



United States Department of Agriculture

# Business & Industry Guaranteed Loan Program

## **B&I Loanmaking Requirements**

RD Instruction 4279-B (Processing)

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4279.119

Loan Guarantee Limits



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# Loan Amount – 4279.119(a)

- The total amount of B&I loans to one borrower must not exceed \$10 million, including:
  - the guaranteed and unguaranteed portions,
  - the outstanding principal and interest balance of any existing B&I guaranteed loans, and
  - the new loan request
- In addition to the borrower loan limit, there is a guarantor loan limit of \$50 million

# Loan Amount – 4279.119(a) continued

- Exceptions to the \$10 million loan limit:
  - The Administrator may grant an exception to the \$10 million limit for loans of \$25 million or less:
    - Project is a high-priority project
    - Lender must document that the loan will not be made and the project will not be completed
    - Percentage of guarantee cannot exceed 60 percent
  - The Secretary may approve loans in excess of \$25 million [up to \$40 million] for rural cooperative organizations that process value-added agricultural commodities

## Definitions – 4279.2

- **High-priority project:** A project that scores more than 50 percent of the priority points available on the priority scoresheet



## Percentage of Guarantee – 4279.119(b)

- 80 percent for loans of \$5 million or less
- 70 percent for loans between \$5 and \$10 million
- 60 percent for loans exceeding \$10 million
  - No exceptions
- The Administrator may grant an exception allowing guarantees of up to 90 percent **on loans of \$5 million or less** when:
  - The project is a high-priority project, or
  - The loan exceeds the bank's legal lending limit

4279.120

# Fees and charges



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## Guarantee Fee – 4279.120(a)

- The guarantee fee is paid at the time the Loan Note Guarantee (LNG) is issued and is an eligible use of loan proceeds
- The amount of the fee is determined by multiplying the total loan amount by the fee rate by the percentage of guarantee



# Guarantee Fee – 4279.120(a) continued

- A reduced guarantee fee may be charged if requested by the lender **for loans of \$5 million or less** when the borrower's business:
  - (1) Supports value-added agriculture and results in farmers benefiting financially,
  - (2) Promotes access to healthy foods, or
  - (3) Is a high impact business development investment and is located in a rural community that:
    - (i) Is experiencing long-term population decline;
    - (ii) Has remained in poverty for the last 30 years;
    - (iii) Is experiencing trauma as a result of natural disaster;
    - (iv) Is located in a city or county with an unemployment rate 125% of the Statewide rate or greater; or
    - (v) Is located within the boundaries of a federally recognized Indian tribe's reservation, tribal trust lands or land owned by an Alaska Native Regional or Village Corporation

## Definitions – 4279.2

- **High impact business development investment:** A business that scores at least 25 points in the high impact business investment priorities category of the priority scoresheet

## Annual Renewal Fee – 4279.120(b)

- The annual renewal fee is paid by the lender once a year and is required in order to maintain the enforceability of the guarantee as to the lender
- The amount of the annual renewal fee is determined by multiplying the outstanding principal loan balance as of December 31 of each year by the annual renewal fee rate by the percentage of guarantee
- The rate that is in effect at the time the loan is obligated remains in effect for the life of the guarantee on the loan

# Routine Lender Fees – 4279.120(c)

- Lender may establish charges and fees for the loan provided they are similar to those normally charged other applicants for the same type of loan in the ordinary course of business
- Lender fees are an eligible use of loan proceeds
- Lender may charge prepayment penalties and late payment fees as long as they are reasonable and customary; however, the LNG will not cover prepayment penalties or late payment fees

# Professional Services – 4279.120(d)

- Borrower may pay fees for professional services needed for planning and developing a project
- Professional services are those rendered by persons generally licensed or certified by States or accreditation associations and those rendered by loan packagers
  - Includes architects, engineers, accountants, attorneys, and appraisers
- Professional service fees are an eligible use of loan proceeds provided that the Agency agrees that the amounts are reasonable and customary

4279.125



# Interest Rates



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# Interest Rates – 4279.125

- Negotiated between the lender and borrower and may be fixed, variable, or a combination
- Cannot be more than rates customarily charged borrowers for loans without guarantees
- Subject to Agency review and approval
- Promissory note cannot contain provisions for default or penalty interest



# Interest Rates – 4279.125 continued

- Permissible to have different interest rates on the guaranteed and unguaranteed portions of the loan
  - Rate of the guaranteed portion cannot exceed the rate of the unguaranteed portion, except:
    - Where a fixed rate on the guaranteed portion becomes higher than the variable rate on the unguaranteed portion due to normal fluctuation in the approved variable interest rate

# Interest Rates - 4279.125(a)

- **Variable interest rates:**
  - Must be tied to a published base rate, published in a national or regional financial publication, agreed to by the lender and the Agency
  - May be adjusted at different intervals but not more often than quarterly
  - Must be specified in the promissory note and contain provision for adjustment of payment installments
    - Lender must fully amortize the outstanding principal balance within the prescribed loan maturity in order to eliminate the possibility of a balloon payment

4279.126

# Loan Terms



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# Loan Terms – 4279.126

<b>Real Estate</b>	<b>30 years</b>
<b>Machinery and Equipment</b>	<b>15 years or useful life</b>
<b>Working Capital</b>	<b>7 years</b>

- The term for a debt refinancing loan may be based on the collateral



## Loan Terms – 4279.126 continued

- Term must be same for the guaranteed and unguaranteed portions of the loan
- No balloon payments
- Interest-only period
  - Interest must be paid at least annually from the date of the promissory note
  - First installment of P&I should be scheduled after the facility is operational and has begun to generate income
    - Must be due and payable within 3 years from the date of the promissory note and be paid at least annually thereafter



4279.131

# Credit Quality

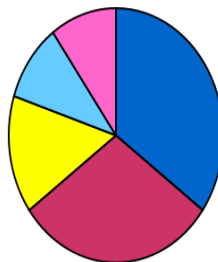


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# Credit Quality – 4279.131

- Lender is responsible for conducting a financial analysis that involves examination and interpretation of information to assess a company's past performance, present condition, and future viability
- Lender must address all of the elements of credit quality in a comprehensive, written credit analysis

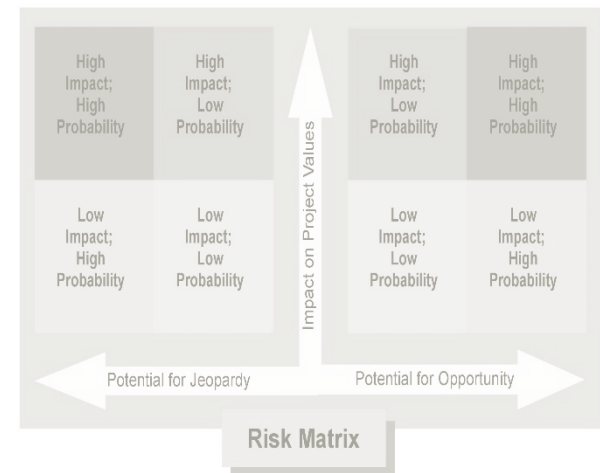
## CREDIT SCORE FACTORS



- On-time payments
- Capacity used
- Length of credit history
- Types of credit used
- Past credit applications

# Credit Quality – 4279.131 continued

- Lender’s analysis must include a written discussion addressing:
  - Repayment ability with a cash-flow analysis
  - History of debt repayment
  - Borrower’s management
  - Necessity of any debt refinancing
  - Credit reports of the borrower, principals, and any parent, affiliate, or subsidiary





# Credit Quality – 4279.131 cont'd

- Lender’s analysis must also include:
  - Spreads of the financial statements and discussion of the 3 years of historical balance sheets and income statements (for existing businesses) and 2 years of projected balance sheets, income statements, and cash flow statements
    - With appropriate ratios
    - Comparisons with industrial standards
    - Common-sized



# Capacity/Cash Flow – 4279.131(a)

- Lender must make all efforts to:
  - Ensure the borrower has adequate working capital or operating capital
  - Structure/restructure debt so that the borrower has adequate debt coverage and the ability to accommodate expansion



# Collateral – 4279.131(b)

- Lender must ensure that the collateral has a documented value sufficient to protect the interest of the lender and the Agency
- The discounted collateral value must be at least equal to the loan amount
- No value will be assigned to unsecured personal, partnership, or corporate guarantees

# Collateral – 4279.131(b) continued

- Lender must discount collateral consistent with sound loan-to-discounted value policy:
  - A maximum of 80% of current fair market value will be given to real estate
  - A maximum of 70% of cost or current fair market value will be given to machinery, equipment, and furniture and fixtures
  - A maximum of 60% of book value will be assigned to acceptable inventory and accounts receivable

# Collateral – 4279.131(b) cont'd

- When using discounts other than those provided for in the regulation for businesses that are predominantly cash flow oriented, the lender must document why such discounts are appropriate
  - For businesses where cash flow and profitability are strong, loan-to-value discounts may be adjusted accordingly
    - A loan primarily based on cash flow must be supported by a successful and documented financial history
  - Under no circumstances may the loan-to-value of the collateral ever be equal to or greater than 100 percent

# Collateral – 4279.131(b) cont'd

- A parity or junior lien position may be considered provided the loan-to-discounted value is adequate to secure the guaranteed loan
- The entire loan must be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan
  - No compensating balances
- **Intangible assets cannot serve as primary collateral**



# Conditions – 4279.131(c)

- Lender must consider the current status of the borrower, overall economy, and industry for which credit is being extended
  - The regulatory environment surrounding the particular business or industry must be considered
  - Local, regional, and national conditions of the industry must be addressed
- Businesses in areas of decline will be required to provide strong business plans that outline how they differ from the current trends



# Capital/Equity – 4279.131(d)(1)

- A minimum of 10% tangible balance sheet equity (or a maximum debt to tangible net worth ratio of 9:1) will be required at loan closing for borrowers that are existing businesses
- A minimum of 20% TBSE (or a maximum debt to tangible net worth ratio of 4:1) will be required at loan closing for borrowers that are new businesses





# Capital/Equity - 4279.131(d)(1) continued

- For energy projects, the minimum TBSE requirement ranges between 25% and 40% (or a maximum debt to tangible net worth ratio between 3:1 and 1.5:1) at loan closing, considering
  - whether the business is existing with a successful financial/management history or a new business;
  - the value of personal/corporate guarantees offered;
  - contractual relationships with suppliers and buyers;
  - credit rating; and
  - the strength of the business plan/feasibility study

# Capital/Equity – 4279.131(d)(2)

- Tangible balance sheet equity will be determined based upon financial statements prepared in accordance with GAAP
  - GAAP generally requires assets to be booked at the lower of cost or market value
- The TBSE requirement must be met in the form of cash or tangible earning assets contributed to the business and reflected on the borrower's balance sheet

# Capital/Equity – 4279.131(d)(2) continued

- Transfers of assets at FMV between related parties (not arm's length transactions) must be in accordance with GAAP and require evidence that the transaction was entered into at market terms
- Owner subordinated debt is considered TBSE when the sub debt is in exchange for cash injected into the business that remains there for the life of the loan
  - The note or other form of evidence must be submitted to count towards meeting the TBSE requirement

# Capital/Equity – 4279.131(d)(2) cont'd

- Tangible equity cannot include appraisal surplus, bargain purchase gains, or intangible assets
  - Related party receivables and amounts due from officers, partners, affiliates or subsidiaries are not liquid assets convertible to cash and available for business operations because of the nature of the affiliation and the absence of pressure to repay the receivables

# Capital/Equity – 4279.131(d)(3)

- Lender must certify that the **equity requirement was** determined, based on a balance sheet prepared in accordance with GAAP, and **met, as of the date the guaranteed loan was closed**, giving effect to the entirety of the loan in the calculation, whether or not the loan itself is fully advanced
- A copy of the loan closing balance sheet must be included with the lender's certification
  - Must reflect the loan's post-closing/post-construction status
  - Must take into account any new assets and any new debt
  - Must be dated the date the loan was closed

# Capital/Equity – 4279.131(d)(4)

- When a RE holding company and an operating entity are dependent upon one another's operations and are effectively one business, they must be co-borrowers
  - unless waived by the Agency when adequate justification exists to not require the entities to be co-borrowers
- The TBSE requirement applies to all borrowing entities on a consolidated basis
- Financial statements must be prepared both individually and on a consolidated basis
  - Owner/guarantor/affiliate financial statements must not be part of the consolidation unless they are co-borrowers

# Capital/Equity – 4279.131(d)(5) and (6)

- When co-borrowers are independent operations, the TBSE requirement will apply to all co-borrowers on an individual basis
- For sole proprietorships and other situations where business assets are held personally, financial statements must be prepared using only the assets and liabilities directly attributable to the business
  - Assets, plus any improvements, must be valued at the lower of cost or fair market value

# Capital/Equity – 4279.131(d)(7)

- Increases in the TBSE requirement may be imposed by the loan approval official
- Reductions in the TBSE requirement may be permitted by the Administrator for existing businesses when:
  - Collateralized personal and/or corporate guarantees are obtained; and
  - All pro forma and historical financial statements indicate the business meets or exceeds the median quartile for the current, quick, debt-to-worth, and debt coverage ratios



# Character – 4279.131(e)

- Lender must conduct a thorough review of key management personnel to ensure that the business has adequately trained and experienced managers
- The borrower and all owners with a 20% or more ownership interest must have good credit history, reflecting a timely record of meeting obligations
- If there have been credit problems in the past, the lender must provide a satisfactory explanation to show that the problems are unlikely to recur





# Thank you!

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