

**Pt. 1823**

**7 CFR Ch. XVIII (1-1-01 Edition)**

No member of Congress shall be admitted to any share or part of this agreement or to any benefit that may arise thereupon.

In Witness Whereof, The United States of America has caused these presents to be signed on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pursuant to delegated authority published in 7 CFR, Part 1800.

Witness: UNITED STATES OF AMERICA  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Farmers Home Administration or its successor agency under Public Law 103-354, U.S. Department of Agriculture.

AUTHORITY: 7 U.S.C. 1989, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

SOURCE: 35 FR 15091, Sept. 29, 1970, unless otherwise noted.

**Subparts A-M [Reserved]**

**Subpart N—Loans to Indian Tribes and Tribal Corporations**

SOURCE: 39 FR 3662, Jan. 29, 1974, unless otherwise noted.

**§ 1823.401 General.**

This subpart contains policies and procedures of the Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 applicable to making initial and subsequent insured loans to Indian tribes or tribal corporations for the acquisition of land within tribal reservations and Alaskan communities. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to FmHA or its successor agency under Public Law 103-354 employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an FmHA or its successor agency under Public Law 103-354 employee. The Secretary of the Interior or authorized representative will determine whether lands lie within a tribal reservation or community.

[39 FR 3662, Jan. 29, 1974, as amended at 51 FR 6733, Feb. 26, 1986; 58 FR 224, Jan. 5, 1993]

**§ 1823.402 Definitions.**

The following definitions are applicable to the subsequent provisions of this subpart.

(a) *Land*. The term "land" includes any or all rights or interests therein.

(b) *Tribes*. The term "tribe" means, an Indian Tribe recognized by the Secretary of the Interior or a tribal corporation established pursuant to the Indian Reorganization Act, and/or a community in Alaska incorporated by the Secretary of the Interior pursuant to the Indian Reorganization Act.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

[41 FR 47460, Oct. 29, 1976]

**PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION**

**Subparts A-M [Reserved]**

**Subpart N—Loans to Indian Tribes and Tribal Corporations**

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EXHIBIT A TO SUBPART N TO PART 1823—LOAN DOCKET ITEMS—LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

EXHIBIT B TO SUBPART N TO PART 1823—TRIBAL COUNCIL RESOLUTION NO. \_\_\_\_\_

EXHIBIT C TO SUBPART N TO PART 1823—ASSIGNMENT OF TRIBAL INCOME AND FUNDS

EXHIBIT D TO SUBPART N TO PART 1823—SUBORDINATION AGREEMENT

(c) *Tribal*. The term “tribal” refers to an Indian tribe or Alaskan community described in paragraph (b) of this section, and “tribal members” refers to the members of such a tribe or community.

(d) *Reservation*. The term “reservation” means the lands or interests therein within the tribe’s reservation as determined by the Secretary of the Interior, or within a community in Alaska incorporated by the Secretary of the Interior pursuant to the Indian Reorganization Act.

(e) *Mortgage*. The term “mortgage” includes deeds of trust and other liens on land.

#### § 1823.403 Eligibility.

To be eligible for a loan, the tribe must:

(a) Be without adequate uncommitted funds to acquire needed land within the reservation.

(b) Be unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the proposed land acquisition.

(c) Show reasonable prospects of repaying the loan as determined by:

(1) A feasible plan for the use of the tribe’s land.

(2) Satisfactory evidence of financial ability to develop and operate the land.

(3) A satisfactory management and repayment plan.

#### § 1823.404 Loan purposes.

Loan funds may be used by the tribe to:

(a) Acquire land within the reservation for use of the tribe or its members. The land acquisition may be made for purposes such as elimination of fractional heirships and rounding out farming and ranching units.

(b) Pay costs incidental to land acquisition, such as those for appraisals, title clearance, legal services, land surveys, and loan closing.

#### § 1823.405 Ineligible loan purposes.

Loan funds may not be used for any improvement or development purposes, acquisition or repair of buildings or personal property, payment of operating costs, refinancing of debts, payment of finder’s fees, or similar costs. Loans also may not be made for any

purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in exhibit M of subpart G of part 1940 of this chapter.

[53 FR 7332, Mar. 8, 1988]

#### § 1823.406 Rates and terms.

Each loan will be amortized over a period not to exceed 40 years. Upon request of the applicant, the interest rate charged by FmHA or its successor agency under Public Law 103-354 will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in exhibit B of FmHA or its successor agency under Public Law 103-354 Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103-354 office) for the type assistance involved.

[39 FR 3662, Jan. 29, 1974, as amended at 51 FR 6733, Feb. 26, 1986]

#### § 1823.407 Use of acquired land.

The land acquired with the FmHA or its successor agency under Public Law 103-354 loan may be leased or sold to tribal members for dwelling, farming, grazing, recreational, and other purposes approved by the National Office as beneficial to the tribe or its members. The plan for use of the land must have the approval of the tribal council or other authorized governing body, and should be in accordance with the recommendations of appropriate Bureau of Indian Affairs (BIA) officials. It should also be consistent with the land use in the area unless other uses are justified. The plan should make maximum use of cost sharing and technical assistance of Federal and State programs.

#### § 1823.408 Special requirements.

(a) *Loan authorization*. The tribe will take appropriate action to authorize obtaining and giving security for the loan, using exhibit B of this subpart N, Tribal Council Resolution, as a guide.

(b) *Right to mortgage*. If a mortgage is to be obtained on trust or restricted