



BILLING CODE: 3410-XV-P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Utilities Service

Community Facilities Guaranteed Loan Program Guarantee Fee Rate, Annual Renewal Fee, Rural Area Definition, and Funding Priority for Fiscal Year 2020; and Water and Waste Disposal Programs Guaranteed Rural Area Definition and Funding Reservation for Fiscal Year 2020

AGENCY: Rural Housing Service and Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces implementation of several provisions of the 2018 Farm Bill related to the Rural Housing Service (RHS) and the Rural Utilities Service (RUS) agencies of the Rural Development mission area of the United States Department of Agriculture, USDA, sometimes hereinafter referred to as Agency. Specifically, it provides notice of the population change in the rural area definition for the Community Facilities (CF) Guaranteed Loan Program and the Water and Waste Disposal (WWD) Guaranteed Loan Program and priorities for each program. It also provides established fee levels for Fiscal Year (FY) 2020 for the CF Guaranteed Loan Program.

This Notice is being issued prior to enactment of full year appropriation for FY 2020. The Agency will publish the amount of funding received in the final appropriations act on its website at <https://www.rd.usda.gov/newsroom/fy2020-appropriated-funding>.

DATES: *Applicability date:* The Agency will not act on any applications received under this Notice until [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karla Peiffer, USDA Rural Development, Community Facilities Program at (515) 238-6668 or via email at karla.peiffer@usda.gov; or Susan Woolard, USDA Rural Development, Water and Waste Disposal Program at (202)720-9631, or via email at susan.woolard@usda.gov.

SUPPLEMENTARY INFORMATION:

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this notice as major, as defined by 5 U.S.C. 804(2).

Background

The Agriculture Improvement Act of 2018 (Pub. L. 115-334, 2018 Farm Bill) was signed into law by the President on December 20, 2018. The Farm Bill included several statutory provisions affecting the CF and WWD Programs.

Rural Area Population Threshold

Section 6402 of the Farm Bill amended section 343(a)(13) of the Consolidated Farm and Rural Development Act (CONACT) to change the eligible population threshold in the definition of “rural” and “rural area” for the CF and WWD Guaranteed Loan

Programs to 50,000. As a result of this amended definition, § 343(a)(13)(D) “Areas Rural in Character” is also applicable to CF and WWD Guaranteed Loans, but this portion of the definition has been determined to not be self-executing and, therefore, will be implemented through the rulemaking process consistent with Administrative Procedure Act requirements. While the guaranteed programs generally are available in more highly populated rural areas, Section 306(a)(24) of the CONACT was amended to establish a reservation of funds for CF Guaranteed Loans for projects in rural areas with a population of not more than 20,000 inhabitants and to provide a prioritization for WWD Guaranteed Loans for rural areas with a population of not more than 10,000 people.

CF Guaranteed Loans

Section 6402 of the 2018 Farm Bill amended § 343 (a)(13) of the CONACT to define a rural area for CF Guaranteed loans as “an area other than (i) a city or town that has a population of greater than 50,000 inhabitants; and (ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).” Applications for CF Guaranteed Loan funds for projects in rural areas with a population up to 50,000 may be submitted to RHS in accordance with 7 CFR 3575.52 for processing. Pursuant to Section 6402 of the 2018 Farm Bill and Section 306(a)(24) of the CONACT, guarantee funds appropriated during the fiscal year (including FY 2020) will be reserved for projects in rural areas with a population of not more than 20,000 inhabitants based on the following reservation of funds schedule:

- (1) 100 percent of the first \$200,000,000 so made available;
- (2) 50 percent of the next \$200,000,000 so made available; and
- (3) 25 percent of all amounts exceeding \$400,000,000 so made available.

Based on the reservation of funds schedule outlined above, applications received where no funds are available (i.e. applications for projects in areas with more than 20,000 inhabitants, but only reserved funding is available) will not be processed by RHS and will be returned to the lender. The lender may resubmit the application when funds become available.

WWD Guaranteed Loans

Notwithstanding the definition in 7 CFR 1779.2, pursuant to section 343(A)(13) of the CONACT, the eligible population threshold for WWD Guaranteed Loans is now 50,000. Applications for WWD Guaranteed Loan funds may be submitted to RUS in accordance with 7 CFR 1779.53 for processing.

Pursuant to section 306(a)(24), the Secretary shall prioritize water and waste facility projects in rural areas with a population of not more than 10,000 people. For FY 2020, the Agency will use National Office reserves to ensure that funding is prioritized for eligible projects in rural areas with a population of not more than 10,000 people. Applications for WWD Guaranteed Loan funds may be submitted to the RUS in accordance with 7 CFR 1779.53 for processing.

Guarantee Fees

Section 307(b) of the CONACT provides the authority for the Agency to charge fees. Pursuant to section 6418 of the 2018 Farm Bill, the Agency by statute is now required to “charge and collect from the lender fees in such amounts as to bring down the costs of subsidies for the insured or guaranteed loan, except that the fees shall not act as a bar to participation in the programs nor be inconsistent with current practices in the marketplace.”

CF Guarantee Fees

Rural Housing Service has routinely collected an initial (or one-time) guarantee fee for CF Guaranteed Loans as set forth in 7 CFR 3575.29(c). Pursuant to its statutory authority as described above, RHS is establishing an initial guarantee fee rate of 1.5 percent and an annual renewal fee rate of one-half of 1 percent for the CF Guaranteed Loan Program. These rates will apply to all loans obligated in FY 2020 that are made under the CF Guaranteed Loan Program.

The initial guarantee fee is paid by the lender at the time the Loan Note Guarantee is issued. The fee is determined by multiplying the amount of the guarantee fee rate (1.5 percent) by the principal loan amount multiplied by the percent of guarantee. The annual renewal fee is paid by the lender to RHS once a year. Payment of the annual renewal fee is required in order to maintain the enforceability of the guarantee. The amount of the annual fee on each guaranteed loan will be determined by multiplying the annual fee rate (.5 percent) by the outstanding principal loan balance as of December 31, multiplied by the percentage of guarantee. For Loan Note Guarantees issued in FY 2020, the annual renewal fee will be assessed on December 31, 2020, and is due January 31, 2021.

WWD Guarantee Fees

Rural Utilities Service (RUS) has routinely collected an initial (or one-time) guarantee fee for WWD Guaranteed Loans as set forth in 7 CFR 1779.29(c). For FY 2020, RUS will continue to charge an initial guarantee fee rate of 1.0 percent. The initial guarantee fee is paid by the lender at the time the Loan Note Guarantee is issued. The fee is determined by multiplying the amount of the guarantee fee rate (1.0 percent) by the

principal loan amount multiplied by the percent of guarantee. RUS will not charge an annual renewal fee rate.

Summary

To summarize, this notice announces the population limits and guarantee fee rates for the CF and WWD Guarantee Loan Program for FY 2020, as follows:

Program	Population Limit	Initial Guarantee Fee	Annual Renewal Fee
CF Guarantee	50,000	1.5%	.5%
WWD Guarantee	50,000	1.0%	0

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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(voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

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- (1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) E-mail: program.intake@usda.gov.

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Dated: September 27, 2019.

Donald J. LaVoy,
Deputy Under Secretary,
Rural Development.

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