§ 762.129 Percent of guarantee and maximum loss.

(a) General. Except for CLs, the percent of guarantee will not exceed 90 percent based on the credit risk to the lender and the Agency both before and after the transaction. The Agency will determine the percentage of guarantee. For CLs, the percent of guarantee will be 75 percent.

(b) Exceptions. The guarantee will be issued at 95 percent in any of the following circumstances:

(1) The sole purpose of a guaranteed FO or OL is to refinance an Agency direct farm loan. When only a portion of the loan is used to refinance a direct Agency loan, a weighted percentage of a guarantee will be provided;

(2) When the purpose of an FO guarantee is to participate in the downpayment loan program;

(3) When a guaranteed OL is made to a farmer who is participating in the Agency’s down payment loan program. The guaranteed OL must be made during the period that a borrower has the down payment loan outstanding; or

(4) When a guaranteed OL is made to a farmer whose farm land is subject to the jurisdiction of an Indian tribe and whose loan is secured by one or more security instruments that are subject to the jurisdiction of an Indian tribe.

(c) CLP and PLP guarantees. Except for CLs, all guarantees issued to CLP or PLP lenders will not be less than 80 percent.

(d) Maximum loss. The maximum amount the Agency will pay the lender under the loan guarantee will be any loss sustained by such lender on the guaranteed portion including:

(1) The pro rata share of principal and interest indebtedness as evidenced by the note or by assumption agreement;

(2) Any loan subsidy due and owing;

(3) The pro rata share of principal and interest indebtedness on secured protective and emergency advances...
made in accordance with this subpart; and
(4) Principal and interest indebtedness on recapture debt pursuant to a shared appreciation agreement. Provided that the lender has paid the Agency its pro rata share of the recapture amount due.

§ 762.130 Loan approval and issuing the guarantee.

(a) Processing timeframes. (1) Standard eligible lenders. Complete applications from Standard Eligible Lenders will be approved or rejected, and the lender notified in writing, no later than 30 calendar days after receipt.
(2) CLP and PLP lenders.
(i) Complete applications from CLP or PLP lenders will be approved or rejected not later than 14 calendar days after receipt.
(ii) For PLP lenders, if the 14 day time frame is not met, the proposed guaranteed loan will automatically be approved, subject to funding, and receive an 80 or 95 percent guarantee for FO or OL loans, and 75 percent guarantee for CL, as appropriate.
(3) Complete applications. For purposes of determining the application processing timeframes, an application will be considered complete until all information required to make an approval decision, including the information for an environmental review, is received by the Agency.
(4) The Agency will confirm the date an application is received with a written notification to the lender.

(b) Funding preference. Loans are approved subject to the availability of funding. When it appears that there are not adequate funds to meet the needs of all approved applicants, applications that have been approved will be placed on a preference list according to the date of receipt of a complete application. If approved applications have been received on the same day, the following will be given priority:
(1) An application from a veteran
(2) An application from an Agency direct loan borrower
(3) An application from a applicant who:
(i) Has a dependent family,
(ii) Is an owner of livestock and farm implements necessary to successfully carry out farming operations, or
(iii) Is able to make down payments.
(4) Any other approved application.

(c) Conditional commitment. (1) The lender must meet all of the conditions specified in the conditional commitment to secure final Agency approval of the guarantee.
(2) The lender, after reviewing the conditions listed on the conditional commitment, will complete, execute, and return the form to the Agency. If the conditions are not acceptable to the lender, the Agency may agree to alternatives or inform the lender and the applicant of their appeal rights.

(d) Lender requirements prior to issuing the guarantee—(1) Lender certification. The lender will certify as to the following on the appropriate Agency form:
(i) No major changes have been made in the lender’s loan or line of credit conditions and requirements since submission of the application (except those approved in the interim by the Agency in writing);
(ii) Required hazard, flood, crop, worker’s compensation, and personal life insurance (when required) are in effect;
(iii) Truth in lending requirements have been met;
(iv) All equal employment and equal credit opportunity and nondiscrimination requirements have been or will be met at the appropriate time;
(v) The loan or line of credit has been properly closed, and the required security instruments have been obtained, or will be obtained, on any acquired property that cannot be covered initially under State law;
(vi) The borrower has marketable title to the collateral owned by the borrower, subject to the instrument securing the loan or line of credit to be guaranteed and subject to any other exceptions approved in writing by the Agency. When required, an assignment on all USDA crop and livestock program payments has been obtained;
(vii) When required, personal, joint operation, partnership, or corporate guarantees have been obtained;