

DEPARTMENT OF AGRICULTURE**Cooperative State Research,
Education, and Extension Service****7 CFR Part 3419**

RIN 0524-AA25

**Matching Funds Requirement for
Formula Funds for Agricultural
Research and Extension Activities at
1890 Land-Grant Institutions, Including
Tuskegee University and West Virginia
State College**

AGENCY: Cooperative State Research,
Education, and Extension Service,
USDA.

ACTION: Proposed rule.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise part 3419 to title 7, subtitle B, chapter XXXIV of the Code of Federal Regulations, for the purpose of implementing the statutory amendments applicable to the matching requirements for Federal agricultural research and extension formula funds for 1890 land-grant institutions, including Tuskegee University and West Virginia State College. These matching requirements were amended by section 7212 of the Farm Security and Rural Investment Act of 2002 (FSRIA).

DATES: Submit comments on or before June 30, 2003.

ADDRESSES: Address all comments to CSREES-USDA; Office of Extramural Programs; Policy and Program Liaison Staff; Mail Stop 2299; 1400 Independence Avenue, SW.; Washington, DC 20250-2299. Comments may be hand-delivered to CSREES-USDA; Office of Extramural Programs; Policy and Program Liaison Staff; Waterfront Centre, Rm. 2242; 800 9th Street, SW.; Washington, DC 20024. Comments may be mailed or sent electronically to oepr@reeusda.gov.

FOR FURTHER INFORMATION CONTACT: George Cooper, Deputy Administrator, Science and Education Resources Development; CSREES/USDA; Mail Stop 2250; 1400 Independence Avenue, SW.; Washington, DC 20250-2250; at (202) 401-2655, (202) 720-3945 (fax) or via electronic mail at gcooper@reeusda.gov.

SUPPLEMENTARY INFORMATION:**Background and Purpose**

The Cooperative State Research, Education, and Extension Service (CSREES) is revising part 3419 of title 7, subtitle B, chapter XXXIV of the Code of Federal Regulations which

implements the matching requirements provided under section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) for agricultural research and extension formula funds authorized for the 1890 land-grant institutions including Tuskegee University and West Virginia State College. This revision is required due to the statutory amendments of sections 7212 and 7213 of the Farm Security and Rural Investment Act of 2002 (FSRIA), Public Law 107-171. Section 7212 of FSRIA revised the matching requirements in section 1449 from 50 percent of the formula funds distributed to each eligible institution in fiscal year (FY) 2002 to 60 percent of the formula funds distributed in FY 2003; 70 percent in FY 2004; 80 percent in FY 2005; 90 percent in FY 2006; and 100 percent in FY 2007 and thereafter. In addition, this section provided the Secretary of Agriculture with a new waiver authority for the matching funds requirement above the 50 percent level for any fiscal year for an eligible institution of a State if the Secretary determines that the State will be unlikely to satisfy the matching requirement. The Secretary's prior waiver authority extended only to FY 2000 formula funds. The proposed rule also implements section 753 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, Pub. L. 107-76, to extend this regulation to West Virginia State College.

Prior to FSRIA, section 3(d) of the Hatch Act (7 U.S.C. 361c(d)) and section 3(e) of the Smith-Lever Act (7 U.S.C. 343(e)) subjected the 1862 land-grant institutions in American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of Northern Marianas Islands, the Virgin Islands of the United States, and the College of Micronesia to the same matching requirements as those applicable to an eligible institution under section 1449 of NARETPA. In implementing these Hatch Act and Smith-Lever Act requirements, CSREES promulgated the existing rule also to address the matching requirements for the insular area land-grant institutions. Section 7213 of FSRIA amended the Hatch Act and Smith-Lever Act to no longer subject the insular area land-grant institutions to the NARETPA section 1449 matching requirements. Instead, section 3(d) of the Hatch Act and section 3(e) of the Smith-Lever Act provide for the insular areas a 50 percent matching requirement of the Federal formula funds beginning in fiscal year 2003. Both Acts empower the

Secretary of Agriculture to waive these matching requirements for any fiscal year if the Secretary determines that the government of the insular area is unlikely to meet the requirement for that fiscal year. Promulgation of the insular area land-grant institution matching requirements for Federal formula funds will be done at a later date and through a separate rulemaking. The proposed revised part 3419 will address only the matching requirements for the 1890 land-grant institutions.

CSREES also proposes to clarify the definition of "Qualifying Educational Activities" by proposing that the "Qualifying Educational Activities" meet the definition of "Food and Agricultural Sciences" under § 1404(8) of NARETPA (7 U.S.C. 3103(8)) and the definition of "Teaching and Education" under section 1404(15) of NARETPA (7 U.S.C. 3103(15)). In addition, CSREES is proposing that the word "approved" be deleted in § 3419.6 "Use of matching funds" as the use of this word has been misleading. CSREES does not consider and approve the types of "Qualifying Educational Activities" used to meet the matching requirements. It is the responsibility of the eligible institution to ensure that the "Qualifying Educational Activities" meet the definition of "Food and Agricultural Sciences" and "Teaching and Education." The proposed rule also will remove the outdated requirement in the current § 3419.3 for eligible institutions to submit a 1999 report. The proposed rule will revise § 3419.3 to address the Secretary's new waiver authority discussed above.

Classification

This proposed rule was reviewed under Executive Order 12866 and was determined to be nonsignificant. It will not create a serious inconsistency or otherwise interfere with an action planned by another agency. It will not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof. It will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866. This proposed 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 proposed rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law No. 96-354 (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required for this proposed rule.

Catalog of Federal Domestic Assistance

The programs affected by this proposed rule are listed in the Catalog of Federal Domestic Assistance under 10.205, Payments to the 1890 Land-Grant Institutions and Tuskegee University and West Virginia State College, and No. 10.500, Cooperative Extension Service.

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 proposed rule will be submitted to OMB for approval. These requirements would not become effective prior to OMB approval.

Title: Section 1449 Matching Funds Requirements for Research and Extension Activities at Eligible Institutions.

Summary: The purpose of this information collection is to implement the requirements of section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). This provision establishes the matching requirements for the 1890 land-grant institutions," including Tuskegee University and West Virginia State College. This information collection had previously been approved by OMB as No. 0524-0038 and expires on 04/30/2003. Section 7212 of the Farm Security and Rural Investment Act of 2002 (FSRIA) amended section 1449 of NARETPA. The existing information collection needs revision to reflect the amended requirements. In order to be in compliance with the Government Paperwork Elimination Act (44 U.S.C. 3504 note), CSREES will develop and implement an electronic option for submitting this information as soon as a robust eAuthentication solution is available. CSREES is expectant that this could occur by June 2004.

Need for the Information: This information is needed by CSREES to determine if the matching requirements under section 1449 of NARETPA have

been met by the 1890 land-grant institutions including Tuskegee University and West Virginia State College. CSREES intends to require the eligible institutions to complete Form CSREES-2103, "Section 1449 Matching Funds Requirement for Research and Extension Activities at Eligible Institutions," up to three times per year for research activities and three times per year for extension activities to provide information on the projected funds, the actual funds, and any revisions to the actual funds.

Respondents: Respondents will be the eighteen 1890 land-grant institutions, including Tuskegee University and West Virginia State College, which will provide information to USDA on the amount and source of non-Federal funds made available by the States to the eligible institutions for agricultural research, extension, and qualifying educational activities to meet the matching requirements of section 1449 of NARETPA.

Estimate of the Burden: The estimated burden on the respondents for Form CSREES-2103, "Section 1449 Matching Funds Requirement for Research and Extension Activities at Eligible Institutions" is 3.6 hours per response. This burden estimate is based on a small survey of eligible institutions who have experience completing the current Form CSREES-2103, "Section 1449 Matching Funds Requirement for Research and Extension Activities at Eligible Institutions."

Estimated Number of Respondents: 18.

Estimated Annual Number of Responses: 108.

Estimated Total Annual Burden on Respondents: 388.8 hours.

Frequency of Responses: Three times a year.

Copies of this information collection can be viewed at <http://www.reeusda.gov/part/areera> or can be obtained from Ellen Danus, Policy and Program Liaison Staff, Office of Extramural Programs, CSREES, USDA, (202) 401-4325, e-mail: edanus@reeusda.gov.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the

collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: CSREES-USDA; Office of Extramural Programs; Policy and Program Liaison Staff; Mail Stop 2299; 1400 Independence Avenue, SW.; Washington, DC 20250-2299 by July 3, 2003, or to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20502. Reference should be made to the volume, page, and date of this **Federal Register** publication.

List of Subjects in 7 CFR Part 3419

Agricultural extension, Agricultural research, Colleges and universities.

For reasons set forth in the preamble, it is proposed to revise part 3419 of title 7, subtitle B, chapter XXXIV, of the Code of Federal Regulations 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 WEST VIRGINIA STATE COLLEGE

Sec.

- 3419.1 Definitions.
- 3419.2 Matching Funds.
- 3419.3 Limited waiver authority.
- 3419.4 Applications for waivers.
- 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. 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 and West Virginia State College. **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, and agricultural extension funds provided to the eligible institutions under section 1444 of NARETPA.

Matching funds means cash contributions 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; or

(b) For qualifying educational activities. *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 based on the definitions of "Food and Agricultural Sciences" and "Teaching and Education" in section 1404 of NARETPA.

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

State means the government of any one of the fifty States.

§ 3419.2 Matching funds.

The distribution of formula funds shall be subject to the following matching requirements:

(a) For fiscal year 2003, matching funds shall equal not less than 60 percent of the formula funds to be distributed to the eligible institution;

(b) For fiscal year 2004, matching funds shall equal not less than 70 percent of the formula funds to be distributed to the eligible institution;

(c) For fiscal year 2005, matching funds shall equal not less than 80 percent of the formula funds to be distributed to the eligible institution;

(d) For fiscal year 2006, matching funds shall equal not less than 90 percent of the formula funds to be

distributed to the eligible institution; and

(e) For fiscal year 2007 and each fiscal year thereafter, the matching funds shall equal not less than 100 percent of the formula funds to be distributed to the eligible institution.

§ 3419.3 Limited waiver authority.

(a) The Secretary may waive the matching funds requirement in § 3419.2 above the 50 percent level for any fiscal year for an eligible institution of a State if the Secretary determines that the State will be unlikely to satisfy the matching requirement.

(b) The criteria to waive the matching requirement above the 50 percent level in fiscal year 2003 and thereafter may include:

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

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

(3) Demonstration of a good faith effort to obtain funds.

(c) Approval or disapproval of the request for a waiver will be based on the application submitted under § 3419.4.

§ 3419.4 Applications for waivers.

The president of the eligible institution must submit any request for a waiver for matching requirements. A waiver application shall include the name of the eligible institution, the type of Federal formula funds (*i.e.*, research and/or extension), appropriate fiscal year, the basis for the request (*e.g.*, one or more criteria identified in § 3419.3), supporting justification, and the amount of the request. An application for a waiver shall be submitted by July 1 of the fiscal year for which the request is made. If an application for a waiver is being made for a prior fiscal year, the eligible institution also must provide an explanation and justification as to why this application was not made in the appropriate fiscal year. The Secretary

shall approve or disapprove an application for a waiver within 60 days of receipt.

§ 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 certifications of matching funds through July 1 of the fiscal year for 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 or for qualifying educational 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 that have satisfied their current fiscal year requirements 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 land-grant institutions. Any redistribution of funds shall be subject to the same matching requirement under § 3419.2.

Done in Washington, DC, this 11th day of April, 2003.

Gary Cunningham,

Associate Administrator, Cooperative State, Research, Education, and Extension Service.
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