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(b) The loan amount guaranteed to a single air carrier may not exceed that amount that, in the Board's sole discretion, the air carrier (or its successor) needs in order for it to provide commercial air services.

§ 1300.14 Guarantee percentage.

A guarantee issued by the Board must be less than 100 percent of the amount of principal and accrued interest of the loan guaranteed.

§ 1300.15 Loan terms.

(a) A loan guaranteed under the program shall be due and payable in full no later than seven years from the date on which the first disbursement of the loan is made.

(b) Loans guaranteed under the program must bear a rate of interest determined by the Board to be reasonable. In determining the reasonableness of an interest rate, the Board shall consider the percentage of the guarantee, any collateral, other loan terms, and current average yields on outstanding obligations of the United States with maturity comparable to the term of the loan guaranteed. The Board may reject an application to guarantee a loan if it determines the interest rate on such loan to be unreasonable.

(c) 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.

§ 1300.16 Application process.

(a) Applications are to be submitted by the borrower. Borrowers may submit applications to the Board any time after October 12, 2001 through June 28, 2002. All applications must be received by the Board no later than 5 p.m. EDT, June 28, 2002, in the Board's offices. Borrowers should submit an original application and four copies. Applications will not be accepted via facsimile machine transmission or electronic mail. No application will be accepted

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for review if it is not received by the Board on or before June 28, 2002.

(b) Applications shall contain the following:

(1) A completed Form "Application for Air Carrier Guaranteed Loan";

(2) 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 (if any), to assure the borrower's performance under, the loan;

(3) A certification by the borrower that the borrower meets each of the requirements of the program as set forth in the Act, the regulations in this part, and any supplemental requirements issued by the Board;

(4) A certification by the lender that the lender meets each of the requirements of the program as set forth in the Act, the regulations in this part, and any supplemental requirements issued by the Board, and that the lender will provide the loan under the terms outlined in the loan documents if the Board approves the requested guarantee;

(5) A statement that the borrower is not under bankruptcy protection or receivership when the application is submitted, unless the guarantee and the underlying financial obligation is to be part of a bankruptcy court-certified reorganization plan;

(6) Consolidated financial statements of the borrower for the previous five 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;

(7) Copies of the financial evaluations and forecasts concerning the air carrier's air service operations that were prepared by or for the air carrier within the three months prior to September 11, 2001;

(8) The borrower's business plan on which the loan is based that includes the following:

(i) A description of how the loan fits within the borrower's business plan, the purposes for which the borrower will use the loan, and an analysis showing that the loan is prudently incurred. If loan funds are to be used to purchase

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an existing firm (or the substantial assets of an existing firm), the business plan of the combined entity shall contain a discussion of the way in which any required regulatory or judicial approvals will be obtained, including antitrust approval for any proposed acquisition;

(ii) A discussion of a complete cost accounting and a range of revenue, operating cost, and credit assumptions;

(iii) A discussion of the financing plan on which the loan is based, showing that the operational needs of the borrower will be met during the term of the plan;

(iv) An analysis demonstrating that, at the time of the application, there is a reasonable assurance that the borrower will be able to repay the loan according to its terms, and a complete description of the operational and financial assumptions on which this demonstration is based;

(v) A discussion of the borrower's five-year history and five-year projection for revenue, cash flow, average realized prices, and average realized operating costs and a demonstration that the borrower will be able to continue operations if the requested guarantee is approved; and

(vi) If appropriate, a description of a plan to restructure the borrower's obligations, contracts, and costs. In preparing this description, the borrower shall jointly develop, with its existing secured and unsecured creditors, employees, or vendors, an agreed-upon plan to restructure the borrower's obligations, contracts and costs and incorporate this into the business plan submitted;

(9) A description of the losses that the borrower incurred (or is incurring) as a result of the terrorist attacks on the United States that occurred on September 11, 2001, including losses due to the unavailability of credit on reasonable terms or a decrease in demand for the air carrier's services;

(10) An analysis that demonstrates that the issuance of the guaranteed loan is a necessary part of maintaining a safe, efficient, and viable commercial aviation system in the United States and that credit is not reasonably available at the time of the transaction;

(11) A description of all security (if any) for the loan, including, as applicable, current appraisals 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;

(12) If appropriate, a description of the Federal government's ability to participate, contingent on the financial success of the borrower, in the gains of the borrower or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments; and

(13) Any other information requested by the Board.

(c) The collections of information in this section and elsewhere in this part that are subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) have been approved by OMB and assigned control number 0348-0059. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

§ 1300.17 Application evaluation.

(a) Eligibility screening. Applications will be reviewed to determine whether the lender and borrower are eligible, the information required under § 1300.16(b) is complete, and the proposed loan complies with applicable statutes and regulations. The Board may at any time reject an application that does not meet these requirements.

(b) Evaluation criteria. Applications that are determined to be eligible pursuant to paragraph (a) of this section shall be subject to a substantive review by the Board. In addition to the general standards for Board issuance of Federal credit instruments set forth in