Office of Indian Energy and Economic Development

Division of Capital Invstment

Guidance for Lenders

The Division of Capital Investment (DCI) manages the Indian Affairs Loan Guaranty, Insurance and Interest Subsidy Program. The Program incentivizes lenders to make loans to tribes and Indian-owned businesses that are unable to secure loans at reasonable terms and conditions by guaranteeing those loans up to 90%. Rules governing our Program can be found in the Code of Federal Regulations, Title 25, Part 103.

How do I qualify?

Most commercial banks will automatically qualify for participation in the Program. Non-bank lenders can also be eligible, but they must meet the requirements of 25 CFR 103.10. All lenders must sign a Loan Guaranty Agreement with the Program before participating.

How do I obtain a guaranty?

Loan guaranty applications are made by the lender to DCI if, after doing its own underwriting, the lender determines that it cannot make the loan without a guaranty. DCI will guarantee up to 90% of eligible loans. The loan guaranty application consists of a one-page form making the request, as well as a series of documents that most prudent lenders will have already collected from the borrower. These items are listed in 25 CFR 103.12 and 103.26. [Add link to lender's checklist]

Where and when do I apply?

Applications can be sent to our Credit Office Service Centers in Anchorage, AK, Albuquerque, NM, Lakewood, CO, or Washington, DC, depending on your location. Please submit applications in electronic as well as paper format. Once we have received a complete application, you can expect a decision within 30 days. If your request is denied, you will have the right to appeal. However, we are often able to work with lenders in these cases to adjust the project to accurately meet our regulations, thus resulting in an approved guaranty request. Please be advised, however, that program resources become less available as the fiscal year progresses from October to the following September.

Please note some key requirements to be included in any request:

-The borrower entity must be at least 51% native-owned
-The project must benefit the economy of a reservation or tribal service area
-Borrower must have 20% tangible equity in the project being financed
-Loans cannot be made for relending purposes
-Lender must state why it is unable to make the loan without a guaranty
-No gaming loans
-Lender must have some risk in the project
-A premium of 2% of the guaranteed amount must be paid by the lender to DCI within 30 days of the loan's closing.
-No excessive interest rates or fees

Once your request has been approved

DCI will sign a Loan Guaranty Certificate with attached, mutually agreed-upon conditions of approval. The Certificate is not valid until the loan closes and the premium payment has been received. DCI staff can work with you to make sure that the loan closes in a timely manner. Please give DCI five days' notice of the loan closing. DCI and the lender will agree upon a suitable interval for submitting regular financial statements throughout the course of the loan.

Interest subsidy

At the time of the loan guaranty request, a lender can also request interest subsidy assistance for qualifying borrowers. Interest subsidy payments by DCI cover the gap between the lender's interest rate and the established Indian Financing Act rate. The initial period of interest subsidy is three years, and the assistance can be renewed for two additional years. It is available to borrowers whose historical earnings (or if unavailable, projected earnings) before interest and taxes, divided by annual interest expense, is less than the industry norm as reflected in a nationally-recognized survey, published at least annually.

Defaults

In the event that a guaranteed loan defaults, the lender has two options for collecting on the guarantee. First, the lender can make its best effort to liquidate the borrower's collateral and then file a claim for loss. Second, the lender can simply file a claim with DCI to honor the guaranty at that time. Often lenders will choose to liquidate in order to minimize their total losses.

Upon receiving a claim for loss and all necessary supporting documents, DCI will make a payment decision within 90 days. Occasionally when a lender has not followed our regulations or the terms of the loan guaranty certificate, DCI will deny payment of a claim, or will propose payment in a lower amount. These decisions may be appealed. If DCI agrees to pay the claim, our loan accounting office will work with you to see that the payment is processed properly.

What happens after a claim is paid?

Upon payment of a guaranty, DCI will obtain an assignment from the lender of all the lender's rights to the loan, regardless of the percentage of the guaranty. At that point DCI steps into the shoes of the lender and may pursue collection from the borrower.