

RBS and RUS, USDA

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area as a result of new employment opportunities.

(z) Community antenna television services or facilities.

(aa) Provide loan guarantees to assist industries adjusting to terminated Federal agricultural programs or increased foreign competition.

§ 4279.114 Ineligible purposes.

(a) Distribution or payment to an individual owner, partner, stockholder, or beneficiary of the borrower or a close relative of such an individual when such individual will retain any portion of the ownership of the borrower.

(b) Projects in excess of \$1 million that would likely result in the transfer of jobs from one area to another and increase direct employment by more than 50 employees.

(c) Projects in excess of \$1 million that would increase direct employment by more than 50 employees, if the project would result in an increase in the production of goods for which there is not sufficient demand, or if the availability of services or facilities is insufficient to meet the needs of the business.

(d) Charitable institutions, churches, or church-controlled or fraternal organizations.

(e) Lending and investment institutions and insurance companies.

(f) Assistance to Government employees and military personnel who are directors or officers or have a major ownership of 20 percent or more in the business.

(g) Racetracks for the conduct of races by professional drivers, jockeys, etc., where individual prizes are awarded in the amount of \$500 or more.

(h) Any business that derives more than 10 percent of annual gross revenue from gambling activity.

(i) Any illegal business activity.

(j) Prostitution.

(k) Any line of credit.

(l) The guarantee of lease payments.

(m) The guarantee of loans made by other Federal agencies.

(n) Owner-occupied housing. Bed and breakfasts, storage facilities, et al, are allowed when the pro rata value of the owner's living quarters is deleted.

(o) Projects that are eligible for the Rural Rental Housing and Rural Cooperative Housing loans under sections 515, 521, and 538 of the Housing Act of 1949, as amended.

(p) Loans made with the proceeds of any obligation the interest on which is excludable from income under 26 U.S.C. 103 or a successor statute. Funds generated through the issuance of tax-exempt obligations may neither be used to purchase the guaranteed portion of any Agency guaranteed loan nor may an Agency guaranteed loan serve as collateral for a tax-exempt issue. The Agency may guarantee a loan for a project which involves tax-exempt financing only when the guaranteed loan funds are used to finance a part of the project that is separate and distinct from the part which is financed by the tax-exempt obligation, and the guaranteed loan has at least a parity security position with the tax-exempt obligation.

(q) The guarantee of loans where there may be, directly or indirectly, a conflict of interest or an appearance of a conflict of interest involving any action by the Agency.

(r) Golf courses.

§ 4279.115 Prohibition under Agency programs.

No B&I loans guaranteed by the Agency will be conditioned on any requirement that the recipients of such assistance accept or receive electric service from any particular utility, supplier, or cooperative.

§§ 4279.116–4279.118 [Reserved]

§ 4279.119 Loan guarantee limits.

(a) *Loan amount.* The total amount of Agency loans to one borrower, including the guaranteed and unguaranteed portions, the outstanding principal and interest balance of any existing Agency guaranteed loans, and new loan request, must not exceed \$10 million. The Administrator may, at the Administrator's discretion, grant an exception to the \$10 million limit under the following circumstances:

(1) The project to be financed is a high-priority project. Priority will be

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determined in accordance with the criteria contained in § 4279.155 of this subpart;

(2) The lender must document to the satisfaction of the Agency that the loan will not be made and the project will not be completed if the guarantee is not approved; and

(3) Under no circumstances will the total amount of guaranteed loans to one borrower, including the guaranteed and unguaranteed portions, the outstanding principal and interest balance of any existing Agency guaranteed loans, and new loan request, exceed \$25 million;

(4) The percentage of guarantee will not exceed 60 percent. No exception to this requirement will be approved under paragraph (b) of this section for loans exceeding \$10 million; and

(5) Any request for a guaranteed loan exceeding the \$10 million limit must be submitted to the Agency in the form of a preapplication. The preapplication must be submitted to the National Office for review and concurrence before encouraging a full application.

(b) *Percent of guarantee.* The percentage of guarantee, up to the maximum allowed by this section, is a matter of negotiation between the lender and the Agency. The maximum percentage of guarantee is 80 percent for loans of \$5 million or less, 70 percent for loans between \$5 and \$10 million, and 60 percent for loans exceeding \$10 million. Notwithstanding the preceding, the Administrator may, at the Administrator's discretion, grant an exception allowing guarantees of up to 90 percent on loans of \$10 million or less under the following circumstances:

(1) The project to be financed is a high-priority project. Priority will be determined in accordance with the criteria contained in 4279.155 of this subpart;

(2) The lender must document to the satisfaction of the Agency that the loan will not be made and the project will not be completed if the higher guarantee percentage is not approved; and

(3) The State Director may grant an exception for loans of up to 90 percent on loans of \$2 million or less subject to the State Director's delegated loan authority and meeting all of the condi-

tions as set forth in this section. In cases where the State Director does not have the loan approval authority to approve a loan of \$2 million or less or the proposed percentage, the case must be submitted to the National Office for review.

(4) Each fiscal year, the Agency will establish a limit on the maximum portion of guarantee authority available for that fiscal year that may be used to guarantee loans with a guarantee percentage exceeding 80 percent. The limit will be announced by publishing a notice in the FEDERAL REGISTER. Once the limit has been reached, the guarantee percentage for all additional loans guaranteed during the remainder of that fiscal year will not exceed 80 percent.

§ 4279.120 Fees and charges.

(a) *Routine lender fees.* The lender may establish charges and fees for the loan provided they are similar to those normally charged other applicants for the same type of loan in the ordinary course of business.

(b) *Professional services.* Professional services are those rendered by entities generally licensed or certified by States or accreditation associations, such as architects, engineers, packagers, accountants, attorneys, or appraisers. The borrower may pay fees for professional services needed for planning and developing a project provided that the amounts are reasonable and customary in the area. Professional fees may be included as an eligible use of loan proceeds.

§§ 4279.121-4279.124 [Reserved]

§ 4279.125 Interest rates.

The interest rate for the guaranteed loan will be negotiated between the lender and the applicant and may be either fixed or variable as long as it is a legal rate. Interest rates will not be more than those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to Agency review and approval. Lenders are encouraged to utilize the secondary market and pass interest-rate savings on to the borrower.