Community Developments FACT SHEET

FEBRUARY 2024 occc.gov/capublications

USDA Rural Development: Community Facilities Guaranteed Loan Program

This *Community Developments Fact Sheet* summarizes certain aspects of the U.S. Department of Agriculture (USDA) Rural Development's Community Facilities Guaranteed Loan (the program)[1] for national banks and federal savings associations (collectively, banks). For additional details and the full requirements of the loan guarantee program, please refer to 7 CFR 5001. This fact sheet explains how loans made under the program may be used to support a bank's community development strategies. Eligible lenders may apply for a loan guarantee on loans made to qualified borrowers that improve essential community facilities in qualified rural areas.

Overview

USDA Rural Development provides credit enhancements to help lenders finance essential community facilities in rural areas with populations of up to 50,000 throughout the United States. Through the program, Rural Development guarantees up to 80 percent of loss of principal and interest on loans made to develop or improve essential community facilities.

An essential community facility is a public improvement critical for the orderly development of a community, operated on a nonprofit basis, and that may include physical structures and services provided to rural residents or businesses.[2]

These loans may be used to purchase, construct, or improve essential community facilities; purchase equipment; and pay related project expenses. Examples of typical community facilities that can be funded by the program are[3]

- community health services, federally qualified health centers, assisted-living facilities, and hospitals.
- fire and rescue facilities, police cars, fire trucks, and police stations.

[1] The program is authorized by 7 USC 1926(a)(24) and implemented by 7 CFR 5001.

[2] Refer to 7 CFR 5001.3 for the complete definition.

[3] Refer to 7 CFR 5001.103(a).

- educational and cultural facilities, schools, libraries, and theaters.
- transportation facilities and street improvements.
- utility projects, supporting structures for rural electrification or telephonic systems that are not eligible for Rural Utility Service financing, and renewable energy systems.
- telecommunications end-user equipment.
- water infrastructure facilities.
- purchases and installation of renewable energy systems for use by an essential community facility.
- community support services and child and adult day care.
- public buildings and improvements, including community and multipurpose centers.

Program Requirements

Loan funds may be used to construct, enlarge, extend, or otherwise improve essential community facilities for health care, public safety, and public services. Loan funds may be used to acquire land needed for a facility, pay necessary professional fees, and purchase equipment required for the facility's operation. Under certain circumstances, refinancing of debts might be eligible under the program. Loan funds may be used to refinance debt if it is owed to another creditor or if the applicant lender is refinancing its own debt and no more than 50 percent of the proceeds from the new debt is used to pay off the existing debt. The borrower must show Rural Development that the use of the loan funds to pay off existing debt is necessary to improve the project's cash flow.[4]

Lender Eligibility

Lenders subject to supervision and credit examination procedures by federal or state regulators are automatically eligible to participate in the program and do not need to submit program application documentation to be approved. This includes all federal and state-chartered banks.[5] Rural Development may approve nonregulated lending entities for up to a five-year period once they have submitted the program application documentation.

The regulation change went into effect on October 1, 2020. All approved lenders must execute a lender's agreement with Rural Development before receiving loan guarantees.[6] An approved lender will lose its approved status if the lender fails to remain in good standing with its regulator.[7]

Borrower Eligibility

The borrower must be a public body or a nonprofit entity. The borrower must show that it doesn't have the financial resources or cannot obtain the financing at reasonable rates and terms without the guarantee.[8] The borrower must show that the project has significant community support from each affected local government.[9]

Project Eligibility

Projects financed with this guarantee must be in a state or U.S. territory and meet the

[4] Refer to 7 CFR 5001.102(d).

[5] Refer to 7 CFR 5001.130(b).

[6] Refer to 7 CFR 5001.131.

[7] Refer to 7 CFR 5001.132(a).

[8] Refer to 7 CFR 5001.126(b)(3).

[9] Refer to 7 CFR 5001.126(b)(4).

rural area definition. If a project is not located in a rural area, Rural Development has a process to request that an area be designated "rural in character."[10] The project financed must be for public use. The borrower may not restrict the public's use of the facility or service based on an individual's protected class status.[11]

A utility project servicing rural and nonrural areas may be eligible regardless of the project's location. For a project in a rural area, the project can service a rural area and nonrural area. For a project in a nonrural area, it must service a rural area. Rural Development will only guarantee the portion of a project necessary for providing essential services to a rural area. The part of the project located in a nonrural area must be necessary to provide the essential services to the rural areas.[12]

Loan Terms and Fees

Loan Amount and Lien Position

The lender is responsible for determining the appropriate loan amount based on its underwriting. The maximum total loan amount (including the guaranteed and nonguaranteed portion) is $100 million.[13]

The lender is permitted to participate with other lenders on a loan or sell the guaranteed portion in the secondary market. The originating lender must, however, retain title to and possession of the promissory note and retain the lender's interest in the collateral.[14] The originating lender must retain at least 7.5 percent of the total loan, which must be from the unguaranteed portion of the loan.[15]

The entire loan must be secured by the same collateral with equal lien position for the guaranteed and nonguaranteed portions of the loan.[16] The lender must perfect and maintain a first-lien position.[17] On a case-by-case basis, however, a parity lien or junior lien position may be approved.[18]

Term, Amortization, and Rate

The guaranteed loan term is established by the lender based on the useful economic life of the assets financed and the collateral and the borrower's ability to repay the loan. The maximum term is 40 years.[19] The guaranteed loan must be a fully amortizing loan; in some circumstances, the loan agreements may provide for an interest-only payment before the facility is operational. For interest-only loans, however, the loan must begin amortizing by the third year and comply with other requirements.[20]

[10] Refer to 7 CFR 5001.3 for the definition of rural or rural area. Generally, the project can't be in a city or town with a population of more than 50,000 or in an urbanized area adjacent to a city or town with more than 50,000 inhabitants.

[11] Refer to 7 CFR 5001.103(b).

[12] Refer to 7 CFR 5001.103(c).

[13] Refer to 7 CFR 5001.406(a).

[14] Refer to 7 CFR 5001.408(a)(1).

[15] Refer to 7 CFR 5001.408(a)(3).

[16] Refer to 7 CFR 5001.450(b).

[17] Refer to 7 CFR 5001.8(e).

[18] Refer to 7.5001.450(b)(1).

[19] Refer to 7 CFR 5001.402(a).

[20] Refer to 7 CFR 5001.402(b).

Fees

The lender may charge fees that are reasonable, routine, and customary, if the fees are similar to fees charged other borrowers for the same type of loan not subject to a loan guarantee.[21] Rural Development will only reimburse the lender for fees covered in the loan note guarantee. Default charges, penalty interest, late payment fees, and additional interest expenses are not covered by the loan note guarantee.[22]

Guarantee and Lenders of Record

The guaranteed portions of loans made under the program are backed by the full faith and credit of the U.S. government and can be sold on the secondary market. Purchasers of the guaranteed portion of a loan must notify the Rural Housing Service, the agency that issues the guarantee, to become the lender of record.[23] Rural Housing Service pays 100 percent of any loss sustained by the lender of record on the guaranteed portion of the loan and the interest due. The holder of the nonguaranteed portion of the loan absorbs the losses on that portion, if any.

Banks are responsible for servicing the entire loan and taking all servicing actions that a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed.

Benefits to Banks

The program's guaranteed projects often result in positive public relations with the community because these projects enhance infrastructure and increase community stability. The following are other benefits:

- Currently, the program guarantees loans at 80 percent of the loss.
- The program loans may be eligible for Community Reinvestment Act consideration.
- The guaranteed portion of a loan may be sold on the secondary market through an assignment of guarantee.
- Lenders of record use their own forms, loan documents, and security instruments.
- The bank uses its own underwriting standards to determine the loan amount based on project feasibility, repayment ability, and reasonable project cost.
- Prepayment penalties are allowed.
- Rates and terms are generally flexible and are negotiated between the lender and the borrower.
- Typically, loan approval occurs 30 to 60 days after the receipt of a completed application.

How May a Bank Participate?

Rural Development field offices handle all applications. Rural Development staff can discuss a community's needs and the services available from USDA. Field staff can provide application materials and current program information and assist in the preparation of an application.

Visit the USDA Service Center Agencies eForms page to obtain the relevant forms.

For interested lenders, visit the program website or call the Rural Development state office where the project is located.

[21] Refer to 7 CFR 5001.403(a).

[22] Refer to 7 CFR 5001.403(b).

[23] Refer to 7 CFR 5001.507(a).

Community Reinvestment Act

Certain community facility loans may qualify as community development loans and be eligible for consideration in a bank's Community Reinvestment Act examination. Visit the OCC's Community Reinvestment Act web page or contact the applicable OCC supervisory office.

For More Information

OCC Resources

- Community Affairs Contacts
- Rural Economic Development Resource Directory
- CD Insights Report "USDA's Business and Industry Guaranteed Loan Program"