COMMENTS - FEDERAL REGISTER/ VOL. 72, No. 178/Friday, September 14, 2007/ PROPOSED RULES

5001.6 Project eligibility (page 52653)

Subpart (a). The project must benefit a rural area.

Is a needed concept but define "benefit." The question will be asked: What constitutes a benefit to a rural area? Jobs created, service provided? Is it a majority benefit to a rural area? Would a smaller benefit suffice?

Subpart (c)(1) A debt coverage ratio of 1.0 or higher.

A debt coverage ratio of 1.0 would be considered to have tight cash flow – very close to a negative cash flow (and possibly a marginal loan). The ratio requirement should either be increased to a minimum of 1.20 to 1 or utilize the lender's normal established DCR standard.

Subpart (c) (3) A loan to value ratio of no more than 1.0

Allowing a 100% LTV involving a business loan does not seem to be prudent lending and would greatly increase the potential for loss. If this is a lender driven program, RD should utilize the lender's commercial loan LTV's established for CRE/fixed assets, equipment, inventory and accounts receivable and project specific.

5001.7 Unauthorized projects and purposes (page 52653)

Subpart (m). Properties to be used for commercial rental when the borrower has no control over tenants and services offered except…

Remove - Commercial office space to be leased to rural businesses has been an extremely important use of funds in the program for the following reasons: (1) Many rural areas lack suitable/modern commercial office space and our program helps to meet an important rural need; (2) Most office space projects in our State have been "start-up" ventures and our program has been a very good risk mitigator for the lender and (3) The SBA cannot do these types of projects and therefore the use of funds is a good marketing tool for the Agency.

5001.12 Guaranteed Application Content (page 52654)

Subpart (a) (9) Business Plan, unless the information is contained in the feasibility study.

The need for the borrower to provide a business plan should be the decision of the lender. We have been involved with a number of loan requests (for example, a debt refinance for an existing business) whereby the business does not have a "current" business plan because it has been in operation for a number of years and nobody has asked them to produce a plan. The borrower has historical financial statements which contain the most relevant information on performance. The standard business plan "categories" can be discussed as part of the lenders due diligence review (which they should do anyway) in the lenders loan write-up/analysis.

Subpart (a) (14) Audited financial statements for loans of $1 Million or more…

An audited statement for a $1 million dollar loan is unnecessary and an expense the business does not need. The need for an audited statement for the loan should be the lender's determination.

5001.16 Lender responsibilities – Origination and 5001.17 Lender's responsibilities – Servicing (pages 52655 and 52656):

Subpart (b) for both sections on origination and servicing states in part - Credit evaluation pertaining to all applications or for loan servicing, …"where a lender's current written policies and procedures address a corresponding requirement of this part, the lender must comply with which ever is more stringent."

Remove. It is confusingly written – isn't the lender required to comply with 'their' policies and procedures too? How would their regulators interpret this statement? What would happen if the more stringent 'RD' policies resulted in a default? It also appears to increase the potential for RD to micro-manage the loan itself (and ultimately the lender's B&I portfolio).

5001.103 Business & Industry Program (page 52663):

Subpart .103(a)(x) states: "Refinancing any loan. Except for the refinancing of Agency direct loans, refinancing of other loans will be limited to a minority portion of the guaranteed loan."

Remove this requirement. Providing the lender with a guarantee on other existing lender debt has been a highly desired loan purpose under the program. In several cases, our ability to provide a guarantee "got our foot in the door" with the lender or was the reason the lender accessed our program. It is a good marketing tool for the program and has been the primary loan purpose for our involvement with existing businesses.