

§ 253.14

Such terms and conditions are at the Program's sole discretion and shall also be incorporated in security documents that the Program prepares. An applicant's non-acceptance of any terms and conditions may result in an applicant's disqualification.

(2) Any application the Program deems ineligible or unqualified will be declined.

§ 253.14 Loan documents.

(a) *U.S. Note.* (1) The U.S. Note will be in the form the Program prescribes.

(2) The U.S. Note evidences the obligor's indebtedness to the United States.

(i) For financing approved after October 11, 1996, the U.S. Note evidences the obligor's actual indebtedness to the U.S.; and

(ii) For financing originating before October 11, 1996, that continues to be associated with a Guaranteed Note, the U.S. Note shall evidence the obligor's actual indebtedness to the U.S. upon the Program's payment of any or all of the sums due under the Guaranteed Note or otherwise disbursed on the obligor's behalf.

(iii) The U.S. Note will, among other things, contain provisions to add to its principal balance all amounts the Program advances or incurs, including additional interest charges and costs incurred to protect its interest or accommodate the obligor.

(3) The U.S. Note shall be assignable by the Program, at its sole discretion.

(b) *Security documents.* (1) Each security document will be in the form the Program prescribes.

(2) The Program will, at a minimum, require the pledge of adequate collateral, generally in the form of a security interest or mortgage against all property associated with a project or security as otherwise required by the Program.

(3) The Program will require such other security as it deems necessary and appropriate, given the circumstances of each obligor and the project.

(4) The security documents will, among other things, contain provisions to secure the repayment of all additional amounts the Program advances or incurs to protect its interest or ac-

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commodate the obligor, including additional interest charges and fees.

§ 253.15 Recourse against parties.

(a) *Form.* Recourse by borrowers or guarantors may be by a repayment guarantee, irrevocable letter of credit, additional tangible or intangible collateral, or other form acceptable to the Program.

(b) *Principals accountable.* The principal parties in interest, who ultimately stand most to benefit from the project, will ordinarily be held financially accountable for the project's performance. The Program may require recourse against:

(1) All major shareholders of a closely-held corporate obligor;

(2) The parent corporation of a subsidiary corporate obligor;

(3) The related business entities of the obligor if the Program determines that the obligor lacks substantial pledged assets other than the project property or is otherwise lacking in any credit factor required to approve the application;

(4) Any or all major limited partners;

(5) Non-obligor spouses of applicants or obligors in community property states; and/or

(6) Against any others it deems necessary to protect its interest.

(c) *Recourse against parties.* Should the Program determine that a secondary means of repayment from other sources is necessary (including the net worth of parties other than the obligor), the Program may require secured or unsecured recourse against any such secondary repayment sources.

(d) *Recourse unavailable.* Where appropriate recourse is unavailable, the conservatively projected net liquidating value of the obligor's assets (as such assets are pledged to the Program) must, in the Program's credit judgment, substantially exceed all projected Program exposure or other risks of loss.

§ 253.16 Actual cost.

Actual cost shall be determined as follows:

(a) The actual cost of a vessel shall be the sum of:

(1) The total cost of the project depreciated on a straight-line basis, over

the project property's useful life, using a 10-percent salvage value; and

(2) The current market value of appurtenant limited access privileges or transferable limited access privileges vested in the name of the obligor, the subject vessel or their owners, provided that such privileges are utilized by or aboard the subject vessel and will be pledged as collateral for the subject FFP financing.

(b) The actual cost of a facility shall be the sum of:

(1) The total cost of the project, not including land, depreciated on a straightline basis over the Project Property's useful life, using a 10-percent salvage value;

(2) The current market value of the land that will be pledged as collateral for the subject FFP financing, provided that such land is utilized by the facility; and

(3) The net present value of the payments due under a long term lease of land or marine use rights, provided that they meet the following requirements:

(i) The project property must be located at such leased space or directly use such marine use rights;

(ii) Such lease or marine use right must have a duration the Program deems sufficient; and

(iii) The lease or marine use right must be assigned to the Program such that the Program may foreclose and transfer such lease to another party.

(c) The actual cost of a transferable limited access privilege shall be determined as follows:

(1) For financing the purchase of limited access privileges, the actual cost shall be the purchase cost.

(2) For refinancing limited access privileges, the actual cost shall be the current market value.

(d) The actual cost of any Project that includes any combination of items described in paragraphs (a), (b) or (c) of this section shall be the sum of such calculations.

§ 253.17 Insurance.

(a) All insurable collateral property and other risks shall be continuously insured so long as any balance of principal or interest on a Program loan or guarantee remains outstanding.

(b) Insurers must be acceptable to the Program.

(c) Insurance must be in such forms and amounts and against such risks the Program deems necessary to protect the United States' interest.

(d) Insurance must be endorsed to include the requirements the Program deems necessary and appropriate.

(1) Normally and as appropriate, the Program will be named as an additional insured, mortgagee, or loss payee, for the amount of its interest; any waiver of this requirement must be in writing;

(2) Cancellation will require adequate advance written notice;

(3) The Program will be adequately protected against other insureds' breaches of policy warranties, negligence, omission, etc., in the case of marine insurance, vessel seaworthiness will be required;

(4) The insured must provide coverage for any other risk or casualty the Program may require.

§ 253.18 Closing.

(a) *Approval in principle letters.* Every closing will be in strict accordance with a final approval in principle letter.

(b) *Contracts.* Promissory notes, security documents, and any other documents the Program may require will be on standard Program forms that may not be altered without Program written approval. The Program will ordinarily prepare all contracts, except certain pledges involving real property or other matters involving local law, which will be prepared by each obligor's attorney at the direction and approval of the Program.

(c) *Additional requirements.* At its discretion the Program may require services from applicant's attorneys, other contractors or agents. Real property services required from an applicant's attorney or agent may include, but are not limited to: Title search, title insurance, mortgage and other document preparation, document execution and recording, escrow and disbursement, and legal opinions and other assurances. The Program will notify the applicant in advance if any such services