

(2) All requirements of the letter of conditions have been met.

(3) There has been no material adverse change in the intermediary nor its financial condition since the issuance of the letter of conditions. If there have been adverse changes, they must be explained. The adverse changes may be waived, at the sole discretion of the Agency. Financial data must not be more than 60 days old at loan closing.

(b) Agency personnel shall not sign any documents other than those specifically provided for in this subpart.

(c) The processing officer will review any requests for changes to the letter of conditions. The processing officer will approve only minor changes which do not materially affect the project, its capacity, employment, original projections, or credit factors. Changes in legal entities or where tax consideration are the reason for change will not be approved.

(d) At loan closing the intermediary will provide sufficient evidence to enable Agency to ascertain that no claim or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment, or other parties are against the security of the intermediary, and that no suits are pending or threatened that would adversely affect the security of the intermediary when the security instruments are filed.

§ 1948.128 Requests to make loans to ultimate recipients.

(a) When an intermediary proposes to use Agency IRP loan funds to make a loan to an ultimate recipient, and prior to final approval of such loan, the intermediary must submit the following material to the Agency:

(1) A request for Agency concurrence in approval of the proposed loan.

(2) Certification by the intermediary that:

(i) The proposed ultimate recipient is eligible for the loan.

(ii) The proposed loan is for eligible purposes.

(iii) The proposed loan complies with all applicable statutes and regulations.

(iv) The ultimate recipient is unable to finance the proposed project through commercial credit or other Federal, State, or local programs at reasonable rates and terms.

(v) The intermediary and its principal officers (including immediate family) hold no legal or financial interest or influence in the ultimate recipient, and the ultimate recipient and its principal officers (including immediate family) hold no legal or financial interest or influence in the intermediary.

(3) For projects that meet the criteria for a Class I or Class II environmental

assessment or environmental impact statement as provided in subpart G of part 1940 of this chapter, a completed and executed Form FmHA 1940-20.

(4) All comments obtained in accordance with § 1948.117 (a) of this subpart, regarding intergovernmental consultation.

(5) Copies of sufficient material from the ultimate recipient's application and the intermediary's related files, to allow the Agency to determine:

(i) The name and address of the ultimate recipient.

(ii) The loan purposes.

(iii) The interest rate and term.

(iv) The location, nature, and scope of the project being financed.

(v) The other funding included in the project.

(vi) The nature and lien priority of the collateral.

(6) Such other information as the Agency may request on specific cases.

(b) Upon receipt of a request for concurrence in a loan to an ultimate recipient from Agency IRP loan funds the Agency will:

(1) Review the material required by paragraph (a) of this section for completeness and compliance with regulations.

(2) Complete an environmental review in accordance with subpart G of part 1940 of this chapter, including public notice requirements and provisions for mitigation measures as appropriate. This review will be conducted by the Agency in the same manner it would be conducted if the Agency were considering a direct loan to the ultimate recipient. The results of the environmental review will be used by the Agency in making its decision on the request for loan concurrence.

(3) Consider any comments received through the intergovernmental consultation process. Prior to the Agency's decision on loan concurrence, compliance with the requirements of intergovernmental consultation in accordance with FmHA Instruction 1940-J must be demonstrated.

(4) When all requirements have been met, issue a letter concurring in the loan.

(5) If the Agency determines it is unable to concur in the loan, the intermediary will be notified in writing, given the reasons for denial, and informed of its rights for review and appeal in accordance with subpart B of part 1900 of this chapter.

§§ 1948.129–1948.142 [Reserved]

§ 1948.143 Appeals.

Any appealable adverse decision made by the Agency which affects the

intermediary may be appealed upon written request of the aggrieved party in accordance with subpart B of part 1900 of this chapter.

§§ 1948.144–1948.147 [Reserved]

§ 1948.148 Exception authority.

The Administrator may in individual cases grant an exception to any requirement or provision of this subpart which is not inconsistent with an applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The basis for this exception will be fully documented. The documentation will: Demonstrate the adverse impact; identify the particular requirement involved; and show how the adverse impact will be eliminated.

§ 1948.149 [Reserved]

§ 1948.150 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0130. Public reporting burden for this collection of information is estimated to vary from 1 to 120 hours per response, with an average of 12 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Ag. Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575-0130), Washington, DC 20503.

PART 1951—SERVICING AND COLLECTIONS

3. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 7 U.S.C. 1932 Note; 42 U.S.C. 1480; 5 U.S.C. 301; 7 C.F.R. 2.23 and 2.70.

Subpart R—Rural Development Loan Servicing

4. Section 1951.853 is amended by revising paragraph (b)(2)(ix) to read as follows: