

parties, public or private, may guarantee repayment of part of the Unguaranteed Portion of a loan guaranteed by the Board.

[66 FR 53080, Oct. 19, 2001]

§ 400.204 Loan terms.

(a) All loans guaranteed under the Program shall be due and payable in full no later than December 31, 2005.

(b) Loans guaranteed under the Program must bear a rate of interest determined by the Board to be reasonable. The reasonableness of an interest rate will be determined with respect to current average yields on outstanding obligations of the United States with remaining periods of maturity comparable to the term of the loan sought to be guaranteed. The Board may reject an application to guarantee a loan if it determines the interest rate of such loan to be unreasonable.

(c)(1) The performance of all of the Borrower's obligations under the Loan Documents shall be secured by, and shall have the priority in, such Security as provided for within the terms and conditions of the Guarantee.

(2) Without limiting the Lender's or Borrower's obligations under paragraph (c) of this section, at a minimum, the loan shall be secured by:

(i) A fully perfected and enforceable security interest and/or lien, with first priority over conflicting security interests or other liens in all property acquired, improved or derived from the loan funds;

(ii) A fully perfected and enforceable security interest and/or lien in any other property of the Borrower's pledged to secure the loan, including accessions, replacements, proceeds, or property given by a third party as Security for the loan.

(3) The entire loan will be secured by the same Security with equal lien priority for the Guaranteed Portion and the Unguaranteed Portion of the loan. The Unguaranteed Portion of the loan will neither be paid first nor given any preference over the Guaranteed Portion. A Supplemental Guarantor shall not have a security interest, direct or indirect, in any asset of the Borrower or any affiliate thereof other than the Security.

(4) An Applicant's compliance with paragraph (c)(2) of this section does not assure a finding of reasonable assurance of repayment, or assure the Board's Guarantee of the loan.

(d) An eligible Lender may assess and collect from the Borrower such other fees and costs associated with the application and origination of the loan as are reasonable and customary, taking into consideration the amount and complexity of the credit. The Board may take such other fees and costs into consideration when determining whether to offer a Guarantee to the Lender.

[64 FR 57933, Oct. 27, 1999, as amended at 64 FR 72020, Dec. 23, 1999; 65 FR 70293, Nov. 22, 2000; 66 FR 53080, Oct. 19, 2001]

§ 400.205 Application process.

(a) *Application process.* An original application and three copies must be received by the Board no later than 5 p.m. EST, August 31, 2001 in the Board's offices at 1099—14th Street, NW, Suite 2600 East, Washington, DC 20005. Applications which have been provided to a delivery service with "delivery guaranteed" before 5 p.m. on August 31, 2001 will be accepted for review if the Applicant can document that the application was provided to the delivery service with delivery to the address listed in this section guaranteed prior to the closing date and time. A postmark is not sufficient to meet this deadline as the application must be received by the required date and time. Applications will not be accepted via facsimile machine transmission or electronic mail.

(b) Applications shall contain the following:

(1) A completed Form "Application for Steel Guarantee Loan";

(2) The information required for the completion of Form "Environmental Assessment and Compliance Findings for Related Environmental Laws" and attachments, as required by § 400.206(a)(2)(i)(D);

(3) All Loan Documents that will be signed by the Lender and the Borrower, if the application is approved, including all terms and conditions of, and Security or additional Security to assure the Borrower's performance under, the loan;

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(4) Certification by the chairman of the board and the chief executive officer of the Borrower acknowledging that the Borrower is aware that the Lender is applying to the Board for a Guarantee of a loan under the Program, as described in the Loan Documents; and agreeing to permit audits by the General Accounting Office, its designee, and an independent auditor acceptable to the Board prior to the issuance of the Guarantee and annually thereafter while such guarantee is outstanding;

(5) The Lender's full written underwriting analysis of the loan to be guaranteed by the Board;

(6) A certification by the Lender that the Lender meets each of the requirements of the Program as set forth in the Act and the Board's rules in this part;

(7) A description of all Security for the loan, including, as applicable, current appraisal of real and personal property, copies of any appropriate environmental site assessments, and current personal and corporate financial statements of any guarantors for the same period as required for the Borrower. Appraisals of real property shall be prepared by State licensed or certified appraisers, and be consistent with the "Uniform Standards of Professional Appraisal Practice," promulgated by the Appraisal Standards Board of the Appraisal Foundation. Financial statements of guarantors shall be prepared by independent Certified Public Accountants;

(8) Consolidated financial statements of the Borrower 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;

(9) A five year history and five year projection for revenue, cash flow, average realized prices and average realized production costs. If the loan funds are to be used to purchase substantial assets of an existing firm, a pro forma balance sheet at startup, and five years projected year end balance sheets and income statement at start-up;

(10) Documentation that credit is not otherwise available to the borrower

under reasonable terms or conditions sufficient to meet its financial needs, as reflected in the financial or business plan of that company. The Lender must provide with its application those items required by § 400.200(c);

(11) Documentation sufficient to demonstrate that the Lender is eligible under § 400.201(a) and to allow the Board to make a determination to issue a Guarantee to such Lender as set forth in § 400.201(c); and

(12) A description of any Supplemental Guarantee(s) that will apply to the Unguaranteed Portion of the loan.

(c) No Guarantee will be made if either the Borrower or Lender has an outstanding, delinquent Federal debt until:

(1) The delinquent account has been paid in full;

(2) A negotiated repayment schedule is established and at least one payment has been received; or

(3) Other arrangements, satisfactory to the agency responsible for collecting the debt, are made.

[64 FR 57933, Oct. 27, 1999, as amended at 64 FR 72021, Dec. 23, 1999; 65 FR 24104, Apr. 25, 2000; 65 FR 70293, Nov. 22, 2000; 66 FR 53080, Oct. 19, 2001]

§ 400.206 Environmental requirements.

(a)(1) *In general.* Environmental assessments of the Board's actions will be conducted in accordance with applicable statutes, regulations, and Executive Orders. Therefore, each application for a Guarantee under the Program must be accompanied by information necessary for the Board to meet the requirements of applicable law.

(2) *Actions requiring compliance with NEPA.* (i) The types of actions classified as "major Federal actions" subject to NEPA procedures are discussed generally in 40 CFR parts 1500 through 1508.

(ii) With respect to this Program, these actions typically include:

(A) Any project, permanent or temporary, that will involve construction and/or installations;

(B) Any project, permanent or temporary, that will involve ground disturbing activities; and

(C) Any project supporting renovation, other than interior remodeling.