

RD AN No. 4627 (4279-A and 4279-B)  
February 27, 2012

TO: State Directors, Rural Development  
ATTN: Business Programs Directors  
SUBJECT: Business and Industry Guaranteed Loan Program  
Due Diligence

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on the required due diligence of Rural Development and of the lender as it relates to the Business and Industry (B&I) Guaranteed Loan Program. While the lender has the primary responsibility to ensure the loan is creditworthy and meets the guidelines of the program, the Agency is responsible for evaluating the lender's analysis of the credit and ensuring compliance with the regulations.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4509 (4279-A and 4279-B) dated April 5, 2010, which expired on April 30, 2011.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-A, section 4279.30, clearly identifies the lender's responsibilities for the successful delivery of the B&I Guaranteed Loan Program. Among other things, lenders are responsible for developing and maintaining adequately documented loan files, recommending only loan proposals that are eligible and financially feasible, following Agency regulations, and performing a thorough credit evaluation addressing all credit factors. The lender is also required to have an adequate underwriting process to ensure that loans are reviewed by other than the originating officer.

In accordance with RD Instruction 4279-B, section 4279.131, the lender is primarily responsible for determining credit quality. The Agency relies upon the lender to perform these and other credit evaluation responsibilities outlined in the regulations. However, the Agency has additional internal review requirements in order to assure that it only guarantees quality loans.

EXPIRATION DATE:  
February 28, 2013

FILING INSTRUCTIONS:  
Preceding RD Instructions 4279-A  
and 4279-B

These requirements are solely for the benefit of the Agency and not the lender or the borrower. These requirements do not relieve the lender from performing any responsibilities contained in the regulations, Lender's Agreement, or the Conditional Commitment. These requirements include a preliminary review by the Agency pursuant to RD Instruction 4279-B, section 4279.101(d), to address eligibility concerns and whether the proposal meets the intent of the program. It further states that credit quality and collateral should be closely reviewed at this time. All issues and concerns should be openly addressed with the lender, as soon as possible, to avoid any unnecessary time and expense if the concerns cannot be resolved.

Further, RD Instruction 4279-B, section 4279.131(a), directs the Agency to review the lender's analysis of cash flow, focusing on the historical operations of the business, and to assess the repayment ability of the borrower(s). Projections should be compared to industry averages for reasonableness. The Agency should document any concerns and have the lender address or mitigate those concerns. Section 4279.131(b) requires supporting documentation on the type and value of the proposed collateral in addition to reviewing the lender's policy on discounting the collateral. Section 4279.131(d)(4) directs the Agency to consider increasing the minimum tangible balance sheet equity for riskier loans. To determine the minimum tangible balance sheet equity requirement, the Agency should consider the current status of the industry, collateral coverage, personal or corporate guarantees, cash flow, and management. All conclusions should be well documented in the loan file.

RD Instruction 4279-B, section 4279.165(a), requires the Agency to evaluate an application and to make a determination whether the borrower is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, there is sufficient collateral and equity, and the proposed loan complies with all applicable statutes and regulations.

Finally, in addition to the responsibility of ensuring the proposal meets the program intent and guidelines, the Agency is responsible for reviewing certain elements of the lender's proposal for adequacy, including the responsibility to ensure the interest rate is no more than the rate customarily charged borrowers under similar circumstances when there is no guarantee, as stated in RD Instruction 4279-B, section 4279.125(e).

If you have any questions, please contact the B&I Division at (202) 690-4103.

*(Signed by JUDITH A. CANALES)*

JUDITH A. CANALES  
Administrator  
Business and Cooperative Programs