

reasonably believes that disclosure of the information may cause substantial competitive harm to the submitter.

(iii) The notice given to the submitter by mail, return receipt requested, shall be given as soon as practicable after receipt of the request for access, and shall describe the request and provide the submitter seven working days from the date of notice, to submit written objections to disclosure of the information. Such statement shall specify all grounds for withholding any of the information and shall demonstrate why the information which is considered to be commercial or financial information, and that the information is a trade secret, is privileged or confidential, or that its disclosure is likely to cause substantial competitive harm to the submitter. If the submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to the release of the information. Information a submitter provides under this paragraph may itself be subject to disclosure under the FOIA.

(3) *Exceptions to notice to submitter.* Notice to the submitter need not be given if:

(i) The Secretary of the Board determines that the request for access should be denied;

(ii) The requested information lawfully has been made available to the public;

(iii) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(iv) The submitter's claim of confidentiality under 5 U.S.C. 552(b)(4) appears obviously frivolous or has already been denied by the Secretary of the Board, except that in this last instance the Secretary of the Board shall give the submitter written notice of the determination to disclose the information at least seven working days prior to disclosure.

(4) *Notice to requester.* At the same time the Secretary of the Board notifies the submitter, the Secretary of the Board also shall notify the requester that the request is subject to the provisions of this section.

(5) *Determination by Secretary of the Board.* The Secretary of the Board's determination whether or not to disclose any information for which confidential treatment has been requested pursuant to this section shall be communicated to the submitter and the requester immediately. If the Secretary of the Board determines to disclose the business information over the objection of a submitter, the Secretary of the Board shall give the submitter written notice via mail, return

receipt requested, or similar means, which shall include:

(i) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A statement that the component intends to disclose the information seven working days from the date the submitter receives the notice.

(6) *Notice of lawsuit.* The Secretary of the Board shall promptly notify any submitter of information covered by this section of the filing of any suit against the Board to compel disclosure of such information, and shall promptly notify a requester of any suit filed against the Board to enjoin the disclosure of requested documents.

5. Part 2201 is proposed to be added to read as follows:

## **PART 2201—LOCAL TELEVISION LOAN GUARANTEE PROGRAM—PROGRAM REGULATIONS**

### **Subpart A—General**

Sec.

2201.1 Definitions.

2201.2–2201.9 [Reserved]

### **Subpart B—Loan Guarantees**

2201.10 Loan amount and Guarantee percentage.

2201.11 Application requirements.

2201.12 Applicant.

2201.13 Lender.

2201.14 Eligible Loan purposes.

2201.15 Ineligible Loan purposes.

2201.16 Environmental requirements.

2201.17 Submission of applications.

2201.18 Application selection.

2201.19 Loan terms.

2201.20 Collateral.

2201.21 Fees.

2201.22 Issuance of Guarantees.

2201.23 Funding for the Program.

2201.24 Insurance.

2201.25 Performance Agreement.

2201.26 Lender standard of care.

2201.27 Assignment or transfer of Loans.

2201.28 Participation in guaranteed Loans.

2201.29 Supplemental guarantees.

2201.30 Adjustments.

2201.31 Indemnification.

2201.32 Termination of obligations.

2201.33 Defaults

2201.34 OMB Control Number

**Authority:** 47 U.S.C. 1101 *et seq.*; Pub. L. 106–553; Pub. L. 107–171.

### **Subpart A—General**

#### **§ 2201.1 Definitions.**

*Act* means Title X of Public Law 106–553, entitled the Launching our Communities' Access to Local Television (LOCAL TV) Act of 2000, as amended.

*Administrator* means the Administrator of the Rural Utilities

Service, U.S. Department of Agriculture, acting pursuant to the Act and on behalf of the Board.

*Affiliate* means any person or entity that controls, or is controlled by, or is under common control with, another person or entity; and may include any individual who is a director or senior management officer of an Affiliate, a shareholder controlling more than 25 percent of the voting securities of an Affiliate, or more than 25 percent of the ownership interest in an Affiliate not organized in stock form.

*Agent* means that Lender authorized to take such actions, exercise such powers, and perform such duties on behalf and in representation of all Lenders party to a Guarantee of a single Loan, as is required by, or necessarily incidental to, the terms and conditions of the Guarantee.

*Applicant* means any party that is seeking financing under the Act in order to provide access to Local Television Broadcast Signals for households in Nonreserved Areas and Underserved Areas.

*Asset* means anything owned by the Applicant that has commercial or exchange value including, but not limited to, cash flows and rights thereto.

*Banking Institution* means a bank or bank holding company.

*Board* means the LOCAL Television Loan Guarantee Board authorized by the Act to approve Guarantees to facilitate access, on a technologically neutral basis, to Local Television Broadcast Signals for households located in Nonreserved Areas and Underserved Areas.

*Borrower* means the entity liable for the payment of principal and interest on any Loan guaranteed under the Act, where such entity shall be a corporation, partnership, joint venture trustee or government entity, agency or instrumentality. An individual cannot be a Borrower.

*Collateral* means all Assets economically pledged by the Applicant, any Affiliate of the Applicant, or both that is required under the provisions of the Act or the Loan Documents to secure the repayment of the indebtedness of the Borrower under the Loan Documents.

*Default* means a failure by a Borrower, other than a Payment Default, on its obligations under the Loan Documents which has not been cured by the Borrower or duly waived by the Lender within any applicable cure period.

*Designated Market Area (DMA)* means an area designated as such by Nielsen Media Research and published in the most recent Nielsen Station Index Directory and Nielsen Station Index