

### § 573.3

terrorist act or is reasonably believed to be a terrorist act.

*Section 4 Guaranteed Loan* means a HUD guaranteed loan made by a Financial Institution to a Borrower for the purpose of carrying out eligible activities to address damage or destruction caused by acts of arson or terrorism.

*Terrorism* means an act of violence causing damage to (or destruction of) real or personal property that the Secretary or his designee, in consultation with the Federal Bureau of Investigation, determines to be, or reasonably believes to be, a terrorist act, as defined by applicable Federal law or guidelines.

#### § 573.3 Eligible activities.

Guaranteed Loan Funds may be used by a Borrower for the following activities when it is certified in accordance with § 573.6(e) that the activity is necessary to address damage caused by an act or acts of arson or terrorism as certified in accordance with § 573.6(f):

- (a) Acquisition of improved or unimproved real property in fee or under long term lease.
- (b) Acquisition and installation of personal property.
- (c) Rehabilitation of real property owner, acquired, or leased by the Borrower.
- (d) Construction, reconstruction, or replacement of real property improvement.
- (e) Clearance, demolition, and removal, including movement of structures to other sites, of buildings, fixtures and improvements on real property.
- (f) Site preparation, including construction, reconstruction, or installation of site improvements, utilities, or facilities, which is related to the activities described in paragraph (a), (c), or (d) of this section.
- (g) Architectural, engineering, and similar services necessary to develop plans in connection with activities financed under paragraph (a), (b), (c), or (d) of this section.
- (h) Acquisition, installation and restoration of security systems.
- (i) Loans for refinancing existing indebtedness secured by a property which has been or will be acquired, constructed, rehabilitated or recon-

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structed, if such financing is determined to be appropriate to achieve the objectives of the Act and this part.

(j) Other necessary project costs such as insurance, bonding, legal fees, appraisals, surveys, relocation, closing costs, etc., paid or incurred by the Borrower in connection with the completion of the above activities.

[61 FR 47405, Sept. 6, 1996, as amended at 62 FR 24574, May 6, 1997]

#### § 573.4 Loan term.

The term of the loan to be guaranteed by HUD under this part may not exceed 20 years.

#### § 573.5 Underwriting standards and availability of loan guarantee assistance.

(a) HUD may, in its discretion, accept the underwriting standards of the Financial Institution making a loan to a Borrower.

(b) HUD will not make the loan guarantee unless it determines that the guaranteed loan is an acceptable financial risk under HUD's generally applicable loan underwriting standards based on the following:

(1) The Borrower's ability to pay debt service; and

(2) The value of the collateral assigned or pledged as security for the repayment of the loan.

(c) The provision of a loan guarantee to a Financial Institution and the amount of the guarantee do not depend in any way on the purpose, function, or identity of the organization to which the Financial Institution has made, or intends to make, a Section 4 Guaranteed Loan.

(d) HUD may disapprove a request for loan guarantee assistance based on the availability of funding.

(e) HUD may decline any Financial Institution's participation if its underwriting criteria are insufficient to make the guarantee an acceptable financial risk, or if the proposed interest rates or fees are unacceptable. HUD expects the proposed interest rates to take into account the value of the Federal guarantee.

(f) HUD may limit the availability of Guaranteed Loan Funds to geographic areas having the greatest need, as determined by a needs analysis of the

most current available date conducted by HUD.

(g) Other requirements associated with the underwriting standards and guidelines shall be contained in the Loan Guarantee Agreement.

**§ 573.6 Submission requirements.**

A Financial Institution seeking a Section 4 Guaranteed Loan must submit to HUD the following documentation:

(a) A statement that the institution is a Financial Institution as defined at § 573.2.

(b) A statement that the Borrower is eligible as defined at § 573.2.

(c) A description of each eligible activity for which the loan is requested.

(d) A statement of other available funds to be used to finance the eligible activities (e.g., insurance proceeds).

(e) A certification by the Borrower that the activities to be assisted resulted from an act of arson or terrorism which is the subject of the certification described in paragraph (f) of this section.

(f) A certification by a QCO that the damage or destruction to be remedied by the use of the Guaranteed Loan Funds resulted from an act of arson or terrorism.

(g) The environmental documentation required by § 573.8.

(h) A narrative of the institution's underwriting standards used in reviewing the Borrower's loan request.

(i) The interest rate on the loan and fees the lender intends to use in connection with the loan; and

(j) The percentage of the loan for which a guarantee is requested.

**§ 573.7 Loan guarantee agreement.**

(a) The rights and responsibilities with respect to the guaranteed loan shall be substantially described in an agreement entered into between the Financial Institution, as the lender, and the Secretary, as the guarantor, which agreement shall provide that:

(1) The lender has submitted or will submit a request for loan guarantee assistance that is accompanied by the Borrower's request for a loan to carry out eligible activities described in § 573.3;

(2) The lender will require the Borrower to execute a promissory note promising to repay the guaranteed loan in accordance with the terms thereof;

(3) The lender will require the Borrower to provide collateral security, to an extent and in a form, acceptable to HUD;

(4) HUD reserves the right to limit loan guarantees to loans financing the replacement of damaged property with comparable new property;

(5) The lender will follow certain claim procedures to be specified by HUD in connection with any defaults, including appropriate notification of default as required by HUD;

(6) The lender will follow procedures for payment under the guarantee whereby the lender will be paid (up to the amount of guarantee) the amount owed to the lender less any amount recovered from the underlying collateral security for the loan; and

(7) The lender will act as the fiscal agent for the loan, servicing the guaranteed loan, maintaining loan documents, and receiving the Borrower's payments of principal and interest. The Borrower and the lender may be required to execute a fiscal agency agreement.

(b) In addition, the agreement shall contain other requirements, terms, and conditions required or approved by HUD.

**§ 573.8 Environmental procedures and standards.**

The environmental review requirements at 24 CFR part 50 are applicable to this part.

(a) *Environmental procedures.* Before any lender's submission requesting a loan guarantee for the acquisition, rehabilitation, or construction of real property can be selected for a loan guarantee, HUD shall determine whether any environmental thresholds are exceeded in accordance with 24 CFR part 50, which implements the National Environmental Policy Act (NEPA) and the related Federal environmental laws and authorities listed under 24 CFR 50.4. To assist in complying with environmental requirements, Borrowers are encouraged to select sites that are free of environmental hazards and are to provide HUD with environmental data