

§ 1336.77 Recovery of funds. Link to an amendment published at 89 FR 80073, Oct. 2, 2024.

(a) Funds provided under this Subpart may be recovered by the Commissioner for both costs of administration of the Loan Fund and losses incurred by the Fund (hereafter jointly referred to as “costs”) under the following circumstances:

(1) Whenever claimed costs are unallowable under the Native Americans Programs Act of 1974, as amended, or under 45 CFR part 75, subpart E, or both;

(2) For costs for loans made to ineligible persons or entities as defined in § 1336.73;

(3) For costs connected with the default of a borrower when the Loan Administrator has failed to perfect any security interest or when the Loan Administrator has failed to obtain collateral when provision of collateral is a condition of a loan.

(4) For costs connected with any default when the Loan Administrator has failed to perform a proper check of an applicant's credit;

(5) For costs whenever the Loan Administrator has failed to notify the Commission of loans at risk as required by § 1336.68 of these regulations, and as may be required by the procedures approved pursuant to that regulation;

(6) For costs whenever the Loan Administrator has failed to follow properly instructions provided to it by the Commissioner pursuant to § 1336.68(d) of these regulations;

(7) For costs which are incurred due to faulty record keeping, reporting, or both; or

(8) For costs which are in connection with any activity or action which violates any Federal or State law or regulation not specifically identified in these regulations.

(b) Whenever the Commissioner determines that funds have been improperly utilized or accounted for, he will issue a disallowance pursuant to the Act and to 45 CFR part 75 and will notify the Loan Administrator of its appeal rights, which appeal must be taken pursuant to 45 CFR part 16.

(c) If a disallowance is taken and not appealed, or if it is appealed and the disallowance is upheld by the Departmental Grant Appeals Board, the Loan Administrator must repay the disallowed amount to the Loan Fund within 30 days, such repayment to be made with non-Federal funds.

[53 FR 23969, June 24, 1988; 53 FR 28223, July 27, 1988; 54 FR 3452, Jan. 24, 1989, as amended at 81 FR 3022, Jan. 20, 2016]