United States Department of Agriculture

Rural Development

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RD AN No. 4836 (1942-A and 3575-A)
April 12, 2017

TO: State Directors
Rural Development

ATTN: Community Programs Directors

FROM: Richard A. Davis /s/ ***Richard A. Davis***
Acting Administrator
Rural Housing Service

SUBJECT: Guidance on Financing Short-Term Debt and Refinancing Long-Term Debt with Community Facilities Direct and Guaranteed Loans

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to advise State Offices of the prohibition on financing short-term debt with a Community Facilities (CF) Direct or Guaranteed Loan. This AN also clarifies when debt refinancing is an eligible purpose in accordance with RD Instructions 1942-A section 1942.17(d)(1) and 3575-A, section 3575.24. Guidance regarding the necessary supporting documentation is also provided.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4765 (1942-A and 3575-A), dated May 20, 2014, which expired on May 31, 2015.

IMPLEMENTATION RESPONSIBILITIES:

Short-term Financing

Short-term financing may be referred to as working capital, an operating loan or a short-term loan because scheduled repayment takes place in less than one year. This type of financing usually applies to money needed for day-to-day operations, such as

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April 30, 2018

FILING INSTRUCTIONS:
Proceeding RD Instruction 1942-A and 3575-A

purchasing inventory, supplies, paying wages of employees or paying the current portion of long term debt. A line of credit is an example of short-term debt financing. RD Instructions 1942-A and 3575-A do not authorize short-term debt financing or financing loans where the sole purpose is for working capital.

Certain ancillary expenses are permitted under the CF Direct and Guaranteed Loan Programs when they are a necessary part of a loan to finance eligible facilities. These expenses are listed in sections 1942.17(d)(1)(iv)(A) and 3575.24(b)(3)(i). They include reasonable fees and costs such as an origination fee, loan guarantee fee, legal, engineering and some other development fees.

Section 1942.17(d)(1)(iv)(B) and section 3575.24(b)(3)(ii) permit funds to be used to pay interest on loans until the facility is self-supporting, but not for more than 3 years (2 years for a guarantee), and to pay interest on loans secured by general obligation bonds, but for not more than 2 years. Financing interest on loans beyond the period stated is subject to National Office approval.

Where the applicant is unable to pay the initial operating expenses of the facility, section 1942.17 (d)(1)(iv)(E) and 3575.24(b)(3)(v) permit financing operating expenses for a period ordinarily not exceeding one year. A CF Direct or Guaranteed loan may only finance operating expenses when they are a necessary part of a loan to finance an essential community facility as described in sections 1942.17(d)(1)(i) and 3575.24(a).

Refinancing Long-term Debt

Section 1942.17 (d)(1)(iv)(F) and section 3575.24(b)(3)(vi) allow refinancing of existing debt on a community facility when all of the following conditions exist:

a. The debts refinanced are less than 50% of the total loan;
b. The debts were incurred for the facility or service being financed or any part thereof (such as interim financing, construction expenses, etc.);
c. Arrangements cannot be made with the creditors to extend or modify the terms of the debts so that a sound basis will exist for making a loan; and
d. The refinancing is a necessary part of a loan to finance an essential community facility as described in 1942.17(d)(1)(i) and 3575.24(a).

The loan case file must be documented with a copy of the original debt instrument(s) and supporting expense documentation underlying the existing debt being refinanced with a CF Direct or Guaranteed loan. The lender must certify the existing debt was not on reasonable terms (e.g. because interest rates have since fallen) and efforts to modify the repayment terms with the creditor(s) of the existing debt have been unsuccessful. The refinance must show a benefit to the applicant’s cash flow.

A careful review is necessary of the creditor’s efforts to work with the applicant on managing debt repayment. If the creditor for the existing debt is also the proposed lender, then the lender must provide the transaction history on the existing debt, demonstrating debt repayment was maintained in a current fashion, to alleviate the risk of Rural Development sustaining the loss the lender would have sustained if the debt had not been refinanced.

If you have any questions, please contact Karla Peiffer, Asset Risk Management Specialist, Community Facilities Programs, at karla.peiffer@wdc.usda.gov.