

§ 773.10

(2) If the real estate offered as collateral contains significant environmental risks, the Agency will provide the applicant with the option of properly correcting or removing the risk, or offering other non-contaminated property as collateral.

§ 773.10 Other Federal, State, and local requirements.

Borrowers are required to comply with all applicable:

- (a) Federal, State, or local laws;
- (b) Regulatory commission rules; and
- (c) Regulations which are presently in existence, or which may be later adopted including, but not limited to, those governing the following:
 - (1) Borrowing money, pledging security, and raising revenues for repayment of debt;
 - (2) Accounting and financial reporting; and
 - (3) Protection of the environment.

§§ 773.11–773.17 [Reserved]

§ 773.18 Loan application.

(a) A complete application will consist of the following:

- (1) A completed Agency application form;
- (2) If the applicant is a business entity, any legal documents evidencing the organization and any State recognition of the entity;
- (3) Documentation of compliance with the Agency's environmental regulations contained in 7 CFR part 1940, subpart G;
- (4) A balance sheet on the applicant;
- (5) The farm's operating plan, including the projected cash flow budget reflecting production, income, expenses, and loan repayment plan;
- (6) The last 3 years of production and income and expense information;
- (7) Payment to the Agency for ordering a credit report; and
- (8) Any additional information required by the Agency to determine the eligibility of the applicant, the feasibility of the operation, or the adequacy and availability of security.

(b) Except as required in § 773.19(e), the Agency will waive requirements for a complete application, listed in paragraphs (a)(5) and (a)(6) of this section, for requests of \$30,000 or less.

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§ 773.19 Interest rate, terms, security requirements, and repayment.

(a) *Interest rate.* The interest rate will be fixed for the term of the loan. The rate will be established by the Agency and available in each Agency Office, based upon the cost of Government borrowing for loans of similar maturities.

(b) *Terms.* The loan term will be for up to 3 years, based upon the useful life of the security offered.

(c) *Security requirements.* The Agency will take a lien on the following security, if available, as necessary to adequately secure the loan:

- (1) Real estate;
- (2) Chattels;
- (3) Crops;
- (4) Other assets owned by the applicant; and
- (5) Assets owned and pledged by a third party.

(d) *Documentation of security value.* (1) For loans that are for \$30,000 or less, collateral value will be based on the best available, verifiable information.

(2) For loans of greater than \$30,000 where the applicant's balance sheet shows a net worth of three times the loan amount or greater, collateral value will be based on tax assessment of real estate and depreciation schedules of chattels, as applicable, less any existing liens.

(3) For loans of greater than \$30,000 where the applicant's balance sheet shows a net worth of less than three times the loan amount, collateral value will be based on an appraisal. Such appraisals must be obtained by the applicant, at the applicant's expense and acceptable to the Agency. Appraisals of real estate must be completed in accordance with USPAP.

(e) *Repayment.* (1) All loan applicants must demonstrate that the loan can be repaid.

(2) For loans that are for \$30,000 or less where the applicant's balance sheet shows a net worth of three times the loan amount or greater, repayment ability will be considered adequate without further documentation.

(3) For loans that are for \$30,000 or less where the applicant's balance sheet shows a net worth of less than three times the loan amount, repayment ability must be demonstrated

using the farm's operating plan, including a projected cash flow budget based on historical performance. Such operating plan is required notwithstanding § 773.18 of this part.

(4) For loans that are for more than \$30,000, repayment ability must be demonstrated using the farm's operating plan, including a projected cash flow budget based on historical performance.

(f) *Creditworthiness.* All loan applicants must have an acceptable credit history demonstrated by debt repayment. A history of failure to repay past debts as they came due (including debts to the Internal Revenue Service) when the ability to repay was within their control will demonstrate unacceptable credit history. Unacceptable credit history will not include isolated instances of late payments which do not represent a pattern and were clearly beyond the applicant's control or lack of credit history.

§ 773.20 Funding applications.

Loan requests will be funded based on the date the Agency approves the application. Loan approval is subject to the availability of funds.

§ 773.21 Loan decision, closing, and fees.

(a) *Loan decision.* (1) The Agency will approve a loan if it determines that:

- (i) The loan can be repaid;
- (ii) The proposed use of loan funds is authorized;
- (iii) The applicant has been determined eligible;
- (iv) All security requirements have been, or will be met at closing;
- (v) All other pertinent requirements have been, or will be met at closing.

(2) The Agency will place conditions upon loan approval as necessary to protect its interest.

(b) *Loan closing.* (1) The applicant must meet all conditions specified by the loan approval official in the notification of loan approval prior to loan closing;

(2) There must have been no significant changes in the plan of operation or the applicant's financial condition since the loan was approved; and

(2) The applicant will execute all loan instruments and legal documents

required by the Agency to evidence the debt, perfect the required security interest in property securing the loan, and protect the Government's interests, in accordance with applicable State and Federal laws. In the case of an entity applicant, all officers or partners and any board members also will be required to execute the promissory notes as individuals.

(c) *Fees.* The applicant will pay all loan closing fees including credit report fees, fees for appraisals, fees for recording any legal instruments determined to be necessary, and all notary, lien search, and similar fees incident to loan transactions. No fees will be assessed for work performed by Agency employees.

§ 773.22 Loan servicing.

Loans will be serviced as a Non-program loan in accordance with 7 CFR part 766 during the term of the loan. If the loan is not paid in full during this term, servicing will proceed in accordance with 7 CFR part 766, subpart H.

[72 FR 64121, Nov. 15, 2007]

§ 773.23 Exception.

The Agency may grant an exception to the security requirements of this section, if the proposed change is in the best financial interest of the Government and not inconsistent with the authorizing statute or other applicable law.

PART 774—Emergency Loan for Seed Producers Program

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