

§§ 1951.712–1951.716

with unauthorized grants on existing terms.

§§ 1951.712–1951.716 [Reserved]

§ 1951.717 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart, provided that any such exception is not inconsistent with any applicable law or opinion of the Comptroller General, and provided further, the Administrator determines that the application of the requirement or provision would adversely affect the Government's interest.

§§ 1951.718–1951.750 [Reserved]

Subparts P–Q [Reserved]

Subpart R—Rural Development Loan Servicing

SOURCE: 53 FR 30656, Aug. 15, 1988, unless otherwise noted.

§ 1951.851 Introduction.

(a) This subpart contains regulations for servicing or liquidating loans made by the Farmers Home Administration or its successor agency under Public Law 103–354 (FmHA or its successor agency under Public Law 103–354) under the Intermediary Relending Program (IRP) to eligible IRP intermediaries and applies to ultimate recipients and other involved parties. The provisions of this subpart supersede conflicting provisions of any other subpart.

(b) This subpart also contains regulations for servicing the existing Rural Development Loan Fund (RDLF) loans previously approved and administered by the U.S. Department of Health and Human Services (HHS) under 45 CFR part 1076. This action is needed to implement the provisions of Section 1323 of the Food Security Act of 1985, Pub. L. 99–198, which provides for the transfer of the loan servicing authority for those loans from the HHS to the U.S. Department of Agriculture (USDA).

(c) The portion of this regulation pertaining to loanmaking applies to RDLF intermediaries cited in §1951.851(b) which have RDLF funds from HHS and have not fully utilized relending of

7 CFR Ch. XVIII (1–1–09 Edition)

those funds to ultimate recipients at the date of these regulations. The loanmaking of all other IRP loans serviced by this regulation is in accordance with part 1948, subpart C of this chapter.

(d) These regulations do not negate contractual arrangements that were previously made by the HHS, Office of Community Services (OCS), or the intermediaries operating relending programs that have already been entered into with ultimate recipients under previous regulations.

(e) The loan program is administered by the FmHA or its successor agency under Public Law 103–354 National Office. The Director, Business and Industry Division, is the point of contact for servicing activities unless otherwise delegated by the Administrator.

§ 1951.852 Definitions and abbreviations.

(a) *General definitions.* The following definitions are applicable to the terms used in this subpart.

(1) *Intermediary (Borrower).* The entity receiving FmHA or its successor agency under Public Law 103–354 loan funds for relending to ultimate recipients. FmHA or its successor agency under Public Law 103–354 becomes an intermediary in the event it takes over loan servicing and/or liquidation.

(2) *Loan Agreement.* The signed agreement between FmHA or its successor agency under Public Law 103–354 and the intermediary setting forth the terms and conditions of the loan.

(3) *Low-income.* The level of income of a person or family which is at or below the Poverty Guidelines as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(4) *Market value.* The most probable price which property should bring, as of a specific date in a competitive and open market, assuming the buyer and seller are prudent and knowledgeable, and the price is not affected by undue stimulus such as forced sale or loan interest subsidy.

(5) *Principals of intermediary.* Includes members, officers, directors, and other entities directly involved in the operation and management of an intermediary organization.

(6) *Ultimate recipient.* The entity receiving financial assistance from the intermediary. This may be interchangeable with the term "sub-recipient" in some documents previously issued by HHS.

(7) *Rural area.* Includes all territory of a State that is not within the outer boundary of any city having a population of twenty-five thousand or more.

(8) *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.

(9) *Technical assistance or service.* Technical assistance or service is any function unreimbursed by FmHA or its successor agency under Public Law 103-354 performed by the intermediary for the benefit of the ultimate recipient.

(10) *Working capital.* The excess of current assets over current liabilities. It identifies the liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of the business.

(b) *Abbreviations.* The following abbreviations are applicable:

B&I—Business and Industry

CSA—Community Services Administration

EIS—Environmental Impact Statement

HHS—U.S. Department of Health and Human Services

IRP—Intermediary Relending Program

OCS—Office of Community Services

OIG—Office of Inspector General

OGC—Office of the General Counsel

RDLF—Rural Development Loan Fund

USDA—United States Department of Agriculture

[53 FR 30656, Aug. 15, 1988, as amended at 63 FR 6052, Feb. 6, 1998]

§ 1951.853 Loan purposes for undisbursed RDLF loan funds from HHS.

(a) *RDLF Intermediaries.* Rural Development Loan funds will be used by the RDLF intermediary to provide loans to ultimate recipients in accordance with paragraph (b) of this section. Interest income, service fees, and other author-

ized financing charges received by RDLF intermediaries operating relending programs may be used to pay for: The costs of administering the RDLF relending program, the provision of technical assistance to borrowers, the absorption of bad debts associated with RDLF loans, and repayment of debt. All proceeds in excess of those needed to cover authorized expenses, as described above, must be returned to the Agency.

(b) *Ultimate recipients.* (1) Financial assistance from the intermediary to the ultimate recipient must be for business facilities and community development projects in rural areas.

(2) Financial assistance involving Rural Development Loan funds from the intermediary to the ultimate recipient may include but not be limited to:

(i) Business acquisitions, construction, conversion, enlargement, repair, modernization, or development cost.

(ii) Purchasing and development of land, easements, rights-of-way, building, facilities, leases, or materials.

(iii) Purchasing of equipment, leasehold improvements, machinery or supplies.

(iv) Pollution control and abatement.

(v) Transportation services.

(vi) Startup operating costs and working capital.

(vii) Interest (including interest on interim financing) during the period before the facility becomes income producing, but not to exceed 3 years.

(viii) Feasibility studies.

(ix) Reasonable fees and charges only as specifically listed in this subparagraph. Authorized fees include loan packaging fees, environmental data collection fees, and other professional fees rendered by professionals generally licensed by individual State or accreditation associations, such as engineers, architects, lawyers, accountants, and appraisers. The amount of fee will be what is reasonable and customary in the community or region where the project is located. Any such fees are to be fully documented and justified.

(x) Aquaculture including conservation, development, and utilization of water for aquaculture. Aquaculture means the culture or husbandry of