

§ 609.13

- (3) Costs of equipment purchases;
 - (4) Costs to provide equipment, facilities, and services related to safety and environmental protection;
 - (5) Financial and legal services costs, including other professional services and fees necessary to obtain required licenses and permits and to prepare environmental reports and data;
 - (6) The cost of issuing project debt, such as fees, transaction and legal costs and other normal charges imposed by Eligible Lenders and other Holders;
 - (7) Costs of necessary and appropriate insurance and bonds of all types;
 - (8) Costs of design, engineering, startup, commissioning and shakedown;
 - (9) Costs of obtaining licenses to intellectual property necessary to design, construct, and operate the project;
 - (10) A reasonable contingency reserve for cost overruns during construction; and
 - (11) Capitalized interest necessary to meet market requirements, reasonably required reserve funds and other carrying costs during construction; and
 - (12) Other necessary and reasonable costs.
- (c) Project Costs do not include:
 - (1) Fees and commissions charged to Borrower, including finder's fees, for obtaining Federal or other funds;
 - (2) Parent corporation or other affiliated entity's general and administrative expenses, and non-project related parent corporation or affiliated entity assessments, including organizational expenses;
 - (3) Goodwill, franchise, trade, or brand name costs;
 - (4) Dividends and profit sharing to stockholders, employees, and officers;
 - (5) Research, development, and demonstration costs of readying the innovative energy or environmental technology for employment in a commercial project;
 - (6) Costs that are excessive or are not directly required to carry out the project, as determined by DOE, including but not limited to the cost of hedging instruments;
 - (7) Expenses incurred after startup, commissioning, and shakedown before the facility has been placed in service;

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- (8) Borrower-paid Credit Subsidy Costs and Administrative Costs of Issuing a Loan Guarantee; and
- (9) Operating costs.

§ 609.13 Principal and interest assistance contract.

With respect to the guaranteed portion of any Guaranteed Obligation, and subject to the availability of appropriations, DOE may enter into a contract to pay Holders, for and on behalf of Borrower, from funds appropriated for that purpose, the principal and interest charges that become due and payable on the unpaid balance of the guaranteed portion of the Guaranteed Obligation, if DOE finds that:

- (a) The Borrower:
 - (1) Is unable to make the payments and is not in default; and
 - (2) Will, and is financially able to, continue to make the scheduled payments on the remaining portion of the principal and interest due under the non-guaranteed portion of the debt obligation, if any, and other debt obligations of the project, or an agreement, approved by DOE, has otherwise been reached in order to avoid a payment default on non-guaranteed debt.
- (b) It is in the public interest to permit Borrower to continue to pursue the purposes of the project;
- (c) In paying the principal and interest, the Federal government expects a probable net benefit to the Government will be greater than that which would result in the event of a default;
- (d) The payment authorized is no greater than the amount of principal and interest that Borrower is obligated to pay under the terms of the Loan Guarantee Agreement; and
- (e) Borrower agrees to reimburse DOE for the payment (including interest) on terms and conditions that are satisfactory to DOE and executes all written contracts required by DOE for such purpose.

§ 609.14 Full faith and credit and incontestability.

The full faith and credit of the United States is pledged to the payment of all Guaranteed Obligations issued in accordance with this part with respect to principal and interest.