

## § 260.55

loan guarantee from the Administrator are responsible for:

(a) *Loan processing.* Lender shall be responsible for all aspects of loan processing, including:

(1) Processing applications for the loan to be guaranteed;

(2) Developing and maintaining adequately documented loan files;

(3) Recommending only loan proposals that are eligible and financially feasible;

(4) Obtaining valid evidence of debt and collateral in accordance with sound lending practices;

(5) Supervising construction, where appropriate;

(6) Distributing loan funds;

(7) Servicing guaranteed loans in a prudent manner, including liquidation if necessary; and

(8) Obtaining the Administrator's approval or concurrence as required in the loan guarantee documentation;

(b) *Credit evaluation.* Lender must analyze all credit factors associated with each proposed loan and apply its professional judgment to determine that the credit factors, considered in combination, ensure loan repayment. The Lender must have an adequate underwriting process to ensure that loans are reviewed by other than the originating officer. There must be good credit documentation procedures;

(c) *Environmental responsibilities.* Lender has a responsibility to become familiar with Federal environmental requirements; to consider, in consultation with the prospective borrower, the potential environmental impacts of their proposals at the earliest planning stages; and to develop proposals that minimize the potential to adversely impact the environment. Lender must alert the Administrator to any controversial environmental issues related to a proposed project or items that may require extensive environmental review. Lender must assist borrowers as necessary to comply with the environmental requirements outlined in this part. Additionally, Lender will assist in the collection of additional data when the Agency needs such data to complete its environmental review of the proposal; and assist in the resolution of environmental problems;

## 49 CFR Ch. II (10–1–11 Edition)

(d) *Loan closing.* The Lender will conduct or arrange for loan closings; and

(e) *Fees and charges.* The 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.

### § 260.55 Lender's loan servicing.

(a) The lender is responsible for servicing the entire loan and for taking all servicing actions that are prudent. This responsibility includes but is not limited to the collection of payments, obtaining compliance with the covenants and provisions in the loan documents, obtaining and analyzing financial statements, verification of tax payments, and insurance premiums, and maintaining liens on collateral.

(b) The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually.

(c) At the Administrator's request, the Lender will periodically meet with the Administrator to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the loan documents are being enforced.

(d) The Lender must obtain and forward to the Administrator the Borrower's annual financial statements within 120 days after the end of the Borrower's fiscal year and the due date of other reports as required by the loan documents. The Lender must analyze the financial statements and provide the Agency with a written summary of the Lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the Borrower.

(e) Neither the Lender nor the Holder shall alter, nor approve any amendments of, any loan instrument without the prior written approval of the Administrator.

## PART 261—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

AUTHORITY: Secs. 1501 *et seq.*, Pub. L. 105–178, 112 Stat. 107, 241, as amended; 23 U.S.C. 181–189 and 315; 49 CFR 1.49.

## Federal Railroad Administration, DOT

## § 262.3

SOURCE: 64 FR 29753, June 2, 1999, unless otherwise noted.

### § 261.1 Cross-reference to credit assistance.

The regulations in 49 CFR part 80 shall be followed in complying with the requirements of this part. Title 49 CFR part 80 implements the Transportation Infrastructure Finance and Innovation Act of 1998, secs. 1501 *et seq.*, Pub. L. 105-178, 112 Stat. 107, 241.

## PART 262—IMPLEMENTATION OF PROGRAM FOR CAPITAL GRANTS FOR RAIL LINE RELOCATION AND IMPROVEMENT PROJECTS

Sec.	
262.1	Purpose.
262.3	Definitions.
262.5	Allocation requirements.
262.7	Eligibility.
262.9	Criteria for selection of projects.
262.11	Application process.
262.13	Matching requirements.
262.15	Environmental assessment.
262.17	Combining grant awards.
262.19	Close-out procedures.

AUTHORITY: 49 U.S.C. 20154 and 49 CFR 1.49.

SOURCE: 73 FR 39886, July 11, 2008, unless otherwise note.

### § 262.1 Purpose.

The purpose of this part is to carry out the statutory mandate set forth in 49 U.S.C. 20154 requiring the Secretary of Transportation to promulgate regulations implementing a capital grants program to provide financial assistance for local rail line relocation and improvement projects.

### § 262.3 Definitions.

*Administrator* means the Federal Railroad Administrator, or his or her delegate.

*Allowable costs* means those project costs for which Federal funding may be expended under this part. Only construction and construction-related costs will be allowable.

*Construction* means supervising, inspecting, demolition, actually building, and incurring all costs incidental to building a project described in § 262.9 of this part, including bond costs and other costs related to the issuance of bonds or other debt financing instru-

ments and costs incurred by the Grantee in performing project related audits, and includes:

- (1) Locating, surveying, and mapping;
- (2) Track and related structure installation, restoration, and rehabilitation;
- (3) Acquisition of rights-of-way;
- (4) Relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;
- (5) Elimination of obstacles and relocation of utilities; and
- (6) Any other activities as defined by FRA, including architectural and engineering costs, and costs associated with compliance with the National Environmental Policy Act, National Historic Preservation Act, and related statutes, regulations, and orders.

*FRA* means the Federal Railroad Administration.

*Improvement* means repair or enhancement to existing rail infrastructure, or construction of new rail infrastructure, that results in improvements to the efficiency of the rail system and the safety of those affected by the system.

*Non-federal share* means the portion of the allowable cost of the local rail line relocation or improvement project that is being paid for through cash or in-kind contributions by a State or other non-Federal entity or any combination thereof.

*Private entity* means any domestic or foreign nongovernmental for-profit or not-for-profit organization.

*Project* means the local rail line relocation or improvement for which a grant is requested under this section.

*Quality of life* means the level of social, environmental and economic satisfaction and well being a community experiences, and includes factors such as first responders' emergency response time, impact on emergency services, accessibility to the disabled as required under the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973 (as amended), school access, safety, traffic delay and congestion, the environment, grade crossing safety, and noise levels.