

DEPARTMENT OF AGRICULTURE**Cooperative State Research,
Education, and Extension Service****7 CFR Part 3419****RIN 0524-AA24****Matching Funds Requirement for
Formula Funds for Agricultural
Research and Extension Activities at
1890 Land-Grant Institutions, Including
Tuskegee University, and at the 1862
Land-Grant Institutions in Insular
Areas****AGENCY:** Cooperative State Research,
Education, and Extension Service,
USDA.**ACTION:** Final Rule.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) adds a new part 3419 to Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of implementing new statutory matching requirements applicable to Federal agricultural research and extension formula funds for 1890 land-grant institutions, including Tuskegee University, and to the 1862 land-grant institutions in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands.

EFFECTIVE DATE: April 21, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Edward M. Wilson, Deputy Administrator; Plant and Animal Systems; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail Stop 2220; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2220; at 202-401-4329, 202-401-4888 (fax) or via electronic mail at ewilson@reeusda.gov.

SUPPLEMENTARY INFORMATION:**Background and Purpose**

The Cooperative State Research, Education, and Extension Service (CSREES) adds a new part 3419 to Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of implementing the new matching requirements for agricultural research and extension formula funds authorized for the 1890 land-grant institutions and Tuskegee University. Section 226 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), Pub. L. 105-185, amends Subtitle G of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) by adding a new

section 1449. This section requires matching funds from non-Federal sources for formula funds authorized under sections 1444 and 1445 of NARETPA for research and extension activities at the 1890 land-grant institutions and Tuskegee University.

This rule will also implement the new matching requirements for the 1862 land-grant institutions in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands. Section 753(d) and (e) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, enacted in Division A, section 101(a) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681-33 (1999 Agriculture Appropriations Act), amended section 3(d) of the Hatch Act of 1887 and section 3(e) of the Smith-Lever Act to subject the 1862 land-grant institutions in the Commonwealth of Puerto Rico, the Virgin Islands, and Guam to the same matching requirements as those applicable to an eligible institution under section 1449 of NARETPA. The amendments made by section 753 apply by operation of law to American Samoa, Micronesia, and Northern Marianas by virtue of section 1361(a) of Pub. L. 96-374, as amended by 9(c) of Pub. L. 99-396, which provides that any provision of law related to land-grant institutions in the Virgin Islands or Guam applies to the land-grant institutions in American Samoa, the Northern Marianas, and the former Trust Territory of the Pacific Islands, the land-grant institution of which is the College of Micronesia.

Section 1449 requires that the State make available matching funds to an 1890 institution out of non-Federal funds. CSREES has determined that this does not necessarily limit the source of matching funds to those directly provided by the State as a part of its direct budget or appropriations process. Accordingly, CSREES has defined "non-Federal sources" to include direct State appropriations and any funds generated by the 1890 institution or by the 1862 institution in the Commonwealth of Puerto Rico or in an insular area and made available to the institution under other authority (other than authority to charge tuition and fees paid by students) provided by the State. This would include, for example, gift acceptance or user fee authority.

**Public Comments and Changes to the
Final Rule**

One comment was received from an 1862 land-grant institution in an insular area requesting clarification on three issues: (1) Whether an institution is eligible for any agricultural research and extension formula funds if the institution fails to provide the full matching requirement, (2) whether the institution must certify that the required matching funds are available prior to the actual distribution of funds, and (3) whether the definition of matching funds, which indicates that they are not only from non-Federal sources but also funds made available by the State government, precludes other sources of non-Federal funds that are not from the State government.

Each 1890 land-grant institution and each 1862 land-grant institution in insular areas and the Commonwealth of Puerto Rico will be entitled to their allocation of Federal agricultural research and extension formula funds less an amount equal to any required matching amount that the institution fails to provide. For example, the matching requirement in fiscal year (FY) 2000 shall equal not less than 30 percent of the formula funds to be distributed. If an institution was entitled to \$1,000,000 for extension but only matches 15 percent, then the \$1,000,000 would be reduced by 15 percent and the institution would receive only \$850,000. However, the maximum awarded by CSREES will be the amounts of the annual allocations as indicated on the CSREES-OD-1088's, Distributions of Hatch Act Funds and Smith-Lever Act Funds.

Each 1890 land-grant institution and each 1862 land-grant institution in insular areas and the Commonwealth of Puerto Rico must certify that the required matching funds are available prior to the actual distribution of any funds. CSREES has added section 3419.5, Certification of Matching Funds, to clarify that the annual certification of matching funds must be provided to CSREES prior to the distribution of formula funds. This section also provides that the eligible institutions may submit through July 1 of the fiscal year in which funds are appropriated any revisions to their annual certification of matching funds.

As mentioned in the "Background and Purpose" section, CSREES has determined that the definition of matching funds does not necessarily limit the source of matching funds to those directly provided by the State as part of its direct budget or appropriations process. Accordingly,

CSREES has defined "non-Federal sources" to include direct State appropriations and any funds generated by the 1890 land-grant institution or by the 1862 institution in the Commonwealth of Puerto Rico or in the insular areas and made available to the institution under other authority (other than authority to charge tuition and fees paid by students) provided by the State. This would include, for example, gift acceptance and user fee authority.

Classification

This rule was reviewed under Executive Order 12866 and was determined to be nonsignificant as it will not create a serious inconsistency or otherwise interfere with an action planned by another agency; will not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; and will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in this executive order. This rule will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Regulatory Flexibility Act

The Department certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. No. 96-534 (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required for this rule.

Catalog of Federal Domestic Assistance

The programs affected by this rule are listed in the Catalog of Federal Domestic Assistance under No. 10.205, Payments to 1890 Land-Grant Institutions and Tuskegee University, No. 10.500, Cooperative Extension Service, and No. 10.203, Payments to Agricultural Experiment Stations Under the Hatch Act.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that will be imposed in the implementation of this rule have been approved under OMB Document No. 0524-0038.

Report to Congress

As required by 5 U.S.C. 801(a), CSREES submitted a report on this final rule to both Houses of Congress and the Comptroller General prior to publication.

List of Subjects in 7 CFR Part 3419

Agricultural extension, Agricultural research, Colleges and universities.

For reasons set forth in the preamble, Title 7, Subtitle B, Chapter XXXIV, of the Code of Federal Regulations is amended by adding part 3419 to read as follows:

PART 3419—MATCHING FUNDS REQUIREMENT FOR AGRICULTURAL RESEARCH AND EXTENSION FORMULA FUNDS AT 1890 LAND-GRANT INSTITUTIONS, INCLUDING TUSKEGEE UNIVERSITY, AND AT 1862 LAND-GRANT INSTITUTIONS IN INSULAR AREAS

Sec.

- 3419.1 Definitions.
- 3419.2 Matching funds.
- 3419.3 Determination of non-Federal sources of funds.
- 3419.4 Limited waiver authority.
- 3419.5 Certification of matching funds.
- 3419.6 Use of matching funds.
- 3419.7 Redistribution of funds.

Authority: 5 U.S.C. 301, 7 U.S.C. 3222d; Sec. 753, Pub. L. No. 105-277, 112 Stat. 2681-33.

§ 3419.1 Definitions.

As used in this part:

Eligible institution means a college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 *et seq.*) (commonly known as the Second Morrill Act), including Tuskegee University, or a college or university designated under the Act of July 2, 1862 (7 U.S.C. 301, *et seq.*) (commonly known as the First Morrill Act) and located in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands.

Formula funds means agricultural research funds provided to the eligible institutions under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended, or under section 3 of the Hatch Act of 1887, 7 U.S.C. 361c, and agricultural extension funds provided to the eligible institutions under section 1444 of NARETPA or under sections 3(b) and (c) of the Smith-Lever Act, 7 U.S.C. 343(b) and (c).

Matching funds means funds from non-Federal sources made available by the State to the eligible institutions:

(a) For programs or activities that fall within the purposes of agricultural research and cooperative extension under sections 1444 and 1445 of NARETPA, the Hatch Act of 1887, and the Smith-Lever Act; or

(b) For qualifying educational activities. Matching funds means cash contributions and excludes in-kind matching contributions.

Non-Federal sources means funds made available by the State to the eligible institution either through direct appropriation or under any authority (other than authority to charge tuition and fees paid by students) provided by a State to an eligible institution to raise revenue, such as gift acceptance authority or user fees.

Qualifying educational activities means programs that address food and agricultural sciences components of an eligible institution.

Secretary means the Secretary of Agriculture and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

State means the government of any one of the fifty States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of Northern Marianas, the Virgin Islands of the United States, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

§ 3419.2 Matching funds.

The distribution of formula funds shall be subject to the following matching requirements: (a) For fiscal year 2000, matching funds shall equal not less than 30 percent of the formula funds to be distributed to the eligible institution;

(b) For fiscal year 2001, matching funds shall equal not less than 45 percent of the formula funds to be distributed to the eligible institution; and

(c) For fiscal year 2002 and each fiscal year thereafter, the matching funds shall equal not less than 50 percent of the formula funds to be distributed to the eligible institution.

§ 3419.3 Determination of non-federal sources of funds.

Each eligible institution shall submit by September 30, 1999, a report describing for fiscal year 1999:

(a) The sources of non-Federal funds made available to the eligible institutions for agricultural research, extension, and qualified educational activity to meet the matching requirements of section 1449 of NARETPA, as amended; and

(b) The amount of funds generally available from each source. This report

for the fiscal year ending September 30, 1999, may also include a request for a waiver of the matching funds requirement for fiscal year 2000.

§ 3419.4 Limited waiver authority.

The Secretary may waive the matching funds requirement for fiscal year 2000 for an eligible institution of a State if the Secretary determines that, based on the report received under § 3419.3, the State will be unlikely to satisfy the matching requirement. The criteria to waive the match in fiscal year 2000 may include:

(a) Natural disaster, flood, fire, tornado, hurricane, or drought;

(b) State and/or institution facing a financial crisis; or

(c) Demonstration of a good faith effort to obtain funds. Approval or disapproval of the request for a waiver will be based on the report submitted under § 3419.3. The Secretary may not

waive the matching requirement for any fiscal year other than fiscal year 2000.

§ 3419.5 Certification of matching funds.

Prior to the distribution of formula funds each fiscal year, each eligible institution must certify as to the availability of matching funds. Eligible institutions may revise their certification of matching funds through July 1 of the fiscal year in which funds are appropriated.

§ 3419.6 Use of matching funds.

The required matching funds for the formula programs shall be used by an eligible institution for agricultural research and extension activities that have been approved in the plan of work required under sections 1444(d) and 1445(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 7 of the Hatch Act of 1887, section 4 of the Smith-Lever Act, or for approved qualifying education activities.

§ 3419.7 Redistribution of funds.

All formula funds not matched and reported under § 3419.5 by July 1 of each fiscal year will be reapportioned to the other eligible institutions who have satisfied their current fiscal year requirement for matching funds for the formula funds. Unmatched research and extension funds will be reapportioned in accordance with the research and extension statutory distribution formulas applicable to the 1890 and 1862 land-grant institutions, respectively. Any redistribution of funds shall be subject to the same matching requirement under § 3419.2.

Done at Washington, D.C., this 13th day of April 2000.

Eileen Kennedy,

Deputy Under Secretary, Research, Education, and Economics.

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