

PART 4274—DIRECT AND INSURED LOANMAKING

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Subparts A–C [Reserved]

Subpart D—Intermediary Relending Program (IRP)

§ 4274.301 Introduction.

(a) This subpart contains regulations for loans made by the Agency to eligible intermediaries and applies to bor-

rowers and other parties involved in making such loans. The provisions of this subpart supersede conflicting provisions of any other subpart. The servicing and liquidation of such loans will be in accordance with part 1951, subpart R, of this title.

(b) The purpose of the program is to alleviate poverty and increase economic activity and employment in rural communities, especially disadvantaged and remote communities, through financing targeted primarily towards smaller and emerging businesses, in partnership with other public and private resources, and in accordance with State and regional strategy based on identified community needs. This purpose is achieved through loans made to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community developments in a rural area.

(c) Proposed intermediaries are required to identify any known relationship or association with a USDA Rural Development employee. Any processing or servicing Agency activity conducted pursuant to this subpart involving authorized assistance to United States Department of Agriculture (USDA) Rural Development employees, members of their families, close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter.

(d) Copies of all forms, regulations, and Agency procedures referenced in this subpart are available in the National Office or any Rural Development State Office.

§ 4274.302 Definitions and abbreviations.

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

Agency. The Federal agency within the USDA with responsibility assigned by the Secretary of Agriculture to administer IRP. At the time of publication of this rule, that Agency was the Rural Business-Cooperative Service (RBS).

Agency IRP loan funds. Cash proceeds of a loan obtained from the Agency through IRP, including the portion of

an IRP revolving fund directly provided by the Agency IRP loan. Agency IRP loan funds are Federal funds.

Agricultural production or agriculture production. The cultivation, production, growing, raising, feeding, housing, breeding, hatching, or managing of crops, plants, animals, or birds, either for fiber, food for human consumption, or livestock feed.

Initial Agency IRP loan. The first IRP loan made by the Agency to an intermediary.

Intermediary. The entity requesting or receiving Agency IRP loan funds for establishing a revolving fund and lending to ultimate recipients.

IRP revolving fund. A group of assets, obtained through or related to an Agency IRP loan and recorded by the intermediary in a bookkeeping account or set of accounts and accounted for, along with related liabilities, revenues, and expenses, as an entity or enterprise separate from the intermediary's other assets and financial activities.

Principals of intermediary. Members, officers, directors, and other individuals or entities directly involved in the operation and management (including setting policy) of an intermediary.

Processing office or officer. The processing office for an IRP application is the office within the Agency administrative organization with assigned authority and responsibility to process the application. The processing office is the primary contact for the proposed intermediary and maintains the official application case file. The processing officer for an application is the person in charge of the processing office. The processing officer is responsible for ensuring that all regulations and Agency procedures are complied with in regard to applications under the office's jurisdiction.

Revolved funds. The cash portion of an IRP revolving fund that is not composed of Agency loan funds, including funds that are repayments of Agency IRP loans and including fees and interest collected on such loans. Revolved funds shall not be considered Federal funds.

Rural area. All territory of a State that is not within the outer boundary of any city having a population of

25,000 or more, according to the latest decennial census.

Servicing office or officer. The servicing office for an IRP loan is the office within the Agency administrative organization with assigned authority and responsibility to service the loan. The servicing office is the primary contact for the borrower and maintains the official case file after the loan is closed. The servicing officer for a loan is the person in charge of the servicing office. The servicing officer is responsible for ensuring that all regulations and Agency procedures are complied with in regard to loans under the office's jurisdiction.

State. Any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Statewide Nonmetropolitan Median Household Income (SNMHI). Median household income of the State's nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

Subsequent IRP loan. An IRP loan from the Agency to an intermediary that has received one or more IRP loans previously.

Technical assistance. A function performed for the benefit of an ultimate recipient or proposed ultimate recipient, which is a problem solving activity. The Agency will determine whether a specific activity qualifies as technical assistance.

Ultimate recipient. An entity or individual that receives a loan from an intermediary's IRP revolving fund.

Underrepresented group. U.S. citizens with identifiable common characteristics, that have not received IRP assistance or have received a lower percentage of total IRP dollars than the percentage they represent of the general population.

United States. The 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American

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Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

(b) *Abbreviations.* The following are applicable to this subpart:

B&I—Business and Industry
IRP—Intermediary Relending Program
OGC—Office of the General Counsel
OIG—Office of Inspector General
OMB—Office of Management and Budget
RBS—Rural Business-Cooperative Service, or any successor agency
RDLF—Rural Development Loan Fund
USDA—United States Department of Agriculture

[63 FR 6053, Feb. 6, 1998, as amended at 69 FR 65519, Nov. 15, 2004]

§§ 4274.303–4274.306 [Reserved]

§ 4274.307 Eligibility requirements—Intermediary.

(a) The types of entities which may become intermediaries are:

- (1) Private nonprofit corporations.
- (2) *Public agencies*—Any State or local government, or any branch or agency of such government having authority to act on behalf of that government, borrow funds, and engage in activities eligible for funding under this subpart.
- (3) *Indian groups*—Indian tribes on a Federal or State reservation or other federally recognized tribal groups.
- (4) *Cooperatives*—Incorporated associations, at least 51 percent of whose members are rural residents, whose members have one vote each, and which conduct, for the mutual benefit of their members, such operations as producing, purchasing, marketing, processing, or other activities aimed at improving the income of their members as producers or their purchasing power as consumers.

(b) The intermediary must:

- (1) Have the legal authority necessary for carrying out the proposed loan purposes and for obtaining, giving security for, and repaying the proposed loan.
- (2) Have a proven record of successfully assisting rural business and industry, or, for intermediaries that propose to finance community development, a proven record of successfully assisting rural community development projects of the type planned.

(i) Except as provided in paragraph (b)(2)(ii) of this section, such record will include recent experience in loan making and servicing with loans that are similar in nature to those proposed for the IRP and a delinquency and loss rate acceptable to the Agency.

(ii) The Agency may approve an exception to the requirement for loan making and servicing experience provided:

(A) The proposed intermediary has a proven record of successfully assisting (other than through lending) rural business and industry or rural community development projects of the type planned; and

(B) The proposed intermediary will, before the loan is closed, bring individuals with loan making and servicing experience and expertise into the operation of the IRP revolving fund.

(3) Have the services of a staff with loan making and servicing expertise acceptable to the Agency.

(4) Have capitalization acceptable to the Agency.

(c) No loans will be extended to an intermediary unless:

(1) There is adequate assurance of repayment of the loan based on the fiscal and managerial capabilities of the proposed intermediary.

(2) The loan is not otherwise available on reasonable (*i.e.*, usual and customary) rates and terms from private sources or other Federal, State, or local programs.

(3) The amount of the loan, together with other funds available, is adequate to assure completion of the project or achieve the purposes for which the loan is made.

(d) At least 51 percent of the outstanding interest or membership in any nonpublic body intermediary must be composed of citizens of the United States or individuals who reside in the United States after being legally admitted for permanent residence.

(e) Any delinquent debt to the Federal Government by the intermediary or any principal of the intermediary shall cause the intermediary to be ineligible to receive any IRP loan. Agency loan funds may not be used to satisfy the debt.