areas of the State that are eligible to receive assistance from designated rural development programs.

(v) The review and evaluation of area development plans by the panel in accordance with §1940.956 of this subpart.

(vi) Development of written policy and criteria used by the panel to review and evaluate area plans in accordance with §1940.956 of this subpart.

(vii) Development of written policy and criteria the panel will use to evaluate and rank applications in accordance with §1940.956 of this subpart.

(3) Preparation of a proposed budget that includes 3 years projections of income and expenses associated with panel operations. If funds from other sources are anticipated, sources and amounts should be identified.

(4) Development of a financial management system that will provide for effective control and accountability of all funds and assets associated with the panel.

(5) A schedule to coordinate the submission, review, and ranking process of preapplications/applications in accordance with §1940.956 (a) of this subpart.

(6) Other information provided by the State in support of its application.

(b) Selecting States. The Under Secretary will review the application and other information submitted by the State and designate not more than five States to participate during any established time period.

(c) Notification of selection.

(1) The Under Secretary will notify the Governor of each State whether or not the State has been selected for further consideration in this program. If a State has been selected, the notification will include the additional information that the Governor must submit to the Under Secretary in order for the State to meet eligibility requirements in accordance with paragraph (d) of this section.

(2) A copy of the notification to the Governor will be submitted to the Administrator along with a copy of the State's application and other material submitted in support of the application.

(d) Determining State eligibility.

(1) The Governor will provide the Under Secretary with evidence that the State has complied with the eligibility requirements of paragraph (a)(2) of this section not later than September 1, 1992, for the first established time period and not later than September 1 for each of the remaining established time periods.

(2) The Under Secretary will review the material submitted by the Governor in sufficient detail to determine if a State has complied with all eligibility requirements of this subpart. The panel will not begin reviewing and ranking applications until the Governor has been notified in writing by the Under Secretary that the State has been determined eligible and is designated to participate in this program. A copy of the notification will be sent to the Administrator. The Under Secretary's decision is not appealable.

(e) Eligibility requirements.

(1) With respect to this subpart, the Under Secretary may determine a State to be an eligible State provided all of the following apply not later than October 1 of each FY:

RD Instruction 1940-T
§1940.954 (e) (1) (Con.)

(i) The State has established a rural economic development review panel that meets the requirements of §1940.956 of this subpart;

(ii) The Governor has appointed an officer or employee of the State government to serve as State coordinator to carry out the responsibilities set forth in §1940.957 of this subpart; and

(iii) The Governor has designated an agency of the State government to provide the panel and State coordinator with support for the daily operation of the panel.

(2) If a State is determined eligible initially and desires to participate in additional time periods established for this program, the Governor will submit documents and information not later than September 1 of each subsequent FY in sufficient detail for the Under Secretary to determine, prior to the beginning of the additional time period, that the State is still in compliance with all eligibility requirements of this subpart.

§1940.955 Distribution of program funds to designated States.

(a) States selected to participate in the first established time period will receive funds from designated rural development programs according to applicable program regulations until the end of FY 1992, if necessary for States to have sufficient time to meet the eligibility requirements of this subpart, and to be designated to participate in this program. No funds will be administered under this subpart to an ineligible State.

(b) If a State becomes an eligible State any time prior to the end of FY 1992, any funds remaining unobligated from a State's FY 1992 allocation, may be administered under this subpart.

(c) Beginning in FY 1993 and for each established time period thereafter, all designated rural development program funds received by a designated State will be administered in accordance with §§1940.961 through 1940.965 of this subpart, provided the State is determined eligible prior to the beginning of each FY in accordance with §1940.954 of this subpart. No assistance will be provided under any designated rural development program in any designated State that is not an eligible State.

§1940.956 State rural economic development review panel.

(a) General. In order for a State to become or remain an eligible State, the State must have a rural economic development panel that meets all requirements of this subpart. Each designated State will establish a schedule whereby the panel and Rural Development will coordinate the submission, review, and ranking process of preapplications/applications. The schedule will be submitted to the Under Secretary for concurrence and should consider the following:

(1) Timeframes should assure that applications selected for funding from the current FY's allocation of funds can be processed by Rural Development and funds obligated prior to the July 15 pooling established in §1940.961 (c) of this subpart;

(2) Initial submission of preapplications/applications from Rural Development to the panel and any subsequent submissions during the first year;

(3) How often during each FY thereafter should Rural Development submit preapplications/applications to the panel for review and ranking;

(4) Number of working days needed by the panel to review and rank preapplications/applications;

(5) Number of times during the FY the panel will submit a list of ranked preapplications/applications to Rural Development for funding consideration;

(6) Consider the matching of available loan and grant funds to assure that all allocated funds will be used;

(7) How to consider ranked preapplications/applications at the end of the FY that have not been funded; and

(8) How to consider requests for additional funds needed by an applicant to complete a project that already has funds approved; i.e., construction bid cost overrun.

(b) Duties and responsibilities. The panel is required to advise the State Director on the desirability of funding applications from funds available to the State from designated rural development programs. In relation to this advice, the panel will have the following duties and responsibilities:

(1) Establish policy and criteria to review and evaluate area plans and to review and rank preapplications/applications.

(i) Area plan. The panel will develop a written policy and criteria to use when evaluating area plans. The criteria to be used when evaluating area plans will assure that the plan includes, as a minimum, the technical information included in §1940.959 of this subpart. The criteria will be in sufficient detail for the panel to determine that the plan is technically and economically adequate, feasible, and likely to succeed in meeting the stated goals of the plan. The panel will give weight to area-wide or regional plans and comments submitted by intergovernmental development councils or similar organizations made up of local elected officials charged with the responsibility for rural area or regional development. A copy of the policy and evaluating criteria will be provided to Rural Development.

(ii) Applications. The panel will annually review the policy and criteria used by the panel to evaluate and rank preapplications/applications in accordance with this subpart. The panel will assure that the policy and criteria are consistent with current rural development needs, and that the public has an opportunity to provide input during the development of the initial policy and criteria. The Governor will provide a copy of the initial policy and criteria established by the panel when submitting evidence of eligibility in accordance with §1940.954 of this subpart. Annually, thereafter, and not later than September 1 of each FY, the State coordinator will send the Under Secretary evidence that the panel has reviewed the established policy and criteria. The State coordinator will also send the Under Secretary a copy of all revisions.

(A) The policy and criteria used to rank applications for business related projects will include the following, which are not necessarily in rank order:

(1) The extent to which a project will stimulate rural development by creating new jobs of a permanent nature or retaining existing jobs by enabling new small businesses to be started, or existing businesses to be expanded by local or regional area residents who own and operate the businesses.

(2) The extent to which a project will contribute to the enhancement and the diversification of the local or regional area economy.

(3) The extent to which a project will generate or retain jobs for local or regional area residents.

(4) The extent to which a project will be carried out by persons with sufficient management capabilities.

(5) The extent to which a project is likely to become successful.

(6) The extent to which a project will assist a local or regional area overcome severe economic distress.

(7) The distribution of assistance to projects in as many areas as possible in the State with sensitivity to geographic distribution.

(8) The technical aspects of the project.

(9) The market potential and marketing arrangement for the projects.

(10) The potential of such project to promote the growth of a rural community by improving the ability of the community to increase the number of persons residing in the community and by improving the quality of life for these persons.

(B) The policy and criteria used to rank preapplications/applications for infrastructure and all other community facility-type projects will include the following which are not necessarily in rank order:

(1) The extent to which the project will have the potential to promote the growth of a rural community by improving the quality of life for local or regional residents.

(2) The extent to which the project will affect the health and safety of local or regional area residents.

(3) The extent to which the project will improve or enhance cultural activities, public service, education, or transportation.

(4) The extent to which the project will affect business productivity and efficiency.

(5) The extent to which the project will enhance commercial business activity.

(6) The extent to which the project will address a severe loss or lack of water quality or quantity.

(7) The extent to which the project will correct a waste collection or disposal problem.

(8) The extent to which the project will bring a community into compliance with Federal or State water or waste water standards.

(9) The extent to which the project will consolidate water and waste systems and utilize management efficiencies in the new system.

(2) Review and evaluate area plans. Each area plan submitted for a local or regional area will be reviewed and evaluated by the panel. After an area plan has been reviewed and evaluated in accordance with established policy and criteria:

(i) The panel will accept any area plan that meets established criteria unless the plan is incompatible with any other area plan for that area that has been accepted by the panel; or

(ii) The panel will return any area plan that is technically or economically inadequate, not feasible, is unlikely to be successful, or is not compatible with other panel-accepted area plans for that area. When an area plan is returned, the panel will include an explanation of the reasons for the return and suggest alternative proposals.

(iii) The State coordinator will notify the State Director, in writing, of the panel's decision on each area plan reviewed.

(3) Review and rank preapplications/applications. The panel will review, rank, and transmit a ranked list of preapplications/applications according to the schedule prepared in accordance with paragraph (a) of this section, and the following:

(i) Review preapplications/applications. The panel will review each preapplication/application for assistance to determine if the project to be carried out is compatible with the area plan in which the project described in the preapplication/application is proposed, and either:

(A) Accept any preapplication/application determined to be compatible with such area plan; or

(B) Return to the State Director any preapplication/application determined not to be compatible with such area plan. The panel will notify the applicant when preapplications/applications are returned to the State Director.

(ii) Rank preapplications/applications. The panel will rank only those preapplications/applications that have been accepted in accordance with paragraph (b) (3) (i) (A) of this section. The panel will consider the sources of assistance and related activities in the State identified by the designated agency. Applications will be ranked in accordance with the written policy and criteria established in accordance with paragraph (b) (1) (ii) of this section and the following:

(A) Priority ranking for projects addressing health emergencies. In addition to the criteria established in paragraphs (b) (1) (ii) of this section, preapplications/applications for projects designed to address a health emergency declared so by the appropriate Federal or State agency, will be given priority by the panel.

(B) Priority based on need. If two or more preapplications/applications ranked in accordance with this subpart are determined to have comparable strengths in their feasibility and potential for growth, the panel will give priority to the applications for projects with the greatest need.

(C) If additional ranking criteria for use by a panel are required in any designated rural development program regulation, the panel will give consideration to the criteria when ranking preapplications/applications submitted under that program.

(iii) Transmit list of ranked preapplications/applications. After the preapplications/applications have been ranked, the panel will submit a list of all preapplications/applications received to the State coordinator. The list will clearly indicate each preapplication/application accepted for funding and will list preapplications/applications in the order established for funding according to priority ranking by the panel. The list will not include a preapplication/application that is to be returned to the applicant in accordance with paragraph (b) (3) (i) (B) of this section. The State coordinator will send a copy of the list to the State Director for further processing of the preapplication/application in accordance with §1940.965 of this subpart. Once the panel has ranked and submitted the list to Rural Development and the State Director has selected a preapplication/application for funding, the preapplication/application selected will not be replaced with a preapplication/application received at a later date that may have a higher ranking.

(4) Public availability of list. If requested, the State coordinator will make the list of ranked preapplications/applications available to the public and will include a brief explanation and justification of why the project preapplications/applications received their priority ranking.

(c) Membership.

(1) Voting members. The panel will be composed of not more than 16 voting members who are representatives of rural areas. The 16 voting members will include the following:

(i) One of whom is the Governor of the State or the person designated by the Governor to serve on the panel, on behalf of the Governor, for that year;

(ii) One of whom is the director of the State agency responsible for economic and community development or the person designated by the director to serve on the panel, on behalf of the director, for that year;

(iii) One of whom is appointed by a statewide association of banking organizations;

(iv) One of whom is appointed by a statewide association of investor-owned utilities;

(v) One of whom is appointed by a statewide association of rural telephone cooperatives;

- (vi) One of whom is appointed by a statewide association of noncooperative telephone companies;
 - (vii) One of whom is appointed by a statewide association of rural electric cooperatives;
 - (viii) One of whom is appointed by a statewide association of health care organizations;
 - (ix) One of whom is appointed by a statewide association of existing local government-based planning and development organizations;
 - (x) One of whom is appointed by the Governor of the State from either a statewide rural development organization or a statewide association of publicly-owned electric utilities, neither of which is described in any of paragraphs (c) (1) (iii) through (ix);
 - (xi) One of whom is appointed by a statewide association of counties;
 - (xii) One of whom is appointed by a statewide association of towns and townships, or by a statewide association of municipal leagues, as determined by the Governor;
 - (xiii) One of whom is appointed by a statewide association of rural water districts;
 - (xiv) The State director of the Federal small business development center or, if there is no small business development center in place with respect to the State, the director of the State office of the Small Business Administration;
 - (xv) The State representative of the Economic Development Administration of the Department of Commerce; and
 - (xvi) One of whom is appointed by the State Director from among the officers and employees of Rural Development.
- (2) Nonvoting members. The panel will have not more than four nonvoting members who will serve in an advisory capacity and who are representatives of rural areas. The four nonvoting members will be appointed by the Governor and include:
- (i) One from names submitted by the dean or the equivalent official of each school or college of business, from colleges and universities in the State;

(ii) One from names submitted by the dean or the equivalent official of each school or college of engineering, from colleges and universities in the State;

(iii) One from names submitted by the dean or the equivalent official, of each school or college of agriculture, from colleges and universities in the State; and

(iv) The director of the State agency responsible for extension services in the State.

(3) Qualifications of panel members appointed by the Governor. Each individual appointed to the panel by the Governor will be specially qualified to serve on the panel by virtue of the individual's technical expertise in business and community development.

(4) Notification of selection. Each statewide organization that selects an individual to represent the organization on the panel must notify the Governor of the selection.

(5) Appointment of members representative of statewide organization in certain cases.

(i) If there is no statewide association or organization of the entities described in paragraph (c) (1) of this section, the Governor of the State will appoint an individual to fill the position or positions, as the case may be, from among nominations submitted by local groups of such entities.

(ii) If a State has more than one of any of the statewide associations or organizations of the entities described in paragraph (c) (1) of this section, the Governor will select one of the like organizations to name a member to serve during no more than one established time period. Thereafter, the Governor will rotate selection from among the remaining like organizations to name a member.

(d) Failure to appoint panel members. The failure of the Governor, a Federal agency, or an association or organization described in paragraph (c) of this section, to appoint a member to the panel as required under this subpart, shall not prevent a State from being determined an eligible State.

§1940.956 (Con.)

(e) Panel vacancies. A vacancy on the panel will be filled in the manner in which the original appointment was made. Vacancies should be filled prior to the third panel meeting held after the vacancy occurred. The State coordinator will notify the State Director, in writing, when the vacancy is filled or if the vacancy will not be filled.

(f) Chairperson and vice chairperson. The panel will select two members of the panel who are not officers or employees of the United States to serve as the chairperson and vice chairperson of the panel. The term shall be for 1 year.

(g) Compensation to panel members.

(1) Federal members. Except as provided in §1940.960 of this subpart, each member of the panel who is an officer or employee of the Federal Government may not receive any compensation or benefits by reason of service on the panel, in addition to that which is received for performance of such officer or employee's regular employment.

(2) NonFederal members. Each nonfederal member may be compensated by the State and/or from grant funds established in §1940.968 of this subpart.

(h) Rules governing panel meetings.

(1) Quorum. A majority of voting members of the panel will constitute a quorum for the purpose of conducting business of the panel.

(2) Frequency of meetings. The panel will meet not less frequently than quarterly. Frequency of meetings should be often enough to assure that applications are reviewed and ranked for funding in a timely manner.

(3) First meeting. The State coordinator will schedule the first panel meeting and will notify all panel members of the location, date, and time at least seven days prior to the meeting. Subsequent meetings will be scheduled by vote of the panel.

(4) Records of meetings. The panel will keep records of the minutes of the meetings, deliberations, and evaluations of the panel in sufficient detail to enable the panel to provide interested agencies or persons the reasons for its actions.

RD Instruction 1940-T
§1940.956 (Con.)

(i) Federal Advisory Committee Act. The Federal Advisory Committee Act shall not apply to any State rural economic development review panel.

(j) Liability of members. The members of a State rural economic development review panel shall not be liable to any person with respect to any determination made by the panel.

§1940.957 State coordinator.

The Governor will appoint an officer or employee of State government as State coordinator in order for a State to become and remain an eligible State under this subpart. The State coordinator will have the following duties and responsibilities:

- (a) Manage, operate, and carry out the instructions of the panel;
- (b) Serve as liaison between the panel and the Federal and State agencies involved in rural development;
- (c) Coordinate the efforts of interested rural residents with the panel and ensure that all rural residents in the State are informed about the manner in which assistance under designated rural development programs is provided to the State pursuant to this subpart, and if requested, provide information to State residents; and
- (d) Coordinate panel activities with Rural Development.

§1940.958 Designated agency.

The Governor will appoint a State agency to provide the panel and the State coordinator with support for the daily operation of the panel. In addition to providing support, the designated agency is responsible for identifying:

- (a) Alternative sources of financial assistance for project preapplications/applications reviewed and ranked by the panel, and
- (b) Related activities within the State.

§1940.959 Area plan.

Each area plan submitted to the panel for review in accordance with §1940.956 of this subpart shall identify the geographic boundaries of the area and shall include the following information:

- (a) An overall development plan for the area with goals, including business development and infrastructure development goals, and time lines based on a realistic assessment of the area, including, but not limited to, the following:

§1940.959 (a) (Con.)

- (1) The number and types of businesses in the area that are growing or declining;
 - (2) A list of the types of businesses that the area could potentially support;
 - (3) The outstanding need for water and waste disposal and other public services or facilities in the area;
 - (4) The realistic possibilities for industrial recruitment in the area;
 - (5) The potential for development of tourism in the area;
 - (6) The potential to generate employment in the area through creation of small businesses and the expansion of existing businesses; and
 - (7) The potential to produce value-added agricultural products in the area.
- (b) An inventory and assessment of the human resources of the area, including, but not limited to, the following:
- (1) A current list of organizations in the area and their special interests;
 - (2) The current level of participation of area residents in rural development activities and the level of participation required for successful implementation of the plan;
 - (3) The availability of general and specialized job training in the area and the extent to which the training needs of the area are not being met;
 - (4) A list of area residents with special skills which could be useful in developing and implementing the plan; and
 - (5) An analysis of the human needs of the area, the resources in the area available to meet those needs, and the manner in which the plan, if implemented, would increase the resources available to meet those needs.
- (c) The current degree of intergovernmental cooperation in the area and the degree of such cooperation needed for the successful implementation of the plan.
- (d) The ability and willingness of governments and citizens in the area to become involved in developing and implementing the plan.

(e) A description of how the governments in the area apply budget and fiscal control processes to the plan. This process is directed toward costs associated with carrying out the planned development. When plans are developed, the financial condition of all areas covered under the plan should be fully recognized and planned development should realistically reflect the area's immediate and long-range financial capabilities.

(f) The extent to which public services and facilities need to be improved to achieve the economic development and quality of life goals of the plan. At a minimum, the following items will be considered:

- (1) Law enforcement;
- (2) Fire protection;
- (3) Water, sewer, and solid waste management;
- (4) Education;
- (5) Health care;
- (6) Transportation;
- (7) Housing;
- (8) Communications; and
- (9) The availability of and capability to generate electric power.

(g) Existing area or regional plans are acceptable provided the plan includes statements that indicate the degree to which the plan has met or is meeting all the requirements in paragraphs (a) through (f) of this section.

§1940.960 Federal employee panel members.

(a) The State Director will appoint one Rural Development employee to serve as a voting member of the panel established in §1940.956 (c) (1) of this subpart.

(b) The Administrator may appoint, temporarily and for specific purposes, personnel from any department or agency of the Federal Government as nonvoting panel members, with the consent of the head of such department or agency, to provide official information to the panel. The member(s) appointed shall have expertise to perform a duty described in §1940.956 (b) of this subpart that is not available among panel members.

§1940.960 (Con.)

(c) Federal panel members will be paid per diem or otherwise reimbursed by the Federal Government for expenses incurred each day the employee is engaged in the actual performance of a duty of the panel. Reimbursement will be in accordance with Federal travel regulations.

§1940.961 Allocation of appropriated funds.

(a) Initial allocation.

(1) Each FY, from sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program, funds will be allocated to designated States in accordance with Subpart L of Part 1940, Exhibit A, Attachment 4, of this chapter (available in any Rural Development State or District Office).

(2) Each FY, and normally within 30 days after the date Rural Development receives an appropriation of designated rural development program funds, the Governor of each designated State will be notified of the amounts allocated to the State under each designated program for such FY. The Governor will also be notified of the total amounts appropriated for the FY for each designated rural development program.

(3) The State Director will fund projects from a designated State's allocation of funds, according to appropriate program regulations giving great weight to the order in which the preapplications/applications for projects are ranked and listed by the panel in accordance with §1940.956 (b) (3) of this subpart.

(b) Reserve. A percentage of the National Office reserve established in Subpart L of Part 1940 of this chapter will be used to establish a reserve for designated States that is separate and apart from that of nondesignated States. The percent reserved will be based upon the same criteria used in Subpart L of Part 1940 of this chapter to allocate program funds.

(c) Pooling.

(1) On July 15 of each FY, and from time to time thereafter during the FY, as determined appropriate, unobligated funds will be pooled from among the designated States. Pooled funds will be made a part of the reserve established for designated States and will revert to National Office control.

(2) Funds pooled from designated States can be requested by designated States, pursuant to subsection (d) of this section. The designated States' pool; however, will not be available to nondesignated States until September 1 of each year.

(d) Request for funds.

(1) Designated States may request designated States' reserve funds, and funds for other designated rural development programs controlled by the National Office, as shown in Subpart L of Part 1940, Exhibit A, Attachment 4, of this chapter, in accordance with applicable program regulations.

(2) Designated States may request funds from the nondesignated reserve account when:

(i) All allocated and reserve funds to designated States have been used, or

(ii) Sufficient funds do not remain in any designated State allocation and in the designated States' reserve account to fund a project.

§1940.962 Authority to transfer direct loan amounts.

(a) Transfer of funds. If the amounts allocated to a designated State for direct Water and Waste Disposal or Community Facility loans for a FY are not sufficient to provide the full amount requested for a project in accordance with this subpart, the State Director may transfer part or all of the funds allocated to the State, from one program to another, subject to paragraphs (b) and (c) of this section.

(b) Limitation on amounts transferred.

(1) Amounts transferred within a designated State. The amount of direct loan funds transferred from a program under this section shall not exceed the amount left unobligated after obligating the full amount of assistance requested for each project that ranked higher in priority on the panel's list.

(2) Amounts transferred on a National basis. The amount of direct loan funds transferred in a FY, among the designated States, from a program under this subpart (after accounting for any offsetting transfers into such program) shall not exceed \$9 million, or an amount otherwise authorized by law.

(c) National Office concurrence. The State Director may transfer direct loan funds authorized in this section, after requesting and receiving concurrence from the National Office. If permitted by law, the National Office will concur in requests on a first-come-first-served basis.

§1940.963 Authority to transfer guaranteed loan amounts.

(a) Transfer of funds. If the amounts allocated to a designated State for guaranteed Water and Waste Disposal, Community Facility, or Business and Industry loans for a FY are not sufficient to provide the full amount requested for a project in accordance with this subpart, the State Director may transfer part or all of the funds allocated to the State, from one program to another, subject to paragraphs (b) and (c) of this section.

(b) Limitation on amounts transferred. The amount of guaranteed loan funds transferred from a program under this section shall not exceed the amount left unobligated after obligating the full amount of assistance requested for each project that ranked higher in priority on the panel's list.

(c) National Office concurrence. The State Director may transfer guaranteed loan funds authorized in this section, after requesting and receiving concurrence from the National Office. If permitted by law, the National Office will concur in requests on a first-come-first-served basis.

§1940.964 [Reserved]

§1940.965 Processing project preapplications/applications.

Except for the project review and ranking process established in this subpart, all requests for funds from designated rural development programs will be processed, closed, and serviced according to applicable Rural Development regulations, available in any Rural Development office.

(a) Preapplications/applications. All preapplications/applications on hand that have not been selected for further processing will be submitted initially to the panel for review and ranking. Preapplications/applications on hand that had been selected for further processing prior to the time a State was selected to participate in this program may be funded by Rural Development without review by the panel. Preapplications/applications selected for further processing by Rural Development will not exceed the State's previous year's funding level. The State Director will provide the State coordinator a list of preapplications/applications that are in process and will be considered for funding without review by the panel. This list will be provided at the same time preapplications/applications are initially submitted to the State coordinator in accordance with paragraph (d) of this section.

(b) Rural Development review. Preapplications/applications will be reviewed in sufficient detail to determine eligibility and, if applicable, determine if the applicant is able to obtain credit from other sources at reasonable rates and terms. Normally, within 45 days after receiving a complete preapplication/application, Rural Development will notify the applicant of the eligibility determination. A copy of all notifications will be sent to the State coordinator.

(c) Applicant notification. The notification to eligible applicants will contain the following statements:

"Your application has been submitted to the State coordinator for review and ranking by the State rural economic development review panel. If you have questions regarding this review process, you should contact the State coordinator. The address and telephone number are: (insert).

"You will be notified at a later date of the decision reached by the panel and whether or not you can proceed with the proposed project.

"You are advised against incurring obligations which cannot be fulfilled without Rural Development funds."

These statements should be included in notifications to applicants with preapplications/applications on hand that had not been selected for further processing prior to the time a State was selected to participate in this program.

(d) Information to State coordinator. Rural Development will forward a copy of the preapplication/application and other information received from the applicant to the State coordinator according to a schedule prepared in accordance with §1940.956 (a) of this subpart. The State coordinator will be advised that no further action will be taken on preapplications/applications until they have been reviewed and ranked by the panel, and a priority funding list has been received from the State. Applications forwarded to the State coordinator will be reviewed and ranked for funding in accordance with §1940.956 of this subpart.

(e) The Rural Development review of priority funding list. Rural Development will review the list of ranked applications received from the State coordinator and determine if projects meet the requirements of the designated rural development program under which the applicant seeks assistance. Any project that does not meet program regulations will be removed from the list. Applicants will be notified of the decision reached by the panel and whether or not the applicant should proceed with the project. Rural Development will provide a copy of all notifications to the State coordinator. The decisions of the panel are not appealable.

(f) Obligation of funds. Rural Development will provide funds for projects whose application remains on the list, subject to available funds. Consideration will be given to the order in which the applications were ranked and prioritized by the panel. If Rural Development proposes to provide assistance to any project without providing assistance to all projects ranked higher in priority by the panel than the project to be funded, 10 days prior to requesting an obligation of funds, the State Director will submit a report stating reasons for funding such lower ranked project to the following:

§1940.965 (f) (Con.)

(1) Panel.

(2) National Office. The National Office will submit a copy of the notification to:

(i) Committee on Agriculture of the House of Representatives, Washington, DC.

(ii) Committee on Agriculture, Nutrition, and Forestry of the Senate, Washington, DC.

§§1940.966 - 1940.967 [Reserved]

§1940.968 Rural Economic Development Review Panel Grant (Panel Grant).

(a) General. Panel Grants awarded will be made from amounts appropriated for grants under any provision of Section 306(a) of the CONACT [7 U.S.C. 1926(a)], not to exceed \$100,000 annually to each eligible State. This section outlines Rural Development's policies and authorizations and sets forth procedures for making grants to designated States for administrative costs associated with a State rural economic development review panel.

(b) Objective. The objective of the Panel Grant program is to make grant funds available annually to each designated State to use for administrative costs associated with the State rural economic development review panels meeting requirements of §1940.956 of this subpart.

(c) Authorities, delegations, and redelegations. The State Director is responsible for implementing the authorities in this section and to issue State supplements redelegating these authorities to appropriate Rural Development employees. Grant approval authorities are contained in Subpart A of Part 1901 of this chapter.

(d) Joint funds. Rural Development grant funds may be used jointly with funds furnished by the grantee or grants from other sources.

(e) Eligibility. A State designated by the Under Secretary to participate in this program is eligible to receive not more than \$100,000 annually under this section. A State must become and remain an eligible State in order to receive funds under this section.

(f) Purpose. Panel Grant funds may be used to pay for reasonable administrative costs associated with the panel, including, but not limited to, the following:

(1) Travel and lodging expenses;

(2) Salaries for State coordinator and support staff;

(3) Reasonable fees and charges for professional services necessary for establishing or organizing the panel. Services must be provided by individuals licensed in accordance with appropriate State accreditation associations;

(4) Office supplies, and

(5) Other costs that may be necessary for panel operations.

(g) Limitations.

Grant funds will not be used to:

(1) Pay costs incurred prior to the effective date of the grant authorized under this subpart;

(2) Recruit preapplications/applications for any designated rural development loan or grant program or any loan or grant program;

(3) Duplicate activities associated with normal execution of any panel member's occupation.

(4) Fund political activities;

(5) Pay costs associated with preparing area development plans;

(6) Pay for capital assets; purchase real estate, equipment or vehicles; rent, improve, or renovate office space; or repair and maintain State or privately owned property;

(7) Pay salaries to panel members; or

(8) Pay per diem or otherwise reimburse panel members unless distance traveled exceeds 50 miles.

(h) Other considerations.

(1) Equal opportunity requirements. Grants made under this subpart are subject to Title VI of the Civil Rights Act of 1964 as outlined in Subpart E of Part 1901 of this chapter.

(2) Environmental review requirements. Grants made under this subpart must comply with the environmental review requirements in accordance with 7 CFR part 1970. (Revised 04-01-16, SPECIAL PN.)

(3) Management assistance. Grantees will be provided management assistance as necessary to assure that grant funds are used for eligible purposes for the successful operation of the panel. Grants made under this subpart will be administered under and are subject to the U.S. Department of Agriculture regulations, 7 CFR, Parts 3016 and 3017, as appropriate.

§1940.968 (h) (Con.)

(4) Drug-free work place. The State must provide for a drug-free workplace in accordance with the requirements of RD Instruction 1940-M (available in any Rural Development office). Just prior to grant approval, the State must prepare and sign Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals."

(i) Application processing.

(1) The State Director shall assist the State in application assembly and processing. Processing requirements should be discussed during an application conference.

(2) After the Governor has been notified that the State has been designated to participate in this program and the State has met all eligibility requirements of this subpart, the State may file an original and one copy of SF 424.1 with the State Director. The following information will be included with the application:

(i) State's financial or in-kind resources, if applicable, that will maximize the use of Panel Grant funds;

(ii) Proposed budget. The financial budget that is part of SF 424.1 may be used, if sufficient, for all panel income and expense categories;

(iii) Estimated breakdown of costs, including costs to be funded by the grantee or from other sources;

(iv) Financial management system in place or proposed. The system will account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State must be sufficient to permit preparation of reports required by Federal regulations and permit the tracing of funds to a level of expenditures adequate to establish that grant funds are used solely for authorized purposes;

(v) Method to evaluate panel activities and determine if objectives are met;

(vi) Proposed Scope-of-Work detailing activities associated with the panel and time frames for completion of each task, and

(vii) Other information that may be needed by Rural Development to make a grant award determination.

(3) The applicable provisions of §1942.5 of Subpart A of Part 1942 of this chapter relating to preparation of loan docket will be followed in preparing grant dockets. The docket will include at least the following:

(i) Form RD 400-4, "Assurance Agreement;"

(ii) Scope-of-work prepared by the applicant and approved by Rural Development;

(iii) Form RD 1940-1, "Request for Obligation of Funds," with Exhibit A of this subpart, and

(iv) Certification regarding a drug-free workplace in accordance with RD Instruction 1940-M (available in any Rural Development office).

(j) Grant approval, obligation of funds, and grant closing.

(1) The State Director will review the application and other documents to determine whether the proposal complies with this subpart.

(2) Exhibit A of this subpart (available from any Rural Development State Office), shall be attached to and become a permanent part of Form RD 1940-1 and the following paragraphs will appear in the comment section of that form:

"The Grantee understands the requirements for receipt of funds under the Panel Grant program. The Grantee assures and certifies that it is in compliance with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those set out in RD 7 CFR, Part 1940, Subpart T, and 7 CFR, Parts 3016 and 3017, including revisions through _____ (date of grant approval). The Grantee further agrees to use grant funds for the purposes outlined in the Scope-of-Work approved by Rural Development. Exhibit A is incorporated as a part hereof."

(3) Grants will be approved and obligated in accordance with the applicable parts of §1942.5 (d) of Subpart A of Part 1942 of this chapter.

(4) An executed copy of the Scope-of-Work will be sent to the State coordinator on the obligation date, along with a copy of Form RD 1940-1 and the required exhibit. Rural Development will retain the original of Form RD 1940-1 and the exhibit.

(5) Grants will be closed in accordance with the applicable parts of Subpart A of Part 1942 of this chapter, including §1942.7. The grant is considered closed on the obligation date.

§1940.968 (j) (Con.)

(6) A copy of Form RD 1940-1, with the required exhibit, and the Scope-of-Work will be submitted to the National Office when funds are obligated.

(7) If the grant is not approved, the State coordinator will be notified in writing of the reason(s) for rejection. The notification will state that a review of the decision by Rural Development may be requested by the State under Subpart B of Part 1900 of this chapter.

(k) Fund disbursement. Grant funds will be disbursed on a reimbursement basis. Requests for funds should not exceed one advance every 30 days. The financial management system of the State shall provide for effective control and accountability of all funds, property, and assets.

(1) SF 270, "Request for Advance or Reimbursement," will be completed by the State coordinator and submitted to the State Director not more frequently than monthly.

(2) Upon receipt of a properly completed SF 270, the State Director will request funds through the Automated Discrepancy Processing System. Ordinarily, payment will be made within 30 days after receipt of a properly prepared request for reimbursement.

(3) States are encouraged to use minority banks (a bank which is owned by at least 50 percent minority group members) for the deposit and disbursement of funds. A list of minority owned banks can be obtained from the Office of Minority Business Enterprises, Department of Commerce, Washington, DC 20230.

(l) Title. Title to supplies acquired under this grant will vest, upon acquisition, in the State. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the grant awarded, and if the supplies are not needed for any other federally sponsored programs, the State shall compensate Rural Development for its share.

(m) Costs. Costs incurred under this grant program are subject to cost principles established in Office of Management and Budget Circular A-87.

(n) Budget changes. Rebudgeting within the approved direct cost categories to meet unanticipated requirements which do not exceed 10 percent of the current total approved budget shall be permitted. The State shall obtain prior approval from the State Director for any revisions which result in the need for additional funding.

(o) Programmatic changes. The State shall obtain prior written approval from the State Director for any change to the scope or objectives for which the grant was approved or for contracting out or otherwise obtaining services of a third party to perform activities which are central to the purposes of the grant. Failure to obtain prior approval of changes to the scope can result in suspension or termination of grant funds.

(p) Financial reporting. SF 269, "Financial Status Report," and a Project Performance Report are required on a quarterly basis. The reports will be submitted to the State Director not later than 30 days after the end of each quarter. A final SF 269 and Project Performance Report shall be due 90 days after the expiration or termination of grant support. The final report may serve as the last quarterly report. The State coordinator will constantly monitor performance to ensure that time schedules are met, projected work by time periods is accomplished, and other performance objectives are achieved. Program outlays and income will be reported on an accrual basis. Project Performance Reports shall include, but not be limited to, the following:

- (1) A comparison of actual accomplishments to the objectives established for that period;
- (2) Reasons why established objectives were not met;
- (3) Problems, delays, or adverse conditions which will affect the ability to meet the objectives of the grant during established time periods. This disclosure must include a statement of the action taken or planned to resolve the situation; and
- (4) Objectives and timetable established for the next reporting period.

(q) Audit requirements. Audit reports will be prepared and submitted in accordance with §1942.17 (q) (4) of Subpart A of Part 1942 of this chapter. The audit requirements only apply to the year(s) in which grant funds are received. Audits must be prepared in accordance with generally accepted government auditing standards using publication, "Standards for Audits of Governmental Organizations, Programs, Activities and Functions."

(r) Grant cancellation. Grants which have been approved and funds obligated may be cancelled by the grant approval official in accordance with §1942.12 of Subpart A of Part 1942 of this chapter. The State Director will notify the State coordinator that the grant has been cancelled.

(s) Grant servicing. Grants will be serviced in accordance with Subparts E and O of Part 1951 of this chapter.

§1940.968 (Con.)

(t) Subsequent grants. Subsequent grants will be processed in accordance with the requirements of this subpart for each additional time period a State is designated to participate in this program.

§1940.969 Forms, exhibits, and subparts.

Forms, exhibits, and subparts of this chapter (all available in any Rural Development office) referenced in this subpart, are for use in establishing a State economic development review panel and for administering the Panel Grant program associated with the panel.

§1940.970 [Reserved]

§1940.971 Delegation of authority.

The authority authorized to the State Director in this subpart may be redelegated.

§§1940.972 - 1940.999 [Reserved]

§1940.1000 OMB control number.

The collection of information requirements contained in this regulation has been approved by the Office of Management and Budget and assigned OMB control number 0575-0145. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 48 hours per response with an average of 4 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 Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Attachment: Exhibit A

oOo

REQUIREMENTS FOR ADMINISTRATION OF RURAL ECONOMIC
DEVELOPMENT REVIEW PANEL GRANTS (PANEL GRANTS)

Attachment to Form RD 1940-1
"Request for Obligation of Funds"

Introduction.

This exhibit is a supplement to the information contained in RD Instruction 1940-T and contains information regarding responsibilities of the Grantee for receipt of monies under the Panel Grant program. This exhibit shall become a permanent part of Form RD 1940-1, "Request for Obligation of Funds." The requirements set forth in this exhibit do not supercede the requirements for receipt of Federal grant funds as stated in Title 7, Parts 3016 and 3017 of the Code of Federal Regulations (CFR); however, specific areas related to the Panel Grant program are set forth below.

Panel Grants are awarded to defray administrative costs associated with a State rural economic development review panel established in accordance with RD Instruction 1940-T, §1940.956. In consideration of said grant:

I. Grantor and Grantee agree:

- A. This agreement shall be effective when Form RD 1940-1 has been executed by both parties.
- B. Information collected through this agreement is required to obtain a Panel Grant and will be used to determine that grant funds are used for authorized program purposes.
- C. Grant funds will not be used to replace any financial support previously provided for or assured from any other source. The general level of expenditures by the Grantee for the benefit of the program covered by this agreement shall be maintained and not reduced as a result of the Federal share of funds received under this grant.
- D. Grant funds will be disbursed on a reimbursement basis not to exceed one advance every 30 days.
 1. Standard Form (SF) 270, "Request for Advance or Reimbursement," will be used to request reimbursement of costs incurred by the Grantee.
 2. Where the Grantee claims credit for contributions-in-kind to the total cost of allowable expenses, the evaluation of these contributions shall be subject to reevaluation by the Grantor at any time, and any deficiency determined by the Grantor shall be compensated by supplemental contributions by the Grantee as a condition for further distribution by the Grantor. Specific procedures in 7 CFR Part 3016 establishing the value of in-kind contributions will govern the evaluation.

E. Funds budgeted for the period covered by this exhibit are:

Federal Contribution	\$ _____
Grantee Contribution	_____
Cash	_____
In-kind	_____
Total	\$ _____

F. Grantees are permitted to rebudget within the approved direct cost categories to meet unanticipated requirements which do not exceed 10 percent of the current total approved budget. Grantees shall obtain prior approval of the Grantor for any revisions which result in the need for additional funding.

G. Title to supplies acquired under this grant will vest, upon acquisition in the Grantee. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for other federally sponsored programs, the Grantee shall compensate the Grantor for its share.

H. Use of grant funds for travel determined necessary to the program may be subject to the travel policies of the Grantee provided policies are uniformly applied regardless of the source of funds in determining the amounts and types of reimbursable travel expenses associated with panel operations. If the Grantee does not have such specific policies uniformly applied, the Federal Travel Regulations shall apply in determining the amount charged to the grant. The limitations established in RD Instruction 1940-T, §1940.968 (g) also apply.

I. To the following termination provisions:

1. Termination or temporary suspension of payment for cause. The Grantor may terminate any grant in whole, or in part, or temporarily withhold payment, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor shall promptly notify the Grantee in writing of the effects of suspension and/or reasons for the termination together with the effective date.

2. Termination for convenience. The Grantor or Grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination

conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor shall allow full credit to the Grantee for the Federal share of the noncancelable obligations, properly incurred by the Grantee prior to termination.

II. Grantee agrees to:

- A. Manage the day-to-day operation of grant supported activities to assure compliance with applicable Federal requirements and that performance goals are achieved.
- B. Complete program within the total sums available to it, including said grant funds, in accordance with the approved Scope-of-Work and any necessary modifications thereof prepared by Grantee and approved by Grantor and in accordance with applicable Federal regulations.
- C. Assure that the purposes and Scope-of-Work for which this grant is made shall not duplicate programs for which monies have been received, or committed, or are applied to from other sources, public or private.
- D. Provide a financial management system which will account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State must be sufficient to permit preparation of reports required by Federal regulations and permit the tracing of funds to a level of expenditures adequate to establish that grant funds are used solely for authorized purposes.
- E. Provide Grantor quarterly and annual financial and performance reports in accordance with requirements set forth in RD Instruction 1940-T, §1940.968.
- F. Provide a single audit prepared in accordance with OMB Circular A-128. The audit will be in sufficient detail to allow the Grantor to determine that funds have been used in accordance with the Scope-of-Work, any applicable laws and regulations, and this exhibit.
- G. Provide Grantor with such other reports as it may require and permit inspection of its operations by a designated representative of the Grantor.

H. Retain financial and programmatic records, supporting documents, statistical records for each funding period for 3 years after the Grantee submits its last expenditure report, except that records will be retained beyond the 3-year period if audit findings have not been resolved.

I. Execute Form RD 400-1, "Assurance Agreement," and any other agreements required by Grantor to implement the civil rights requirements.

J. Permit Grantor or the Comptroller General of the United States, or any of their authorized representatives, the right of access to any pertinent books, documents, papers, or other records of Grantee which are pertinent to the grant in order to make audits, examinations, excerpts, and transcripts. The rights of access shall last as long as the records are retained.

K. Assure that no member of Congress shall be admitted to any share or part of this grant or any benefit that may rise therefrom.

L. Make all nonconfidential information resulting from its activities available to the general public on an equal basis.

M. Comply with property management standards established by 7 CFR Part 3016, Uniform Administrative Requirements, relating to supplies or other expendable personal property.

N. Relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or, in part, the material shall contain notice and be identified by language to the following effect: "The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source."

O. Abide by the policies promulgated in 7 CFR Part 3016, which provides standards for use by Grantee in establishing procedures for the procurement of supplies and other services with Federal grant funds.

P. Upon default under its representations or agreements set forth in this exhibit, Grantee, at the option and demand of Grantor, will, to the extent legally permissible, repay to Grantor forthwith the original principal amount of the grant stated hereinabove, with interest equal to the rate of interest paid on U. S. 26-week Treasury Bills adjusted quarterly from the date of the default. The provisions of this exhibit may be enforced by Grantor at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this exhibit or by such other proceedings in law or equity, in either Federal or State courts as may be deemed necessary by Grantor to assure compliance with the provisions of this exhibit and the law and regulations under which this grant is made.

Q. Liquidate all obligations incurred under this grant not later than 90 days after the end of the funding period to coincide with submission of the annual Financial Status Report, unless a request to extend this deadline is approved by the Grantor.

III. This exhibit is subject to current Grantor regulations and any future regulations not inconsistent with the express terms thereof.

oOo