

§ 1805.805

is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency or Appropriate State Agency to provide information with respect to the institution's implementation of its Comprehensive Business Plan or compliance with the terms of its Assistance Agreement, after providing notice to the Appropriate Federal Banking Agency or Appropriate State Agency, as the case may be.

(5) Nothing in this part shall be construed to permit the Fund to require an Insured CDFI, State-Insured Credit Union, or other institution that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency or Appropriate State Agency to obtain, maintain, or furnish an examination report of any Appropriate Federal Banking Agency or Appropriate State Agency, or records contained in or related to such report.

(6) The Fund and the Appropriate Federal Banking Agency shall promptly notify each other of material concerns about an Awardee that is an Insured CDFI or that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency, and share appropriate information relating to such concerns.

(7) Neither the Fund nor the Appropriate Federal Banking Agency (or Appropriate State Agency, as the case may be) shall disclose confidential information obtained pursuant to this section from any party without the written consent of that party.

(8) The Fund, the Appropriate Federal Banking Agency (or Appropriate State Agency, as the case may be), and any other party providing information under this paragraph (f) shall not be deemed to have waived any privilege applicable to the any information or data, or any portion thereof, by providing such information or data to the other party or by permitting such data or information, or any copies or portions thereof, to be used by the other party.

(g) *Availability of referenced publications.* The publications referenced in this section are available as follows:

(1) OMB Circulars may be obtained from the Office of Administration,

12 CFR Ch. XVIII (1-1-06 Edition)

Publications Office, 725 17th Street, NW., Room 2200, New Executive Office Building, Washington, DC 20503 or on the Internet (<http://www.whitehouse.gov/OMB/grants/index.html>); and

(2) General Accounting Office materials may be obtained from GAO Distribution, 700 4th Street, NW., Suite 1100, Washington, DC 20548.

§ 1805.805 Information.

The Fund and each Appropriate Federal Banking Agency shall cooperate and respond to requests from each other and from other Appropriate Federal Banking Agencies in a manner that ensures the safety and soundness of Insured CDFIs or other institution that is examined by or subject to the reporting requirements of an Appropriate Federal Banking Agency.

§ 1805.806 Compliance with government requirements.

In carrying out its responsibilities pursuant to an Assistance Agreement, the Awardee shall comply with all applicable Federal, State, and local laws, regulations, and ordinances, OMB Circulars, and Executive Orders.

§ 1805.807 Conflict of interest requirements.

(a) *Provision of credit to Insiders.* (1) An Awardee that is a Non-Regulated CDFI may not use any monies provided to it by the Fund to make any credit (including loans and Equity Investments) available to an Insider unless it meets the following restrictions:

(i) The credit must be provided pursuant to standard underwriting procedures, terms and conditions;

(ii) The Insider receiving the credit, and any family member or business partner thereof, shall not participate in any way in the decision making regarding such credit;

(iii) The board of directors or other governing body of the Awardee shall approve the extension of the credit; and

(iv) The credit must be provided in accordance with a policy regarding credit to Insiders that has been approved in advance by the Fund.

(2) An Awardee that is an Insured CDFI, a Depository Institution Holding Company or a State-Insured Credit

Union shall comply with the restrictions on Insider activities and any comparable restrictions established by its Appropriate Federal Banking Agency or Appropriate State Agency, as applicable.

(b) *Awardee standards of conduct.* An Awardee that is a Non-Regulated CDFI shall maintain a code or standards of conduct acceptable to the Fund that shall govern the performance of its Insiders engaged in the awarding and administration of any credit (including loans and Equity Investments) and contracts using monies from the Fund. No Insider of an Awardee shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential borrowers, owners or contractors for such credit or contracts. Such policies shall provide for disciplinary actions to be applied for violation of the standards by the Awardee's Insiders.

§ 1805.808 Lobbying restrictions.

No assistance made available under this part may be expended by an Awardee to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. 1352.

§ 1805.809 Criminal provisions.

The criminal provisions of 18 U.S.C. 657 regarding embezzlement or misappropriation of funds is applicable to all Awardees and Insiders.

§ 1805.810 Fund deemed not to control.

The Fund shall not be deemed to control an Awardee by reason of any assistance provided under the Act for the purpose of any applicable law.

§ 1805.811 Limitation on liability.

The liability of the Fund and the United States Government arising out of any assistance to a CDFI in accordance with this part shall be limited to the amount of the investment in the CDFI. The Fund shall be exempt from any assessments and other liabilities

that may be imposed on controlling or principal shareholders by any Federal law or the law of any State. Nothing in this section shall affect the application of any Federal tax law.

§ 1805.812 Fraud, waste and abuse.

Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of assistance provided under this part should report such incidences to the Office of Inspector General of the U.S. Department of the Treasury.

PART 1806—BANK ENTERPRISE AWARD PROGRAM

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AUTHORITY: 12 U.S.C. 1834a, 4703, 4703 note, 4713, 4717; 31 U.S.C. 321.

SOURCE: 68 FR 5720, Feb. 4, 2003, unless otherwise noted.