

equal to the total cost of any related real estate taxes and insurance incurred during the period covered by the annual installment; or

(2) *The standard guarantee plan.* The Agency will guarantee an amount equal to 90 percent of the outstanding principal under the land contract.

(c) *Guarantee period.* The guarantee period is 10 years for either plan regardless of the term of the land contract.

#### § 763.2 Abbreviations and definitions.

Abbreviations and definitions for terms used in this part are in § 761.2 of this chapter.

#### § 763.3 Full faith and credit.

(a) The land contract guarantee constitutes an obligation supported by the full faith and credit of the United States. The Agency may contest the guarantee only in cases of fraud or misrepresentation by the seller, in which:

(1) The seller had actual knowledge of the fraud or misrepresentation at the time it became the seller, or

(2) The seller participated in or condoned the fraud or misrepresentation.

(b) Loss claims also may be reduced or denied to the extent that any negligence contributed to the loss under § 763.22.

#### § 763.4 Authorized land contract purpose.

The Agency will only guarantee the Contract installments, real estate taxes and insurance; or outstanding principal balance for an eligible seller of a family farm, through a land contract sale to an eligible beginning or socially disadvantaged farmer.

#### § 763.5 Eligibility.

(a) *Seller eligibility requirements.* The private seller, and each entity member in the case of an entity seller, must:

(1) Possess the legal capacity to enter into a legally binding agreement;

(2) Not have provided false or misleading documents or statements during past or present dealings with the Agency;

(3) Not be ineligible due to disqualification resulting from Federal Crop Insurance violation, according to 7 CFR part 718; and

(4) Not be suspended or debarred under 2 CFR parts 180 and 417.

(b) *Buyer eligibility requirements.* The buyer must meet the following requirements to be eligible for the Land Contract Guarantee Program:

(1) Is a beginning farmer or socially disadvantaged farmer engaged primarily in farming in the United States after the guarantee is issued.

(2) Is the owner and operator of a family farm after the Contract is completed. In the case of an entity buyer:

(i) Each entity member's ownership interest may not exceed the amount specified in the family farm definition in § 761.2 of this chapter.

(ii) The entity members cannot themselves be entities.

(iii) The entity must be authorized to own and operate a farm in the State in which the farm is located.

(iv) If the entity members holding a majority interest are related by blood or marriage, at least one member of the entity must:

(A) Operate the farm and

(B) Own the farm after the contract is completed;

(v) If the entity members holding a majority interest are not related by blood or marriage, the entity members holding a majority interest must:

(A) Operate the farm; and

(B) Own the farm, or the entity itself must own the farm after the contract is completed;

(3) Must have participated in the business operations of a farm or ranch for at least 3 years out of the last 10 years prior to the date the application is submitted.

(4) The buyer, and all entity members in the case of an entity, must not have caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Act by debt write-down or write-off; compromise, adjustment, reduction, or charge off under the provisions of section 331 of the Act; discharge in bankruptcy; or through payment of a guaranteed loss claim on more than three occasions on or prior to April 4, 1996 or any occasion after April 4, 1996. If the debt forgiveness is resolved by repayment of the Agency's loss, the Agency may still

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consider the debt forgiveness in determining the applicant's creditworthiness.

(5) The buyer, and all entity members in the case of an entity, must not be delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986, when the guarantee is issued.

(6) The buyer, and all entity members in the case of an entity, may have no outstanding unpaid judgment awarded to the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

(7) The buyer, and all entity members in the case of an entity, must be a citizen of the United States, United States non-citizen national, or a qualified alien under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

(8) The buyer, and all entity members in the case of an entity, must possess the legal capacity to enter into a legally binding agreement.

(9) The buyer, and all entity members in the case of an entity, must not have provided false or misleading documents or statements during past or present dealings with the Agency.

(10) The buyer, and all entity members in the case of an entity, must not be ineligible as a result of a conviction for controlled substances according to 7 CFR part 718.

(11) The buyer, and all entity members in the case of an entity, must have an acceptable credit history demonstrated by satisfactory debt repayment.

(i) A history of failures to repay past debts as they came due when the ability to repay was within their control will demonstrate unacceptable credit history.

(ii) Unacceptable credit history will not include:

(A) Isolated instances of late payments which do not represent a pattern and were clearly beyond their control; or

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(B) Lack of credit history.

(12) The buyer is unable to enter into a contract unless the seller obtains an Agency guarantee to finance the purchase of the farm at reasonable rates and terms.

(13) The buyer, and all entity members in the case of an entity, must not be ineligible due to disqualification resulting from Federal Crop Insurance violation, according to 7 CFR part 718.

(14) The buyer, and all entity members in the case of an entity, must not be suspended or debarred under 2 CFR parts 180 and 417.

### § 763.6 Limitations.

(a) To qualify for a guarantee, the purchase price of the farm to be acquired through the land contract sale cannot exceed the lesser of:

(1) \$500,000 or

(2) The current market value of the property.

(b) A guarantee will not be issued if the appraised value of the farm is greater than \$500,000.

(c) Existing land contracts are not eligible for the Land Contract Guarantee Program.

(d) Guarantees may not be used to establish or support a non-eligible enterprise.

### § 763.7 Application requirements.

(a) *Seller application requirements.* A seller who contacts the Agency with interest in a guarantee under the Land Contract Guarantee Program will be sent the land contract letter of interest outlining specific program details. To formally request a guarantee on the proposed land contract, the seller, and each entity member in the case of an entity, must:

(1) Complete, sign, date, and return the land contract letter of interest to the Agency, and

(2) Provide the name, address, and telephone number of the chosen servicing or escrow agent.

(b) *Buyer application requirements.* A complete application from the buyer will include:

(1) The completed Agency application form;

(2) A current financial statement (not older than 90 days);

(3) If the buyer is an entity: