

§ 103.18

25 CFR Ch. I (4–1–13 Edition)

with BIA's written approval of any assignment of specific tribal trust assets under §103.15(1), or of any security interest in an individual Indian money account);

(3) Mortgage instruments or deeds of trust (together with BIA's written approval, if required by 25 U.S.C. 483a, or if the mortgage is of a leasehold interest in tribal trust property);

(4) Guarantees (other than from BIA);

(5) Construction contracts, and plans and specifications;

(6) Leases related to the business (together with BIA's written approval, if required under 25 CFR part 162);

(7) Attorney opinion letters;

(8) Resolutions made by a Tribe or business entity;

(9) Waivers or partial waivers of sovereign immunity; and

(10) Similar instruments designed to document the loan, establish the basis for a security interest in loan collateral, and comply with applicable law.

(f) Unless BIA indicates otherwise in writing, the lender must close a guaranteed or insured loan within 90 days of any approval provided under §103.16.

§ 103.18 How does BIA issue a loan guaranty or confirm loan insurance?

(a) A loan is guaranteed under the Program when all of the following occur:

(1) BIA issues a signed loan guaranty certificate bearing a series number, an authorized signature, a guaranty percentage rate, the lender's name, the borrower's name, the original principal amount of the loan, and such other terms and conditions as BIA may require;

(2) The loan closes and funds;

(3) The lender pays BIA the applicable loan guaranty premium; and

(4) The lender meets all of the conditions listed in the loan guaranty certificate.

(b) A loan is insured under the Program when all of the following occur:

(1) The loan's purpose and terms meet the requirements of the Program and the lender's loan insurance agreement with BIA;

(2) The loan closes and funds;

(3) The lender notifies BIA of the borrower's identity and organizational

structure, the amount of the loan, the interest rate, the payment schedule, and the date on which the loan closing and funding occurred;

(4) The lender pays BIA the applicable loan insurance premium;

(5) If over \$100,000 or if the loan requires interest subsidy, BIA approves the loan in writing; and

(6) If over \$100,000 or if the loan requires interest subsidy, the lender meets all of the conditions listed in BIA's written loan approval.

§ 103.19 When must the lender pay BIA the loan guaranty or insurance premium?

The premium is due within 30 calendar days of the loan closing. If not paid on time, BIA will send the lender written notice by certified mail (return receipt requested), or by a nationally-recognized overnight delivery service (signature of recipient required), stating that the premium is due immediately. If the lender fails to make the premium payment within 30 calendar days of the date of BIA's notice, BIA's guaranty certificate or insurance coverage with respect to that particular loan is void, without further action.

Subpart C—Interest Subsidy

§ 103.20 What is interest subsidy?

Interest subsidy is a payment BIA makes for the benefit of the borrower, to reimburse part of the interest payments the borrower has made on a loan guaranteed or insured under the Program. It is available to borrowers whose projected or historical earnings before interest and taxes, after adjustment for extraordinary items, is less than the industry norm.

§ 103.21 Who applies for interest subsidy payments, and what is the application procedure?

(a) An eligible lender must request interest subsidy payments on behalf of an eligible borrower, after determining that the borrower qualifies. Typically, the lender should include a request for interest subsidy at the time it applies for a guaranty or insurance coverage under the Program. A request for interest subsidy must be supported by the information required in §§103.12 and