

(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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