

§ 771.8

§ 771.8 Other Federal, State, and local requirements.

(a) In addition to the specific requirements in this subpart, loan applications will be coordinated with all appropriate Federal, State, and local agencies.

(b) Borrowers are required to comply with all applicable:

- (1) Federal, State, or local laws;
- (2) Regulatory commission rules; and
- (3) Regulations which are presently in existence, or which may be later adopted including, but not limited to, those governing the following:

- (i) Borrowing money, pledging security, and raising revenues for repayment of debt;
- (ii) Accounting and financial reporting; and
- (iii) Protection of the environment.

§ 771.9 Interest rates, terms, security requirements, and repayment.

(a) *Interest rate.* The interest rate will be fixed for the term of the loan. The rate will be established by FSA, based upon the cost of Government borrowing for instruments on terms similar to that of the loan requested.

(b) *Term.* The loan term will be based upon the needs of the applicant to accomplish the objectives of the loan program as determined by FSA, but may not exceed 10 years.

(c) *Security requirements.* (1) Loans must be adequately secured as determined by FSA. FSA may require certain security, including but not limited to the following:

- (i) Assignments of assessments, taxes, levies, or other sources of revenue as authorized by State law;
- (ii) Investments and deposits of the applicant; and
- (iii) Capital assets or other property of the applicant or its members.

(2) In those cases in which FSA and another lender will hold assignments of the same revenue as collateral, the other lender must agree to a prorated distribution of the assigned revenue. The distribution will be based upon the proportionate share of the applicant's debt the lender holds for the eradication zone from which the revenue is derived at the time of loan closing.

(d) *Repayment.* The applicant must demonstrate that income sources will

be sufficient to meet the repayment requirements of the loan and pay operating expenses.

§ 771.10 [Reserved]

§ 771.11 Application.

A complete application will consist of the following:

- (a) An application for Federal assistance (available in any FSA office);
- (b) Applicant's financial projections including a cash flow statement showing the plan for loan repayment;
- (c) Copies of the applicant's authorizing State legislation and organizational documents;
- (d) List of all directors and officers of the applicant;
- (e) Copy of the most recent audited financial statements along with updates through the most recent quarter;
- (f) Copy of the referendum used to establish the assessments and a certification from the Board of Directors that the referendum passed;
- (g) Evidence that the officers and employees authorized to disburse funds are covered by an acceptable fidelity bond;
- (h) Evidence of acceptable liability insurance policies;
- (i) Statement from the applicant addressing any current or pending litigation against the applicant as well as any existing judgments;
- (j) A copy of a resolution passed by the Board of Directors authorizing the officers to incur debt on behalf of the borrower;
- (k) Any other information deemed to be necessary by FSA to render a decision.

§ 771.12 Funding applications.

Loan requests will be processed based on the date FSA receives the application. Loan approval is subject to the availability of funds. However, when multiple applications are received on the same date and available funds will not cover all applications received, applications from active eradication areas, which FSA determines to be most critical for the accomplishment of program objectives, will be funded first.