

**§ 4280.132 Access to records.**

Both the lender and borrower must permit representatives of the Agency (or other agencies of the U.S.) to inspect and make copies of any records pertaining to any Agency guaranteed loan during regular office hours of the lender or borrower or at any other time upon agreement between the lender, the borrower, and the Agency, as appropriate.

**§ 4280.133 Conditions of guarantee.**

All loan guarantees will be subject to § 4279.72 of this chapter.

**§ 4280.134 Sale or assignment of guaranteed loan.**

Any sale or assignment of the guaranteed loan must be in accordance with § 4279.75 of this chapter.

**§ 4280.135 Participation.**

All participation must be in accordance with § 4279.76 of this chapter.

**§ 4280.136 Minimum retention.**

Minimum retention must be in accordance with § 4279.77 of this chapter.

**§ 4280.137 Repurchase from holder.**

Any repurchase from a holder must be in accordance with § 4279.78 of this chapter.

**§ 4280.138 Replacement of document.**

Documents must be replaced in accordance with § 4279.84 of this chapter, except, in § 4279.84(b)(1)(v), a full statement of the circumstances of any defacement or mutilation of the Loan Note Guarantee or Assignment Guarantee Agreement would also need to be provided.

**§ 4280.139 Credit quality.**

The lender must determine credit quality and must address all of the elements of credit quality in a written credit analysis, including adequacy of equity, cash flow, collateral, history, management, and the current status of the industry for which credit is to be extended.

(a) *Cash flow.* All efforts will be made to structure debt so that the business has adequate debt coverage and the ability to accommodate expansion.

(b) *Collateral.* Collateral must have documented value sufficient to protect the interest of the lender and the Agency. The discounted collateral value will normally be at least equal to the loan amount. Lenders will discount collateral consistent with sound loan-to-value policy. Guaranteed loans made under this subpart shall have at least parity position with guaranteed loans made under 7 CFR part 4279, subpart B of this title.

(c) *Industry.* The current status of the industry will be considered. Borrowers developing well established commercially available renewable energy systems with significant support infrastructure may be considered for better terms and conditions than those borrowers developing systems with limited infrastructure.

(d) *Equity.* In determining the adequacy of equity, the lender must meet the criteria specified in paragraph (d)(1) of this section for loans over \$600,000 and the criteria in paragraph (d)(2) of this section for loans of \$600,000 or less. Cash equity injection, as discussed in paragraphs (d)(1) and (d)(2) of this section, must be in the form of cash. Federal grant funds may be counted as cash equity.

(1) For loans over \$600,000, borrowers shall demonstrate evidence of cash equity injection in the project of not less than 25 percent of eligible project costs. The fair market value of equity in real property that is to be pledged as collateral for the loan may be substituted in whole or in part to meet the cash equity requirement. However, the appraisal completed to establish the fair market value of the real property must not be more than 1 year old and must meet Agency appraisal standards.

(2) For loans of \$600,000 or less, borrowers shall demonstrate evidence of cash equity injection in the project of not less than 15 percent of eligible project costs. The fair market value of equity in real property that is to be pledged as collateral for the loan may be substituted in whole or in part to meet the cash equity requirement. However, the appraisal completed to establish the fair market value of the real property must not be more than 1 year old and must meet Agency appraisal standards.

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(e) *Lien priorities.* The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference or priority over the guaranteed portion. A parity or junior position may be considered provided that discounted collateral values are adequate to secure the loan in accordance with paragraph (b) of this section after considering prior liens.

### § 4280.140 Financial statements.

(a) The financial information required in § 4280.116(b)(3)(v) and (b)(4) is required for the guaranteed loan program.

(b) If the proposed guaranteed loan exceeds \$3 million, the Agency may require annual audited financial statements, at its sole discretion when the Agency is concerned about the applicant's credit risk.

### § 4280.141 Appraisals.

(a) *Conduct of appraisals.* All appraisals must be in accordance with § 4279.144 of this chapter.

(1) For loans of \$600,000 or more, a complete self-contained appraisal must be conducted. Lenders must complete at least a Transaction Screen Questionnaire for any undeveloped sites and a Phase I environmental site assessment on existing business sites, which should be provided to the appraiser for completion of the self-contained appraisal.

(2) For loans for less than \$600,000, a complete summary appraisal may be conducted in lieu of a complete self-contained appraisal as required under paragraph (a)(1) of this section. Summary appraisals must be conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP).

(b) *Specialized appraisers.* Specialized appraisers will be required to complete appraisals in accordance with paragraphs (a)(1) and (a)(2) of this section. The Agency may approve a waiver of this requirement only if a specialized appraiser does not exist in a specific industry or hiring one would cause an undue financial burden to the borrower.

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### § 4280.142 Personal and corporate guarantees.

(a) All personal and corporate guarantees must be in accordance with § 4279.149(a) of this chapter.

(b) Except for passive investors, unconditional personal and corporate guarantees for those owners with a beneficial interest at least 20 percent of the borrower will be required where legally permissible.

### § 4280.143 Loan approval and obligation of funds.

The lender and applicant must comply with § 4279.173 of this chapter, except that either or both parties may also propose alternate conditions to the Conditional Commitment if certain conditions cannot be met.

### § 4280.144 Transfer of lenders.

All transfers of lenders must be in accordance with § 4279.174 of this chapter, except that it will be the Agency rather than the loan approval official who may approve the substitution of a new eligible lender.

### § 4280.145 Changes in borrower.

All changes in borrowers must be in accordance with § 4279.180 of this chapter, but the eligibility requirements of this program apply.

### § 4280.146 Conditions precedent to issuance of Loan Note Guarantee.

(a) The Loan Note Guarantee will not be issued until the lender certifies to the conditions identified in paragraphs § 4279.181(a) through (o) of this chapter and paragraphs (b) and (c) of this section.

(b) All planned property acquisitions and development have been performing at a steady state operating level in accordance with the technical requirements, plans, and specifications, conforms with applicable Federal, State, and local codes, and costs have not exceeded the amount approved by the lender and the Agency.

(c) Where applicable, the lender shall provide to the Agency a copy of the executed power purchase agreement.

### § 4280.147 Issuance of the guarantee.

(a) When loan closing plans are established, the lender must notify the