

## SUBCHAPTER A—OFFICE OF MANAGEMENT AND BUDGET

### PART 1300—AVIATION DISASTER RELIEF—AIR CARRIER GUARANTEE LOAN PROGRAM

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#### Subpart A—General

##### § 1300.1 Purpose.

This part is issued by the Office of Management and Budget, (OMB) pursuant to Title I of the Air Transportation Safety and System Stabilization Act, Public Law 107-42, 115 Stat. 230 ("Act"). Specifically, Section 102(c)(2)(B) directs OMB to issue regulations setting forth procedures for application and minimum requirements for the issuance of Federal credit instruments under section 101(a)(1) of the Act.

##### § 1300.2 Definitions.

(a) *Act* means the Air Transportation Safety and System Stabilization Act, Public Law 107-42, 115 Stat. 230 (49 U.S.C. 40101 note).

(b) *Administer*, *administering* and *administration*, mean the lender's actions in making, disbursing, servicing (in-

cluding, but not limited to care, preservation and maintenance of collateral), monitoring, collecting, and liquidating a loan and security.

(c) *Agent* means that lender authorized to take such actions, exercise such powers, and perform such duties on behalf and in representation of all lenders party to a guarantee of a single loan, as is required by, or necessarily incidental to, the terms and conditions of the guarantee.

(d) *Air carrier* means an air carrier as defined in 49 U.S.C. 40102.

(e) *Applicant* means one or more air carriers applying for a Federal credit instrument issued by the Board under the program.

(f) The *Board*, for purposes of any operational and decisionmaking functions in connection with individual loan guarantees, means the voting members of the Air Transportation Stabilization Board established under Section 102 of the Act. The voting members of the Board are the Chairman of the Board of Governors of the Federal Reserve System (who is the Chairman of the Board), the Secretary of the Treasury and the Secretary of Transportation, or their designees. The Comptroller General, who is a non-voting member, will not participate in the review, operations, or deliberations of the Board in connection with individual loan guarantees, or otherwise participate in the Board's exercise of any executive power, but may provide such audit, evaluation and other support to the Board as the Board may request, consistent with applicable auditing standards.

(g) *Borrower* means an "Obligor," as defined in Section 102(a)(4) of the Act, and includes an air carrier that is primarily liable for payment of the principal of and interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(h) *Federal credit instrument*, as defined in Section 107(2) of the Act, means any guarantee or other pledge by the Board issued under the program to pledge the full faith and credit of

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the United States to pay all or part of any of the principal of and interest on a loan issued by a borrower and funded by a lender.

(i) *Financial obligation*, as defined in Section 102(a)(2) of the Act, means any note, bond, debenture, or other debt obligation issued by a borrower in connection with financing under the program.

(j) *Guarantee* means the written agreement between the Board and one or more lenders, pursuant to which the Federal government guarantees repayment of a specified percentage of the principal of and/or interest on the loan. Unless otherwise specified, guarantee includes any other pledge issued under a Federal credit instrument.

(k) *Lender* means any non-Federal qualified institutional buyer, as defined in Section 102(a)(3) of the Act, that funds a financial obligation subject to a guarantee issued by the Board. With respect to a guarantee of a single loan to which more than one lender is a party, the term lender means agent.

(l) *Loan*, unless otherwise specified, includes any financial obligation (i.e., note, bond, debenture, or other debt obligation) issued by a borrower.

(m) *Loan documents* mean the loan agreement and all other instruments, and all documentation between the lender and the borrower evidencing the making, disbursing, securing, collecting, or otherwise administering of the loan. (References to loan documents also include comparable agreements, instruments, and documentation for other financial obligations for which a guarantee is requested or issued.)

(n) *Program* means the air carrier guarantee loan program established by section 101(a)(1) and the related provisions of Title I of the Act.

(o) *Security* means all property, real or personal, required by the provisions of the guarantee or by the loan documents to secure repayment of any indebtedness of the borrower under the loan documents or guarantee.

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#### § 1300.3 Supplementary regulations of the Air Transportation Stabilization Board.

(a) The regulations in this part are supplemented by the regulations of the Air Transportation Stabilization Board in part 1310 of this chapter in accordance with section 102(c)(2)(B) of the Act.

(b) This part and part 1310 of this chapter jointly govern the application procedures and the requirements for issuance of Federal credit instruments under section 101(a)(1) of the Act.

[67 FR 17258, Apr. 9, 2002]

#### Subpart B—Minimum Requirements and Application Procedures

##### § 1300.10 General standards for Board issuance of Federal credit instruments.

(a) In accordance with section 102(c)(1) of the Act, the Board may enter into agreements with one or more borrowers to issue Federal credit instruments only if the Board determines, in its discretion and in accordance with the minimum requirements set forth in this part, that—

(1) The borrower is an air carrier for which credit is not reasonably available at the time of the transaction;

(2) The intended obligation by the borrower is prudently incurred; and

(3) Such agreement is a necessary part of maintaining a safe, efficient, and viable commercial aviation system in the United States.

(b) In accordance with section 102(c)(2)(A) of the Act, the Board shall enter into an agreement to issue a Federal credit instrument in such form and on such terms and conditions and subject to such covenants, representations, warranties, and requirements (including requirements for audits) as the Board determines are appropriate for satisfying the requirements of this part and any supplemental requirements issued by the Board under section 102(c)(2)(B) of the Act.

(c) In accordance with section 102(d)(1) of the Act, in entering into