

§ 764.10

(2) The value of livestock and equipment will be the market value as determined by the Agency in accordance with § 761.7 of this chapter.

(c) *Assets damaged by the disaster.* In the case of farm assets damaged by the disaster, the value of such security shall be established as of the day before the disaster occurred.

[67 FR 795, Jan. 8, 2002; 67 FR 7942, Feb. 21, 2002]

§ 764.10 Insurance for loan security.

(a) *Adequacy of insurance.* An applicant must obtain insurance, consistent with this section, equal to the lesser of the value of the security at the time of the loan closing, or the principal of the loan.

(b) *Hazard insurance.* All security (except growing crops) must be covered by hazard insurance if it is readily available (*i.e.* sold by insurance agents in the applicants normal trade area) and economically feasible.

(c) *Flood or mudslide insurance.* Real estate security located in flood or mudslide prone areas, as determined by the Agency, must be covered by flood or mudslide insurance.

(d) *Crop insurance*—(1) *Requirement to obtain crop insurance.* Except as provided in paragraph (d)(2) of this section, prior to closing the loan, the applicant must have obtained at least the catastrophic risk protection level of crop insurance coverage for the crop during the crop year for which the loan is sought for each crop which is a basic part of an applicant's total farming operation, if such insurance is available, unless the applicant executes a written waiver of any emergency crop loss assistance with respect to such crop.

(2) *Exception.* Growing crops used to provide adequate security must be covered by crop insurance if such insurance is available.

(e) *Indemnities.* A borrower must:

(1) List the Agency as loss payee for the insurance indemnity payment or as a beneficiary of a mortgagee loss payable clause; and

(2) In the case of crop insurance, execute an assignment of indemnity in favor of the Agency.

7 CFR Ch. VII (1–1–05 Edition)

§ 764.11 Charges and fees.

The applicant must pay all filing, recording, notary, and lien search fees necessary to process and close a loan. The applicant may pay or be reimbursed for these fees from Emergency loan funds.

PART 770—INDIAN TRIBAL LAND ACQUISITION LOANS

Sec.

- 770.1 Purpose.
- 770.2 Abbreviations and definitions.
- 770.3 Eligibility requirements.
- 770.4 Authorized loan uses.
- 770.5 Loan limitations.
- 770.6 Rates and terms.
- 770.7 Security requirements.
- 770.8 Use of acquired land.
- 770.9 Appraisals.
- 770.10 Servicing.

AUTHORITY: 5 U.S.C. 301, 25 U.S.C. 490.

SOURCE: 66 FR 1567, Jan. 9, 2001, unless otherwise noted.

§ 770.1 Purpose.

This part contains the Agency's policies and procedures for making and servicing loans to assist a Native American tribe or tribal corporation with the acquisition of land interests within the tribal reservation or Alaskan community.

§ 770.2 Abbreviations and definitions.

(a) *Abbreviations.*

FSA Farm Service Agency, an Agency of the United States Department of Agriculture, including its personnel and any successor Agency.

ITLAP Indian Tribal Land Acquisition Program.

(b) *Definitions.*

Administrator is the head of the Farm Service Agency.

Agency is Farm Service Agency (FSA).

Appraisal is an appraisal for the purposes of determining the market value of land (less value of any existing improvements that pass with the land) that meets the requirements of part 761 of this chapter.

Applicant is a Native American tribe or tribal corporation established pursuant to the Indian Reorganization Act seeking a loan under this part.

Farm Service Agency, USDA

§ 770.4

Loan funds refers to money loaned under this part.

Native American tribe is:

- (1) An Indian tribe recognized by the Department of the Interior; or
- (2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.

Reservation is lands or interests in land within:

- (1) The Native American tribe's reservation as determined by the Department of the Interior; or
- (2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.

Reserve is an account established for loans approved in accordance with regulations in effect prior to February 8, 2001 which required that an amount equal to 10 percent of the annual payment be set aside each year until at least one full payment is available.

Tribal corporation is a corporation established pursuant to the Indian Reorganization Act.

§ 770.3 Eligibility requirements.

An applicant must:

- (a) Submit a completed Agency application form;
- (b) Except for refinancing activities authorized in § 770.4(c), obtain an option or other acceptable purchase agreement for land to be purchased with loan funds;
- (c) Be a Native American tribe or a tribal corporation of a Native American tribe without adequate uncommitted funds, based on Generally Accepted Accounting Principles, or another financial accounting method acceptable to Secretary of Interior to acquire lands or interests therein within the Native American tribe's reservation for the use of the Native American tribe or tribal corporation or the members of either;
- (d) Be unable to obtain sufficient credit elsewhere at reasonable rates and terms for purposes established in § 770.4;
- (e) Demonstrate reasonable prospects of success in the proposed operation of the land to be purchased with funds provided under this part by providing:

- (1) A feasibility plan for the use of the Native American tribe's land and other enterprises and funds from any other source from which payment will be made;

- (2) A satisfactory management and repayment plan; and

- (3) A satisfactory record for paying obligations.

- (f) Unless waived by the FSA Administrator, not have any outstanding debt with any Federal Agency (other than debt under the Internal Revenue Code of 1986) which is in a delinquent status.

- (g) Not be subject to a judgment lien against the tribe's property arising out of a debt to the United States.

§ 770.4 Authorized loan uses.

Loan funds may only be used to:

- (a) Acquire land and interests therein (including fractional interests, rights-of-way, water rights, easements, and other appurtenances (excluding improvements) that would normally pass with the land or are necessary for the proposed operation of the land) located within the Native American tribe's reservation which will be used for the benefit of the tribe or its members.

- (b) Pay costs incidental to land acquisition, including but not limited to, title clearance, legal services, land surveys, and loan closing.

- (c) Refinance non-United States Department of Agriculture preexisting debts the applicant incurred to purchase the land provided the following conditions exist:

- (1) Prior to the acquisition of such land, the applicant filed a loan application regarding the purchase of such land and received the Agency's approval for the land purchase;

- (2) The applicant could not acquire an option on such land;

- (3) The debt for such land is a short term debt with a balloon payment that cannot be paid by the applicant and that cannot be extended or modified to enable the applicant to satisfy the obligation; and

- (4) The purchase of such land is consistent with all other applicable requirements of this part.

- (d) Pay for the costs of any appraisal conducted pursuant to this part.