

PART 3570 Community Programs

Subpart F - Community Facilities Technical Assistance and Training Grants

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PART 3570 - Community Programs

Subpart B - Community Facilities Grant Program

§ 3570.251 Purpose.

This subpart contains the provisions and procedures by which the Agency will administer the Essential Community Facilities Technical Assistance and Training Program. The purpose of the program is to provide technical assistance and training with respect to essential community facilities programs. To meet this purpose, the Agency will make grants to public bodies and private nonprofit corporations, (such as States, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations) to provide associations Technical Assistance and/or training with respect to essential community facilities programs. The Technical Assistance and/or training will assist communities, Indian Tribes, and Nonprofit Corporations to identify and plan for community facility needs that exist in their area. Once those needs have been identified, the Grantee can assist in identifying public and private resources to finance those identified community facility needs.

§ 3570.252 Definitions and abbreviations.

The definitions and abbreviations in §3570.53 of subpart B apply to this subpart unless otherwise provided. In addition, these definitions and abbreviations are used in this subpart:

Actual Capacity. The demonstrated ability of the Technical Assistance Provider to develop the capacity of Ultimate Recipients in the areas of developing applications for the Community Facilities program, improving the management capabilities of their community facilities, and providing training.

Administrator. The Administrator of the Rural Housing Service (RHS).

Applicant. Public bodies and private nonprofit corporations, (such as States, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations) that has applied for, or intends to apply for, a Technical Assistance and Training Grant under this subpart. The applicant must be either a Technical Assistance Provider or an Ultimate Recipient.

Audit. An examination of an organization's financial Statements by an independent Certified Public Accountant (CPA), for the purpose of expressing an opinion on the fairness with which the Statements present the financial position, results of operations, and changes in cash flows in conformity with Generally Accepted Accounting Principles (GAAP) and for determining whether the Applicant or Ultimate Recipient of Federal government funding has complied with the applicable laws, regulations, and contract for those events reflected in the financial Statements. All audits must meet the requirements of 2 CFR 200.500-200.518, and any successor regulations.

Community Ties. The significant ties to the Rural Area that need to be demonstrated by a Nonprofit corporation who is an Ultimate Recipient, by either substantial public funding through taxes, revenue bonds or other local Government sources, and/or substantial voluntary community funding; and, a broadly-based ownership and control by members of the community. It can also be demonstrated by local membership and control characteristics.

CONACT. The Consolidated Farm and Rural Development Act (7 U.S.C. 1926 *et seq*).

Conflict of Interest. A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the Project; or that restrict open and free competition for unrestrained trade. Specifically, Project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent Conflict of Interest, including, but not limited to, owner(s) and their immediate family members. An example of Conflict of Interest occurs when the Grantee's employees, board of directors, or the immediate family of either, have the appearance of a professional or personal financial interest in the Applicant receiving the benefits or services of the grant.

DUNS. A Data Universal Numbering System (DUNS) which is obtained from Dun and Bradstreet and is used when applying for Federal financial assistance.

§ 3570.252 (Con.)

Generally Accepted Accounting Principles (GAAP). A widely accepted set of rules, conventions, standards and procedures for reporting financial information, as established by the Financial Accounting Standards Board.

Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community, including Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 *et seq.*], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Jurisdiction. A unit of government or other entity with similar powers. Examples include, but are not limited to: city, county, district, special purpose district, township, town, borough, village, and State.

Letter of Conditions. A legal document presented to the Applicant selected for funding that outlines all conditions that must be agreed to and accepted before final grant approval.

Low Income. A median household income (MHI) that does not exceed the State Non-Metropolitan Median Household Income (SNMHI) or the Poverty Line, whichever is higher.

Multi-jurisdictional. Concerning two or more Jurisdictions.

Professional Services. Services provided by a person or entity having specialized knowledge and skills to plan, design, prepare procurement, construction, or other technical support documents, administer construction contracts, and/or other related services for a Project.

Project. The Technical Assistance that an Applicant is currently planning as described in the Project description in the application, to be financed in whole or in part with Agency assistance.

Secretary. The Secretary of Agriculture.

Technical Assistance. A function such as supervision, oversight, training, or professional consultation related to an Essential Community Facility that is performed for the benefit of an Ultimate Recipient or proposed Ultimate Recipient, which is a problem solving activity, as determined by the Agency.

Technical Assistance Provider. Grantee who will provide technical assistance to Ultimate Recipients.

Ultimate Recipient. Entity receiving assistance from the Grantee. If a Nonprofit corporation is either applying for funding as an Ultimate Recipient or is benefitting from the TAT Grant as the Ultimate Recipient, it must demonstrate Community Ties to the Rural Area. These ties may be demonstrated by

- (a) Obtaining substantial public funding through taxes revenue bonds, or other local Government sources, and/or substantial voluntary community funding, or
- (b) Having a broadly-based ownership and control by members of the community, or
- (c) Demonstrating all of the following characteristics:
 - (1) Members of the organization are primarily from the local rural community,
 - (2) Membership is open to all adults in the local rural community,
 - (3) Members of the organization have ultimate control of the proposed community facility; and
 - (4) The organization receives the majority of its funding from its members or their volunteer efforts. Public bodies and Indian Tribes that are applying for funding as Ultimate Recipients or are the benefitting from TAT grant funds as the Ultimate Recipient are not required to further demonstrate Community ties to the local Rural Areas.

§ 3570.253 Compliance with Federal and State requirements.

- (a) Federal statutory requirements. Applicants must comply with, all applicable Federal laws and Executive Order requirements including, but not limited to:
 - (1) Section 504 of the Rehabilitation Act of 1973.
 - (2) Civil Rights Act of 1964.

§ 3570.253(a) (Con.)

- (3) The American with Disabilities Act (ADA) of 1990.
- (4) Executive Order 12549 Debarment and Suspension and 2 CFR parts 180 and 417.
- (5) Section 319 of Public Law 101-121 on Lobbying.
- (6) Age Discrimination Act of 1975.
- (7) Fair Housing Act of 1968.
- (8) Executive Order 11246 Equal Employment Opportunity.
- (9) Title IX of the Education Amendments of 1972.
- (10) 2 CFR parts 200 and 400 ``Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(b) State laws, local laws, regulatory commission regulations. Applicants must comply with all applicable state and local laws and regulatory commission regulations. If there are conflicts between this subpart and State or local laws or regulations, the provisions of this subpart will control.

§ 3570.254 Source of funds.

The Agency will reserve 5 percent of any funds annually appropriated to carry out each of the Essential Community Facilities grant, loan and loan guarantee programs unless otherwise noted in the annual Notice published in the Federal Register. TAT reserved grant funds not obligated by July 31 of each fiscal year will be used to fund Essential Community Facilities grant, loan, and/or loan guarantee programs.

§ 3570.255 Matching Funds.

Any matching funds must comply with the requirements outlined at 2 CFR 200.306.

§ 3570.256 Allocation of funds.

The Agency will administer these grant funds and will award them on a competitive basis.

§ 3570.257 Statute and regulation references.

All references to statutes and regulations are to include any and all successor statutes and regulations.

§§ 3570.258 - 3570.260 [Reserved]

§ 3570.261 Environmental and intergovernmental review.

All grants awarded under this subpart are subject to the environmental requirements of 7 CFR part 1940, subpart G, or any successor regulation. Technical Assistance under this program is categorically excluded unless extraordinary circumstances exist.

§ 3570.262 Applicant eligibility requirements.

There are two types of Applicants. The applicant must be either a Technical Assistance Provider or an Ultimate Recipient, and must meet eligibility requirements before being considered for Agency assistance.

- (a) Applicants applying as Technical Assistance Providers must:
 - (1) Be a public body or a private nonprofit corporation, (such as States, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations);
 - (2) Be legally established and located within one of the following:
 - (i) A State as defined § 3570.252; or
 - (ii) The District of Columbia; and
 - (3) Have the proven ability, background, experience (as evidenced by the organization's satisfactory completion of Project(s) similar to those proposed), legal authority and actual capacity to provide Technical Assistance and/or training to Ultimate Recipients as provided in § 3570.252. To meet the requirement of actual capacity, an Applicant must either:
 - (i) Have the necessary resources to provide Technical Assistance and/or training to associations in Rural Areas through its staff,

§ 3570.262(a)(3) (Con.)

(ii) Be assisted by an affiliate or member organization which has such background and experience and which agrees, in writing, that it will provide the technical assistance, or

(iii) May contract with a nonaffiliated organization for not more than 49 percent of the awarded grant to provide the proposed technical assistance.

(4) Nonprofits applying as Technical Assistance Providers must be designated tax exempt by the Internal Revenue Service.

(b) Applicants applying as Ultimate Recipients must be:

(1) A public body,

(2) An Indian Tribe, or

(3) A Nonprofit corporation that demonstrates Community ties to the Rural Area by:

(i) Obtaining substantial public funding through taxes revenue bonds, or other local Government sources, and/or substantial voluntary community funding,

(ii) Having a broadly-based ownership and control by members of the community, or

(iii) Demonstrating all of the following characteristics:

(A) Members of the organization are primarily from the local rural community;

(B) Membership is open to all adults in the local rural community;

(C) Members of the organization have ultimate control of the proposed community facility; and

(D) The organization receives the majority of its funding from its members or their volunteer efforts.

§ 3570.263 Eligible project purposes.

- (a) Grant funds and any matching funds may be used by Technical Assistance Providers to:
- (1) Assist communities in identifying and planning for community facility needs;
 - (2) Identify resources to finance community facility needs from public and private sources;
 - (3) Prepare reports and surveys necessary to request financial assistance to develop community facilities;
 - (4) Prepare applications for Agency financial assistance;
 - (5) Improve the management, including financial management, related to the operation of community facilities; or
 - (6) Assist with other areas of need identified by the Secretary.
- (b) Grant Funds and any matching funds may be used by Ultimate Recipients only to prepare reports and surveys necessary to request financial assistance to develop community facilities. Applicants applying as Ultimate Recipients will be limited to this purpose.

§ 3570.264 Ineligible Project purposes.

Ineligible purposes for grant funds and any matching funds include, but are not limited to:

- (a) Duplicate services, such as those previously performed by an association's consultant in developing a Project, including feasibility, design, Professional Services, and cost estimates prior to receiving the grant award.
- (b) Purchase real estate or vehicles, improve or renovate office space, or repair and maintain privately owned property.
- (c) Pay the costs for construction, improvement, rehabilitation, modification, or operation and maintenance of an Essential Community Facility.

§ 3570.264 (Con.)

(d) Procure applications for the Agency's community facilities or other loan or grant program. Grant funds cannot be used to generate new applications; however, as stated in § 3570.262(c)(4) funds can be used to assist with application preparation for Agency programs.

(e) Pay for other costs that are not allowed under 2 CFR part 200.

(f) Pay an outstanding judgment obtained by the U.S. in a Federal Court (other than in the United States Tax Court), which has been recorded. An Applicant will be ineligible to receive a grant until the judgment is paid in full or otherwise satisfied.

(g) Intervene in Federal or adjudicatory proceedings.

(h) Fund political or lobbying activities.

(i) Conduct an income survey associated with developing a complete application for a potential Applicant.

(j) Pay for indirect or administrative costs in excess of 10% of the amount of grant.

(k) Prepare environmental assessments.

(l) Provide assistance to an Ultimate Recipient, or a Project, that is not located in a Rural Area.

(m) Pay for expenses incurred more than three years after the date of the grant agreement.

(n) Provide assistance to a Project that primarily serves an area that is not considered Low Income.

(o) Fund a project where a Conflict of Interest exists.

§§ 3570.265 - 3570.266 [Reserved]

§ 3570.267 Applications.

(a) Filing Period. The Agency will publish an annual notice in the Federal Register stating the filing period, where to file, and all other applicable information necessary to submit a complete application.

(b) Application requirements. To file an application, an organization must provide their DUNS number. An organization may obtain a DUNS number from Dun and Bradstreet by calling (1-866-705-5711). To file a complete application the following information must be submitted:

- (1) ``Application for Federal Assistance (For Non-Construction)
- (2) ``Budget Information - Non-Construction Programs.''
- (3) ``Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transaction.''
- (4) ``Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative 1-For Grantees Other Than Individuals.''
- (5) ``Certification Regarding Debarment.''
- (6) Attachment regarding assistance provided to Agency Employees as required by RD Instruction 1900-D (1900.153(a)), as applicable.
- (7) ``Equal Opportunity Agreement.''
- (8) ``Assurance Agreement.''
- (9) Indirect Cost Rate Agreement (if applicable, Applicant must include approved cost agreement rate schedule).
- (10) Statement of Compliance with Title VI of the Civil Rights Act of 1964.
- (11) ``Disclosure of Lobbying Activities'' (include only if grant exceeds \$100,000).

(c) Supporting information. All applications shall be accompanied by the following supporting information:

- (1) For Nonprofit Corporations,

- (i) Certified copies of current organizational documents including Certificate of Incorporation, bylaws, and Certificate of Good Standing,
 - (ii) Evidence of tax exempt status from the Internal Revenue Service if applying as a Technical Assistance Provider, and
 - (iii) Evidence of Community Ties to a Rural Area if a Nonprofit Corporation applying as an Ultimate Recipient.
- (2) For applicants applying as a Technical Assistance Provider, a narrative of their experience in providing services similar to those proposed. The narrative will provide a brief description of successfully completed Projects including the need that was identified and objectives accomplished.
- (3) Latest financial information to show the Applicant's financial capacity to carry out proposed work. A current Audit is preferred; however, Applicants may submit a balance sheet and an income Statement in lieu of an Audit report.
- (4) Documentation of cash matching funds, if applicable.
- (5) List of proposed services to be provided.
- (6) For Applicants applying as Technical Assistance Providers who have not identified the Ultimate Recipients, a narrative explaining how they will select Ultimate Recipients to be assisted with grant funds.
- (7) Estimated breakdown of costs (direct and indirect) including those to be funded by Grantee as well as matching funds and other sources. Sufficient detail will be provided to permit the Agency to determine if the costs are allowed, reasonable, and applicable.
- (8) Evidence that a Financial Management System used to track Project costs is in place or proposed.
- (9) Documentation relevant to scoring criteria including, but not limited to:

(i) List of Ultimate Recipients to be served and the county, State or States where assistance will be provided. Identify Ultimate Recipients by name, or other characteristics such as size, income, location, and provide MHI and population data.

(ii) Description of type of Technical Assistance and/or training to be provided and the tasks to be contracted.

(iii) Description of how the Project will be evaluated, clearly stated goals, and the method proposed to measure results.

(iv) Documentation of the need for the proposed service. Provide detailed explanation of how the proposed service differs from other similar services being provided in same area.

(v) Personnel on staff or to be contracted to provide services and their experience with similar Projects.

(vi) Statement indicating the number of months it will take to complete the Project or service, and

(vii) Documentation on cost effectiveness of Project. Provide the cost per Ultimate Recipient to be served or the proposed cost of personnel to provide assistance.

§§ 3570.268 - 3570.271 [Reserved]

§ 3570.272 Grant processing.

(a) through (c) **[Reserved]**

(d) Applications that are not selected for funding due to low rating will be notified by the Agency. Applications that cannot be funded in the fiscal year that the application was received will not be retained for consideration in the following fiscal year.

(e) Applicants selected for funding will need to accept the conditions set forth in the Letter of Conditions, meet all such conditions, and complete a grant agreement which outlines the terms and conditions of the grant award before grant funds will be disbursed.

§ 3570.273 Scoring.

The Agency will score each application using the following scoring factors unless otherwise provided in an annual Notice in the Federal Register:

(a) Experience: Applicant Experience at developing and implementing successful technical assistance and/or training programs:

- (1) More than 10 years: 40 points
- (2) More than 5 years to 10 years: 25 points
- (3) 3 to 5 years: 10 points

(b) No prior grants received:

- (1) Applicant has never received a TAT Grant: 5 points.

(c) Population: The average population of proposed area(s) to be served:

- (1) 2,500 or less: 15 points
- (2) 2,501 to 5,000: 10 points
- (3) 5,001 to 10,000: 5 points

(d) MHI: The average median household income (MHI) of proposed area to be served is below the higher of the poverty line or:

- (1) 60 percent of the State's MHI: 15 points
- (2) 70 percent of the State MHI: 10 points
- (3) 90 percent of the State's MHI: 5 points

(e) Multi-jurisdictional: The proposed technical assistance or training project a part of a Multi-jurisdictional project comprised of:

- (1) More than 10 jurisdictions: 15 points
- (2) More than 5 to 10 jurisdictions: 10 points
- (3) 3 to 5 jurisdictions: 5 points

(f) Soundness of Approach: Up to 10 points

- (1) Needs Assessment: The problem/issue being addressed is clearly defined, supported by data, and addresses the needs;
- (2) Goals & objectives are clearly defined, tied to the need as defined in the work plan, and are measurable;
- (3) Work plan clearly articulates a well thought out approach to accomplishing objectives & clearly identifies who will be served by the project;
- (4) The proposed activities are needed in order for a complete Community Facilities loan and/or grant application.

(g) Matching funds:

- (1) There is evidence of the commitment of other cash funds of 20% of the total project costs 10 points.
- (2) There is evidence of the commitment of other cash funds of 10% of the total project costs 5 points.

(h) State Director Discretionary Points. The State Director may award up to 10 discretionary points for the highest priority project in each state, up to 7 points for the second highest priority project in each state and up to 5 points for the third highest priority project that address unforeseen exigencies or emergencies, such as the loss of a community facility due to an accident or natural disaster, or other areas of need in their particular state. The State Director will place written documentation in the project file each time the State Director assigns these points. Up to 10 points

(i) Administrator Discretionary Points. The Administrator may award up to 20 discretionary points for projects to address geographic distribution of funds, emergency conditions caused by economic problems, natural disasters and other initiatives identified by the Secretary. Up to 20 points

§ 3570.274 Fund disbursement.

The Agency will make payments under this agreement in accordance with 2 CFR 200.305. All requests for advances or reimbursements must be in compliance with 2 CFR 200.306 and include any required matching fund usage.

§ 3570.275 Grant cancellation and major changes.

Any change in the scope of the Project, budget adjustments of more than 10 percent of the total budget, and any other significant change in the Project must be in compliance with 2 CFR 200.308 and 200.339. The changes must be requested in writing and approved by the Agency in writing. Any change not approved may be cause for termination of the grant.

§ 3570.276 Reporting.

(a) The Grantee must provide periodic reports as required by the Agency. A financial status report, SF 425 "Federal Financial Report," and a project performance report will be required as provided in the grant agreement. The financial status report must show how grant funds and matching funds have been used to date. A final report may serve as the last report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The Project performance reports shall include, but are not limited to, the following:

- (1) A description of the activities that the funds reflected in the financial status report were used for;
- (2) A comparison of actual accomplishments to the objectives for that period;
- (3) Reasons why established objectives were not met, if applicable;
- (4) Problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a Statement of the action taken or planned to resolve the situation;
- (5) Objectives and timetables established for the next reporting period;

(6) A summary of the race, sex, and national origin of the Ultimate Recipients;

(7) The final report will also address the following:

(i) What have been the most challenging or unexpected aspects of this grant?

(ii) What advice would you give to other organizations planning a similar grant? What are the strengths and limitations of this grant? If you had the opportunity, what would you have done differently?

(ii) Are there any post-grant plans for this Project? If yes, how will they be financed?

§ 3570.277 Audit or financial statement.

The Grantee will provide an Audit report or financial Statement in accordance with 2 CFR 200.500-517 and as follows:

(a) Grantees expending \$750,000 or more Federal funds per fiscal year will submit an Audit conducted in accordance with 2 CFR Chapter 1 and Chapter II, parts 200, 215, 220, 225, 230 and 400, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

(b) Grantees expending less than \$750,000 will provide annual financial Statements covering the grant period, consisting of the organization's statement of income and expense and balance sheet signed by an appropriate Official of the organization. Financial statements will be submitted within 90 days after the Grantee's fiscal year.

§§ 3570.278 - 3570.280 [Reserved]

§ 3570.281 Grant servicing.

Grants will be serviced in accordance with 7 CFR part 1951, subpart E or any subsequent regulations.

§ 3570.282 Reserved.

§ 3570.283 Exception authority.

The Administrator may make an exception to any requirement or provision of this subpart, if such an exception is necessary to implement the intent of the authorizing statutes in a time of national emergency or in accordance with a Presidentially-declared disaster, or on a case-by-case basis, when such an exception is in the best financial interest of the Federal Government and is otherwise not in conflict with applicable laws. No exceptions, however, will be granted for Applicant, Ultimate Recipient, or Project eligibility.

§§ 3570.284 Review or appeal rights.

A person may seek a review of an Agency decision under this subpart from the appropriate Agency official that oversees the program in question or appeal to the USDA National Appeals Division in accordance with 7 CFR part 11.

§§ 3570.285 - 3570.299 [Reserved]

§ 3570.300 OMB Control Number.

The reporting and recordkeeping requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) for approval.

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