



# USDA Rural Development Community Facilities Re-lending Program Post Award Frequently Asked Questions

**01 | Q: Is the USDA Community Facilities loan interest rate tied to the Federal Funding target?**

**A:** The Interest rate is tied to the Bond Buyer Index and it adjusts quarterly.

**02 | Q: Is this rate a locked rate?**

**A:** The rate is locked at loan closing. The interest rate will not increase after closing.

**03 | Q: Is there a limit to the number of advances that can be taken in the first 5 years?**

**A:** No

**04 | Q: Do we need the letter of credit at closing?**

**A:** Irrevocable Letters of Credit, performance guarantees, or cash collateral accounts are not required at closing. Re-lenders are required to provide these to the agency before receiving any loan disbursements.

**05 | Q: If an Irrevocable Letter of Credit is submitted to USDA prior to advancing funds, confirming funds available to guarantee payment of 5 years of debt service, will USDA require that the funds be drawn or can this be used only as a safeguard if borrower (CDFI) is unable to make debt service payments?**

**A:** If the Agency is listed as the Payee on an Irrevocable Letter of Credit, the Agency will only pursue payment under that letter of credit in cases where the Re-Lender cannot make their regularly scheduled payment. If the Re-Lender puts cash into an account as a Performance Guarantee, the arrangement of getting those funds into the account is between the Re-Lender and the financial institution.

**06 | Q: Is the Irrevocable Letter of Credit sufficient or do funds have to be drawn into an account in which USDA has securities interest or is it sufficient that they are available if needed?**

**A:** An Irrevocable Letter of Credit in the amount of the first five years of principal and interest payments on each advance will meet the requirement. The Re-Lender may also choose a Performance Guarantee, or a cash collateral account to meet the requirement.

**07 | Q: Is the Universal Commercial Code (UCC) filing by USDA on assets related to the Re-lender's loan or on all assets of the Re-Lender?**

**A:** The Agency will be filing a UCC on all loan funds loaned to Re-lender by the agency. The Agency will not be filing a UCC on assets of the Re-lender that are outside of these loan receivables.

**08 | Q: How do you calculate interest based on the outstanding balance?**

**A:** We calculate interest based upon the amount of principal that has been advanced to the Re-lender. For example, if the Re-lender has \$5 Million available but has only requested \$1 Million to be advanced to the Re-lender, the interest is calculated on the \$1 Million amount.

**09 | Q: Does the Davis-Bacon Act apply on funding from USDA Rural Development's Community Facilities Re-lending program?**

**A:** Your legal counsel would need to make that final determination.

## Rural Development

- 10 | Q: Can we partner with USDA on a loan?**  
**A:** Yes. It is possible for USDA Rural Development to make a direct or guaranteed loan in partnership with the Re-Lender loan. Those loans would need to be on a parity basis.
- 11 | Q: Does the Re-lender pay for hard expense closing costs like the UCC filing fee?**  
**A:** Re-lenders are responsible for closing costs with initial USDA investment. The Re-lender can follow its policy on its loan to the end user or loans made with USDA investment.
- 12 | Q: Will USDA invoice for payments?**  
**A:** Yes, each month a bill will be mailed to the Re-lender.
- 13 | Q: Would it be possible to extend the delivery of financial statements and the required reports from 30 days to 45 days?**  
**A:** It is not possible for USDA Rural Development to provide a blanket type extension.
- 14 | Q: Will reports be filed on LINC?**  
**A:** USDA Rural Development are not set up in LINC. Reports will be filed manually.
- 15 | Q: Has there been any discussion concerning lowering the rate to the Re-lender?**  
**A:** Once the loan is closed, Re-lender rates are fixed. The interest rate on a Re-lending loan could be the interest rate in effect at the time of loan approval, or at the time of loan closing. If the rate is lower at closing than at approval, Re-lenders will be offered the lower rate.
- 16 | Q: Fidelity Bond Coverage is required for the Re-lender. Is it also required of our borrowers?**  
**A:** USDA Rural Development requires it of the Re-lender. The Agency does not have a contractual relationship with your ultimate borrowers. It is up to the Re-lender to establish terms and conditions with their borrowers.
- 17 | Q: Are water and wastewater projects eligible for funding through the Community Facilities Re-lending Program?**  
**A:** Anything eligible for USDA Rural Development's Water and Wastewater program funding is not eligible for USDA Community Facilities program funding.
- 18 | Q: Are farmers market's eligible for USDA Community Facilities Re-Lending Program funding?**  
**A:** It is possible for Farmers Markets to meet the definition of an essential community facility under the program regulations.
- 19 | Q: Are homeless shelters eligible for USDA Community Facilities Re-lending Program funding?**  
**A:** It is possible for a Homeless Shelter to meet the definition of an essential community facility under the programs regulations.
- 20 | Q: We are a national lender with projects in many States. Should we talk to the contact in the State the project is in or should we reach out to the contact in the State we are headquartered?**  
**A:** For multi-state Re-lenders, we have advised our State Offices that the State in which the Re-Lender is headquartered will be the primary contact for that loan.
- 21 | Q: Can in-house counsel be utilized for opinion or must we use external counsel?**  
**A:** In house legal counsel can be used.
- 22 | Q: Is there a pre-payment penalty?**  
**A:** There are no pre-payment penalties.
- 23 | Q: If a loan is pre-paid, does the interest amount decrease?**  
**A:** Yes, the interest is calculated on the reduced outstanding principal balance.
- 24 | Q: If one prepays debt, and interest is calculated on the outstanding principal balance, is this the equivalent of a "make whole" or yield maintenance type of prepayment penalty?**  
**A:** USDA Rural Development's Community Facilities Re-lending program does not utilize yield maintenance as some lenders do. However, the pre-payment of principal will not reduce the remaining monthly payments. You will still make the same monthly payment amount, but more of the payment will go to principal and less to interest and the loan should be paid off faster.

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- 25 | Q: Can the loans to the applicant be for a term less than 40 years?**  
**A:** They could be shorter and in many cases should be shorter if security, such as equipment or vehicles, has a useful life of less than 40 years. This being said, it is up to the Re-lender to negotiate the loan terms with their Borrower.
- 26 | Q: Will USDA be reviewing the closing document and security for the Re-lender on the loans they make?**  
**A:** The Agency will not be reviewing the closing documents or security for the loans made by the Re-Lender.
- 27 | Q: Should the loan between the Re-lender and USDA Rural Development be closed using a title company?**  
**A:** The Agency does not require a title company to be involved. If the Re-lender would prefer to use a title company, it would be the Re-lender's responsibility to pay the applicable fees. Re-lenders should follow their established loan closing policies.
- 28 | Q: When do you "test" the 50% in high or persistent poverty areas? If we make our first loan in a non-high poverty area do we need to rebalance the 50% with the next loan, or do we just need to make sure we meet this by the end of year 5?**  
**A:** A Re-lender can certainly make their first loan for a project that is not in a poverty area as long as the amount of that loan does not exceed half of the overall amount of funds the Re-lender is receiving a loan for. For example, if a Re-lender has \$10 Million dollars available for loans, and the first advance is \$1 Million and does not serve a poverty area, USDA Rural Development can approve that. If your next request is for \$5 Million and is not in rural area, USDA Rural Development could not approve that request.
- 29 | Q: Nonprofit eligibility requires "significant ties to the local community". Does this include a nonprofit that receives the bulk of its annual operating or capital funds from grants from State Government or foundations?**  
**A:** State government would not normally be considered as documentation of significant ties to the local community. Foundations could possibly be considered as documentation depending on how they are structured.
- 30 | Q: The Re-Lender agreement requires the Re-lender to provide a list and description of collateral as part of the USDA loan closing. How does the Re-lender supply that collateral description prior to making any applicant loans with the USDA funds?**  
**A:** The description of security was listed in the Letter of Conditions and is further specified in the Loan Resolution Security Agreement.
- 31 | Q: The Architectural and Engineering review states the agency review will be at a "high level." What does this mean?**  
**A:** Architectural and Engineering reviews have to be done by the State Office. The review will be for the purpose of determining that the project is modest in design and construction. It will not be a review to make sure all accessibility issues or local building codes are met which is the responsibility of the Re-lender.
- 32 | Q: May a Re-lender sell a portion of a USDA Community Facilities Re-lending loan if it continues to service the loan? For example, could a portion of a loan be sold to a Native CDFI that may have not had the capacity to apply under the CF Relending Program so that they can build their portfolio and earnings and strengthen their position to apply under the program in the future?**  
**A:** No. The agency did not structure these loans to allow for a sale to a third party.
- 33 | Q: Are loan participations permitted?**  
**A:** Yes. The Agency welcomes the Re-lender and the Borrower to engage in private partnerships.
- 34 | Q: Are Re-lender loans expected to fund 100% of a project or may the funds be blended with other entities?**  
**A:** It may be combined with other sources of funding. 100% financing is also allowed.
- 35 | Q: Can you advise as to what criteria may be considered for achievement of the "best -security position practicable" requirement?**  
**A:** The Re-lender's security with the Applicant is the responsibility of the Re-lender.

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**36 | Q: If you prepay a portion of the note, are the payments re-amortized to account for the lower principal balance?**

**A:** No, the Agency does not re-amortize because of a pre-payment.

**37 | Q: If the applicant prepays their loan, can the Re-lender revolve the funds or do they need to be paid back to the Agency?**

**A:** No. This program is not a revolving fund. Since we have a lien of the loan receivable, those loan funds paid to the Re-lender would have to come to the Agency.

**38 | Q: Will USDA take a parity loan if the Re-lender's loan is leveraged with a direct USDA loan? Or does the Re-lender take a 2nd?**

**A:** The loans will share a parity position.

**39 | Q: Section 3.2 of the Re-lender's Agreement regarding the availability of other credit states, "As part of its Applicant eligibility determination, it is the responsibility of the Re-lender to determine if other credit is available at reasonable rates in terms in accordance with 7 CFR Part 1942, Subpart A, and document its findings in the Applicant's file." Does this mean the Borrower is not eligible for our re-lending capital if the Agency is willing to make the loan?**

**A:** No. The Agency is not a source of "other credit" as referenced in the regulation. The "other credit" refers to a commercial loan from a bank, credit union, foundations, or other funding sources. The Re-lender's Applicant should document to the Re-Lender that they cannot obtain credit at banks, credit unions, or other lenders prior to the Re-lender requesting a disbursement of funds from the Agency. The Agency will not be competing with the Re-lender for these loans.

**40 | Q: If this program is continued in future years, it is possible to either change the law mandating the population threshold, interest rate and term or allocate through a different USDA division budget provision to establish a lower rate and a cost of funds more in line with the economics of the underlying community facility loans?**

**A:** The Agency is unable to comment on possible changes to law.

**41 | Q: Changing the population requirements or interest rate would require significant action by Congress. How is project/borrower eligibility approval documented by the USDA?**

**A:** USDA Rural Development will notify the Re-lender in writing once the Borrower's eligibility determination has been made.

**42 | Q: Has there been any discussion with Uplift America or BOA (since they are the main LOC provider) about coordinating reporting requirements to simplify the requirements for the re-lender?**

**A:** We are working with these entities to try to make reporting as streamlined as possible. Our reporting requirements were set forth in the Notice and the Regulations so they cannot be changed.

**43 | Q: Is there a template legal opinion?**

**A:** The Agency does not have a template for a legal opinion.