
15 U.S. Code § 696

Loans for plant acquisition, construction, conversion and expansion

The Administration may, in addition to its authority under section 695 of this title, make loans for plant acquisition, construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) Use of proceeds. —

The proceeds of any such loan shall be used solely by the borrower to assist 1 or more identifiable small business concerns and for a sound business purpose approved by the Administration.

(2) Maximum amount. —

(A) In general. — Loans made by the Administration under this section shall be limited to—

- (i) \$5,000,000 for each small business concern if the loan proceeds will not be directed toward a goal or project described in clause (ii), (iii), (iv), or (v);
- (ii) \$5,000,000 for each small business concern if the loan proceeds will be directed toward 1 or more of the public policy goals described under section 695(d)(3) of this title;
- (iii) \$5,500,000 for each project of a small manufacturer;
- (iv) \$5,500,000 for each project that reduces the borrower's energy consumption by at least 10 percent; and
- (v) \$5,500,000 for each project that generates renewable energy or renewable fuels, such as biodiesel or ethanol production.

(B) Definition. — As used in this paragraph, the term “small manufacturer” means a small business concern

- (i) the primary business of which is classified in sector 31, 32, or 33 of the North American Industrial Classification System; and
- (ii) all of the production facilities of which are located in the United States.

(3) Criteria for assistance. —

(A) In general. —

Any development company assisted under this section or section 697 of this title must meet the criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(B) Community injection funds. —

- (i) Sources of funds.** — Community injection funds may be derived, in whole or in part, from—
- (I) State or local governments;
 - (II) banks or other financial institutions;

(III) foundations or other not-for-profit institutions; or

(IV) the small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this subchapter.

(ii)Funding from institutions.—

Not less than 50 percent of the total cost of any project financed pursuant to clauses ^[1](i), (ii), or (iii) of subparagraph (C) shall come from the institutions described in subclauses (I), (II), and (III) of clause (i).

(C)Funding from a small business concern.—The small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this subchapter shall provide—

(i) at least 15 percent of the total cost of the project financed, if the small business concern has been in operation for a period of 2 years or less;

(ii) at least 15 percent of the total cost of the project financed if the project involves the construction of a limited or single purpose building or structure;

(iii) at least 20 percent of the total cost of the project financed if the project involves both of the conditions set forth in clauses (i) and (ii); or

(iv) at least 10 percent of the total cost of the project financed, in all other circumstances, at the discretion of the development company.

(D)Seller financing.—

Seller-provided financing may be used to meet the requirements of subparagraph (B), if the seller subordinates the interest of the seller in the property to the debenture guaranteed by the Administration.

(E)Collateralization.—

(i)In general.—

The collateral provided by the small business concern shall generally include a subordinate lien position on the property being financed under this subchapter, and is only 1 of the factors to be evaluated in the credit determination. Additional collateral shall be required only if the Administration determines, on a case-by-case basis, that additional security is necessary to protect the interest of the Government.

(ii)Appraisals.—

(I) In general.— With respect to commercial real property provided by the small business concern as collateral, an appraisal of the property by a State licensed or certified appraiser—

(aa) shall be required by the Administration before disbursement of the loan if the estimated value of that property is more than the Federal banking regulator appraisal threshold; or

(bb) may be required by the Administration or the lender before disbursement of the loan if the estimated value of that property is equal to or less than the Federal banking regulator appraisal threshold, and such appraisal is necessary for appropriate evaluation of creditworthiness.

(II) Federal banking regulator appraisal threshold defined.—

For purposes of this clause, the term “Federal banking regulator appraisal threshold” means the lesser of the threshold amounts set by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation for when a federally related transaction that is a commercial real estate transaction requires an appraisal prepared by a State licensed or certified appraiser.

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)

