

§ 1336.62

45 CFR Ch. XIII (10-1-00 Edition)

§ 1336.62 **Definitions.**

Applicant means an applicant for a loan from the Native Hawaiian Revolving Loan Fund. An applicant must be an individual Native Hawaiian or a Native Hawaiian organization. If the applicant is a group of people organized for economic development purposes, the applicant ownership must be 100% Native Hawaiian.

Commissioner means the Commissioner of the Administration for Native Americans.

Cooperative association means an association of individuals organized pursuant to State or Federal law, for the purpose of owning and operating an economic enterprise for profit, with profits distributed or allocated to patrons who are members of the organization.

Corporation means an entity organized pursuant to State or Federal law, as a corporation, with or without stock, for the purpose of owning and operating an economic enterprise.

Default means failure of a borrower to make scheduled payments on a loan, failure to obtain the lender's approval for disposal of assets mortgaged as security for a loan, or failure to comply with the covenants, obligations or other provisions of a loan agreement.

Economic enterprise means any Native Hawaiian-owned, commercial, industrial, agricultural or other business activity established or organized for the purpose of profit.

Financing statement means the document filed or recorded in country or State offices pursuant to the provisions of the Uniform Commercial Code as enacted by Hawaii notifying third parties that a lender has a lien on the chattel and/or crops of a borrower.

Loan Administrator means either the agency of the State of Hawaii or the community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians selected to administer the revolving loan fund.

Mortgages mean mortgages and deeds of trust evidencing an encumbrance of trust or restricted land, mortgages and security agreements executed as evidence of liens against crops and chattels, and mortgages and deeds of trust

evidencing a lien on leasehold interests.

Native Hawaiian means an individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

Partnership means two or more persons engaged in the same business, sharing its profits and risks, and organized pursuant to state or Federal law.

Profits mean the net income earned after deducting operating expenses from operating revenues.

Revolving Loan Fund (RLF) means all funds that are now or are hereafter a part of the Native Hawaiian Revolving Loan Fund authorized by the Native American Programs Act of 1974, as amended in 1987, and supplemented by sums collected in repayment of loans made, including interest or other charges on loans and any funds appropriated pursuant to section 803A of the Native American Programs Act of 1974, as amended.

§ 1336.63 **General responsibilities of the Loan Administrator.**

(a) The Loan Administrator will make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose or promoting economic development among Native Hawaiians in the State of Hawaii. (Section 803(a)(1)(A).)

(b) Prior to any loan being made from the RLF, the Loan Administrator will develop and obtain the Commissioner's approval of the following organizational and administrative materials necessary to implement the RLF:

- (1) Goals and strategies;
- (2) Staffing and organizational responsibilities;
- (3) Preapplication and loan screening processes;
- (4) Loan procedures including application forms;
- (5) Criteria and procedures for loan review, evaluation and decision-making;
- (6) Loan closing procedures; and
- (7) Procedures for loan servicing, monitoring and provision of technical assistance.

(c) The Loan Administrator will set up fiscal management procedures to satisfy the requirements of section

803A of the Native American Programs Act and this subpart.

(d) The Loan Administrator must set up a separate account for the RLF into which all payments, interest, charges, and other amounts collected from loans made from the RLF will be deposited.

§ 1336.64 Development of goals and strategies: Responsibilities of the Loan Administrator.

(a) Prior to the approval of any direct loan under the RLF, the Loan Administrator will develop and obtain the Commissioner's approval for a clear and comprehensive set of goals and strategies for the RLF. The goals will specify the results the Loan Administrator expects to accomplish from the Revolving Loan Fund, define the RLF's role and responsibilities for potential users, and serve as the basis for the development of an organizational strategy and operating plan. The RLF strategies will provide the Loan Administrator with a sound understanding of the economic and market conditions within the Native Hawaiian community.

(b) The following factors shall be considered by the Loan Administrator in developing the RLF's goals:

- (1) Employment needs of the local population;
- (2) Characteristics of the local economic base;
- (3) Characteristics of the local capital base and the gaps in the local availability of business capital;
- (4) Local resources for economic development and their availability; and
- (5) Goals and strategies of other local organizations involved in economic development.

(c) The loan fund strategies developed by the Revolving Loan Fund must include the following:

- (1) *Business Targeting Strategy*: to determine which types of businesses are to be targeted by the loan fund. The Loan Administrator will develop procedures to ensure that the loans made are directed to Native Hawaiians.
- (2) *Financing Strategy*: to determine the types of financing the loan fund will provide;
- (3) *Business Assistance Strategy*: to identify the possible or potential man-

agement problems of a borrower and develop a workable plan for providing borrowers with the needed management assistance;

(4) *Marketing Strategy*: to generate applications from potential borrowers and to generate the support and participation of local financial institutions;

(5) *Capital Base Management Strategy*: to develop and allocate the financial resources of the fund in the most effective possible way to meet the need or demand for financing; and

(6) *Accountability Strategy*: to develop policies and mechanisms to hold borrowers accountable for providing the public benefits promised (e.g. jobs) in return for financing; to ensure that, until expenditure, loan proceeds are held by the borrower in secured, liquid financial instruments; to hold borrowers accountable for upholding the commitments made prior to the loan; and to develop the methods used by the RLF to enforce these commitments.

§ 1336.65 Staffing and organization of the Revolving Loan Fund: Responsibilities of the Loan Administrator.

Prior to the approval of any direct loan under the RLF, the Loan Administrator must develop and obtain the Commissioner's approval for the RLF's organization table, including:

- (a) The structure and composition of the Board of Directors of the RLF;
- (b) The staffing requirements for the RLF, with position descriptions and necessary personnel qualifications;
- (c) The appointments to the advisory loan review committee; and
- (d) The roles and responsibilities of the Board, staff and loan review committee.

§ 1336.66 Procedures and criteria for administration of the Revolving Loan Fund: Responsibilities of the Loan Administrator.

Prior to the approval of any direct loan under the RLF, the Loan Administrator must develop and obtain the Commissioner's approval for the following procedures:

- (a) *Preapplication and loan screening procedures*. Some factors to be considered in the loan screening process are:
 - (1) General eligibility criteria;