

Subpart I—Community Programs Guaranteed Loans

SOURCE: 55 FR 11139, Mar. 27, 1990, unless otherwise noted.

§ 1980.801 Introduction.

(a) This subpart, supplemented by subpart A of this part, contains the regulations for Community Programs (CP) loans guaranteed by the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354), and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans. 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.

(b) The purpose of the CP Guaranteed Loan Programs is to improve, develop, or finance water or waste disposal facilities in rural areas. This purpose is achieved through bolstering the existing private credit structure through the guarantee of quality loans which will provide lasting community benefits. It is NOT intended that the guarantee authority be used for marginal or substandard loans or to “bail out” lenders having such loans.

(c) The CP loan program is administered by the Administrator through a State Director serving each State. The District Director is the focal point for the program and the local contact person for processing and servicing activities, although this subpart refers in various places to the duties and responsibilities of other FmHA or its successor agency under Public Law 103-354 employees.

[55 FR 11139, Mar. 27, 1990, as amended at 58 FR 229, Jan. 5, 1993; 64 FR 28336, May 26, 1999]

§ 1980.802 Definitions.

The following general definitions are applicable to the terms used in this subpart. Additional definitions may be found in §1980.6 of subpart A of this part.

Borrower. A borrower may be a cooperative, corporation, or other legal entity organized and operated on a non-profit basis; an Indian Tribe on a Federal or State reservation or other Federally recognized Indian tribal group; a municipality, county, or other political subdivision of a State. Groups organized under the general profit corporation laws may be eligible if they actually will be operated on a not-for-profit basis under their charter, bylaws, mortgage, or a supplemental agreement provision as may be required as a condition of loan approval.

Collateral. Security pledged for the guaranteed loan.

Lender. The person or organization making and servicing the loan which is guaranteed under the provisions of this subpart. The lender is also referred to in this subpart as the applicant, who is requesting a guarantee during the preapplication and application stage of processing.

Lender's exposure. The lender's exposure before and after the loan, and any applicable limits on the lender's lending authority.

Loan classification system. The process by which loans are examined and categorized by degree of potential for loss in the event of default.

Problem loan. A loan which is not performing according to its original terms and conditions or which is not expected in the future to perform according to those terms and conditions.

Protective advances. Protective advances will not be made in lieu of additional loans. Protective advances are advances made by the lender for the purpose of preserving and protecting the collateral where the debtor has failed to and will not or cannot meet its obligations to protect or preserve collateral. Ordinarily, protective advances are made when liquidation is contemplated or in process. A protective advance must be an indebtedness of the borrower.

Public body. A municipality, county or other political subdivision of a

§§ 1980.803–1980.804

state, an Indian Tribe on a Federal or State reservation, or another Federally recognized Indian Tribe.

Service area. The service area is that area reasonably expected to be served by the facility being financed by the guaranteed loan.

State. Any of the fifty States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[55 FR 11139, Mar. 27, 1990, as amended at 64 FR 28336, May 26, 1999]

§§ 1980.803–1980.804 [Reserved]

§ 1980.805 Rural area determinations.

Facilities financed through FmHA or its successor agency under Public Law 103–354 guarantee must primarily serve rural residents. For water or waste disposal facilities, the terms “rural” and “rural area” will not include any area in any city or town with a population in excess of 10,000 inhabitants according to the latest decennial census of the United States.

[55 FR 11139, Mar. 27, 1990, as amended at 64 FR 28336, May 26, 1999]

§ 1980.806 Availability of credit from other sources.

To be eligible for a guaranteed loan under this subpart, the borrower must be unable to obtain the required credit without the CP loan guarantee from private, commercial, or cooperative sources at reasonable rates and terms for loans for similar purposes and period of time. The borrower must certify in writing and FmHA or its successor agency under Public Law 103–354 shall determine the credit is not available from other sources at reasonable rates and terms without the CP loan guarantee. The lender also must certify that it would not make the loan without the guarantee. These certifications shall become a part of the FmHA or its successor agency under Public Law 103–354 case file.

[56 FR 29170, June 26, 1991]

7 CFR Ch. XVIII (1–1–01 Edition)

§§ 1980.807–1980.810 [Reserved]

§ 1980.811 Legal authority and responsibility.

Each borrower must have or will obtain the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan. The borrower shall be responsible for operating, maintaining, and managing the facility, and providing for its continued availability and use at reasonable rates and terms. This responsibility shall be exercised by the borrower even though the facility may be operated, maintained, or managed by a third party under contract, management agreement, or written lease. Leases may be used when this is the only feasible way to provide the service and is the customary practice to provide such service in the state. Management agreements should provide for at least those items listed in Guide 24 of FmHA or its successor agency under Public Law 103–354 Instruction 1942–A (available in any FmHA or its successor agency under Public Law 103–354 office.) Such contracts, management agreements, or leases must not contain options or other provisions for transfer of ownership.

§ 1980.812 Priorities.

Section 1942.17(c) of subpart A of part 1942 of this chapter shall apply to loans to be guaranteed under this subpart.

[55 FR 11139, Mar. 27, 1990, as amended at 56 FR 29170, June 26, 1991]

§ 1980.813 Eligible loan purposes.

(a) Funds may be used to construct, enlarge, extend, or otherwise improve water or waste disposal providing service primarily to rural residents and rural businesses. Rural businesses would include facilities such as educational and other publicly owned facilities.

(1) Water or waste disposal facilities include water, sanitary sewerage, solid waste disposal, and storm wastewater facilities.

(2) Otherwise improve includes but is not limited to the following: