

Requirements for Construction Loans to be accepted as Secondary Loan Collateral in the Bond Guarantee Program

As described in the updated *CDFI Bond Guarantee Program (BG Program) Secondary Loan Requirements* document published in August 2019, the BG Program allows loans funding construction projects (Construction Secondary Loans) to be pledged as collateral for Secondary Loans for BG Program advances, provided that each such Construction Secondary Loan is fully collateralized by a Principal Loss Collateral Provision (PLCP) in the form of a letter of credit (Construction L/C) under the terms and conditions explained below.

Should an Eligible CDFI (ECDFI) in the BG Program wish to pledge a construction loan as collateral, this document provides a description of the requirements for the issuing bank as well as the minimum required terms of the Construction L/C.

Requirements for issuing bank:

- The issuing bank must:
 - (i) be a U.S. regulated and insured bank; and
 - (ii) have and maintain a long-term credit rating equivalent to or higher than a Moody's rating of Baa1 or an S&P rating of BBB+.
- The BG Program will perform financial due diligence on the issuing bank, and approve any bank seeking to issue a Construction L/C for a construction loan at the time of initial request, and then will conduct an annual review of the Construction L/C issuing bank each year that a Construction L/C is collateralizing a Construction Secondary Loan.

Requirements and Terms of the Construction L/C:

- **Expiration/Term of the Construction L/C:**
 - a) The Construction L/C term will be tied to the anticipated construction completion and stabilization period, and it is expected that it will be for a term of no longer than three (3) years.
 - b) If the anticipated construction and stabilization period is longer than three (3) years, the CDFI Fund will consider accepting a Construction L/C for a term longer than three years.
 - c) Construction completion is defined as when the ECDFI is in receipt of:
 - (i) Certification of substantial project completion,
 - (ii) All requisite certificate of occupancy or permits, and
 - (iii) Final lien releases.
 - d) The term of the Construction L/C must include a minimum of a three (3) month stabilization period after construction completion and prior to the Construction L/C expiration. Reaching construction stabilization will be determined based upon performance metrics established by the Eligible CDFI and agreed to by the Construction L/C issuing bank.
 - e) The Construction L/C shall provide the opportunity to draw prior to expiration.
- An executed version of the Construction L/C must be filed with each pledged loan package at the pledging ECDFI document custodian as proof of claim.

Minimum Amount of Coverage:

- a) The amount of the Construction L/C will be equal to the full principal value of the covered Construction Secondary Loan.

Pricing

- a) Similar to the BG Program's policy for Secondary Loans and Qualified Issuer fees, the BG Program will review the pricing of the Construction L/C.
- b) Fees due in connection with a Construction L/C will be paid directly by the pledging ECDFI to the Construction L/C issuing bank, not through the Master Servicer/Trustee monthly billing process.

Requisites for Drawing: The Master Servicer/Trustee will be the beneficiary of a Construction L/C, and as such, at the direction of the CDFI Fund, will have the right to draw on the Construction L/C under any of the following conditions:

- a) There has been a payment default by the Eligible CDFI under the Bond Loan Agreement due to a payment default under the Construction Secondary Loan which is the subject of such Construction L/C, the ECDFI has not cured such default, and funds in the Risk-Share Pool are insufficient to make Bond payments current.
 - b) Construction completion is expected to extend beyond the term of the Construction L/C.
 - c) The construction project does not reach stabilization within the prescribed time period prior to Construction L/C expiration.
 - d) The Construction Secondary Loan is in default for non-payment and subject to replacement in accordance with the terms of the applicable Bond Loan Agreement.
- **National Environmental Policy Act (NEPA):**
 - a. NEPA and the CDFI Fund Environmental Regulations (12 C.F.R. 1815) apply to the BG Program:
 - I. ECDFIs must complete an Environmental Review Form for each Construction Secondary Loan construction project and indicate whether a categorical exclusion applies to their project.
 - II. The BG Program staff will review the Environmental Review Form prior to the approval of any requisition/advance.
 - III. A Construction Secondary Loan will not be approved for an Advance if it does not meet a categorical exclusion or if the CDFI Fund has not performed an environmental review or assessment, as necessary and in accordance with the CDFI Fund's Environmental Regulations.