



DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 1780 and 1940

[Docket No. RUS-24-AGENCY-0004]

Update to Methodology and Formulas for Allocation of Loan and Grant Program Funds

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service (RBCS, RHS, RUS, or collectively referred to as the Agency), of the Rural Development (RD) mission area within the U.S. Department of Agriculture (USDA), is issuing this final rule to update the data it uses to determine a State's percentage of national nonmetropolitan unemployment income. The Agency is amending two regulations to correct the source for the data and provide transparency on its process of determining state funding allocations for various Agency programs.

DATES: The effective date of this final rule is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John Delaney at john.delaney@usda.gov, Senior Policy Advisor, Rural Development Innovation Center, USDA, 1400 Independence Avenue, SW., Mail Stop 0793, Room 6138-South, Washington, D.C. 20250-0793; or call (202) 720-9705.

SUPPLEMENTARY INFORMATION:

Background

Rural Development is a mission area within USDA comprised of RBCS, RHS and RUS. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural

Americans and RD meets its mission by providing loans, grants, loan guarantees, and technical assistance through a multitude of programs aimed at creating and improving businesses, housing and infrastructure throughout rural America.

The Agency receives funding through the annual appropriations process. Several programs under the Agency apply a formula to determine how much each state should receive in a funding allocation for a given fiscal year. Where applicable, the formulas have multiple components that include a state's percentage of the national nonmetropolitan unemployment income figure. The regulations that are part of this rulemaking currently cite the Bureau of Labor Statistics (BLS) as the source for the national nonmetropolitan unemployment information, but this data is not publicly available. The Agency is changing the cited data source to the Census Bureau's American Community Survey (ACS).

The Agency is amending the regulations associated with this rulemaking to make the source of data clear. This amendment is not changing a current process or procedure.

Summary of Changes

7 CFR 1780

1. Section 1780.18(c)(2)(ii)(C) was amended to change the Bureau of Labor Statistics to 5-year income data from the ACS to correctly cite the source of data used as part of the allocation calculation.

7 CFR 1940

2. Sections 1940.585(b)(2), 1940.588(a)(2)(ii)(C), and 1940.591(b)(2) were amended to show that the 5-year income data from the ACS should be used for nonmetropolitan unemployment income and not BLS. These changes were made to correctly cite the source of data.

Executive Orders/Acts

Executive Order 12866 – Classification

This rule is not subject to the provisions of Executive Order 12866 because it has no impact on borrowers or other members of the public. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. The action, however, is not published for

proposed rulemaking because it involves only internal agency management and publication for comment is unnecessary.

Congressional Review Act

This rule is not subject to the Congressional Review Act (“CRA”, 5 U.S.C. 801 *et seq.*) as the CRA provides an exemption for any rule relating to agency management or personnel and for rules relating to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

Assistance Listing Number (formally known as the Catalog of Federal Domestic Assistance)

The amendments in this final rule apply to an interagency process and are not directly tied to a funding program where an Assistance Listing Number is required.

Executive Order 12372 – Intergovernmental Consultation

This final rule is amending incorrect citations for an interagency process and is not subject to the requirements of Executive Order 12372, “Intergovernmental Review of Federal Programs”.

Paperwork Reduction Act

This final rule contains no new reporting or recordkeeping burdens that would require approval under the Paperwork Reduction Act.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, this final rule has been reviewed in accordance with 7 CFR part 1970 (“Environmental Policies and Procedures”). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not “connected” to other actions with potentially significant impacts, is not considered a “cumulative action” and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–602) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (“APA”) or any other statute. The Administrative Procedures Act exempts from notice and comment requirements rules “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts” (5 U.S.C. 553(a)(2)), so therefore an analysis has not been prepared for this rule.

Executive Order 12988 – Civil Justice Reform

This final rule is amending incorrect citations for an interagency process and is not subject to the requirement of Executive Order 12988.

Unfunded Mandates Reform Act (UMRA)

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and Tribal governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13132 – Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the States is not required.

Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments

This final rule is amending incorrect citations for an interagency process and is not subject to the requirement of Executive Order 13175.

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and to promote the use of the Internet and other

information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300-4, Civil Rights Impact Analysis, to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, disability, marital or familial status. Based on the review and analysis of the rule and all available data, issuance of this final rule is not likely to negatively impact low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their age, race, color, national origin, sex, disability, or marital or familial status. No major civil rights impact is likely to result from this final rule.

USDA Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at

<https://www.usda.gov/sites/default/files/documents/ad-3027.pdf> from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- a. Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
- b. Fax: (833) 256-1665 or (202) 690-7442; or
- c. Email: program.intake@usda.gov

List of Subjects

7 CFR Part 1780

Community development, Community facilities, Grant programs-housing and community development, Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1940

Administrative practice and procedure, Agriculture, Environmental protection, Flood plains, Grant programs-agriculture, Grant programs-housing and community development, Loan programs-agriculture, Loan programs-housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas, Truth in lending.

Accordingly, for the reasons discussed in the preamble, the Agency amends 7 CFR parts 1780 and 1940 as follows:

PART 1780 – WATER AND WASTE LOANS AND GRANTS

1. The authority citation for part 1780 continues to read as follows:

Authority: [5 U.S.C. 301](#); [7 U.S.C. 1989](#); [16 U.S.C. 1005](#).

Subpart A – General Policies and Requirements

2. Amend § 1780.18 by revising paragraphs (c)(2)(ii)(B) and (C) to read as follows:

§ 1780.18 Allocation of program funds.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(B) For the criterion specified in paragraph (b)(2)(i)(B) of this section, 5-year income data from the American Community Survey (ACS).

(C) For the criterion specified in paragraph (b)(2)(i)(C) of this section, the 5-year data from the ACS.

* * * * *

PART 1940 - GENERAL

3. The authority citation for part 1940 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart L – Methodology and Formulas for Allocation of Loan and Grant Program Funds

4. Amend § 1940.585 by revising paragraph (b)(2) to read as follows:

§ 1940.585 Community Facility loans.

* * * * *

(b) * * *

(2) The data source for the first criterion is the most recent decennial Census data. The data source for the second and third criteria is the 5-year data from the American Community Survey (ACS). Each criterion is assigned a specific weight according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at a State factor (SF). The SF cannot exceed 0.05.

Equation 1 to Paragraph (b)

$$SF = (\text{criterion (b)(1)(i)} \times 50 \text{ percent}) + (\text{criterion (b)(1)(ii)} \times 25 \text{ percent}) + (\text{criterion (b)(1)(iii)} \times 25 \text{ percent})$$

* * * * *

5. Amend § 1940.588 by revising paragraph (a)(2)(ii)(C) to read as follows:

§ 1940.588 Business and Industry Guaranteed and Direct Loans, Rural Business Development Grants, and Intermediary Relending Program.

* * * * *

(a) * * *

(2) * * *

(ii) * * *

(C) For the criterion specified in paragraph (a)(2)(i)(C) of this section, the 5-year data from the ACS.

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6. Amend § 1940.591 by revising paragraph (b)(2) to read as follows:

§ 1940.591 Community Program Guaranteed loans.

* * * * *

(b) * * *

(2) The data source for the first criterion is the most recent decennial Census data. The data source for the second and third criteria is the 5-year data from the American Community Survey (ACS). Each criterion is assigned a specific weight according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at a State factor (SF). The SF cannot exceed 0.05.

Equation 1 to Paragraph (b)

$$SF = (\text{criterion (b)(1)(i)} \times 50 \text{ percent}) + (\text{criterion (b)(1)(ii)} \times 25 \text{ percent}) + (\text{criterion (b)(1)(iii)} \times 25 \text{ percent})$$

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Basil I. Gooden
Under Secretary
USDA, Rural Development

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