Local Television Loan Guarantee Board

§ 2201.1 Definitions.

**Act** means Title X of Public Law 106–553, entitled the Launching Our Communities’ Access to Local Television (LOCAL TV) Act of 2000, as amended.

**Administrator** means the Administrator of the Rural Utilities Service, U.S. Department of Agriculture, acting pursuant to the Act and on behalf of the Board.

**Affiliate** means any person or entity that controls, or is controlled by, or is under common control with, another person or entity; and may include any individual who is a director or senior management officer of an Affiliate, a shareholder controlling more than 25 percent of the voting securities of an Affiliate, or more than 25 percent of the ownership interest in an Affiliate not organized in stock form.

**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.

**Applicant** means any party that is seeking financing under the Act in order to provide access to Local Television Broadcast Signals for households in Nonserved Areas and Underserved Areas.

**Asset** means anything owned by the Applicant that has commercial or exchange value including, but not limited to, cash flows and rights thereto.

**Banking Institution** means a bank or bank holding company.

**Board** means the LOCAL Television Loan Guarantee Board authorized by the Act to approve Guarantees to facilitate access, on a technologically neutral basis, to Local Television Broadcast Signals for households located in Nonserved Areas and Underserved Areas.

**Borrower** means the entity liable for the payment of principal and interest on any Loan guaranteed under the Act, where such entity shall be a corporation, partnership, joint venture trustee or government entity, agency or instrumentality. An individual cannot be a Borrower.

**Collateral** means all Assets economically pledged by the Applicant, any Affiliate of the Applicant, or both that is required under the provisions of the Act or the Loan Documents to secure the repayment of the indebtedness of the Borrower under the Loan Documents.

**Default** means a failure by a Borrower, other than a Payment Default, on its obligations under the Loan Documents which has not been cured by the Borrower or duly waived by the Lender within any applicable cure period.

**Designated Market Area (DMA)** means an area designated as such by Nielsen Media Research and published in the most recent Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates.

**Generally Accepted Accounting Principles (GAAP)** means a common set of accounting standards and procedures that are either promulgated by an authoritative accounting rulemaking body or accepted as appropriate due to wide-spread application in the United States.

**Guarantee** means the written agreement, including all terms and conditions and all exhibits thereto, guaranteeing repayment of a specified percentage of the principal of a Loan pursuant to the Act.

**Guaranteed Portion** means the portion of the principal of a loan that is subject to the Guarantee.


**Source:** 68 FR 74422, Dec. 23, 2003, unless otherwise noted.
High-Speed Internet means a data connection to the Internet providing an information rate exceeding 200 kilobits per second (kbps) in the consumer's connection to the network in at least one direction, either from the provider to the consumer (downstream) or from the consumer to the provider (upstream).

Lender means an entity that has committed to make a Loan to an Applicant, where such entity shall be:
(1) An entity currently engaged in commercial lending in the normal course of its business; or
(2) A nonprofit corporation, including the National Rural Utilities Cooperative Finance Corporation, engaged primarily in commercial lending, but does not include any governmental entity or any Affiliate thereof, the Federal Agricultural Mortgage Corporation, any institution supervised by the Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Board, or any Affiliate of such entities.

Loan means a Loan guaranteed pursuant to the Act and includes the funds made available to the Borrower by the Lender.

Loan Agreement means the contract between the Lender and the Borrower, approved by the Board, setting forth the terms applicable to the Loan.

Loan Documents means the Loan Agreement, Guarantee and all other instruments, and all documentation between or among the Lender, the Borrower, and the Board or Administrator, evidencing the making, disbursing, securing, collecting, or otherwise administering of the Loan.

Local Television Broadcast means the signals of all Television Broadcast Stations located in a DMA. However, when more than one commercial Television Broadcast Station within the same DMA is affiliated with a particular Television Network, the signal of any one of these commercial Television Broadcast Stations will qualify as the Local Television Broadcast Signal of the network at that location, unless such stations are licensed to communities in different States, in which case both stations must be counted. Even if they are not affiliated with the same Television Network, when two or more commercial Television Broadcast Stations simultaneously broadcast the identical programming for more than 50 percent of the broadcast week, the signal of any one of these Television Broadcast Stations will qualify as the Local Television Broadcast Signal. When two or more noncommercial television stations simultaneously broadcast the same programming for more than 50 percent of prime time as defined in 47 CFR 76.5(n), and more than 50 percent outside of prime time over a 3-month period, the signal of any one of these Television Broadcast Stations will qualify as the Local Television Broadcast Signal. In areas not included in a DMA, but under the jurisdiction of the Federal Communications Commission (FCC), an appropriate set of Local Television Broadcast Signals will be determined on a case-by-case basis, subject to the approval of the Board.

Low Power Television Station means a station authorized by the FCC under subpart G of part 73 of title 47, Code of Federal Regulations, that may retransmit the programs and signals of a Television Broadcast Station and that may originate programming in any amount greater than 30 seconds per hour and/or operates a subscription service.

Net equity means the value of the total Assets of an entity, less the total liabilities of that entity, as recorded under Generally Accepted Accounting Principles for the fiscal quarter ended immediately prior to the date on which the subject Loan is approved.

Net Worth Ratio means the book value of equity over total Assets.

Nonserved Area means any area that is outside the grade B contour (as determined using standards employed by the Federal Communications Commission (FCC)) of the Local Television Broadcast Signals serving a particular Designated Market Area and does not have access to such signals by any commercial, for profit, multichannel video provider.

Offer of Guarantee means the Board's decision to approve an application for, and extend a Guarantee under, the LOCAL TV Act.

Payment Default means any failure of a Borrower to pay any amount of principal or interest on the Loan when and
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§ 2201.9

Limitation on the applicability of the definition of Local Television Broadcast Signals.

Notwithstanding the definition of Local Television Broadcast Signals provided in §2201.1 of this part, if an area is being served by either a satellite carrier which rebroadcasts signals of Television Broadcast Stations located in the DMA or a cable television system, and that satellite carrier or cable television system is currently in compliance with the rules administered by the Federal Communications Commission (FCC) as described in part 76 of title 47, Code of Federal Regulations, the group of signals of Television Broadcast Stations located in the DMA being retransmitted by such satellite carrier or cable television system will be considered to meet the definition of Local Television Broadcast Signals as due under the Loan Agreement (including, without limitation, following any acceleration thereunder) which has not been cured within any applicable cure period.

Payment Demand means a request, by the Lender or Agent, following a Payment Default, in writing to the Board, for payment under the Guarantee in respect of the defaulted principal.

Performance Agreement means the written agreement between the Administrator and the Borrower (and Lender, if applicable), pursuant to which the Borrower provides stipulated performance schedules with respect to Local Television Broadcast Signals provided through the Project.

Program means the LOCAL Television Loan Guarantee Program (LOCAL TV Program) established under the Act.

Project means a proposal for the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means to deliver Local Television Broadcast Signals to a Nonserved Area or Underserved Area.

Regulatory Capital Ratio means tier 1 and total capital ratios as shown on a Banking Institution’s balance sheet.

Security means all Collateral required by the provisions of the Act or the Loan Documents to secure repayment of any indebtedness of the Borrower under the Loan Documents.

Separate Tier of Local Television Broadcast Signals means a category or package of services provided by the applicant, to include the Local Television Broadcast Signals and all over-the-air television broadcast signals carried pursuant to the must-carry requirement of the Communications Act of 1994, as amended, offered as a distinct and separate service choice to the applicant’s subscribers at a specified lower rate when compared to other program service choices.

Television Broadcast Station means an over-the-air commercial or non-commercial Television Broadcast Station licensed by the FCC under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a Low Power Television Station or Television Broadcast Translator Station.

Television Broadcast Translator Station means a station in the broadcast serv-