

Farm Service Agency, USDA

§ 774.8

- 774.22 Loan closing.
- 774.23 Loan servicing.
- 774.24 Exception.

AUTHORITY: Pub. L. 106-224

SOURCE: 65 FR 76119, Dec. 6, 2000, unless otherwise noted.

§ 774.1 Introduction.

The regulations of this part contain the terms and conditions under which loans are made under the Emergency Loan for Seed Producers Program. These regulations are applicable to applicants, borrowers, and other parties involved in making, servicing, and liquidating these loans. The program objective is to assist certain seed producers adversely affected by the bankruptcy filing of AgriBiotech.

§ 774.2 Definitions.

As used in this part, the following definitions apply:

Agency is the Farm Service Agency, its employees, and any successor agency.

Applicant is the individual or business entity applying for the loan.

Business entity is a corporation, partnership, joint operation, trust, limited liability company, or cooperative.

Domestically owned enterprise is an entity organized in the United States under the law of the state or states in which the entity operates and a majority of the entity is owned by members meeting the citizenship test.

False information is information provided by an applicant, borrower or other source to the Agency that the borrower knows to be incorrect, and that the borrower or other source provided in order to obtain benefits for which the borrower would not otherwise have been eligible.

Seed producer is a farmer that produced a 1999 crop of grass, forage, vegetable, or sorghum seed for sale to AgriBiotech under contract.

§ 774.3 Appeals.

A loan applicant or borrower may request an appeal or review of an adverse decision made by the Agency in accordance with 7 CFR part 11.

§§ 774.4-774.5 [Reserved]

§ 774.6 Eligibility requirements.

Loan applicants must meet all of the following requirements to be eligible under the Emergency Loan for Seed Producers Program;

(a) The loan applicant must be a seed producer;

(b) The individual or entity loan applicant must have a timely filed proof of claim in the Chapter XI bankruptcy proceedings involving AgriBiotech and the claim must have arisen from a contract to grow seeds in the United States;

(c) The loan applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationalization Act. For a business entity applicant, the majority of the business entity must be owned by members meeting the citizenship test or, other entities that are domestically owned. Aliens must provide the appropriate Immigration and Naturalization Service forms to document their permanent residency;

(d) The loan applicant and anyone who will execute the promissory note must possess the legal capacity to enter into contracts, including debt instruments;

(e) At loan closing, the applicant and anyone who will execute the promissory note must not be delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986;

(f) At loan closing, the applicant and anyone who will execute the promissory note must not have any outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts;

(g) The loan applicant, in past and current dealings with the Agency, must not have provided the Agency with false information.

§ 774.7 [Reserved]

§ 774.8 Limitations.

(a) The maximum loan amount any individual or business entity may receive will be 65% of the value of the

§ 774.9

timely filed proof of claim against AgriBiotech in the bankruptcy proceeding as determined by the Agency.

(b) Loan funds may not be used to pay expenses incurred for lobbying or related activities.

(c) Loans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

§ 774.9 Environmental requirements.

The loan actions in this part were reviewed for the purpose of compliance with the National Environmental Policy Act (NEPA), 40 CFR parts 1500 through 1508, and determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. These loan actions are categorically excluded from the requirements of an environmental evaluation due to the fact that the loan funds would be utilized to replace operating capital the applicant would have had if AgriBiotech had not filed bankruptcy.

§ 774.10 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.

§ 774.11–774.16 [Reserved]

§ 774.17 Loan application.

A complete application will consist of the following:

(a) A completed Agency application form;

(b) Proof of a bankruptcy claim in the AgriBiotech bankruptcy proceedings;

(c) If the applicant is a business entity, any legal documents evidencing the

7 CFR Ch. VII (1–1–01 Edition)

organization and any State recognition of the entity;

(d) Documentation of compliance with the Agency's environmental regulations contained in 7 CFR part 1940, subpart G;

(e) A balance sheet on the applicant; and

(f) Any other additional information the Agency needs to determine the eligibility of the applicant and the application of any Federal, State or local laws.

§ 774.18 Interest rate, terms and security requirements.

(a) *Interest rate.* (1) The interest rate on the loan will be zero percent for 18 months or until the date of settlement of, completion of, or final distribution of assets in the bankruptcy proceeding involving AgriBiotech, whichever comes first.

(2) Thereafter interest will begin to accrue at the regular rate for an Agency Farm operating-direct loan (available in any Agency office).

(b) *Terms.* (1) Loans shall be due and payable upon the earlier of the settlement of the bankruptcy claim or 18 months from the date of the note.

(2) However, any principal remaining thereafter will be amortized over a term of 7 years at the Farm operating-direct loan interest rate (available in any Agency office). If the loan is not paid in full during this term and default occurs, servicing will proceed in accordance with § 1951.468 of this title.

(c) *Security Requirements.* (1) The Agency will require a first position pledge and assignment of the applicant's monetary claim in the AgriBiotech bankruptcy estate to secure the loan.

(2) If the applicant has seed remaining in their possession that was produced under contract to AgriBiotech, the applicant also will provide the Agency with a first lien position on this seed. It is the responsibility of the applicant to negotiate with any existing lienholders to secure the Agency's first lien position.

§ 774.19 Processing applications.

Applications will be processed until such time that funds are exhausted, or