

# §9006 Guaranteed Lending Principles

Renewable Energy Generation Systems and Energy Efficiency Improvements

*USDA Rural Development – Committed to the future of rural communities*

## **Session outline & reference guide**

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**Part 1 – §9006 Program Overview**

**General Program Background**

**USDA Rural Development**

The federal agency responsible for the §9006 program

It is a mission-driven alliance of 3 integrated agencies:

- ▶ **Rural Business-Cooperative Service (RBS)** – administers §9006
- ▶ Rural Housing Service (RHS)
- ▶ Rural Utilities Service (RUS)

Established 1995

Successor agency to Farmers Home Administration -- FmHA

Successor agency to Rural Development Administration -- RDA

**Directory**

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You can obtain State Office contact information from:

[http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html)

**Rural Energy (§9006) Guaranteed Loan Program**

Catalog of Federal Domestic Assistance # 10.775

2002:	Farm Security & Rural Investment Act of 2002 enacted; Title IX, Section 9006 authorizes §9006 grants & guaranteed loans
2003-2004	§9006 program begins operations as a grant-only program.
2005:	§9006 regulations published, guaranteed loan program begins
2006	\$176.5MM of §9006 guaranteed lending authority authorized

USDA guarantees loans made by commercial lenders to small rural businesses and to agricultural producers.

The §9006 program is lender-driven -- the lender requests the §9006 guarantee, and, if approved, it makes (and services) the loan.

**§9006 Program Goal**

Encourage the commercial financing for agricultural producers and rural businesses to:

- Purchase & install or improve renewable energy generating systems
- Purchase & install energy efficiency improvements

**Governing Regulations**

RD Instruction 4280-B (7 CFR 4280) – Guaranteed Loanmaking: Renewable Energy Systems and Energy Efficiency Improvements

You can download the §9006 regulations from:

[http://www.rurdev.usda.gov/regs/regs\\_toc.html#4279](http://www.rurdev.usda.gov/regs/regs_toc.html#4279)

**Forms**

§9006 forms

You can download forms from:

(They are found in parts 4279 & 4287 of the 4200 Series regulations)

**Funding & Activity**

After a period of nominal funding in the 1980’s and early 1990’s, the §9006 program has enjoyed increased funding and increased activity

**Historical §9006 Activity Nationally  
§9006 Guaranteed Loan  
Program**

<b>Fiscal Year</b>	<b>Allocation</b>	<b>Actual Use of Funds</b>
2005	\$ no specific allocation made	\$ 10,000,000
2006	\$ 176,500,000	\$ 24,258,862

## §9006 Program Features

### Type of assistance (what the guarantee is)

Federal guarantee for lenders on their rural energy loans:

85% (maximum) guarantee on loans up to \$600,000

80% (maximum) guarantee on loans up to \$5 million

70% (maximum) guarantee on loans greater than \$5 million up to and including \$10 million

### Size of §9006 Loans

\$5,000 minimum.

Up to \$10 million.

The §9006 loan cannot exceed 50% of the total eligible project cost of the energy project being financed

### Lender benefits

There is an active secondary market for §9006 guarantees (e.g., Farmer Mac II and SBA markets).

The lender may sell all of the guaranteed portion. The lender may sell some of the unguaranteed portion, provided they retain at least 5% of the loan.

The guaranteed portion of the loan is protected against loss by a Federal guarantee.

The guaranteed portion of the loan does not count against lending limits.

§9006 guarantees help lenders satisfy Community Reinvestment Act (CRA) requirements.

Lenders use their own forms, loan documents, and security instruments.

### Loan features

#### Rate:

Lender's customary commercial interest rate -- negotiated by lender & business

Fixed or variable (but may not vary more often than quarterly)

Term:

Working capital -- 7 years maximum

Equipment -- 20 years maximum (not to exceed useful life of collateral)

Real estate -- 30 years maximum (not to exceed useful life of collateral)

Structure:

Balloons are not permitted.

Reduced payments may be scheduled until the project is operational.

Fees:

Lender's reasonable and customary fees okay -- negotiated by lender & business

USDA charges:

- » an initial guarantee fee equal to 1% of the guaranteed amount
- » an annual guarantee renewal fee equal to 1/8% of the guaranteed amount (the % used is subject to change annually by USDA, but once established for a specific loan, it does not change)

## **Comparison with USDA's Business & Industry (B&I) Guaranteed Program**

### Ten key comparisons

1. §9006 loans can only be used for very specific purposes – i.e., to purchase/install/improve renewable energy generation systems or energy efficiency improvements.
2. §9006 borrowers must be either SBA-defined small businesses or farmers & ranchers.
3. §9006 has no tangible balance sheet equity requirement (does have a “cash equity” requirement).
4. §9006 underwriting standards are less restrictive than B&I's on rural energy projects.
5. §9006 loans cannot be for more than 50% of the energy project's eligible project cost.
6. §9006 does not require all borrowers to obtain GAAP financial statements (small businesses will submit GAAP statements; agricultural producers may use other financial statement formats provided they are acceptable to the lender).
7. Like B&I, §9006 is limited to rural areas
8. Like B&I, §9006 gives a conditional commitment, followed by guarantee
9. Like B&I, §9006 does not require lender to use specific loan instruments
10. Like B&I, §9006 requires lenders to handle all liquidations

## **Comparison with SBA 7(a)**

### Seven key distinctions

1. §9006 does not require inability to get credit elsewhere
2. §9006 can assist farmers & ranchers as well as small businesses
3. §9006 is limited to rural areas
4. SBA gives conditional guaranty; §9006 gives conditional commitment, followed by guarantee
5. §9006 does not require lender to use specific loan instruments
6. §9006 does not have a PLP program
7. §9006 requires lenders to handle all liquidations

## Eligible Projects

### Eligible lenders

The following categories of lenders are eligible to participate in the §9006 guaranteed loan program, and therefore they need not submit any information to have eligible lender status:

- Federal or State chartered banks
- Farm Credit System institutions, including Bank for Cooperatives
- Savings and Loan Associations
- Credit unions
- Insurance companies
- National Rural Utilities Cooperative Finance Corporation

Lenders not in the categories listed above must obtain USDA's approval to participate in the §9006 program. Requests for eligible lender status must be submitted to the appropriate State Office for review, whereupon they will be forwarded to USDA's National Office for final decision.

### Rural areas (eligible areas)

§9006 guarantees are available to eligible businesses in rural areas. The project being financed must be located in a rural area. It is not necessary for the business to be headquartered in a rural area.

The §9006 program defines a rural area as any location not within a Metropolitan Statistical Area (MSA) – i.e., the urbanized periphery surrounding a city of 50,000 or more. A rural area begins beyond the census boundaries of the MSA.

The most recent decennial census is used to establish population size and MSA's. Thus, communities that are now larger than 50,000 will still qualify if they were less than 50,000 in 2000.

### Eligible borrowers

Proprietorships, partnerships, corporations, LLC's, co-ops, trusts are eligible.

Nonprofits, tribes, and public bodies are ineligible.

Majority ownership must be held by US citizens or permanent residents.

Not an officer, director, or 10%+ stockholder of the lender.

### Eligible business categories

Most types of enterprises qualify -- manufacturing, wholesale, retail, service, and agriculture -- new or existing.

Small business – nonfarm businesses must meet the SBA standard for “small business”  
Details on SBA’s definition of “small” can be found at:  
<http://www.sba.gov/size/summary-what-is.html>

Production agriculture:

Agricultural producers (i.e., business where 50% or more of the gross income is derived from agricultural production) of all types are eligible  
Includes crops, livestock, forestry, hydroponics, nursery, and aquaculture  
The “small business” requirement does not apply to agricultural producers.

Utilities are typically excluded unless they provide service to rural consumers on a cost-of-service basis without support from public funds or subsidy from the Government authority establishing the district. Utilities must also be independent of government control.

Ineligible businesses:

Businesses larger than the SBA size standard  
Commercial property owners (investment property)  
Owner-occupied and rental housing projects

**Authorized use of proceeds:**

Land, real estate improvements, retrofitting, equipment, expansion/capital improvements to existing facility, working capital  
except: agricultural tillage equipment, used equipment (though remanufactured equipment is okay), vehicles, residential improvements, are not authorized

Energy audits, technical reports, feasibility study costs, business plans, other fees including loan fees & costs (including §9006 guarantee fee).  
except: application preparation fees are not authorized

Unauthorized loan purposes

Lines of credit  
Debt refinancing  
Transfers of ownership

Construction projects:

Generally, §9006 guarantees are better for long-term, take-out financing.  
Construction loan funds should not be advanced until USDA has approved the project.  
A §9006 guarantee will be issued once the system or project is operational and is producing at a level that meets the performance criteria specified in the technical reports.

## Part 2 – §9006 Underwriting & Credit Requirements

### Summary of requirements

The lender must determine credit quality and must address all of the elements of credit quality in a written credit analysis, including adequacy of equity, cash flow, collateral, history, management, and the current status of the industry for which credit is to be extended.

Demonstrated financial need and inability of the borrower to get credit elsewhere is NOT a requirement of the §9006 loan guarantee program.

- Feasibility. The proposed operation must have realistic Technical and Financial feasibility.

Feasibility must be documented by:

- » A technical report, professionally-prepared and detailing all aspects of the project.

For energy efficiency projects, this includes:

- Projects up to \$50,000: Energy Assessment
- Projects greater than \$50,000: Energy Audit.
- Projects greater than \$200,000: in addition to the Energy Audit, any system engineering must be completed by a licensed professional engineer (PE).

For renewable energy generation projects projects, this includes:

- Projects up to \$400,000: Technical Report completed for the specific energy technology.
  - Projects greater than \$400,000: in addition to the Technical Report, a licensed professional engineer (PE) must be engaged for system design review, installation monitoring, testing, and completion certification.
  - Projects greater than \$1,200,000: the Technical Report must be reviewed, and include an opinion and recommendation, by an independent qualified consultant.
- » A business-level feasibility study by an independent, qualified consultant – on renewable energy generation proposals costing over \$200,000 (this is not required for energy efficiency proposals).

- Contributed equity. A borrower equity contribution, i.e., equity injection into the project, is required based on §9006 loan size:

For loans  $\leq$ \$600,000, a 15% equity contribution is required

For loans  $>$ \$600,000, a 25% equity contribution is required

There is no tangible balance sheet equity requirement as in USDA's B&I program. Instead, equity minimums are measured by either:

- (a) contributed cash equity funds (including Federal grant funds), and/or
- (b) market value of equity in real estate pledged as collateral for the loan.

- Collateral. There must be adequate collateral:

The loan must be fully secured based on “sound loan-to-value policy.” Feasibility/cash flow analysis should be borne in mind – stronger feasibility justifies relatively higher LTV’s.

Real estate -- typically 80 percent or less of the appraised value

Equipment -- typically 70 percent or less of the appraised value

Note that these LTV’s are much higher than USDA will typically allow for B&I financing of renewable energy projects. They are intended as part of the §9006 incentive to encourage lenders to finance viable renewable energy projects.

- Other underwriting requirements.

The business and its owners must have a good credit history.

Business interruption insurance is required for §9006 loans over \$200,000 -- amount negotiated

Personal/corporate guarantees -- normally from all proprietors, partners (except limited partners), or major shareholders (i.e., all those with a 20%-or-greater interest). Note: personal guarantees are not required from passive investors.

- The impact of the project on the environment must be assessed & found to be “not significant” by USDA.

## Contributed Equity Test

*Reference: RD Instruction 4280-B, Section 4280.139(d)*

One of the key financial tests in qualifying for §9006 assistance is contributed equity. USDA analyzes the cash equity injected into the project by the borrower as well as the value of real estate collateral pledged. The following sources qualify when calculating a business's contributed equity.

1. **Cash equity** injected into the project. This can be in the form of owner or stockholder cash contributions. The following are examples of cash equity:

Cash currently in the business's balance sheet

New equity investments to be invested by not later than the issuance of the §9006 guarantee

Federal, state or local grants for the project. This includes any §9006 grant awarded to the project.

Federal or state energy tax credits purchased by investors.

"Green tags" on the project sold to power purchasers

2. **Real estate equity pledged as collateral** for the §9006 loan. The following sources qualify when calculating a business's contributed equity.

Real estate collateral, based on the "as-improved" market value of the property as determined by a USPAP/FIRREA appraisal not more than 1 year old.

Only real estate collateral is counted. Equipment and other assets do not qualify.

The real estate collateral need not be the property being improved with §9006 funds. It may be other real estate pledged in connection with the project.

3. Smaller loans ( $\leq$ \$600,000) need a minimum of 15% contributed equity.  
Larger loans ( $>$ \$600,000) need a minimum of 25% contributed equity.

**The attached worksheet may be used to compute contributed equity.** This worksheet or some comparable table should be included with every §9006 preapplication.

## Contributed Equity Analysis

Recommended format for calculating “contributed equity”.

**Instructions:**

1. Complete part “a” to reflect the appraised value of the net equity that will collateralize the proposed §9006 guaranteed loan. Copy the end total into part “c”.
2. Complete part “b” to show all sources of financing for the proposed §9006 project. (Do not include financing for ineligible project costs such as refinancing, vehicles, packaging fees, etc.). Copy the values into part “c”.
3. Complete part “c” using the figures from parts “a” & “b” to calculate the “contributed equity”. Verify that it meets the minimum equity standards based on proposed §9006 loan size.

Applicant: \_\_\_\_\_

a. Real Estate Collateral to Be Pledged for §9006 Loan			
Description	Appraised Value	Prior Lien Balance	RE Equity Pledged
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
<b>RE Equity to Be Pledged *</b>			<b>\$ -</b>

b. Source of Funds (for §9006-eligible-uses only)				
§9006 Loan	\$ -	Itemize:		
Other Loan(s)	\$ -			
Loan Subtotal =				\$ -
§9006 Grant	\$ -	Itemize:		
Other Grant(s)	\$ -			
Borrower Cash	\$ -			
Other Cash to Be Invested	\$ -			
<b>Equity Subtotal **</b>		<b>\$ -</b>	<b>Total Eligible Project Costs ***</b>	

c. §9006 Contributed Equity Test			
* RE Equity to Be Pledged	\$ -	(from part "a" above)	
** Equity Subtotal	\$ -	(from part "b" above)	
<b>Total "Contributed" Equity</b>		<b>\$ -</b>	(from part "b" above)
<b>*** Total Eligible Project Costs</b>		<b>\$ -</b>	
<b>% Contributed Equity =</b>		<b>%</b>	
(if §9006 loan ≤\$600,000, 15% minimum) (if §9006 loan >\$600,000, 25% minimum)			

## What the §9006 regulations say about Contributed Equity

RD Instruction 4280-B

§ 4280.139

(d) Equity. In determining the adequacy of equity, the lender must meet the criteria specified in paragraph (d)(1) of this section for loans over \$600,000 and the criteria in paragraph (d)(2) of this section for loans of \$600,000 or less. Cash equity injection, as discussed in paragraphs (d)(1) and (2) of this section, must be in the form of cash. Federal grant funds may be counted as cash equity.

(1) For loans over \$600,000, borrowers shall demonstrate evidence of cash equity injection in the project of not less than 25 percent of eligible project costs. The fair market value of equity in real property that is to be pledged as collateral for the loan may be substituted in whole or in part to meet the cash equity requirement. However, the appraisal completed to establish the fair market value of the real property must not be more than 1 year old and must meet Agency appraisal standards.

(2) For loans of \$600,000 or less, borrowers shall demonstrate evidence of cash equity injection in the project of not less than 15 percent of eligible project costs. The fair market value of equity in real property that is to be pledged as collateral for the loan may be substituted in whole or in part to meet the cash equity requirement. However, the appraisal completed to establish the fair market value of the real property must not be more than 1 year old and must meet Agency appraisal standards.

**CONTRIBUTED EQUITY TEST**  
 Exercise

An §9006 guaranteed loan of \$500,000 is proposed as part of a renewable energy project.

The source & use of funds looks like this:

Purpose	§9006 Loan	Other Loans	§9006 Grant	Other Grant	Owner Cash	Investor Cash	Total
Equipment	\$400,000	\$200,000	-	\$100,000	\$100,000	\$100,000	\$900,000
Permits	\$50,000	-	-	-	-	-	\$50,000
Studies	\$50,000	-	-	-	-	-	\$50,000
Refinancing	-	\$100,000	-	-	-	-	\$100,000
<b>Total</b>	<b>\$500,000</b>	<b>\$300,000</b>	<b>-</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$1,100,000</b>

The borrower owns an investment property in town that was appraised earlier this year for \$350,000. The property has an existing loan with a \$150,000 balance against it. The §9006 loan will be secured in part by a second lien on this property.

Will this proposal pass the contributed equity test?

CONTRIBUTED EQUITY TEST  
Answer to Exercise

a. First, calculate the value of the “Real Estate Collateral to Be Pledged”.

a. Real Estate Collateral to Be Pledged for §9006 Loan			
Description	Appraised Value	Prior Lien Balance	RE Equity Pledged
Investment property in town	\$350,000	\$150,000	\$200,000
<b>RE Equity to Be Pledged *</b>			<b>\$200,000 -</b>

b. Next, compute the Equity that is being invested in the project.

In order to make this computation correctly, any ineligible-§9006 loan purposes must be excluded from the analysis. In this example, a \$100,000 loan for debt refinancing is planned in conjunction with the project. Debt refinancing is ineligible for §9006 assistance, so this amount must be excluded from the analysis – reducing the \$1,100,000 total project cost to a \$1,000,000 “eligible project cost”.

- » In this regard, note that there is no prohibition against non-§9006 funding sources being used to refinance debt, but the refinancing activity is excluded from the §9006 analysis.
- » Also note that even after this adjustment in eligible project cost, the §9006 loan remains ≤50% of the eligible project cost (\$500,000 loan/\$1,000,000 eligible project = 50%).

b. Source of Funds (for §9006-eligible-uses only)			
§9006 Loan	\$500,000	Itemize: Eligible uses of the \$200,000 in “Other Loans”	
Other Loan(s)	\$200,000		
Loan Subtotal =			<b>\$700,000</b>
§9006 Grant	\$ -	Itemize: State grant	
Other Grant(s)	\$100,000		
Borrower Cash	\$100,000		
Other Cash to Be Invested	\$100,000	Itemize: Energy tax credit to be received	
<b>Equity Subtotal **</b>		<b>\$300,000</b>	
<b>Total Eligible Project Costs ***</b>			<b>\$1,000,000</b>

c. Finally, combine the two equity sources – real estate collateral and actual equity invested in the project – to affirm that the applicable equity standard is met.

c. §9006 Contributed Equity Test		
* RE Equity to Be Pledged	\$200,000	(from part "a" above)
** Equity Subtotal	\$300,000	(from part "b" above)
Total "Contributed" Equity	\$500,000	
*** Total Eligible Project Costs	\$1,000,000	(from part "b" above)
<b>% Contributed Equity =</b>	<b>50%</b>	
(if §9006 loan ≤\$600,000, 15% minimum)		
(if §9006 loan >\$600,000, 25% minimum)		

In this case, the proposed §9006 loan (\$500,000) is less than \$600,000, so the minimum contributed equity requirement is 15%.

The actual contributed equity totals 50%, so this project easily meets the §9006 Contributed Equity Test.

## Adequate Collateral Test

*Reference: RD Instruction 4280-B, Section 4279.139(b)*

USDA looks to the lender to **assure that loans are fully secured**, though USDA must agree that the proposed collateral will be adequate. To establish collateral adequacy, the appraised value or cost of the security property should be discounted by a factor in accordance with **sound loan-to-value policy**:

Real estate: Normally 80% of the current appraised value

Equipment: 70% or less of the current appraised value or acquisition price.

Power contracts: No value is given to them in this test.

Inventory & accounts receivable: Although they will rarely figure into §9006 projects, 60% or less of book value. Normally less. Exclude all A/R over 90 days past due; exclude all A/R from owners, officers, employees, or affiliates.

Personal guaranties: No value is given to them in this test.

Insurance: No value is given to insurance in this test.

### Additional factors used in determining the appropriate loan-to-value factor:

Lien position

The marketability of the collateral

The degree to which the collateral is highly specialized, unique, or single purpose -- e.g., off-the-shelf items from national manufacturers will be less heavily discounted

The extent to which the collateral tends to wear out or depreciate rapidly -- e.g., vehicles and furnishings will be more heavily discounted

The age and condition of the collateral

Environmental contamination that will remain on the property after the §9006 guarantee is issued.

The strength of the underlying project -- e.g., a business with well-established historical profitability, strong guarantors, and other such factors help justify higher-end LTV's.

**Key recognition.** The §9006 program is designed to encourage lending on rural energy projects. It therefore places fundamental faith in the value of feasible energy-related collateral. The §9006 program essentially treats this specialized energy collateral as if it were more common commercial business collateral. It is nevertheless expected that the §9006 will be fully secured based on such discounting principles.

**Real estate & chattel appraisal valuations.**

Specialized appraisers. Whenever specialized energy assets will serve as collateral, specialized appraisers familiar with the technology and industry should be sought out to complete appraisals.

The appraisal figure used should be the property's current market value "as improved". Collateral analysis should *not* be based on "value-as-stabilized" at some future date, "value-in-use," nor should it include a "business value".

All real property appraisals must meet the requirements contained in FIRREA and USPAP.

- » For loans of \$600,000 or more, a complete self-contained appraisal must be conducted.
- » For loans for less than \$600,000, a complete summary appraisal may be conducted in lieu of a complete self-contained appraisal.

## What the §9006 regulations say about Collateral

RD Instruction 4280-B

§ 4280.139 (Con.)

(b) Collateral. Collateral must have documented value sufficient to protect the interest of the lender and the Agency. The discounted collateral value will normally be at least equal to the loan amount. Lenders will discount collateral consistent with sound loan-to-value policy. Guaranteed loans made under this subpart shall have at least parity position with guaranteed loans made under subpart B of part 4279 of this title [i.e., Business & Industry Guaranteed Loans].

...

(e) Lien priorities. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference or priority over the guaranteed portion. A parity or junior position may be considered provided that discounted collateral values are adequate to secure the loan in accordance with paragraph (b) of this section after considering prior liens.

## ADEQUATE COLLATERAL TEST

### Exercise

A \$500,000 loan is proposed for a renewable energy generation project – the same project as outlined in the “Contributed Equity Test” exercise above. The security will consist of:

The borrower owns an investment property in town that was appraised earlier this year for \$350,000. The property has an existing loan with a \$150,000 balance against it. The §9006 loan will be secured in part by a second lien on this property.

The renewable energy equipment associated with the project, which will be purchased new from a national vendor for \$900,000. The lender making the §9006 loan is also making a \$200,000 companion loan. The \$200,000 loan will be in first lien position; the \$500,000 §9006 loan will be in second lien position.

An assignment on a \$1,000,000 key person life insurance policy, plus hazard insurance in an amount equal to the replacement value of the equipment -- \$1,000,000.

A personal guaranty from the sole owner, whose personal net worth is \$2.5 million, derived primarily from local real estate holdings.

Is there adequate security for the loan?

**ADEQUATE COLLATERAL TEST**  
**Answer to Exercise**

The collateral test for the proposed loan is shown in the table below:

Proposed §9006 Loan = \$500,000

<u>Collateral Type</u>	<u>Asset Description</u>	<u>Basis for Valuation</u>	<u>Actual Value</u>	<u>Discount</u>	<u>Prior Liens</u>	<u>Attributed Collateral Contribution</u>
Real estate	Investment property	Current appraised value	\$ 350,000	70%*	\$150,000	\$ 95,000
Machinery & equipment	Renewable energy equipment	Purchase price	\$ 900,000	70%*	\$200,000	\$ 430,000
Inventory	n/a	Book value	n/a	n/a	n/a	\$ 0
Accounts receivable	n/a	Book value	n/a	n/a	n/a	\$ 0
Insurance	Key person life insurance & Property hazard insurance			No value given in this test	No value given in this test	\$ 0
Personal guarantees	Personal guaranty of owner with \$2.5 million net worth			No value given in this test	No value given in this test	\$ 0
<b>TOTAL</b>			<b><u>\$ 1,250,000</u></b>		<b><u>\$ 350,000</u></b>	<b><u>\$ 525,000</u></b>

\* Note that because of the junior lien position, the usual 80% discount has been increased to a 70% discount.

Discounted Collateral Coverage:

$$\$525,000 \text{ discounted value} / \$500,000 \text{ loan} = 1.05$$

§9006 Loan-to-Discounted Value:

$$\$500,000 \text{ loan} / \$525,000 \text{ discounted value} = 95\%$$

Total Loan-to-Value:

$$(\$500,000 \text{ §9006 loan} + \$350,000 \text{ prior liens}) / \$1,250,000 = 68\%$$

The §9006 loan is adequately secured.

## Technical Report Requirement

*Reference: RD Instruction 4280-B, Section 4280.128(c)(1)(ii) & Appendices A & B*

As part of every §9006 application, USDA requires an independent technical report be submitted. This report is reviewed by USDA's collaborators at the National Renewable Energy Lab (NREL) as an integral part of USDA's evaluation of the merits of the project.

### Contents of the technical report.

The exact content varies depending on the energy technology proposed & the cost of the project, but it generally addresses all the following topics:

1. Qualifications of the key project service providers.
2. Agreements, permits, & certifications.
3. Resource assessment.
4. Design & engineering.
5. Project development schedule.
6. Project economic assessment.
7. Equipment procurement.
8. Equipment installation.
9. Operation & maintenance.
10. Dismantling & disposal of project components.

For specific details, see RD Instruction 4280-B, Appendix A (for projects ≤\$200,000) or Appendix B (for projects >\$200,000), which are on-line at: <http://www.rurdev.usda.gov/regs/regs/pdf/4280b.pdf>

### Who prepares the technical report?

The study should be prepared by an independent consultant with a recognized expertise in the type of operation being analyzed.

- » For Energy Efficiency Improvement (EEI) projects costing >\$50,000, the technical report must include an Energy Audit prepared by a Certified Energy Manager (CEM) or Professional Engineer (PE).
- » For RES projects costing >\$400,000 and for EEI projects costing >\$200,000, the technical report must include services by a licensed professional engineer (PE).
- » For projects costing >\$1.2 million, the report must be peer-reviewed by a second PE.

## Business-level Feasibility Study Requirement

*Reference: RD Instruction 4280-B, Section 4280.128(c)(1)(iii)*

### When is a feasibility study required?

If the §9006 project is for *a Renewable Energy System which will cost over \$200,000*, in addition to the Technical Report, USDA will require an independent feasibility study as part of the complete §9006 application.

### Who prepares the feasibility study?

The study should be prepared by an independent consultant with a recognized expertise in the type of operation being analyzed. Examples of acceptable consultants include industry association consultants, industry experts, local Small Business Development Center consultants, specialized CPA's, and specialty appraisers.

It should be contracted by the lender, but the cost may be included in the loan.

Contents of the feasibility study. Appendix A to RD Instruction 4279-B – which is used for USDA's Business & Industry (B&I) program – provides a recommended outline of considerations to be included in the feasibility study. Particular emphasis should be given to market feasibility and management feasibility issues.

Note that whereas the Technical Report focuses on the functionality of the project, the feasibility study addresses the profitability and sustainability of the business-side of the project, including its ability to repay the proposed §9006 loan.

*Guide for Completion of Feasibility Studies*

A feasibility study by a recognized independent consultant may be required by the Agency for start-up businesses or existing businesses when the project will significantly affect the borrower's financial operations. An acceptable feasibility study should include, but not be limited to:

(a) Economic feasibility. Information related to the project site; availability of trained or trainable labor; utilities; rail, air, and road service to the site; and the overall economic impact of the project.

(b) Market feasibility. Information on the sales organization and management, nature and extent of market and market area, marketing plans for sale of projected output, extent of competition, and commitments from customers or brokers.

(c) Technical feasibility. Technical feasibility reports shall be prepared by individuals who have previous experience in the design and analysis of similar facilities or processes proposed in the application. The technical feasibility reports shall address the suitability of the selected site for the intended use including an environmental impact analysis. The report shall be based upon verifiable data and contain sufficient information and analysis so that a determination may be made on the technical feasibility of achieving the levels of income or production that are projected in the financial statements. The report shall also identify any constraints or limitations in these financial projections and any other facility or design-related factors which might affect the success of the enterprise. The report shall also identify and estimate project operating and development costs and specify the level of accuracy of these estimates and the assumptions on which these estimates have been based. For the purpose of the technical feasibility reports, the project engineer or architect may be considered an independent party provided neither the principals of the firm nor any individual of the firm who participates in the technical feasibility report has a financial interest in the project, and provided further that no other individual or firm with the expertise necessary to make such a determination is reasonably available to perform the function.

(d) Financial feasibility. An opinion on the reliability of the financial projections and the ability of the business to achieve the projected income and cash flow. An assessment of the cost accounting system, the availability of short-term credit for seasonal business, and the adequacy of raw materials and supplies.

(e) Management feasibility. Evidence that continuity and adequacy of management has been evaluated and documented as being satisfactory.

## Environmental Analysis

*Reference: RD Instruction 1940-G, Sections 1940.310, 311, & 312*

As a federal program, all §9006 assistance is subject the National Environmental Policy Act (NEPA) and other federal guidelines designed to assure that federally-supported projects do not harm the environment. Consequently, USDA must complete an environmental analysis on all §9006 projects.

This analysis is in addition to any environmental review undertaken in connection with collateral issues (e.g., Phase I or Phase II studies).

The level of USDA environmental review required depends on the nature of the project, ranging from “**Categorical Exclusion**” to “**Class I**” to “**Class II**” -- in order of increasing complexity.

Class II projects, and occasionally Class I projects, require published public notices and public comment periods. The level of review therefore may affect the time needed to complete §9006 application processing.

### General Predictors for Level of Environmental Review:

+ *USDA always looks at the overall project being financed, not just the §9006 loan purposes.*

Certain projects are nearly always **Categorical Exclusions** (the simplest & fastest review):

- | Working capital;
- | Machinery & equipment
- | Building renovation (if the building is less than 50 years old)

Exceptions: The presence of important resources (e.g., floodplain, prime farmland) may call for a higher level review.

The following projects may be **Class II, Class I, or Categorical Exclusions** depending on project:

- | Expansion of real estate improvements on already-developed land
- | New real estate improvements on undeveloped land
- | Renovation/removal of 50+ year old building

**Examples of Projects in each level of Environmental Review:**

*The following includes examples of projects that would be in each level of Environmental Review. It is intended for illustration purposes only; USDA will make a determination of the appropriate level of Environmental Review after completing a site visit, etc.*

**Categorical exclusion, if:**

Minimal change in use, size, capacity, purpose, & location of existing facility

Examples: some Biomass/Bioenergy; Geothermal/Direct Use; Hydrogen Energy transport; Solar (Photovoltaic); Energy Efficiency

**Class I, if:**

Further development or a previously-developed site

Renovation/removal of 50+ year old building

Development of an undeveloped site when the property is: a small site (generally <5 acres); a city lot; in a built-up commercial area; in an industrial park

Examples: some Biomass/Bioenergy; Geothermal/Electric Generation; Hydrogen Production; Solar/Small (Thermal); Wind/Small (<110 ft. hub height).

**Class II, if:**

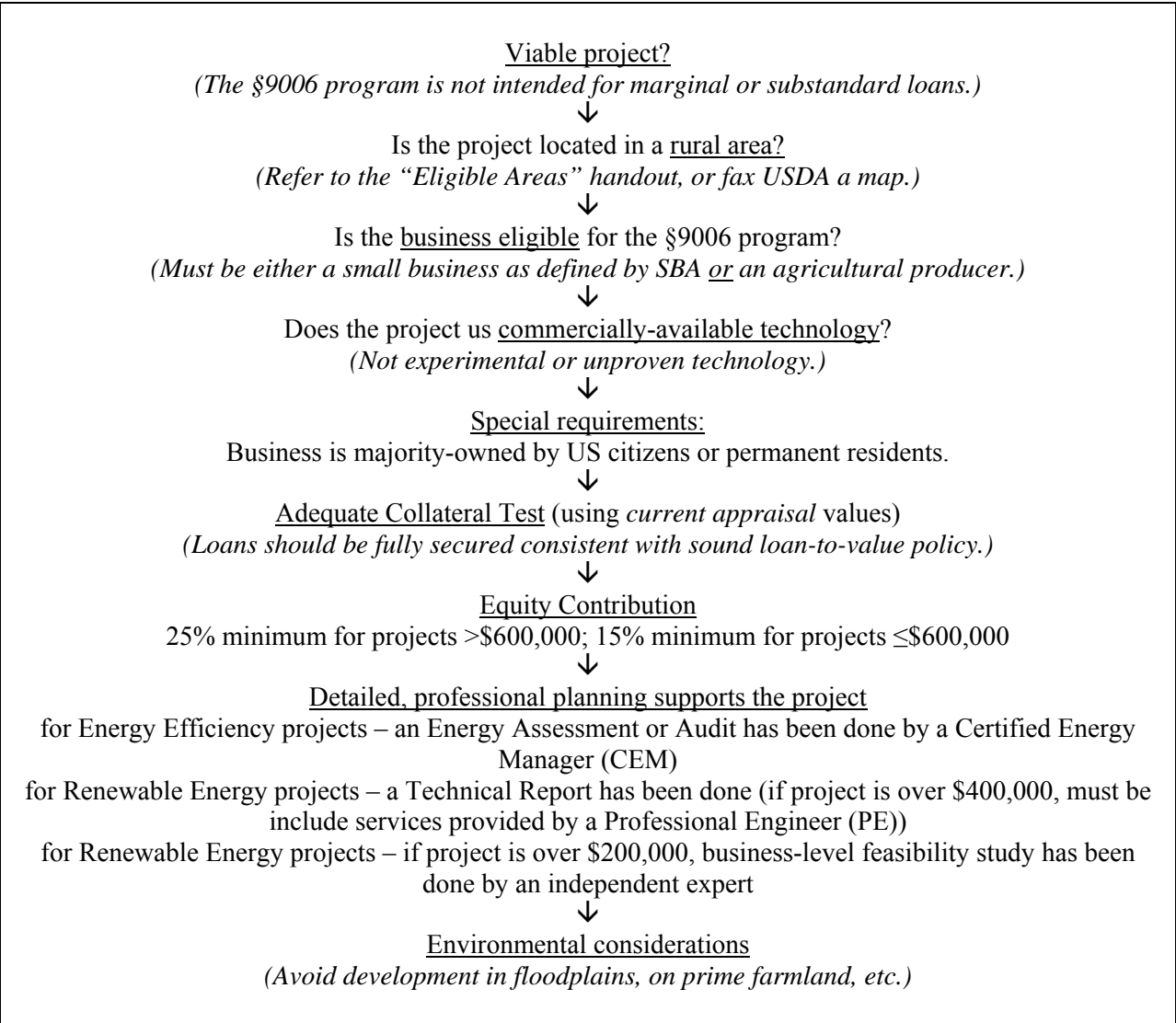
Development of undeveloped site when the property is: a large site (>5 acres); or remote or undisturbed

“Substantial” amounts of hazardous/toxic/radioactive/odorous waste will be generated

Examples: Anaerobic Digester; Geothermal/Electric Generation; Solar/Large (Thermal); Wind/Large



**Quick Scheme for Screening §9006 Prospects**



## Part 3 – §9006 Deal Structuring

### Structuring §9006 Deals

§9006 guaranteed loans cannot finance more than 50% of a rural energy project. As such, deal structures must begin with the recognition that §9006 is fundamentally a “gap” financing program. It cannot be the sole source of the renewable energy or energy efficiency financing.

Many creative possibilities may be feasible for structuring any given §9006 deal. The following options are just a few that may be viable. Each project must stand on its own.

#### **§9006 stand-alone**

Other sources + §9006 guaranteed loan (with or without a §9006 grant)

The risk associated with renewable energy projects may in some cases dictate that 50% financing is all that can be underwritten. The borrower must therefore raise equity or find governmental programs that can fund the remaining 50%.

Examples of such sources include:

- » Borrower cash
- » Owner investment (either as equity or subordinated debt)
- » Venture capital
- » State & Federal energy tax credit programs
- » “Green tag” sales
- » State/local energy or economic development loan programs

§9006 grants may be used in conjunction with §9006 guaranteed loans, but the combined §9006 program assistance can never exceed 50% -- thus always requiring an additional 50% from other sources.

#### **§9006 “piggyback”**

Other sources + unguaranteed bank loan + §9006 guaranteed loan

Should a lender wish to finance more than 50% of an energy project, an ideal solution may be a §9006 piggyback, i.e., making a combination of loans totaling for example 75% of the project cost – a §9006 guaranteed loan for 50% of the project along with a regular commercial unguaranteed loan for an additional 25% – the remaining 25% to come from borrower equity.

There is no requirement that the §9006 guaranteed loan be in first lien position, only that it be adequately secured. Thus a hypothetical deal might be structured as follows:

Unguaranteed bank loan secured by 1 <sup>st</sup> lien	\$ 500,000
§9006 guaranteed loan (same bank) secured by 2 <sup>nd</sup> lien	\$1,000,000 (≤ 50%)
Borrower equity	<u>\$ 500,000</u>
Total project cost	\$2,000,000

**§9006/B&I**

Equity + B&I guaranteed loan + §9006 guaranteed loan

Some lenders may seek to combine two USDA Rural Development guaranteed loan programs – §9006 and Business & Industry guarantees. This can be a viable approach since the B&I program is not restricted to any given percentage of any project’s cost. Theoretically, a §9006 guarantee could finance 50% and a B&I could guarantee the remaining amount a lender wished to lend.

However, there are several factors associated with the B&I program that tend to make this solution un-workable:

- a. The B&I program has a much more cautious approach in financing energy related businesses. B&I typically will use much lower LTV’s and have much higher equity requirements when considering energy-related businesses. This underwriting approach is not easily overcome because, on §9006 projects, the B&I loan cannot be given an exclusive senior lien position. Recall the discussion of §9006 collateral requirements: whenever the two programs are used together, a parity lien position is required for the B&I and §9006 loans.
- b. The B&I program brings in the tangible balance sheet equity requirement that is not used by the §9006 program. Combining the guaranteed programs means the project must meet both the “contributed equity” and a very high “tangible balance sheet equity” test.
- c. The GAAP financial statement requirement of B&I is not commonly acceptable to farmers & rancher and small business borrowers.
- d. The B&I guaranteed loan is more expensive than the §9006 guarantee – twice the issuance fee and twice the annual renewal fee.

**“§9013(a)” energy efficiency package**

Equity + SBA 7(a) guaranteed loan + §9006 guaranteed loan

This approach could offer an attractive solution for banks to finance up to 85% of smaller energy efficiency projects for rural small businesses. If the lender is already active in the SBA program (e.g. a PLP lender using SBA Express), this can especially make sense.

(It will not work for farmers & ranchers, since they are typically ineligible for SBA assistance. It will also probably not work for renewable energy generation projects, which may also have difficulty qualifying for SBA.)

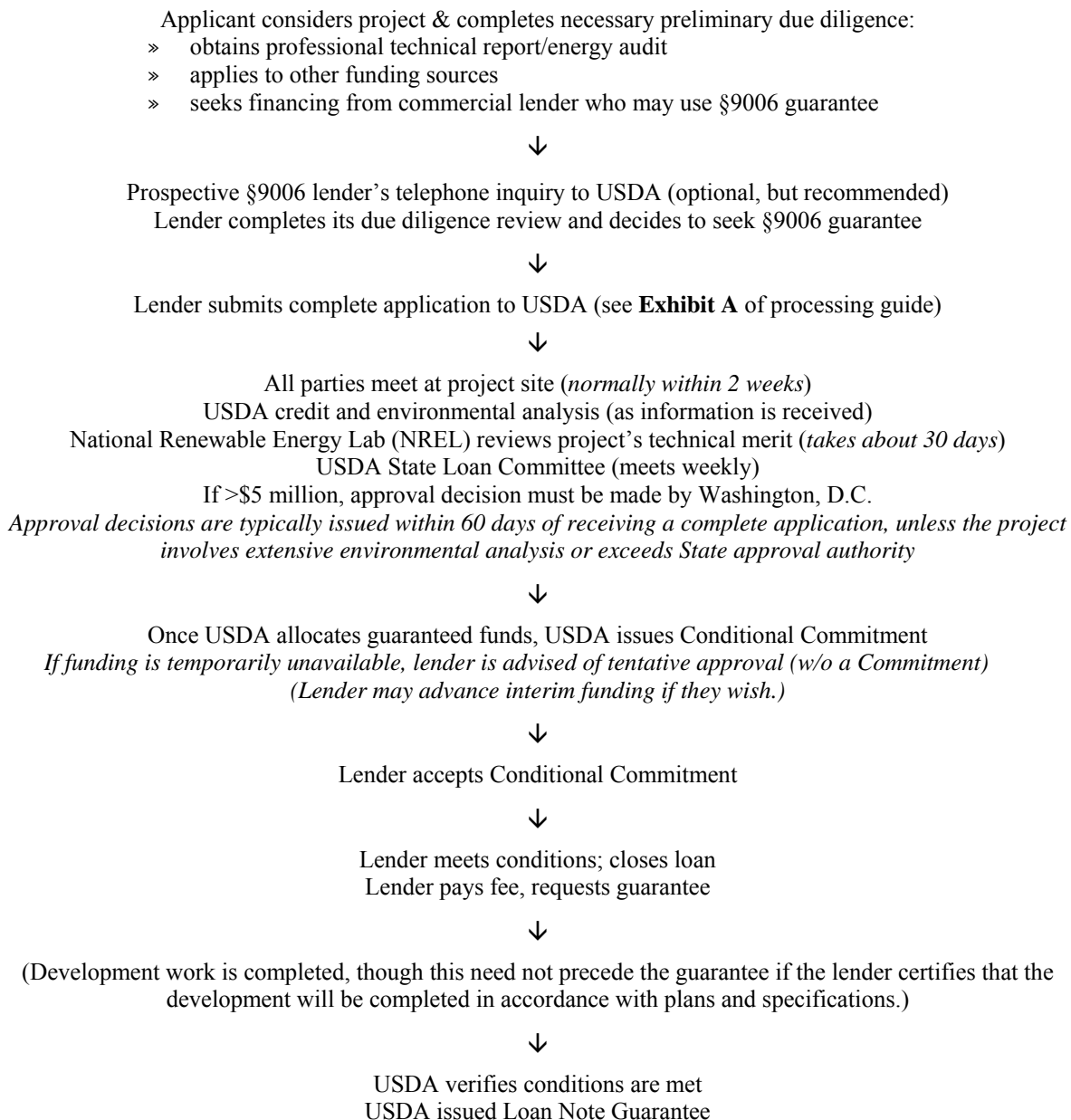
Suppose a small energy efficiency project (<\$600,000) is envisioned. At this level, §9006 only requires 15% “contributed equity” (\$90,000), the rest can be financed – \$300,000 (50%) from a §9006 guarantee, \$210,000 (35%) by the same bank through SBA 7(a). If the project is backed by a professional energy audit, its viability should be very strong. The energy cost savings may service much of the debt.

There are at least two advantages to this approach over a straight SBA 7(a) loan:

- » The §9006 guarantee is 85% on its portion, higher than the 7(a) program can offer.
- » The §9006 program has lower guarantee fee and annual renewal fee, making the financing cheaper for the small business

**Part 4 – §9006 Loan Processing**

**§9006 Loan Application Process**



## **Special considerations**

### State delivery systems

Always work closely with the USDA Rural Development State Office to learn the style of processing they prefer.

Some states handle all applications through their State Office; other use field offices.

Some states prefer preapplications; others do not.

State lending and environmental laws will also dictate variations in processing.

### Approval authorities

The loan approval authorities of State Offices vary throughout the nation – from \$1MM to \$7.5MM.

All loans in excess of a State's approval authority must be approved in the USDA National Office.

## Complete Application

### Exhibit A:

#### Items Needed for a §9006 Complete Application (Guaranteed Loans of greater than \$600,000)

There is no preapplication used for §9006 proposals.

The following items constitute a complete application and are needed for a final decision on a §9006 request.

#### Completed Jointly by the Applicant & Lender:

1. Form 4279-1, "Application for Loan Guarantee." The form is on-line at:  
<http://www.rurdev.usda.gov/regs/forms/4279-01.pdf>

#### Completed by the Applicant:

2. A §9006 Project Narrative. This is a detailed explanation of the project being proposed. Use the format outlined on **Exhibit B**.
3. A map (e.g., a street, topographic, or parcel map) showing the exact location of the business, and indicating where any construction will occur.
4. Financial information on business size. All information must be substantiated by authoritative records. Providing tax returns from the immediately preceding year is one means of satisfying this requirement.
  - » **Business applicants** must provide sufficient information to determine total annual receipts for and number of employees of the business – both for the applicant and any parent, subsidiary, or affiliates at other locations.
  - » **Agricultural producers** must provide the gross market value of agricultural products produced, gross agricultural income, and gross nonfarm income of the applicant for the calendar year preceding the year in which you submit your application.
5. Matching funds – spreadsheet. Submit a spreadsheet identifying sources of all planned matching funds, amounts, status, and contact information. Use the format outlined on **Exhibit C**.
6. Matching funds – applications. A copy of all applications submitted to other funding sources, along with correspondence with them indicating the status of the applications.
7. Self-evaluation score. Self-score the project following the Evaluation Criteria Scoring Guideline contained in RD Instruction 4280-B, Appendix C. Justify the score for each criterion with appropriate calculations and attached documentation, or specific cross-references to information elsewhere in the application. Use the format outlined on **Exhibit D**.
8. Historical, current, and projected financial statements. The should be prepared in accordance with Generally Accepted Accounting Practices (GAAP), though agricultural producers may use other financial statement formats provided they are acceptable to the lender.
  - a. Historical year-end financial statements for the preceding 3 fiscal years (or, if a new business, for as long as the business has been in existence).
  - b. A current balance sheet and year-to-date income statement (no more than 90 days old) for the business (including any parent, affiliate, and subsidiary firms).
  - c. A *pro forma* balance sheet, derived from the current balance sheet (item "b" above), showing the business's new assets and debts once the proposed loan project is completed.
  - d. Detailed projected income statements, balance sheets, and cash flow statements for the next 3 years, with an explanation of the assumptions used in the forecasts.

9. Owner financials. Current (not more than 90 days old) financial statements on all owners of the business who will provide personal/commercial guaranties (normally, all owners with a 20%-or-more interest in the business).

**Completed by the Lender:**

10. The lender's credit analysis of the proposed loan. This must include spreadsheets comparing the applicant's past and projected financial statements, analyzing financial ratios, and comparing the business with industry averages.
11. A current appraisal of the property to be taken as security – real estate, equipment, etc. For loans of \$600,000 or more, real estate appraisals should be complete self-contained reports; for loans of less than \$600,000, real estate appraisals should be complete summary reports. All appraisals must comply with the Uniform Standards of Professional Appraisal Practices. Equipment appraisals should report both a fair market value and an orderly liquidation value. (NOTE: USDA has some discretion to approve a §9006 guarantee subject to an adequate appraisal.)
12. Credit reports. A commercial credit report on the applicant business, plus credit reports on all proposed personal and corporate guarantors (including all owners with a 20%-or-more interest in the business).
13. A draft of the lender's proposed loan agreement with the borrower. Please note that it must address all of the following issues:

Negative Covenants:

- Limitations on purchase or sale of equipment and fixed assets.
- Limitations on compensation of officers and owners.
- Restriction on dividend payments.
- Restrictions concerning consolidations, mergers, or other circumstances.
- Prohibition against assuming liabilities or obligations of others.
- Limitations on selling the business without the concurrence of the lender.

Financial Standards Covenants:

- Minimum working capital or current ratio requirement.
- Maximum debt-to-net worth ratio.

Reporting Requirements:

- Type and frequency of submission of financial statements. (Note: The borrower and all guarantors must provide financial statements at least annually.)
- A provision for the lender or USDA to have reasonable access to the project and its performance information during its useful life or the term of the loan, whichever is longer, including the periodic inspection of the project by a representative of the lender or USDA.

*Item 14 is needed if the project involves construction:*

14. Form RD 1940-20, "Request for Environmental Information." **The earliest possible submittal of this is encouraged to expedite USDA's environmental review.** The form is on-line at: <http://www.rurdev.usda.gov/regs/forms/1940-20.pdf>

*Item 15 is only needed if the loan will be secured by or involves the development of real estate:*

15. FEMA Form 81-93, "Standard Flood Hazard Determination" (flood zone certification)

*Item 16 is needed if the loan will be real estate secured:*

16. All completed lender environmental questionnaires and studies (e.g., Transaction Screen Questionnaire, VISTA, Phase I or Phase II site assessment – as applicable) on the real estate, along with any mitigation/clean-up cost estimates. *USDA may request further studies.*

**Completed by a Third-party professional:**

17. Technical report. A professionally-prepared technical report, detailing all aspects of the project. The required format and information will vary depending on the energy technology proposed & the cost of the project. For specific details, see RD Instruction 4280-A, Appendix B (for projects ≤\$200,000) or Appendix B (for projects >\$200,000), which are on-line at: <http://www.rurdev.usda.gov/regs/regs/pdf/4280b.pdf>
- » For Energy Efficiency Improvement (EEI) projects costing >\$50,000, the technical report must include an Energy Audit prepared by a Certified Energy Manager (CEM) or Professional Engineer.
  - » For RES projects costing >\$400,000 and for EEI projects costing >\$200,000, the technical report must include services by a licensed professional engineer (PE).
  - » For projects costing >\$1.2 million, the report must be peer-reviewed by a second PE.

*Item 18 is only needed if the loan is for a Renewable Energy System costing >\$200,000:*

18. A business-level feasibility study – completed by an independent consultant agreed to by all parties – addressing the economic, market, technical, financial, and management feasibility of the project. *It should be contracted by the lender, but the cost may be included in the loan.*

**Exhibit A-1:**

**Items Needed for a §9006 Complete Application  
(Guaranteed Loans of \$600,000 or less)**

There is no preapplication used for §9006 proposals.

The following items constitute a complete application and are needed for a final decision on a §9006 request.

**Completed Jointly by the Applicant & Lender:**

1. Form 4279-1A, "Application for Loan Guarantee (Short Form)." The form is on-line at:  
<http://www.rurdev.usda.gov/regs/forms/4279-01A.pdf>

**Completed by the Applicant:**

2. A §9006 Project Narrative. This is a detailed explanation of the project being proposed. Use the format outlined on **Exhibit B**.
3. A map (e.g., a street, topographic, or parcel map) showing the exact location of the business, and indicating where any construction will occur.
4. Financial information on business size. All information must be substantiated by authoritative records. Providing tax returns from the immediately preceding year is one means of satisfying this requirement.
  - » **Business applicants** must provide sufficient information to determine total annual receipts for and number of employees of the business – both for the applicant and any parent, subsidiary, or affiliates at other locations.
  - » **Agricultural producers** must provide the gross market value of agricultural products produced, gross agricultural income, and gross nonfarm income of the applicant for the calendar year preceding the year in which you submit your application.
5. Matching funds – spreadsheet. Submit a spreadsheet identifying sources of all planned matching funds, amounts, status, and contact information. Use the format outlined on **Exhibit C**.
6. Matching funds – applications. A copy of all applications submitted to other funding sources, along with correspondence with them indicating the status of the applications.
7. Self-evaluation score. Self-score the project following the Evaluation Criteria Scoring Guideline contained in RD Instruction 4280-B, Appendix C. Justify the score for each criterion with appropriate calculations and attached documentation, or specific cross-references to information elsewhere in the application. Use the format outlined on **Exhibit D**.
8. Historical, current, and projected financial statements. The should be prepared in accordance with Generally Accepted Accounting Practices (GAAP), though agricultural producers may use other financial statement formats provided they are acceptable to the lender.
  - a. Historical year-end financial statements for the preceding 3 fiscal years (or, if a new business, for as long as the business has been in existence).
  - b. A current balance sheet and year-to-date income statement (no more than 90 days old) for the business (including any parent, affiliate, and subsidiary firms).
  - c. A *pro forma* balance sheet, derived from the current balance sheet (item "b" above), showing the business's new assets and debts once the proposed loan project is completed.
  - d. Detailed projected income statements, balance sheets, and cash flow statements for the next 3 years, with an explanation of the assumptions used in the forecasts.

**Completed by the Lender:**

10. The lender's credit analysis of the proposed loan. This must include spreadsheets comparing the applicant's past and projected financial statements, analyzing financial ratios, and comparing the business with industry averages.
11. A draft of the lender's proposed loan agreement with the borrower. Please note that it must address all of the following issues:

**Negative Covenants:**

- Limitations on purchase or sale of equipment and fixed assets.
- Limitations on compensation of officers and owners.
- Restriction on dividend payments.
- Restrictions concerning consolidations, mergers, or other circumstances.
- Prohibition against assuming liabilities or obligations of others.
- Limitations on selling the business without the concurrence of the lender.

**Financial Standards Covenants:**

- Minimum working capital or current ratio requirement.
- Maximum debt-to-net worth ratio.

**Reporting Requirements:**

- Type and frequency of submission of financial statements. (*Note: The borrower and all guarantors must provide financial statements at least annually.*)
- A provision for the lender or USDA to have reasonable access to the project and its performance information during its useful life or the term of the loan, whichever is longer, including the periodic inspection of the project by a representative of the lender or USDA.

*Item 12 is needed if the project involves construction:*

12. Form RD 1940-20, "Request for Environmental Information." **The earliest possible submittal of this is encouraged to expedite USDA's environmental review.** The form is on-line at: <http://www.rurdev.usda.gov/regs/forms/1940-20.pdf>

*Item 13 is only needed if the loan will be secured by or involves the development of real estate:*

13. FEMA Form 81-93, "Standard Flood Hazard Determination" (flood zone certification)

*Item 14 is needed if the loan will be real estate secured:*

14. All completed lender environmental questionnaires and studies (e.g., Transaction Screen Questionnaire, VISTA, Phase I or Phase II site assessment – as applicable) on the real estate, along with any mitigation/clean-up cost estimates. *USDA may request further studies.*

**Completed by a Third-party professional:**

15. Technical report. A professionally-prepared technical report, detailing all aspects of the project. The required format and information will vary depending on the energy technology proposed & the cost of the project. For specific details, see RD Instruction 4280-A, Appendix B (for projects ≤\$200,000) or Appendix B (for projects >\$200,000), which are on-line at: <http://www.rurdev.usda.gov/regs/regs/pdf/4280b.pdf>
  - » For Energy Efficiency Improvement (EEI) projects costing >\$50,000, the technical report must include an Energy Audit prepared by a Certified Energy Manager (CEM) or Professional Engineer.
  - » For RES projects costing >\$400,000 and for EEI projects costing >\$200,000, the technical report must include services by a licensed professional engineer (PE).

- » For projects costing >\$1.2 million, the report must be peer-reviewed by a second PE.

*Item 16 is only needed if the loan is for a Renewable Energy System costing >\$200,000:*

16. A business-level feasibility study – completed by an independent consultant agreed to by all parties – addressing the economic, market, technical, financial, and management feasibility of the project. *It should be contracted by the lender, but the cost may be included in the loan.*

**Obtained by the Lender and retained in the Lender's file:**

Although not required to be submitted with the “One-Doc” application, the following should be obtained by the Lender and retained in the Lender’s file (the Agency may, at its discretion, request to see this information):

1. Credit reports (personal or corporate) on the applicant (including parent, affiliate, or subsidiary firms) and those having 20% or more interest in the applicant.
2. A current appraisal of the property to be taken as security – real estate, equipment, etc. For loans of less than \$600,000, real estate appraisals should be complete summary reports. All appraisals must comply with the Uniform Standards of Professional Appraisal Practices. Equipment appraisals should report both a fair market value and an orderly liquidation value. (*NOTE: USDA has some discretion to approve a §9006 guarantee subject to an adequate appraisal.*)
3. Owner financials. Current (not more than 90 days old) financial statements on all owners of the business who will provide personal/commercial guaranties (normally, all owners with a 20%-or-more interest in the business).

**Exhibit B:****§9006 Guaranteed Loan Project Narrative**

*Provide responses to the following items:*

Name of Applicant: \_\_\_\_\_

Name of Project: \_\_\_\_\_

(Use a brief descriptive title to allow for easy identification of the project).

**A. Borrower eligibility.**

Describe how the business meets the §9006 eligibility criteria:

1. Agricultural producer or rural small business. Explain which category the applicant fits within and why.
2. US-control. Explain how the applicant is at least 51% owned, directly or indirectly, by individuals who are either US citizens or permanent residents. For entities, address this requirement for each owner.
3. Delinquent on Federal debt? Affirm that the applicant, including each individual owner, does not have an outstanding judgment obtained by the U.S. in a Federal court, is not delinquent on the payment of Federal income taxes, and is not delinquent on a Federal debt. For entities, address this requirement for each owner.
4. Debarred from receiving Federal assistance? Affirm that the applicant, including each individual owner, is not and is not debarred from receiving Federal assistance. For entities, address this requirement for each owner.

**B. Project eligibility.**

Describe how the business meets the §9006 eligibility criteria:

1. Type of project proposed. Indicate whether the project will be a Renewable Energy System or an Energy Efficiency Improvement. Briefly describe the system or improvement..
2. Commercially available or pre-commercial technology. Explain how the project's technology will only consist of "commercially available"\* or "pre-commercial" technology\*\*.
 

\* "Commercially available" means, A system that has a proven operating history specific to the proposed application. Such a system is based on established design, and installation procedures and practices. Professional service providers, trades, large construction equipment providers, and labor are familiar with installation procedures and practices. Proprietary and balance of system equipment and spare parts are readily available. Service is readily available to properly maintain and operate the system. An established warranty exists for parts, labor, and performance.

\*\* "Pre-commercial" means, Technology that has emerged through the research and development process and has technical and economic potential for commercial application, but is not yet commercially available.
3. Technical merit. Explain the technical merit of the technology to used in the project.
4. Rural location. Identify the location of the project and show that it is not located within the boundaries of a Metropolitan Statistical Area.

5. Ownership & control of the project and its revenues & expenses, including operation & maintenance. Explain how the applicant will have both ownership and control of the project. (Note: A third-party operation & maintenance contracts are permitted, but these must be described in this section.)
6. Site control. Explain how the applicant has control over the site where the project will be developed for at least a term equal to the term of the loan.
7. Sufficient revenue. Delineate the sources and amounts of revenue that will be available to provide for the operation, management, maintenance, & debt service on the project for the duration of the project.

**C. Operation & ownership description.**

1. Describe the applicant's total farm/ranch/business operation and the relationship of the proposed project to it.
2. Provide a description of the ownership of the applicant, including a list of individuals and/or entities with ownership interest, names of any corporate parents, affiliates, and subsidiaries, as well as a description of the relationship, including products, between these entities.

**Exhibit C:  
§9006 Project Matching Funds Spreadsheet**

Name of Applicant: \_\_\_\_\_

Name of Project: \_\_\_\_\_

<b>Funding Source</b>	<b>Funding Amount</b>	<b>Status of this funding</b> (committed; application submitted; to be applied for; etc.)*	<b>Contact person at this funding source</b>	<b>Phone # of contact person</b>	<b>E-mail address of contact person</b>
USDA Rural Development §9006 Guaranteed Loan		Application submitted, decision pending			
USDA Rural Development §9006 Grant					
Commercial loan from:					
Owner equity contribution **					
<b>TOTAL PROJECT COST</b>					

\* Attach any applications, correspondence, or other written communication between applicant and matching fund source.

\*\* The borrower must provide an equity contribution equal to 25% or more of the project cost – for §9006 guaranteed loans over \$600,000; 15% or more of the project cost for §9006 guaranteed loans up to \$600,000. The market value of real estate equity pledged as collateral is counted toward this requirement.

**Exhibit D:  
§9006 Score Sheet**

**Renewable Energy and Energy Efficiency Improvement Program  
Evaluation Criteria Scoring Guideline  
Per 4280-B Regulation**

<b>Name of Applicant:</b> _____
<b>Type of Technology:</b> _____
<b>Funding Request:</b> _____
<b>Final Total Score (sum of Categories 1-10):</b>

List the maximum points the applicant is eligible for under each of the following ten categories, sum the individual scores, and place the total in the above box under "Final Total Score."

**(1) Quantity of Energy Replaced, Produced, or Saved**

Points may only be awarded for one category (A, B, or C).

**(A) Energy replacement**

If the proposed renewable energy system is intended primarily for self use by the agricultural producer or rural small business, and will provide energy replacement of:

Greater than 0 but equal to or less than 25%, award 5 points.	Points
Greater than 25%, but equal to or less than 50%, award 10 points.	
Greater than 50%, award 15 points.	
Determine energy replacement by dividing the estimated quantity of renewable energy to be generated over a 12-month period by the estimated quantity of energy consumed over the same 12-month period during the previous year by the applicable energy application. The estimated quantities of energy must be converted to British thermal units (BTU's), Watts, or similar energy equivalents to facilitate scoring. If the estimated energy produced equals more than 150% of the energy requirements of the applicable process(es), score the project as an energy generation project.	

Attach the documentation to substantiate this score for this category.

You have identified this documentation via tab #\_\_\_\_\_.

Your explanation of points awarded to be entered into the tracking system.

**Or**

**(B) Energy Savings (include additional 5 points if applicable)**

(1) If the estimated energy expected to be saved by the installation of the energy efficiency improvements will be from:

20% up to but not including 30%, award 5 points.	Points
30% up to but not including 35%, award 10 points.	
35% or greater, award 15 points.	
Energy savings will be determined by the projections in an energy assessment or audit.	

RD Instruction 4280-B  
 Appendix C  
 Page 2

(2) Additional points.

If the project has total eligible project costs of \$50,000 or less AND opts to obtain a professional energy audit, <b>award an additional 5 points.</b>	Points
--	--------

Attach the documentation to substantiate this score for this category.

You have identified this documentation via tab #\_\_\_\_\_.

Your explanation of points awarded to be entered into the tracking system.

Or

(C) Energy generation

If the proposed renewable energy system is intended primarily for production of energy for sale, award 10 points.	Points
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Attach the documentation to substantiate this score for this category.

You have identified this documentation via tab #\_\_\_\_\_.

Your explanation of points awarded to be entered into the tracking system.

(2) Environmental benefits

If the purpose of the proposed system contributes to the environmental goals and objectives of other Federal, State, or local programs, award 10 points.	Points
Award points only if the applicant provides documentation from an appropriate authority supporting this claim.	

Attach the documentation to substantiate this score for this category.

You have identified this documentation via tab #\_\_\_\_\_.

Your explanation of points awarded to be entered into the tracking system.

(3) Commercial availability

If the proposed system or improvement is currently commercially available and replicable, award 5 points.	Points
If the proposed system or improvement is commercially available and replicable and is also provided with a 5-year or longer warranty providing the purchaser protection against system degradation or breakdown or component breakdown, award 10 points.	

Attach the documentation to substantiate this score for this category.

You have identified this documentation via tab #\_\_\_\_\_.

Your explanation of points awarded to be entered into the tracking system.

**(4) Technical Merit -** Score each paragraph (A) through (J) within this category according to the following rules. The contents of the Technical report will substantiate the score for technical merit. The total possible points for Technical Merit is 35.

**Scoring Rules for Technical Merit**

<b>If the description in the subparagraph ...</b>	<b>Award</b>
<i>Has no significant weaknesses and exceeds the requirements of the subparagraph,</i>	<b>100%</b> of the total possible score.
<i>Has one or more significant strengths, and meets the requirements of the subparagraph,</i>	<b>80%</b> of the total possible score.
<i>Meets the basic requirements of the subparagraph, but also has several weaknesses,</i>	<b>60%</b> of the total possible score.
<i>Is lacking in one or more critical aspects, key issues have not been addressed, but the description demonstrates some merit or strengths,</i>	<b>40%</b> of the total possible score.
<i>Has serious deficiencies, internal inconsistencies, or is missing information,</i>	<b>20%</b> of the total possible score.
<i>Has no merit in this area,</i>	<b>0%</b> of the total possible score.

**Technical Merit Scoresheet**

<b>The 10 subparagraphs which are the basis for evaluation.</b>	<b>Maximum possible score</b>	<b>% of score awarded</b>	<b>Score Awarded</b>
<i>(A) <b>Qualifications of the project team.</b> The applicant has described the project team service providers, their professional credentials, and relevant experience. The description supports that the project team service, equipment, and installation providers have the necessary professional credentials, licenses, certifications, or relevant experience to develop the proposed project.</i>	10		
<i>(B) <b>Agreements and Permits.</b> The applicant has described the necessary agreements and permits required for the project and the schedule for securing those agreements and permits.</i>	5		
<i>(C) <b>Energy or Resource Assessment.</b> The applicant has described the quality and availability of a suitable renewable resource or an assessment of expected energy savings for the proposed system.</i>	10		

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**Technical Merit Scoresheet (concluded)**

<b>The 10 subparagraphs which are the basis for evaluation.</b>	<b>Maximum possible score</b>	<b>% of score awarded</b>	<b>Score Awarded</b>
(D) <b>Design and Engineering.</b> The applicant has described the design, engineering, and testing needed for the proposed project. The description supports that the system will be designed, engineered, and tested so as to meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards.	30		
(E) <b>Project Development Schedule.</b> The applicant has described the development method, including the key project development activities and the proposed schedule for each activity. The description identifies each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through to successful completion. The description addresses grantee or borrower project development cashflow requirements.	5		
(F) <b>Project Economic Assessment.</b> The applicant has described the financial performance of the proposed project, including the calculation of simple payback. The description addresses project costs and revenues, such as applicable investment and production incentives, and other information to allow the assessment of the project's cost effectiveness.	20		
(G) <b>Equipment Procurement.</b> The applicant has described the availability of the equipment required by the system. The description supports that the required equipment is available, and can be procured and delivered within the proposed project development schedule.	5		
(H) <b>Equipment Installation.</b> The applicant has described the plan for site development and system installation.	5		
(I) <b>Operations and Maintenance.</b> The applicant has described the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life.	5		

<b>The 10 subparagraphs which are the basis for evaluation.</b>	<b>Maximum possible score</b>	<b>% of score awarded</b>	<b>Score Awarded</b>
<i>(J) Dismantling and disposal of project components. The applicant has described the requirements for dismantling and disposing of project components at the end of their useful lives and associated wastes.</i>	5		
Total Possible Score	100	Total Score Awarded	
$\frac{\text{Total Score Awarded}}{\text{Total Possible Score}} \frac{\quad}{100} = \quad \% \times 35 \text{ total possible} = \text{points}$			<b>Points awarded</b>

Attach the documentation to substantiate this score for this category. You have identified this documentation via tab #\_\_\_\_\_. Your explanation of points awarded to be entered into the tracking system.

**(5) Readiness (Grants only)**

If the applicant has written commitments, prior to the Agency receiving the complete application, from the source(s) confirming commitment of:

50% up to, but not including, 75% of the matching funds, award 5 points.	Points
75% up to, but not including, 100% of the matching funds, award 10 points.	
100% of the matching funds, award 15 points.	

Attach the documentation to substantiate this score for this category. You have identified this documentation via tab #\_\_\_\_\_. Your explanation of points awarded to be entered into the tracking system.

**(6) Small Agricultural Producer/Very Small Rural Business**

If the applicant is an agricultural producer producing agricultural products with a gross market value of:

less than \$600,000 in the preceding year, award 5 points.	
less than \$200,000 in the preceding year, <b>OR</b> is a Very Small Rural Business as defined in 4280.103 (a business with less than 15 employees and less than \$1 million in annual receipts), award 10 points.	

Attach the documentation to substantiate this score for this category. You have identified this documentation via tab #\_\_\_\_\_. Your explanation of points awarded to be entered into the tracking system.

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**(7) Simplified application**

If an applicant is eligible for and uses the simplified application process or if the project has total eligible project costs of \$200,000 or less, award 5 points.	Points
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Attach the documentation to substantiate this score for this category.  
 You have identified this documentation via tab #\_\_\_\_\_.  
 Your explanation of points awarded to be entered into the tracking system.

**(8) Previous grantees and borrowers**

If the applicant has not been awarded a grant or loan under this program within the 2 previous Federal fiscal years, award 5 points.	Points
--	--------

Attach the documentation to substantiate this score for this category.  
 You have identified this documentation via tab #\_\_\_\_\_.  
 Your explanation of points awarded to be entered into the tracking system.

**(9) Return on investment**

If the proposed project will return the cost of investment in

Less than 4 years, award 10 points.	Points
4 years up to but not including 8 years, award 4 points.	
8 years up to 11 years, award 2 point.	

Attach the documentation to substantiate this score for this category.  
 You have identified this documentation via tab #\_\_\_\_\_.  
 Your explanation of points awarded to be entered into the tracking system.

**(10) Loan Rate (Guaranteed Loans only; 4280.129 (e)):**

If the rate of the loan is below the Prime Rate (as published in the Wall Street Journal) plus 1.5 percent, award 5 points; <b>OR</b>	Points
If the rate of the loan below the Prime Rate (as published in the Wall Street Journal) plus 1 percent, award 10 points.	

Attach the documentation to substantiate this score for this category.  
 You have identified this documentation via tab #\_\_\_\_\_.  
 Your explanation of points awarded to be entered into the tracking system.

## Hints on Loan Agreement

### **What is “the loan agreement”?**

As it relates to the §9006 program, a “loan agreement” is an agreement between the borrower and the lender establishing covenants that govern their relationship under the loan. It supplements the terms of the promissory note and the security instruments. (Note: USDA is not a party to this agreement.)

### **Is a specific loan agreement form required?**

USDA does not mandate any specific form or format for the loan agreement.

Many lenders have their own standard loan agreement formats, which they are free to use.

However, USDA does require the agreement to contain certain minimum covenants, specifically:

#### Negative Covenants:

- Limitations on purchase or sale of equipment and fixed assets.
- Restriction on dividend payments.
- Limitations on compensation of officers and owners.
- Prohibition against assuming liabilities or obligations of others.
- Restrictions concerning consolidations, mergers, or other circumstances.
- Limitations on selling the business without the concurrence of the lender.

#### Financial Standards Covenants:

- Minimum working capital or current ratio requirement.
- Maximum debt-to-net worth ratio.

#### Financial Reporting Requirements:

- Type and frequency of submission of financial statements. (*Note: The borrower and all guarantors must provide financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) at least annually. Nonprofits and public bodies must meet federal audit standards in their financial reporting.*)

Within this framework, USDA will normally leave it up to the lender to decide how restrictive or flexible the terms of the loan agreement should be. Sometimes a lender may even determine that there is no need to establish a minimum requirement on some of these covenants.

*Example:* On a long-term real estate loan, a lender may not be concerned about the debt-to-net-worth ratio over the life of the loan. In that case, the loan agreement need only indicate that the borrower does not need to maintain any specific ratio. Thus, the USDA-required covenant is addressed, even though the requirement is completely flexible.

An example of a very flexible, but still acceptable loan agreement is shown on the next page.

### **When is the loan agreement needed?**

A draft loan agreement must be submitted to USDA as part of a complete application.

The loan agreement is normally executed at loan closing, and a copy of it must be submitted to USDA prior to issuance of the §9006 guarantee.

The following "Loan Agreement" is an example which satisfies the minimum criteria for a §9006 guaranteed loan. Lenders may use this as a guide, though they are not required to follow this format. Lenders are responsible for satisfying themselves as to the sufficiency of their loan agreement.

### LOAN AGREEMENT

This Loan Agreement is entered into this \_\_\_\_\_, between \_\_\_\_\_(Lender) and \_\_\_\_\_ (Borrower) and pertains to a Business & Industry (§9006) Guaranteed loan described as follows: \_\_\_\_\_.

The Lender agrees to fund this loan, and the Borrower hereby agrees to the following:

1. **Limitations on purchase or sale of equipment and fixed assets.** The borrower may not sell any equipment or fixed assets which serve as collateral for this loan except as set forth in the security instruments for this loan.
2. **Restriction on dividend payments.** Dividends may not be paid that would cause the borrower to be unable to meet all of its financial obligations.
3. **Limitations on compensation of officers and owners.** The borrower's owners and officers may be compensated only to the extent that this compensation does not materially jeopardize the financial strength of the company or cause the borrower to be unable to meet all of its financial obligations.
4. **Prohibition against assuming liabilities or obligations of others.** The borrower will not assume the liabilities or obligations of others without the prior written consent of the lender.
5. **Restrictions concerning consolidations, mergers, or other circumstances.** The borrower will not undertake any consolidations or mergers without the prior written consent of the lender.
6. **Limitations on selling the business.** The borrower will not sell the business without the prior written consent of the lender.
7. **Minimum working capital or current ratio requirement.** The borrower must maintain a minimum working capital position (or current ratio position) of \_\_\_\_\_. OR The lender is not establishing a minimum working capital position (or current ratio position).
8. **Maximum debt-to-net worth ratio.** The borrower must meet the tangible balance sheet equity standard specified in USDA's Conditional Commitment. Thereafter, the borrower must maintain a debt-to-net worth ratio of less than \_\_\_\_\_. OR Thereafter, the lender is not establishing a debt-to-net worth ratio standard.
9. **Type and frequency of submission of financial statements.** The borrower and all guarantors must provide financial statements at least annually, no later than 90 days after their fiscal year-end. The borrower's financial statements must be prepared by an independent Certified Public Accountant in accordance with Generally Accepted Accounting Principles and must be: (THE LENDER SHOULD SPECIFY THE REQUIRED FINANCIAL STATEMENT LEVEL)
  - Compiled
  - Reviewed
  - Audited *Nonprofits & public bodies must meet federal audit reporting standards.*

Acknowledged and agreed to:

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**Conditional Commitment**

Attachment to Form RD 4279-3, "Conditional Commitment (Business & Industry)"

**SAMPLE BORROWER, INC.** §9006

\$ 1,000,000.00 Guaranteed Energy (§9006) Loan Note Guarantee

Approval Date:

1. The purpose of the loan is to provide long-term financing for the development of a 0.56-acre commercial property at 2392 Rural Road, Ruraltown, USA, to be used as a manufacturing facility. Funds will be used for construction costs of the facility (about \$902,000) and furnishings, fixtures, & equipment (about \$98,000).
2. An 80 % guarantee will be issued after the development work is complete.
3. The term of the loan is to be 20 years. The interest rate is to be established by the formula: IR = 10-year Treasury Bill index + 2.25 with a 10-year reset. The loan is to be fully amortized with monthly installments.
4. This loan is to be secured by a first deed of trust (including assignment of rents) on a 0.56-acre commercial property at 2392 Rural Road (APN 098-120-58) in Ruraltown, USA. All taxes and assessments are to be current at loan closing. It is also to be secured by a first lien on all furnishings, fixtures, and equipment associated with the facility. There are to be no construction or mechanics liens against the security.
5. In addition to the full liability of Sample Borrower, Inc., Richard & Alice Sample and William Specimen are to pledge full personal guaranties for the loan. Sample Operating Company, Inc. is to pledge full commercial guaranties for the loan.
6. Hazard insurance naming the lender as beneficiary will be maintained in the lesser amount of the loan balance or the security property's depreciated replacement value.
7. Key person life insurance naming the lender as beneficiary will be maintained on Richard Sample in the amount of \$ 150,000.
8. A loan agreement between the lender and borrower will be executed which conforms to RD Instruction 4279-B, § 4279.161(b)(11) and the draft agreement submitted to USDA Rural Development for this §9006 loan with the following additions:
  - a. The borrower must obtain compiled financial statements annually, prepared by an independent CPA in accordance with Generally Accepted Accounting Principles, and submit them to the lender within 90 days of the business's fiscal year-end.
  - b. All personal and commercial guarantors of this loan must provide current financial statements when deemed appropriate by the lender or USDA.

(more)

Attachment to Form RD 4279-3, "Conditional Commitment (Business & Industry)"**SAMPLE BORROWER, INC** §9006

\$ 1,000,000.00 Guaranteed Energy (§9006) Loan Note Guarantee

Approval Date:

9. Prior to issuance of the guarantee, the lender will provide USDA Rural Development with the following:
  - a. A guarantee fee of \$16,000.00 (= \$ 1,000,000 x 80% x 2%)
  - b. This guarantee will be governed by the previously executed Form RD 4279-4, "Lender's Agreement" dated November 1, 1997.
  - c. Certification that the conditions set forth in RD Instruction 4279-B, § 4279.181 have been met.
  - d. A copy of the executed loan and security instruments, with documentation of lien position, and including evidence of the hazard and key person life insurance coverage required above.
  - e. A current (not more than 90 days old) Balance Sheet for the business prepared in accordance with Generally Accepted Accounting Principles and reflecting the business's post-loan closing status. The business must have a tangible balance sheet equity position of no less than 20.00% at the time the Loan Note Guarantee is issued.
  - f. A copy of all required building permits, with sign-offs, and Notice of Completion.
  - g. A final list of all equipment financed with §9006 loan funds, with a matching cost breakdown.
10. This project involves construction. The lender must ensure that all project improvements are designed and completed in accordance with accepted architectural and engineering practices and conform to applicable federal, state, and local codes (including the Americans with Disabilities Act) and to approved plans, specification, and contract documents. Furthermore, for all construction contracts in excess of \$10,000, the contractor must comply with federal Equal Employment Opportunity regulations.

Attachment to Form RD 4279-3, "Conditional Commitment (Business & Industry)"**SAMPLE BORROWER, INC** §9006

\$ 1,000,000.00 Guaranteed Energy (§9006) Loan Note Guarantee

Approval Date:

**If the §9006 Guarantee will be issued prior to completion of development (THIS APPROACH IS RARELY USED AND IS NOT RECOMMENDED. If used, the % of guarantee will normally be reduced):**

11. If the lender wishes to obtain the §9006 Loan Note Guarantee prior to the completion of the development work, the lender is to assure that all work is properly planned and carried out. Prior to the disbursement of construction funds, the lender is to:
- a. Have a complete set of plans and specifications for the project on file.
  - b. Have a detailed timetable for the project with a corresponding budget of costs, setting forth the parties responsible for payment. The timetable and budget must be agreed to by the borrower.
  - c. Have a qualified individual confirm that the budget is adequate for the planned development.
  - d. Have firm construction contract costs and provisions for change order approvals, a retainage percentage, and a disbursement schedule.
  - e. Make sure the borrower has 100% performance/payment bonds on the contractor.
  - f. Have contingencies in place to handle foreseeable cost overruns without seeking additional guaranteed §9006 assistance. These are to be agreed to by the borrower.

Furthermore, once construction begins, the lender is to:

- g. Use any borrower funds in the project first.
- h. Have inspections made by a qualified individual prior to any progress payment.
- i. Obtain lien waivers from all contractors prior to any disbursement.
- j. Provide at least monthly, written reports to USDA on fund disbursement and project status.

Once construction is completed, the lender is to provide USDA with:

- k. A copy of all required building permits, with sign-offs, and Notice of Completion.

## Appendix – §9006 Loan Servicing

### §9006 Lender Servicing Responsibilities

The lender is responsible for servicing the entire §9006 loan (both guaranteed and unguaranteed portion) in a prudent manner. The responsibilities of the lender are more fully set forth in the Lender's Agreement governing the §9006 guarantee and in RD Instruction 4287-B. The lender's responsibilities include:

#### Routine servicing

- Seeing that any development work being financed is properly planned and carried out
- Receiving and applying all payments equally to the guaranteed and unguaranteed portion
- Making routine visits to the borrower
- Assuring compliance with all loan and security instruments

#### Collateral servicing

- Inspecting and accounting for the collateral
- Maintaining the lien positions specified in the Conditional Commitment
- Seeing that proceeds from the sale of collateral are either applied in lien priority order or used to acquire replacement collateral (or, if not, obtaining USDA's prior concurrence)
- Assuring that adequate insurance is maintained
- Monitoring whether taxes and assessments are paid when due

#### Financial information servicing

- Obtaining CPA-prepared financial statements on the borrower at least annually (and on guarantors when needed)
- Spreading and analyzing the borrower's financial condition

#### Problem loan servicing

- Protecting the loan and collateral in the event of default
- Protecting the collateral from third party actions -- foreclosures, condemnations, tax sales, etc.
- Protecting the loan in the event of a bankruptcy

Although loan servicing is the lender's primary responsibility,

#### **USDA must be notified:**

- ⇒ semiannually -- as of 6/30 and 12/31-- on the loan's status and remaining balance (use Form 1980-41)
- ⇒ annually (for the 1<sup>st</sup> 2-3 years) – transmit borrower's report on energy generation or energy savings
- ⇒ annually -- 120 days after the borrower's fiscal year-end -- provide financials, spreads, & analysis
- ⇒ if the loan is sold on the secondary market (provide USDA with copy of executed Form 4279-6, "Assignment")
- ⇒ whenever the lender's classification of the loan is changed
- ⇒ whenever the loan is ever more than 30 days delinquent (use Form 1980-44)
- ⇒ whenever the borrower is in violation of any loan covenant or security agreement

#### **USDA's prior written concurrence is needed:**

- ⇒ before advancing any additional loans to the borrower (even if they are unguaranteed loans)
- ⇒ for any subordination of lien position
- ⇒ for the modification of any loan instruments
- ⇒ if a release of collateral is proposed whose value is more than 20% of the original loan amount
- ⇒ for any restructuring of rates, term, or debt repayment
- ⇒ to release any borrower or guarantor from liability
- ⇒ prior to any liquidation action
- ⇒ when cumulative protective advances exceed \$5,000