

§ 1782.18

parity. The following factors will be considered in assessing whether the request is in the Government's interest:

(1) The value of the added assets compared with the amount of new debt to be secured;

(2) The value of the assets already pledged under the security documents, and any effects of the proposed transaction on the value of those assets;

(3) The ratio of the total outstanding debt secured under the security documents to the value of all assets pledged as security under the security documents;

(4) The borrower's ability to repay its debt owed to the Government;

(5) The overall financial viability of the borrower;

(6) The borrower's current relationship with the Agency (i.e. no defaults under the loan documents);

(7) Such other factors that may be relevant in individual cases, as determined by the Agency.

§ 1782.18 [Reserved]

§ 1782.19 Third party agreements.

The State Director may authorize third party operation, maintenance, and management of an Agency financed facility. The borrower's attorney must review the contract, management agreement, written lease, or other third party agreement and issue an opinion to the Agency as to their legal sufficiency. The borrower shall retain the legal authority necessary for owning, constructing, operating, and maintaining the facility.

§ 1782.20 Debt Settlement.

Pursuant to 7 U.S.C. 1981, this section prescribes policies for debt settlement of Water and Waste Disposal loans; Watershed loans and advances; Resource Conservation and Development loans; and 306 (c) Water and Waste Facility loans. Within the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134) is the Debt Collection Improvement Act of 1996. This law provides that any non-tax debt or claim owed to the United States that has been delinquent for a period of 180 days shall be turned over to the Secretary of the Treasury for appropriate action to collect or termi-

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nate collection actions on the debt or claim. Debt that is in litigation or foreclosure, with a collection agency or designated Federal debt collection center, or that will be disposed of under an asset sales program, is exempt from transfer to the Secretary.

(a) *General requirements for debt settlement.* (1) The debt or any extension thereof on which settlement is requested must be due and payable. The debt will be due and payable either under the terms of the note or other instrument, or by acceleration, unless the debt is to be cancelled without application under paragraph (e)(2) of this section or charged off under paragraph (f) of this section.

(2) Normally, all security will be disposed of prior to the date of application for debt settlement unless it is necessary to abandon security through the debt settlement process. In such cases, debt settlement may proceed if the servicing official determines that further collection efforts would be ineffective, uneconomical, and not in the best interests of the Government.

(3) Debtors will not be permitted to sell security and use the proceeds as part or all of a compromise/adjustment debt settlement offer.

(4) Requests for debt settlement will consist of Form RD 1956-1 "Application For Settlement of Indebtedness," current financial information, description and estimated market value of collateral, and status of operation (i.e., number of users, compliance with environmental issues, etc.).

(5) Office of General Counsel (OGC) advice on compliance with State or Federal statutes that may affect the debt settlement action must be requested.

(b) *Debts ineligible for settlement.* Debts will not be settled if:

(1) Referral to the Office of Inspector General and/or to OGC is contemplated or pending because of suspected criminal violation,

(2) Civil action to protect the interest of the Government is contemplated or pending,

(3) An investigation for suspected fiscal irregularity is contemplated or pending, or

(4) The debtor requests settlement of a claim that has been referred to or a