



Rural Development

May 18, 2018

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Administrator

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TO: State Directors  
Rural Development

ATTN: Community Programs Directors

FROM: Joel C. Baxley /s/ *Joel C. Baxley*  
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SUBJECT: Determination and Documentation on Availability of Other Credit

The purpose of this unnumbered letter is to provide guidance on the determination and documentation of other credit. We are charged with the effective use of the taxpayer's funds appropriated to us to improve the lives of rural Americans. An important part of this charge is increasing the capacity of rural governments and nonprofit organizations to access commercial credit on equal footing with urban communities. Community Facilities direct, guaranteed loan and grant programs (hereinafter collectively referred to as "Community Facilities Programs") have identified weaknesses in the determination and documentation of the availability of other credit.

7 USC § 1983 of the Agricultural Act of 1961 and the Consolidated Farm and Rural Development Act (hereinafter referred to as the "CON Act") outlines a credit elsewhere requirement for the Community Facilities Loan Programs. Additionally, all three separate Community Facilities Programs' regulations outline that the Agency must determine that applicants are unable to finance the proposed project with its own resources or through commercial credit obtained at reasonable rates and terms in order to be eligible for Community Facilities Program funding, specifically at 7 CFR §§ 1942.17(b)(3), 3575.20(a) and 3570.61(c). These regulations memorialize the credit elsewhere requirement that is outlined in Section 333 of the CON Act. The CF Direct Loan regulations also state that the Program Director will provide a written analysis of other credit. Agency staff must include its own documentation in the project file indicating that such credit is unavailable. The Program Director will address this important eligibility requirement in the comments and recommendations section of the Project Summary.

EXPIRATION DATE:  
May 31, 2019

FILING INSTRUCTIONS:  
Community Programs

Reasonable rates and terms is defined as the range of market interest rates, fees and loan terms for loans of similar size, nature and security from a conventional commercial lender, where the loans meet the lender's standard underwriting guidelines and are risk graded as Acceptable.

The Agency should make its credit elsewhere determination following policies outlined in items 1 and 2 below:

1. As outlined in 7 CFR § 1942.2 which describes the processing for Pre-applications, the District Director is required to inform the applicant that it may be necessary to apply for credit from commercial sources. The District Director should explain to the applicant that if credit for the project is available from commercial sources at reasonable rates and terms, the applicant is not eligible for RD financing.

The District Director should obtain at least 3 lender responses from regional or local banks. The responses must be from lenders that have the capacity to provide the type of financing requested, and include which document that the lender has analyzed the applicant's financial situation in detail and has determined for pertinent underwriting reasons, that such financing cannot be provided. The documentation should show how the lender's rates will affect the applicant and why the applicant cannot utilize a commercial loan. The local lending requirements and conditions must be documented in the file, so that it is clear that commercial credit is not a viable option for this applicant. A letter simply stating that the lender cannot or will not make the requested loan is not sufficient.

2. The Agency will review the applicant's historical and forecasted financial statements combined with its history of obtaining commercial financing. Reviewing these items could indicate whether the applicant may be able to obtain financing elsewhere. If the applicant has a history of obtaining commercial financing, the Agency needs to clearly document why this option is no longer available to the applicant. The local lending requirements and conditions must be documented in the file, so that it is clear that commercial credit is not a viable option for this applicant. Prospective applicants are to be advised that the form of financial assistance will be determined based upon a full review and analysis of the applicant's financial capacity. If the cash flow analysis and related financial information indicate that other financing or guaranteed financing is feasible, the applicant will be advised to pursue these other sources of financing.

When making a determination under both (1) and (2) above, program staff should reach beyond local lending institutions and contact other lenders with a regional or national presence.

If the Agency makes a determination based on the above that the applicant satisfies the agency's credit elsewhere requirements, the Agency should next evaluate the feasibility of a CF-guarantee, either for the entire loan request or as a means to leverage CF direct loan funds. In reviewing the utilization for prior years, there were a number of states that had either limited or no guaranteed loan activity for the year. In those cases where guaranteed funding alone is not feasible, it is requested that the local office consider a combination of direct and guaranteed funding be used to

assist the applicant in meeting its financial needs. The National Office staff is available to assist Program Directors in any way needed to increase the use of the guaranteed loan funds.

A 100 percent direct loan should be the last alternative and not justified because it is simply the lowest cost. As a community works with Rural Development and lenders to develop a project, it is building capacity and creating a track record which will allow it to undertake additional development without Federal government support.

Proper documentation of this requirement will ensure that we are in compliance with 7 CFR 1942-A, 7 CFR 1942-C, 7 CFR 3570-B and 7 CFR 3575-A.

If you have any questions concerning this unnumbered letter, please contact Martha Torrez, Director, Direct Loan and Grant Processing and Servicing at [martha.torrez@wdc.usda.gov](mailto:martha.torrez@wdc.usda.gov).