

apparatus necessary to make the asset usable for the purpose for which it was acquired, whether the expenditures are classified as capital or operating expenses;

(8) *Public relations*, and all associated costs, paid directly or through a third party, to the extent that those costs are used to promote or maintain a favorable image of the guaranty agency. The term “public relations” does not include any activity that is ordinary and necessary for the fulfillment of the agency’s FFEL guaranty responsibilities under the HEA, including appropriate and reasonable advertising designed specifically to communicate with the public and program participants for the purpose of facilitating the agency’s ability to fulfill its FFEL guaranty responsibilities under the HEA. Ordinary and necessary public relations activities include training of program participants and secondary school personnel and customer service functions that disseminate FFEL-related information and materials to schools, loan holders, prospective loan applicants, and their parents. In providing that training at workshops, conferences, or other ordinary and necessary forums customarily used by the agency to fulfill its responsibilities under the HEA, the agency may provide light meals and refreshments of a reasonable nature and amount to the participants;

(9) *Relocation of employees* in excess of an employee’s actual or reasonably estimated expenses or for purposes that do not benefit the administration of the guaranty agency’s FFEL program. Except as approved by the Secretary, reimbursement must be in accordance with an established written policy; and

(10) *Travel expenses* that are not in accordance with a written policy approved by the Secretary or a State policy. If the guaranty agency does not have such a policy, it may not use the assets of the Operating Fund to pay for travel expenses that exceed those allowed for lodging and subsistence under subchapter I of Chapter 57 of title 5, United States Code, or in excess of commercial airfare costs for standard coach airfare, unless those accommodations would require circuitous routing, travel during unreasonable

hours, excessively prolonged travel, would result in increased cost that would offset transportation savings, or would offer accommodations not reasonably adequate for the medical needs of the traveler.

(c) *Cost allocation*. Each guaranty agency that shares costs with any other program, agency, or organization shall develop a cost allocation plan consistent with the requirements described in OMB Circular A-87 and maintain the plan and related supporting documentation for audit. A guaranty agency is required to submit its cost allocation plans for the Secretary’s approval if it is specifically requested to do so by the Secretary.

(Approved by the Office of Management and Budget under control number 1840-0726)

(Authority: 20 U.S.C. 1078)

[61 FR 60437, Nov. 27, 1996, as amended at 62 FR 13539, Mar. 21, 1997; 64 FR 58634, Oct. 29, 1999]

#### § 682.419 Guaranty agency Federal Fund.

(a) *Establishment and control*. A guaranty agency must establish and maintain a Federal Student Loan Reserve Fund (referred to as the “Federal Fund”) to be used only as permitted under paragraph (c) of this section. The assets of the Federal Fund and the earnings on those assets are, at all times, the property of the United States. The guaranty agency must exercise the level of care required of a fiduciary charged with the duty of protecting, investing, and administering the money of others.

(b) *Deposits*. The agency must deposit into the Federal Fund—

(1) All funds, securities, and other liquid assets of the reserve fund that existed under § 682.410;

(2) The total amount of insurance premiums or Federal default fees collected;

(3) Federal payments for default, bankruptcy, death, disability, closed school, false certification, and other claims;

(4) Federal payments for supplemental preclaims assistance activities performed before October 1, 1998;

(5) 70 percent of administrative cost allowances received on or after October

1, 1998 for loans upon which insurance was issued before October 1, 1998;

(6) All funds received by the guaranty agency from any source on FFEL Program loans on which a claim has been paid, within 48 hours of receipt of those funds, minus the portion the agency is authorized to deposit in its Operating Fund;

(7) Investment earnings on the Federal Fund;

(8) Revenue derived from the Federal portion of a nonliquid asset, in accordance with § 682.420; and

(9) Other funds received by the guaranty agency from any source that are specifically designated for deposit in the Federal Fund.

(c) *Uses.* A guaranty agency may use the assets of the Federal Fund only—

(1) To pay insurance claims;

(2) To transfer default aversion fees to the agency's Operating Fund;

(3) To transfer account maintenance fees to the agency's Operating Fund, if directed by the Secretary;

(4) To refund payments made by or on behalf of a borrower on a loan that has been discharged in accordance with § 682.402;

(5) To pay the Secretary's share of borrower payments, in accordance with § 682.404(g);

(6) For transfers to the agency's Operating Fund, pursuant to § 682.421;

(7) To refund insurance premiums or Federal default fees related to loans cancelled or refunded, in whole or in part;

(8) To return to the Secretary portions of the Federal Fund required to be returned by the Act; and

(9) For any other purpose authorized by the Secretary.

(d) *Prohibition against prepayment.* A guaranty agency may not prepay obligations of the Federal Fund unless it demonstrates, to the satisfaction of the Secretary, that the prepayment is in the best interests of the United States.

(e) *Minimum Federal Fund level.* The guaranty agency must maintain a minimum Federal Fund level equal to at least 0.25 percent of its insured original principal amount of loans outstanding.

(f) *Definitions.* For purposes of this section—

(1) *Federal Fund level* means the total of Federal Fund assets identified in

paragraph (b) of this section plus the amount of funds transferred from the Federal Fund that are in the Operating Fund, using an accrual basis of accounting.

(2) *Original principal amount of loans outstanding means—*

(i) The sum of—

(A) The original principal amount of all loans guaranteed by the agency; and

(B) The original principal amount of any loans on which the guarantee was transferred to the agency from another guarantor, excluding loan guarantees transferred to another agency pursuant to a plan of the Secretary in response to the insolvency of the agency;

(ii) Minus the original principal amount of all loans on which—

(A) The loan guarantee was cancelled;

(B) The loan guarantee was transferred to another agency;

(C) Payment in full has been made by the borrower;

(D) Reinsurance coverage has been lost and cannot be regained; and

(E) The agency paid claims.

(Authority: 20 U.S.C. 1072-1)

[64 FR 58634, Oct. 29, 1999, as amended at 71 FR 45708, Aug. 9, 2006]

**§ 682.420 Federal nonliquid assets.**

(a) *General.* The Federal portion of a nonliquid asset developed or purchased in whole or in part with Federal reserve funds, regardless of who held or controlled the Federal reserve funds or assets, is the property of the United States. The ownership of that asset must be prorated based on the percentage of the asset developed or purchased with Federal reserve funds. In maintaining and using the Federal portion of a nonliquid asset under this section, the guaranty agency must exercise the level of care required of a fiduciary charged with protecting, investing, and administering the property of others.

(b) *Treatment of revenue derived from a nonliquid Federal asset.* If a guaranty agency derives revenue from the Federal portion of a nonliquid asset, including its sale or lease, the agency must promptly deposit the percentage of the net revenue received into the Federal Fund equal to the percentage