

(3) *Board members.* A complete list of governing board members of the borrower.

(4) *Management agreement and other legal documents.* A copy of the management agreement and other legal documents between the borrower and the proposed management company.

(5) *Preliminary architectural report.* A preliminary architectural report conforming to customary professional standards. This report may be submitted to the Agency prior to the balance of the application material if a preliminary review by the Agency is desired.

(e) *Additional application processing requirements—appraisals.* When a loan's collateral appraises at a level less than 100% of the loan amount, the Agency will consider community support in evaluating the application for guarantee.

(f) *Additional origination responsibilities—leasehold interest.* Subject to approval by the Agency, a leasehold interest may be used as collateral for loans under this section provided the leasehold interest meets each of the conditions specified in paragraphs (a)(1)(viii)(A) through (C) of this section.

(g) *Additional servicing responsibilities—financial reports.* Annual financial reports required shall conform to 7 CFR part 3052.

(h) *Additional guarantee- and loan-related requirements.*

(1) *Funding limit.* The principal amount of a Community Facility loan guaranteed under this section may not exceed \$50 million.

(2) *Maximum percent of guarantee.* The maximum loan guarantee issued to a Rural Development approved lender with Community Facilities funding is 90%.

(3) *Parity lien requirements.* Whenever both a Community Facilities guaranteed loan and a Community Facilities direct loan are utilized to finance a single project, the Agency will require a parity lien, unless the lender cannot meet its regulatory requirements.

**§ 5001.102 Water and Waste Disposal Facilities Program.**

(a) *Project eligibility.* To be eligible for a Water and Waste Disposal Facilities

guaranteed loan, the project must meet the criteria specified in paragraphs (a)(1) through (3) of this section and in § 5001.6, except as provided in paragraph (a)(4) of this section.

(1) *Eligible projects and costs.* All loans guaranteed with Water and Waste Disposal funding shall be for:

(i) A water, waste disposal, solid waste disposal or storm water facility;

(ii) Payment of other utility connection charges as provided in service contracts between utility systems; or

(iii) 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.

(2) *Facilities for public use.* All facilities financed under the provisions of this section shall be for public purposes.

(i) Facilities will be installed to serve any user within the service area who desires service and can be feasibly and legally served.

(ii) The lender will determine that, when feasible and legally possible, inequities within the proposed project's service area for the same type service proposed will be remedied by the owner on, or before, completion of the project. Inequities are defined as unjustified variations in availability, adequacy, or quality of service. User rate schedules for portions of existing systems or facilities that were developed under different financing, rates, terms, or conditions do not necessarily constitute inequities.

(3) *Serve rural area.* The project must primarily serve a rural area.

(4) *Demonstration of community support.* A project may demonstrate community support in lieu of the debt-to-tangible net worth ratio required under § 5001.6(b)(2) and in lieu of the loan-to-value ratio required under § 5001.6(b)(3). Demonstration of community support shall be made as specified in § 5001.101(a)(6)(i) through (iii).

(b) *Unauthorized projects and purposes.* Loan funds may not be used to finance:

(1) Facilities that are not modest in size, design, and cost;

(2) The construction of any new combined storm and sanitary sewer facilities;

(3) Any portion of the cost of a facility that does not serve a rural area;

(4) That portion of project costs normally provided by a business or industrial user, such as wastewater pretreatment;

(5) Rental for the use of equipment or machinery owned by the borrower;

(6) Any project where an individual, or membership of another organization sponsors the creation of a nonprofit organization with the intent to control negotiations for employment or contracts that provide financial benefit to the sponsoring organization, affiliate organization, or a subsidiary organization of the sponsoring individuals or organization; or

(7) For other purposes not directly related to operating and maintenance of the facility being installed or improved.

(c) *Borrower eligibility.* To be eligible for a Water and Waste Disposal Facilities guaranteed loan, a borrower must meet the criteria specified in paragraphs (c)(1) and (2) of this section and in § 5001.8(a)(1) and (2).

(1) *Eligible entity.* The borrower must be one of the following types of entities:

(i) A public body such as a municipality, county, district, authority, or other political subdivision of a State located in a rural area;

(ii) An organization operated on a not-for-profit basis, such as an association, cooperative, or private corporation. The organization must be an association controlled by a local public body or bodies, or have a broadly based ownership by or membership of people of the local community; or

(iii) An Indian tribe on a Federal or State reservation or any other Federally-recognized Indian tribe.

(2) *Credit not available elsewhere.* The Agency must determine that the borrower is unable to obtain the required credit without the loan guarantee from private, commercial, or cooperative sources at reasonable rates and terms for loans for similar purposes and periods of time.

(d) *Additional lender approval requirements.* The examination required under § 5001.9(c)(1)(iv) may be conducted by the Agency or a qualified consultant.

(e) *Additional application documentation provisions.* In addition to the application requirements specified in § 5001.12, lenders shall submit the following as applicable:

(1) *Feasibility study.* A feasibility study by a qualified consultant may be required by the Agency.

(2) *Preliminary engineering report.* Two copies of the preliminary engineering report are to be submitted. Preliminary engineering reports must conform to customary professional standards. Preliminary engineering report guidelines for water, sanitary sewer, solid waste, and storm sewer are available from the Agency. The preliminary engineering report may be submitted to the Agency prior to the rest of the application material if a preliminary review by the Agency is desired.

(3) *Organizational documents.* A copy of the complete organizational documents of the borrower.

(4) *Board members.* A complete list of governing board members of the borrower.

(5) *Management agreement and other legal documents.* A copy of the management agreement and other legal documents between the borrower and the proposed management company.

(6) *Intergovernmental consultation.* Intergovernmental consultation comments in accordance with 7 CFR part 3015, subpart V, of this title.

(f) *Additional lender servicing responsibilities—financial reports.* Annual financial reports required shall conform to 7 CFR part 3052.

(g) *Additional guarantee- and loan-related requirements—maximum percent of guarantee.* The maximum loan guarantee issued to a Rural Development approved lender with Water and Waste Disposal Facility funding is 90%.

#### § 5001.103 Business and Industry Program.

(a) *Definitions.*

*Locally or regionally produced agricultural food product.* Any agricultural food product that is raised, produced, and distributed in:

(i) The locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or