

§ 22.43

§ 22.43 Approval or denial.

If a loan guarantee is approved by DOT OSDBU, a Guarantee Agreement, form DOT F 2314-1, will be issued to the Participating Lender. If a loan guarantee is declined by the Participating Lender, the Participating Lender is responsible for communicating the reasons for the decline to the applicant. The Participating Lender must notify the applicant, in writing, of the reasons for the decline; and a copy of this notification must be sent to DOT OSDBU. If a loan guarantee is declined by the DOT OSDBU, DOT OSDBU will be responsible for communicating the reasons for the decline to the applicant. The form is available at http://www.osdbu.dot.gov/financial/docs/Loan_Guarantee_DOT_F_2314-1.pdf.

§ 22.45 Allowable fees to borrowers.

(a) *Application Fees.* The Participating Lender may charge the applicant a non-refundable loan application fee, as determined from time to time by DOT OSDBU, for each STLP loan application processed, whether a new loan request or a renewal request.

(b) *Reasonable Closing Expenses.* Provided the Participating Lender charges similar fees to its non-STLP borrowers, the Participating Lender may collect reasonable closing expenses from the borrower, provided that full disclosure of such fees is made to the borrower prior to the loan closing date. These expenses include necessary out-of-pocket expenses to third parties such as filing and recordation fees, as well as loan closing document preparation fees.

Subpart E-Loan Administration

§ 22.51 Loan closings.

(a) The Participating Lender must promptly close all STLP loans in accordance with the terms and conditions approved by DOT OSDBU in its Guarantee Agreement. The Participating Lender must report circumstances concerning any STLP loans not closed within a reasonable time period after DOT OSDBU approval.

(b) The Participating Lender uses its own internal loan closing documents and must use standard banking prac-

49 CFR Subtitle A (10-1-10 Edition)

tices and procedures to ensure proper execution of the debt and perfection of the collateral. The Participating Lender must forward copies of all executed closing documents and filings to DOT OSDBU within the time period specified in the cooperative agreement.

§ 22.53 Loan monitoring and servicing requirements.

The Participating Lender must review STLP principal advance requests, process loan disbursements, and payments, and maintain contact with the borrower during the term of the loan. The Participating Lender must monitor the progress of the project being financed and the borrower's continued compliance with the terms and conditions of the loan. The Participating Lender must promptly report any material adverse change in the financial condition or business operations of the borrower to DOT OSDBU.

§ 22.57 Loan reporting requirements.

The STLP is subject to the requirements of the Federal Credit Reform Act of 1990 (FCRA) that includes certain budgeting and accounting requirements for Federal credit programs. To fulfill the requirements of FCRA, the Participating Lender must provide DOT OSDBU prompt written notification of the activation date by the time period specified in the cooperative agreement. The Participating Lender must submit to OSDBU a form DOT F 2303-1 Bank Verification Loan Activation Form that indicates the date in which the loan has been activated/funded. The form is available at http://www.osdbu.dot.gov/financial/docs/Loan_Activation_DOT_F_2303-1.pdf. The Participating Lender must also provide DOT OSDBU prompt written notification of the date the loan is repaid and closed. The Participating Lender must submit to OSDBU a form DOT F 2304-1 Bank Acknowledgement Loan Close-Out Form upon full repayment of the STLP loan, or upon expiration of the loan guarantee. The form is available at http://www.osdbu.dot.gov/financial/docs/Loan_Close-Out_DOT_F_2304-1.pdf. To fulfill this requirement, the Participating Lender must also submit a monthly report to the DOT OSDBU detailing the previous

month's activity for their STLP loans. The Participating Lender must submit form DOT F 2306-1 Pending Loan Status Report and form DOT F 2305-1 Guaranty Loan Status Report. These forms are available at http://www.osdbu.dot.gov/financial/docs/Pending_Loan_DOT_F_2306-1.xls and http://www.osdbu.dot.gov/financial/docs/Guaranty_Loan_DOT_F_2305-1.xls respectively.

§ 22.59 Loan modifications.

Any modification to the terms of the DOT OSDBU guarantee agreement must have prior written approval of the Director, and executed in writing as an Addendum to the original guarantee agreement.

§ 22.61 Loan guarantee extensions.

An extension of the original loan guarantee may be requested, in writing, by the Participating Lender. The Participating lender must submit to OSDBU a form DOT F 2310-1 to request an extension of the original loan guarantee for a maximum period of ninety (90) days. The form is available at http://www.osdbu.dot.gov/financial/docs/Loan_Extension_DOT_F_2310-1.pdf. The request must comply with the terms and conditions described in the guarantee agreement and with the STLP policies and procedures. All extension requests must be approved by the Director.

§ 22.63 Loan close outs.

Upon full repayment of the STLP loan, or upon expiration of the loan guarantee, the Participating Lender must submit to OSDBU a form DOT F 2304-1 Bank Acknowledgement Loan Close-Out Form. The form is available at http://www.osdbu.dot.gov/financial/docs/Loan_Close-Out_DOT_F_2304-1.pdf.

§ 22.65 Subordination.

DOT OSDBU must not be placed in a subordinate position to any other debt.

§ 22.67 Delinquent loans and loan defaults.

(a) The Participating Lender must bring to the immediate attention of the Director any delinquent STLP loans. The Participating Lender and

DOT OSDBU are jointly responsible for establishing collection procedures and must exercise due diligence with respect to collection of delinquent debt. The Participating Lender is responsible for initiating actions to recover such debt. DOT OSDBU must approve any compromise of a claim, resolution of a dispute, suspension or termination of collection action, or referral for litigation. A work-out solution will only be considered if it is expected to minimize the cost to the federal government in resolving repayment delinquencies and/or loan default. They must only be used when the borrower is likely to be able to repay the loan under the terms of the work-out, and if the cost of establishing the work-out plan is less than the costs of loan default and/or foreclosure.

(b) In an appropriate situation, DOT OSDBU may authorize the Participating Lender to undertake legal action deemed necessary to collect delinquent loans and DOT will reimburse the Participating Lender on a pro rata basis in proportion to the loan guarantee percentage for the associated fees and costs, with prior authorization from the Director. Penalties and late fees are not eligible for reimbursement. Any legal action undertaken by the Participating Lender without OSDBU authorization will not be eligible for a pro rata basis reimbursement of the associated fees and costs. Net recoveries applicable to accrued interest must be applied on a pro rata basis in proportion to the formula used during the term of the loan.

§ 22.69 Claim process.

After reasonable efforts have been exhausted to collect on a delinquent debt, the Participating Lender may demand in writing that DOT OSDBU honor its loan guarantee, provided however that the maximum liability of DOT OSDBU shall not at any time exceed the guaranteed amount. The borrower must be in default for no less than thirty (30) days, and the Participating Lender must have made written demand for payment from the borrower, in accordance with the guarantee agreement.