

debt service requirements for the Agency loans.

(B) Form FmHA 440-24, "Position Fidelity Schedule Bond Declarations," may be used. Similar forms may be used if determined acceptable to the Agency. Other types of coverage may be considered acceptable if it is determined by the Agency that they fulfill essentially the same purpose as a fidelity bond.

(C) Intermediaries must provide evidence of adequate fidelity bond and other appropriate insurance coverage by loan closing. Adequate coverage in accordance with this section must then be maintained for the life of the loan. It is the responsibility of the intermediary and not that of the Agency to assure and provide evidence that adequate coverage is maintained. This may consist of a listing of policies and coverage amounts in annual reports required by paragraph (b)(4) of this section or other documentation.

(8) Authority to operate. The loan agreement will provide that the intermediary has permission and authority to collect on all notes given to it, service all loans it makes, and manage the relending program as if the Agency had not taken assignments on security pledged by ultimate recipients. It is the responsibility of the intermediary to make and service loans to ultimate recipients in such a manner that will fully protect the interests of the intermediary and the Government. After an event of default by the intermediary, the Agency may terminate this permission and authority by providing the intermediary with written notice.

(9) That if any part of the loan has not been used in accordance with the intermediary's work plan by a date 3 years from the date of the loan agreement, the Agency may cancel the approval of any funds not yet delivered to the intermediary and demand the return, as an extra payment on the loan, any funds delivered to the intermediary that have not been used by the intermediary in accordance with the work plan. The Agency, at its sole discretion, may allow the intermediary additional time to use the loan funds by delaying cancellation of the funds by not more than 3 additional years. If any loan funds have not been used by 6 years from the date of the loan agreement, the approval will be cancelled of any funds that have not been delivered to the intermediary and the intermediary will return, as an extra payment on the loan, any funds it has received and not used in accordance with the work plan. In accordance with Form FmHA 1948-3, "Intermediary Relending Program Promissory Note,"

regular loan payments will be based on the amount of funds actually drawn by the intermediary.

(b) The intermediary will agree:

(1) Not to make any changes in the intermediary's articles of incorporation, charter, or by-laws without the concurrence of the Agency.

(2) Not to make a loan commitment to an ultimate recipient to be funded from Agency IRP loan funds without first receiving the Agency's written concurrence.

(3) To maintain a separate ledger and segregated account for the IRP revolving fund.

(4) To Agency reporting requirements by providing:

(i) An annual audit.

(A) Dates of audit report period need not necessarily coincide with other reports on the IRP. Audits shall be due 90 days following the audit period. Audits must cover all of the intermediary's activities. Audits will be performed by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970, by a regulatory authority of a State or other political subdivision of the United States. An acceptable audit will be performed in accordance with generally accepted Government auditing standards and include such tests of the accounting records as the auditor considers necessary in order to express an opinion on the financial condition of the intermediary. The Agency does not require an unqualified audit opinion as a result of the audit. Compilations or reviews do not satisfy the audit requirement.

(B) It is not intended that audits required by this subpart be separate and apart from audits performed in accordance with State and local laws or for other purposes. To the extent feasible, the audit work should be done in connection with these audits. Intermediaries covered by OMB Circular A-128 or A-133 should submit audits made in accordance with those circulars.

(ii) Quarterly reports (due 30 days after the end of the period).

(A) The Agency at its option may change this requirement to semiannual reports. These reports shall contain information only on the IRP revolving loan fund, or if other funds are included, the IRP loan program portion shall be segregated from the others; and in the case where the intermediary has more than one IRP loan from the Agency a separate report shall be made for each of these IRP loans unless the Agency has given permission for the IRP revolving funds to be combined.

(B) The reports will include Form FmHA 1951-4, "Report of IRP/RDLF Lending Activity." This report will include information on the intermediary's lending activity, income and expenses, and financial condition and a summary of names and characteristics of the ultimate recipients the intermediary has financed.

(iii) Annual proposed budget for the following year.

(iv) Other reports as the Agency may require from time to time.

(5) Before the first relending of Agency funds to an ultimate recipient, to obtain written Agency approval of:

(i) All forms to be used for relending purposes, including application forms, loan agreements, promissory notes, and security instruments.

(ii) Intermediary's policy with regard to the amount and form of security to be required.

(6) To obtain written approval of the Agency before making any significant changes in forms, security policy, or the work plan. The servicing officer may approve changes in forms, security policy, or work plans at any time upon a written request from the intermediary and determination by the Agency that the change will not jeopardize repayment of the loan or violate any requirement of this subpart or other Agency regulations. The intermediary must comply with the workplan approved by the Agency so long as any portion of the intermediary's IRP loan is outstanding.

(7) To secure the indebtedness by pledging its portfolio of investments derived from the proceeds of the loan award, including providing assignments to the Agency of security pledged by ultimate recipients including the promissory notes of ultimate recipients and transferring possession to the Agency of promissory notes given by ultimate recipients, and/or pledging its real and personal property, and other rights and interests as the Agency may require.

(8) To provide additional security and execute any additional lien instruments as the Agency may require at any time during the term of the loan if, after review and monitoring, an assessment indicates the need for such security to protect the Government's interest.

#### §§ 1948.119-1948.121 [Reserved]

#### § 1948.122 Application.

(a) An application will consist of:

(1) Form FmHA 1948-1, "Application for Loan (Intermediary Relending Program)."

(2) A written work plan and other evidence the Agency requires to