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Community Developments

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Fact Sheet

Multifamily Rural Housing Finance Program

Community Developments Fact Sheets are designed to share information about programs and initiatives of bankers and community development practitioners. These fact sheets differ from OCC bulletins and regulations in that they do not reflect agency policy and should not be considered regulatory or supervisory guidance. Some of the information used in the preparation of this fact sheet was obtained from publicly available sources. These sources are considered reliable and current, as of November 2020, but the use of this information does not constitute an endorsement of its accuracy by the OCC.

This *Community Developments Fact Sheet* summarizes certain aspects of the U.S. Department of Agriculture (USDA) Rural Development's Guaranteed Rural Rental Housing Program (GRRHP)[1] for national banks and federal savings associations (collectively, banks). This fact sheet explains how loans made under the program may be used to support a bank's affordable housing and community development strategies. Through this program, eligible lenders may apply for a loan guarantee on loans made to qualified borrowers that are building or preserving affordable rural rental housing.

Overview

The GRRHP provides up to 90 percent guarantees for loans financing the purchase, construction, or improvement of affordable multifamily housing in rural areas.[2] Guaranteed loan funds may be used for buying and improving land and for providing necessary infrastructure.

Guarantees are available for permanent loans or combined construction-perm loans but not construction-only loans. The program permits a single, continuous guarantee for the construction and permanent finance phases of the project (for loans that meet certain criteria).

Program Requirements

Lender Eligibility

Eligible lenders must submit a lender approval application at the same time that the lender submits its first application for a loan guarantee or its first application to purchase a guaranteed loan. To participate in the program, eligible lenders must be approved by Rural Development's Rural Housing Service (RHS), plus meet other requirements.[3] For example, lenders may be

[1] The GRRHP is authorized by section 538 of the Housing Act of 1949, as amended, Pub. L. 106-569 (December 27, 2000), 42 USC 1490p-2, and implemented by 7 CFR 3565.

[2] Refer to 7 CFR 3565.52(c) and 3565.205.

[3] Refer to 7 CFR 3565.102.

eligible if they are approved to make multifamily housing loans by Fannie Mae, Freddie Mac, Ginnie Mae, or the U.S. Department of Housing and Urban Development (HUD), or are a state or local housing finance agency or Federal Home Loan Bank member. To be an approved lender, eligible lenders must meet certain requirements and maintain them on a continuing basis, such as the requirement to provide RHS with an annual audited financial statement conducted following generally accepted government auditing standards.[4] Additionally, a lender may be eligible by demonstrating that it has knowledge and experience with multifamily lending, and other factors.

Borrower Eligibility

Eligible borrowers include individuals, corporations, state or local public agencies or an instrumentality thereof, partnerships, limited liability companies, trusts, Indian tribes, or any organization deemed eligible by the RHS.[5]

Property, Project, and Tenant Eligibility

The GRRHP requires that rental properties receiving guaranteed loans be built in an eligible rural area.[6] Eligible rural areas are generally areas and towns with 35,000 or fewer people and federally recognized tribal lands. A specific rural address can be checked at USDA Rural Development's website[7] to determine the property eligibility.

The GRRHP allows for various sized affordable housing projects to be built. The minimum number of units per project is five, and the minimum new construction or acquisition with moderate or substantial rehabilitation cost per unit is $6,500. Each project is under single management. The dwelling architecture may be detached, semidetached, row houses, or multifamily structures. Manufactured housing is permitted if attached to the land. Chattel is not permitted.[8]

Individual unit rents, including any tenant-paid utilities, are required to be capped at 30 percent of 115 percent of the area median income, adjusted for family size.[9] The annual average rent for a project cannot exceed 30 percent of 100 percent of the area median income, adjusted for family size.

At initial occupancy, a tenant's income cannot exceed 115 percent of the area median income. After initial occupancy, a tenant's income may exceed these limits, and the GRRHP does not require re-certification.[10]

Loan Terms and Fees

Loan Amount and Lien Position

A lender must not establish a minimum loan amount. For the part of the property that is attributable to dwelling use, the principal obligation of each guaranteed loan must not exceed the applicable maximum per-unit

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[4] Refer to 7 CFR 3565.103.

[5] Refer to 7 CFR 3565.151.

[6] 7 CFR 3565.3 defines "eligible rural area" as an area that meets the requirements of 7 CFR 3550.

[7] Visit [USDA Rural Development's property eligibility site]() to determine whether a particular multifamily housing property is consistent with the GRRHP's location requirements.

[8] Refer to 7 CFR 3565.251–253.

[9] Refer to 7 CFR 3565.203.

[10] Refer to 7 CFR 3565.202.

limitations under section 207(c)(3) of the National Housing Act.[11]

The lender that provides the financing under the GRRHP is in a first-lien position.[12] If required by the lender, loans guaranteed under the GRRHP may be made on a recourse or nonrecourse basis,[13] or with any personal or special borrower guarantees on collateralization. The originating lender services the loan.

Borrower Contribution

Generally, an eligible borrower may borrow up to the lesser of 90 percent of (1) the development costs of housing and related facilities, or (2) the lender's determination of value not to exceed the appraised value of the housing and facilities. Nonprofit borrowers or an agency or body of any state, local, or tribal government may borrow up to the lesser of 97 percent of (1) the development costs of the housing or related facilities, or (2) the lender's determination of value not to exceed the appraised value of the housing and facilities.[14] The borrower contributes the remaining operating capital.

Term, Amortization, and Rate

A lender may set both the loan term and amortization between 25 and 40 years. Fixed interest rates are negotiated between the lender and the borrower. Borrowers have the option to lock in the interest rate for the permanent financing at the time of closing of the construction loan.[15]

Fees

The GRRHP allows a lender to set its origination fees. RHS fees consist of an initial guarantee fee of 1 percent of the guarantee amount and an annual guarantee fee of at least 0.5 percent of the outstanding principal amount of the loan.[16]

Rate Modification and Refinance of Existing GRRHP Loans

Lenders may refinance existing GRRHP loans when the RHS determines that the refinancing is in the government's interest or furthers the objectives of the program. In addition, USDA Rural Development offers interest rate reductions for borrowers when the action will improve the overall financial viability of the project and its operations.

Compatibility and Benefits

According to USDA Rural Development, GRRHP loans are compatible with other affordable housing finance programs, have limited restrictions, and offer benefits to developers and lenders.[17] Among the benefits, the loans

[11] Refer to 7 CFR 3565.204(a), 12 USC 1713(c)(3), and "Guaranteed Rural Rental Housing Program Origination and Servicing Handbook," HB-1-3565 (pp. 3-27 and 3-28).

[12] Refer to 7 CFR 3565.207.

[13] Refer to 7 CFR 3565.215.

[14] Refer to 7 CFR 3565.204.

[15] Refer to 7 CFR 3565.209.

[16] Refer to 7 CFR 3565.302 and chapter 6 in "Guaranteed Rural Rental Housing Program Origination and Servicing Handbook," HB-1-3565; Exhibit 6-1; or Section 538, GRRHP, Housing Assistance Council, 2000 (Rural Housing Service's Section 538, "Guaranteed Rural Housing Program: A Guide for Developers")

[17] Refer to the end of section 5, chapter 3, of the "Guaranteed Rural Rental Housing Program Origination and Servicing Handbook," HB-1-3565 (p. 3-30).

- may be used for transaction costs such as legal fees, developer fees, architect fees, and application fees.
- may be provided in connection with the Internal Revenue Service's opportunity zones.[18]
- may be used for workforce housing (with tenant incomes at 50 percent to 90 percent of the average median income).
- only require that the borrower obtain the income certification of tenants at initial occupancy (no annual re-certification).
- may be used to rehabilitate properties that were financed using USDA Rural Development's 515[19] Rural Rental Housing Program.
- may be sold on the secondary market.

Leveraging

Most GRRHP loans are used in conjunction with other programs. For example, GRRHP loans can also be used as gap financing, with low-income housing tax credits and other federal assistance, and may include secondary loan financing such as HUD's HOME[20] program and Federal Home Loan Bank programs.

How Banks Can Participate

Banks can review the most recent USDA Rural Development Notice of Funding Availability,[21] which provides information on the amount of funds available, submission requirements, and selection criteria.

For each affordable housing project, a lender wishing to participate in the GRRHP should submit a guarantee request to USDA Rural Development that summarizes the proposed project on behalf of the project developer. The Notice of Funding Availability details the information that must be included in the lender's guarantee request.

Community Reinvestment Act

Effective October 1, 2020,[22] the OCC's modernized Community Reinvestment Act (CRA) regulation (June 2020 rule) contains specific criteria describing the types of activities related to affordable residential rentals that qualify for CRA credit. These criteria are in 12 CFR 25.04(c)(1) and can be used to determine the circumstances under which GRRHP loans may receive CRA credit for affordable rental housing. Affordable rental housing means housing that is

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[18] Pub. L. 115-97; 131 Stat. 2054 (December 22, 2017).

[19] Refer to section 515 of the Housing Act of 1949, as amended 42 USC 1485.

[20] HUD's HOME Investment Partnerships Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990, provides formula grants to states and localities. These grants fund a wide range of affordable housing activities, including building, buying, and rehabilitating housing for rent or homeownership, or providing direct rental assistance to low-income people.

[21] The Notice of Funding Availability was published on December 21, 2017, and remains open until December 31, 2021. Refer to 82 Fed. Reg. 60579 (December 21, 2017). USDA Rural Development does not publish the notice annually.

[22] Refer to Community Reinvestment Act Regulations, Final Rule, 85 *Federal Register* No. 109, pp. 34734–34834.

- likely to be partially[23] or primarily[24] inhabited by low- to moderate-income (LMI) individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 80 percent of the area median income, or
- partially or primarily inhabited by LMI individuals or families as demonstrated by an affordable housing set-aside required by a federal, state, local, or tribal government, or
- undertaken in conjunction with an explicit federal, state, local or tribal government affordable housing program for LMI individuals or families.[25]

  Banks may receive credit for the full or partial value[26] of qualifying community development (CD) activities, as applicable, based on the criteria set forth in 12 CFR 25.04(c) of the June 2020 rule if those activities are conducted on or after October 1, 2020.[27] For activities conducted before October 1, 2020, the 1995 CRA regulation, as revised (1995 rule) and the Q&As that apply to the 1995 rule will continue to apply and provide for partial credit for certain CD activities (e.g., multifamily affordable housing with set-asides for affordable housing of less than 50 percent).

For More Information

- GRRHP regulations are in 7 CFR 3565 and in handbook, HB-1-3565, ("Guaranteed Rural Rental Housing Program Origination and Servicing Handbook"). This handbook provides lenders and Rural Housing Service staff with guidance on the origination and servicing of GRRHP loans and the approval of qualified lenders.
- The OCC's Multifamily Rental Resource Directory provides links to resources for banks and others interested in multifamily finance and investment programs.

[23] Refer to 12 CFR 25.03, which defines *partially* to mean 50 percent or less of the dollar value of the activity or of the individuals or census tracts served by the activity.

[24] Refer to 12 CFR 25.03, which defines *primarily* to mean (1) greater than 50 percent of the dollar value of the activity or of the individuals or census tracts served by the activity, or (2) the express, bona fide intent, purpose, or mandate of the activity as stated, for example in a prospectus, loan proposal, or community development action plan.

[25] Refer to the CRA Illustrative List of Qualifying Activities, p.5, on OCC.gov, which identifies examples of GRRHP programs that are consistent with the CRA qualifying activity criteria under 12 CFR 25.04(c)(1): (1) a loan to a nonprofit developer to build multifamily rental housing guaranteed under the USDA's Section 538 Guaranteed Loan Program under which median rents will meet the median rent standard, and (2) a loan to a for-profit developer to build multifamily rental housing guaranteed under the USDA's Section 538 Guaranteed Loan Program under which median rents will meet the median rent standard.

[26] Refer to 12 CFR 25.07(e), which states that the quantified dollar value, i.e., the value of CRA credit, of the partially qualifying activity is calculated by multiplying the percentage of the activity that is qualifying by the full dollar value of the qualifying activity.

[27] Refer to 12 CFR 25.03, "Definitions." The OCC will develop and publish guidance on the qualifying activities quantification for banks evaluated under the general performance standards (GPS) in 12 CFR 25.07 before the January 1, 2023, compliance date for GPS banks. (Refer to definitions of "partially" and "primarily" in 12 CFR 25.03.)