

§ 1720.6

issued, and any previously issued guaranteed bonds outstanding; and

(2) The guaranteed bonds to be issued by the guaranteed lender must receive an underlying investment grade rating from a Rating Agency, without regard to the guarantee;

(c) A lending institution's status as an eligible applicant does not assure that the Secretary will issue the guarantee sought in the amount or under the terms requested, or otherwise preclude the Secretary from declining to issue a guarantee.

§ 1720.6 Application process.

(a) Applications shall contain the following:

(1) Background and contact information on the applicant;

(2) A term sheet summarizing the proposed terms and conditions of, and the security pledged to assure the applicant's performance under, the guarantee agreement;

(3) A statement by the applicant as to how it proposes to use the proceeds of the guaranteed bonds, and the financial benefit it anticipates deriving from participating in the program;

(4) A pro-forma cash flow projection or business plan for the next five years, demonstrating that there is reasonable assurance that the applicant will be able to repay the guaranteed bonds in accordance with their terms;

(5) Consolidated financial statements of the guaranteed lender for the previous three years that have been audited by an independent certified public accountant, including any associated notes, as well as any interim financial statements and associated notes for the current fiscal year;

(6) Evidence of having been assigned an investment grade rating on the debt obligations for which it is seeking the guarantee, without regard to the guarantee;

(7) Evidence of a credit rating, from a Rating Agency, on its senior secured debt without regard to the government guarantee and satisfactory to the Secretary.

(8) Such other application documents and submissions deemed necessary by the Secretary for the evaluation of applicants.

7 CFR Ch. XVII (1-1-05 Edition)

(b) The application process occurs as follows:

(1) The applicant submits an application to the Secretary;

(2) The application is screened by RUS pursuant to 7 CFR 1720.7(a) of this part, to ascertain its threshold eligibility for the program;

(3) RUS evaluates the application pursuant to the selection criteria set forth in 7 CFR 1720.7(b) of this part;

(4) If RUS provisionally approves the application, the applicant and RUS negotiate terms and conditions of the bond documents, and

(5) The applicant offers its guaranteed bonds, and the Secretary upon approval of the pricing, redemption provisions and other terms of the offering, executes the guarantee.

(c) If requested by the applicant at the time it files its application, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the validity and authority of a guarantee issued to the lender under section 313A of the RE Act.

§ 1720.7 Application evaluation.

(a) *Eligibility screening.* Each application will be reviewed by the Secretary to determine whether it is eligible under 7 CFR 1720.5, the information required under 7 CFR 1720.6 is complete and the proposed guaranteed bond complies with applicable statutes and regulations. The Secretary can at any time reject an application that fails to meet these requirements.

(b) *Evaluation.* Pursuant to paragraph (a) of this section, applications will be subject to a substantive review, on a competitive basis, by the Secretary based upon the following evaluation factors, listed in order of importance:

(1) The extent to which the proposed provisions indicate the applicant will be able to repay the guaranteed bonds;

(2) The adequacy of the proposed provisions to protect the Federal government, based upon items including, but not limited to the nature of the pledged security, the priority of the lien position, if any, pledged by the applicant, and the provision for an orderly retirement of principal such as an amortizing bond structure or an internal sinking fund;