

## Overview of Government Financing Programs for Energy Technologies and Projects

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Nearly \$80 billion of government stimulus spending for clean energy technology was brought to bear in 2010. Looking back, it was a year of tremendous impact and growth for the sector, with the government emerging as one of the most active investors. Federal programs such as the Department of Energy (DOE) and United States Department of Agriculture (USDA) loan guarantee programs leveraged billions of private sector dollars and created more than 61,000 jobs. Other government agencies are supporting initiatives with tremendous impact, including the Department of Defense, where the Navy is positioning itself to procure more than 50 percent of its energy from alternative sources by 2020. For companies in certain sectors, particularly biofuels companies, the Department of Defense represents both a development partner and a first customer.

Initiatives and financing programs such as these have supported energy technology companies through some of the more difficult late-stage commercialization gaps, but demand for these types of government programs has increasingly exceeded supply. The DOE Title XVII loan guarantee program, for example, has experienced unparalleled demand as well as sharp criticism. At best, only a handful of additional DOE loan guarantees will be completed by the impending September 2011 deadline for Section 1705 projects. Moreover, the USDA Biorefinery Assistance Loan Guarantee Program expects to utilize the last of its mandatory appropriations this year. Nonetheless, the demand for financing to demonstrate innovative technology or build a first commercial project is not subsiding, and dozens of companies that had been pursuing a DOE or USDA guarantee will need alternative financing mechanisms. If viable alternatives are not uncovered and created, prior U.S. investment (public and private) in these technologies will be lost to job creation and economic growth overseas, as promising domestic technologies commercialize abroad.

Because of the multiple and often capital-intensive hurdles that energy technology must overcome to reach commercial markets, and the inseparable intersection between energy and government regulation, the government policy and financing landscape in 2011 continues to exert a significant influence on the energy technology sector. Reining in government spending means that billion-dollar appropriations requests will be unlikely to gain traction. There are, however, several lesser-known federal financing options that companies and investors can utilize. This primer provides an overview of the alternative government financing and funding programs available to support a variety of energy and clean technologies, as well as a summary of the status of programs at DOE and USDA.

## Status Update – Department of Energy Title XVII Loan Guarantee Program

The September 30, 2011, expiration date for the Department of Energy (DOE) Section 1705 Loan Guarantee Program is approaching. DOE has accelerated its review and negotiation of loan guarantees and continues to announce Conditional Commitments for additional projects. The usefulness of the Title XVII Loan Guarantee Program (which includes both Section 1705 and Section 1703 Programs) for projects that are on “hold” or have not yet applied is in doubt, however, due to a lack of funding and congressional support.

**Background and History.** Title XVII of the Energy Policy Act of 2005 authorizes DOE to guarantee loans for up to 80 percent of total project costs for eligible projects. Specifically, Section 1703 of Title XVII provided over \$40 billion of loan guarantee authority for DOE to guarantee projects in (i) nuclear energy, (ii) fossil energy, and (iii) energy efficiency, renewable energy, and advanced transmission and distribution projects. As a condition to issuing a loan guarantee, however, Title XVII required DOE to obtain an appropriation from Congress for the Credit Subsidy Cost (the CSC)<sup>1</sup> of issuing a loan guarantee, or otherwise obtain a deposit from the borrower in the amount of the CSC.


The American Recovery and Reinvestment Act of 2009 (ARRA) included two short-term improvements to the Title XVII Loan Guarantee Program:

- First, ARRA added Section 1705 to Title XVII, which authorizes DOE to guarantee loans for renewable energy systems, leading-edge biofuels projects, and electric power transmission systems, regardless of whether such projects employ “new or significantly improved technology,” provided that the project commences construction and reaches financial close by September 30, 2011 (the Section 1705 Program); and
- Second, ARRA appropriated \$6 billion for the CSC of loan guarantees issued pursuant to Section 1705.

Prior to the ARRA, DOE was only authorized to provide loan guarantees pursuant to Section 1703 of Title XVII, which, among other things, requires that projects employ “new or significantly improved technology” (the Section 1703 Program). Furthermore, without the appropriation of the CSC, borrowers were responsible for full and upfront payment of the CSC upon closing, which could be a significant percentage of the loan amount. Under Section 1703 and prior to the ARRA, DOE issued a total of five solicitations for various types of projects, although not a single project advanced to financial close. Once CSC funds were appropriated through the ARRA and based on its authority pursuant to Section 1705, DOE issued four additional solicitations for applications for loan guarantees:

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<sup>1</sup> The Credit Subsidy Cost is the net present value of the estimated long-term cost to the U.S. government of a loan guarantee, as determined under the applicable provisions of the Federal Credit Reform Act of 1990. In other words, it is the “premium” paid to the government in return for its guarantee.

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- A solicitation for renewable energy, advanced transmission, and biofuels projects that employ “new or significantly improved technology” (e.g., qualify for the 1703 Program) where, for projects that also qualified for the Section 1705 Program (i.e., commence construction and reach financial closing by September 30, 2011, and fall within the categories of *Renewable Energy Systems, Leading Edge Biofuels, or Advanced Transmission & Distribution Project*),<sup>2</sup> the CSC would be covered by ARRA funds;
  - A solicitation for commercial transmission projects that commence construction by September 30, 2011, with the CSC covered by ARRA funds;
  - A solicitation for commercial renewable energy projects that commence construction by September 30, 2011, under which a qualified lender applies to DOE for a loan guarantee (the Financial Institutions Partnership Program, or FIPP); and
  - A solicitation for projects that manufacture commercial renewable energy systems and components that commence construction by September 30, 2011, with the CSC covered by ARRA.


As a result of prior delays in the implementation of the Section 1703 Program and later the Section 1705 Program, the \$6 billion in CSC funding quickly became a target for offsetting other programs. Of the initial \$6 billion ARRA appropriation, \$2 billion was reallocated to the “cash for clunkers” program in August 2009 and an additional \$1.5 billion was reallocated as part of a teachers and Medicaid package in August 2010, leaving a total of \$2.5 billion to cover the CSC of loan guarantees pursuant to the Section 1705 Program.

As of this writing, 29 conditional commitments have been issued, of which 11 have closed, but with limited funds to cover the CSC and little time to negotiate loan guarantees before the September 30, 2011, deadline, DOE acknowledged it had more projects in its pipeline than it could realistically process, or even fund. In May 2011, DOE issued letters to all applicants still under consideration for loan guarantees pursuant to the Section 1705 Program, notifying them whether their project was selected to advance in the inter-agency review process, whether they were being placed “on hold,” or whether they were rejected.

**Opportunities After September 30, 2011.** While DOE’s authority under the Section 1705 Program expires on September 30, 2011, authority under the Section 1703 Program continues, meaning that DOE will still be authorized to provide loan guarantees for projects that employ “new or significantly improved technology.”

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<sup>2</sup> DOE allowed eligible projects that applied under previous solicitations, which provided that the borrower must pay the CSC, to be rolled into this solicitation, which provides that ARRA funds cover the CSC if the project qualifies for the Section 1705 Program.



In April, the 2011 Continuing Resolution (CR) appropriated \$170 million to pay the CSC for Section 1703 projects that use renewable energy or efficient end-use energy technologies. This appropriation, assuming a CSC of approximately 20 percent, could support an additional \$850 million in loan guarantees. The CR specified that this funding is also available to projects that applied under the Section 1705 Program prior to February 24, 2011. In practice, this appropriation might therefore also be used to fund a few Section 1705 projects that failed to meet the September 30, 2011, deadline.

DOE has not indicated when it anticipates reconsidering applications that were placed on hold in May, or whether it will solicit new applications for projects, and is instead focused on closing as many Section 1705 loan guarantees as possible before the September 30, 2011, deadline.

Without further congressional action, DOE has limited authority to provide additional loan guarantees pursuant to the Section 1703 Program, where the requirement that borrowers pay the CSC lessens the appeal of the program to most companies. President Obama's Fiscal Year (FY) 2012 Budget Request included a \$200 million request for CSC funding for Section 1703 loans. This level of requested funding would support an estimated \$1 to \$2 billion in loan guarantees to support energy efficiency and renewable energy activities. The House Appropriations Committee's FY 2012 Energy and Water Appropriations Bill, approved by the House on June 15, 2011, contains a mark for \$160 million in CSC and places a variety of restrictions on the Title XVII Loan Guarantee Program. The Senate's review and subsequent mark for the FY 2012 budget has not yet taken place and will be another determining factor in the future of the DOE Title XVII Loan Guarantee Program.



## **Status Update – Department of Energy Advanced Technology Vehicle Manufacturing (ATVM) Loan Program**

In addition to the Title XVII Loan Guarantee Program, DOE's Loan Programs Office administers the Advanced Technology Vehicle Manufacturing (ATVM) Loan Program, a direct loan program established pursuant to Section 136 of the Energy Independence and Security Act of 2007. To date, DOE has funded five loans under the ATVM program totaling \$8.399 billion. Four of the five loans were issued prior to April 2010, including a \$5.9 billion loan to Ford, a \$1.4 billion loan to Nissan, a \$529 million loan to Fisker Automotive, and a \$465 million loan to Tesla. The ATVM Program is not subject to an expiration date, and, depending on the industry's ability to prevent current efforts to rescind ATVM's funding, the program may continue to be a viable means for financing innovative vehicle technologies (both those that are currently eligible under the rule and, possibly, expanding the rule to include technologies that are not currently eligible, such as advanced fleet vehicle applications).


**Background and History.** Under the ATVM Program, automobile manufacturers or advanced vehicle automobile component manufacturers are eligible to obtain direct loans from DOE for projects that reequip, expand, or establish manufacturing facilities in the United States that produce "ultra efficient vehicles," passenger automobiles, light duty trucks, or associated components that meet DOE's emission and fuel economy standards for "advanced technology vehicles."

The authorizing legislation for ATVM provided a \$7.5 billion appropriation to cover CSCs for issuing up to \$25 billion in loans. In May 2011, Congress reallocated \$1 billion in ATVM Program funding to the Department of Homeland Security's Federal Emergency Management Agency as part of a disaster relief fund. Accounting for the effects of this offset and the five loans that have closed, it is estimated that at least \$2 billion remains available to cover the CSC for eligible projects.

In addition to meeting project eligibility criteria, an applicant must be determined by DOE to be financially viable without receipt of additional federal funding associated with the proposed project. The principal amount of the loan may not exceed 80 percent of reasonably anticipated total project costs, and the term of the loan may not exceed the lesser of the projected life of the proposed project or 25 years.

**Future Opportunities.** DOE continues to accept applications for loans under the ATVM Program on a rolling basis and, unlike the Title XVII Program, CSC funds are available to support new projects that have not yet applied. Nonetheless, remaining unused CSC funds may be subject to additional rescissions during congressional budget negotiations as lawmakers seek opportunities to offset new government spending with cuts to existing government programs.

As it stands today, the ATVM Program is restricted to supporting advanced vehicle technologies under 8,500 pounds. This weight limitation restricts the ability of the program to support fleet vehicle applications. There is a precedent, however, for expanding the program to accommodate vehicles not



originally eligible under the Final Rule of the ATVM Loan Guarantee Program. An example of another useful expansion would be to lift or increase the weight limitation so as to accommodate fleet vehicles.

A significant market for advanced technology fleet vehicles currently exists in both the United States and abroad, as many of these vehicles are cost-competitive when fuel savings throughout the life of the vehicle are taken into account. Expanding the ATVM Program to accommodate fleet vehicles could help support a sector with significant potential, as well as eliminate additional attacks on the program's appropriations.

## Defense Production Act (DPA) Title III

The Defense Production Act (DPA or the Act) is an existing legislative mechanism which has the potential to support the financing of renewable energy technologies deemed essential for national defense. DPA was enacted into law on September 8, 1950 as a result of the Korean War, and has been used in various instances throughout history to assist with the strategic commercialization of innovative defense-related technologies. For example, the Act played a vital role in the establishment of the domestic aluminum and titanium industries in the 1950s, and in the 1980s the Act was used as an innovation tool to ensure the survival of the U.S. semiconductor base. Since its inception, the Act has been periodically reauthorized and amended, with the titles most relevant to the energy sector still in effect today.

**Main Provisions.** Title I authorizes the President to demand priority for defense-related products by issuing and prioritizing contracts or orders. Title III authorizes the President to "create assured, affordable, and commercially viable production capabilities and capacities for items essential for national defense." Effectively, Title III authorizes the President to provide incentives related to creation, expansion, or preservation of defense productive capacity, including:

- Government purchases and purchase commitments;
- Installation of production equipment;
- Development of substitutes and related research and development support; and
- Loans and loan guarantees


Title III is the portion of the Act best-suited to support energy technology grants, contracts, and/or loan guarantees and has also been used most frequently since the 1970's. However, there are certain restrictions in the loan and loan guarantee sections of the existing regulation which will serve to limit wide-scale use of the Act across all technologies. Sections 2091, 2092 and 2095 of the Defense Production Act state the following:

*Except during periods of national emergency declared by the Congress or the President, a guarantee or loan may be entered into under this section only if the President determines that:*

- I. The guaranteed contract, activity, or loan is for industrial resources or a critical technology item which is essential to national defense;*
- II. Without the guarantee or loan, United States industry cannot reasonably be expected to provide the needed industrial resources or critical technology item in a timely manner;*
- III. The guarantee or loan is the most cost-effective, expedient, and practical alternative for meeting the need involved; and*
- IV. The combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the guarantee.*

The above-outlined requirements leave a fairly narrow scope of eligibility. However, if Congress and the President aspire to use the Act to play a significant role in meeting the DOD's various energy-related goals, it may be feasible to expand certain provisions.

**Organization.** Although DPA authority can be extended to all federal agencies, it has primarily been used by DOD. The DPA Title III Program Office is organized as a DOD-wide program, housed within the Office



of the Secretary of Defense (OSD) and specifically within the Director of Defense Research and Engineering (DDR&E). While DDR&E is currently supporting several innovative energy-related technology grants and contracts using Title III authority, the DPA Program Office has not administered (nor has any other federal agency) a loan or loan guarantee using DPA authority in recent years.

**Future Opportunities.** In a March 30, 2011 speech at Georgetown University, President Obama announced support for “four next-generation biorefineries – each with a capacity of more than 20 million gallons per year” by mid-decade. The Obama Administration initially tasked DOE and USDA with funding the development of biorefineries, but with the current status of the DOE Title XVII Loan Program and the USDA Biorefinery Assistance Loan Program, neither agency currently has adequate funding to lead such efforts. Accordingly, Obama Administration officials are looking to the authority granted under Title III of the DPA as a vehicle for supporting this initiative. The DPA’s Title III has the authority to support this effort, but funding must be formally allocated to this legislative vehicle.

To obtain funding for new Title III DPA efforts, the President can request funding in a budget request or budget amendment, Congress can encourage the President to allocate funding to DPA efforts and initiatives, or agencies can provide funding directly through offsets (re-allocating funds from other programs). Defense agencies as well as other Federal Agencies can offset the cost of initiating specific Title III efforts. Approximately \$300 - \$500 million has been identified between DOD, USDA and DOE budgets, although these funds have not yet been formally announced. Various sources have indicated that the aforementioned funds are likely to fund four to six biorefineries, but it is important to remember that the DPA also remains a potentially powerful vehicle for supporting other defense-related energy technology applications in the future.

The notion of utilizing DPA authority has support from important members of Congress and high-ranking officials within the Obama Administration, but the critical element of formally allocating funding to Title III remains. There is potentially the will to remedy this situation, but companies will play a critical role and will need to engage with Washington legislators and officials to encourage the use of DPA for commercializing fuels, and other energy-related technologies necessary to defense.



## United States Department of Agriculture Section 9003 Biorefinery Assistance Guaranteed Loan Program

On February 14, 2011, the United States Department of Agriculture (USDA) published the long-awaited interim final rule<sup>3</sup> governing its Biorefinery Assistance Loan Guarantee Program (the 9003 Program). Previous concerns raised by private-sector lenders and project developers when the proposed rule was issued in April 2010 are addressed in the interim final rule, which allows for greater participation by private-sector lenders and relaxes certain eligibility requirements. Comments to the interim final rule were accepted until April 15, 2011, and the final rule governing the 9003 Program is expected to be released in the coming months.

**Background.** Section 9003 of the 2008 Farm Bill authorizes the USDA to guarantee loans of up to \$250 million for the development and construction of commercial-scale biorefineries that produce advanced biofuels.<sup>4</sup> A Notice of Funding Availability (NOFA) was first issued in November 2008, which reflected a budget authority of \$75 million to cover the credit subsidy risk of selected loan guarantees. It was not until March 2010 that the USDA issued its first conditional loan guarantee under the 9003 Program—an \$80 million loan guarantee for Range Fuels' cellulosic biorefinery project in Georgia. Subsequent to the announcement of the Range Fuels project, the USDA issued a second NOFA in March 2010 indicating that not all of the 2009 budget authority had been committed and that the USDA was requesting additional applications. The second project announced under the 9003 Program was a \$54.5 million loan guarantee conditional commitment to Sapphire Energy.

The proposed rule was later issued in April 2010, initiating a public comment period during which many private-sector and investor concerns were raised, some of which were elevated to the level of senior USDA officials.<sup>5</sup> Specifically, some industry stakeholders voiced concerns that certain provisions of the proposed rule made participation in the 9003 Program unfeasible for many private-sector lenders. Despite ongoing debate and potential rule changes, in May 2010, the third NOFA was issued for \$245 million of fiscal year 2010 budget authority, as appropriated through the Farm Bill. At this point, applicants were able to apply for the program under the guidance in the proposed rule.


On January 20, 2011, the USDA announced three additional conditional commitments under the 9003 Program: (1) a \$250 million guarantee for Coskata's 55 million gallon-per-year cellulosic refinery in Alabama; (2) an \$80 million guarantee for Enerkem's 10 million gallon-per-year advanced biofuels refinery in Mississippi; and (3) a \$75 million guarantee for Ineos Bioenergy's 8 million gallon-per-year cellulosic ethanol plant in Florida. All three commitments were issued under the proposed rule. In order for the USDA to reach financial closing on these three pending commitments, certain changes to

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<sup>3</sup> The interim final rule can be found at: <http://www.gpo.gov/fdsys/pkg/FR-2011-02-14/pdf/2011-2473.pdf>.

<sup>4</sup> For more information, please see "Overview of the USDA Biorefinery Assistance Loan Guarantee Program," December 13, 2010, at <http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/section9003.htm>.

<sup>5</sup> For more information, please see "U.S. Department of Agriculture Loan Guarantee Programs and Utilization of Bond Financing," April 26, 2010, at [http://www.wsgr.com/publications/pdfsearch/wsgralert\\_usda\\_loan\\_guarantees.pdf](http://www.wsgr.com/publications/pdfsearch/wsgralert_usda_loan_guarantees.pdf).



provisions of the proposed rule were necessary. It appears that the interim final rule contains some of the key changes that will make the 9003 Program more feasible for lender and developer participation.

**Key Changes in the Interim Final Rule.** Changes in the interim final rule generally allow for greater participation by private-sector lenders and relax eligibility requirements by, among other things:

- increasing the maximum guarantee percentage to 90 percent for loans of \$125 million or less;
- adding refinancing as an eligible project purpose under certain conditions;
- extending the maximum term of the guaranteed loan to the lesser of 20 years or the useful life of the project;
- increasing the amount by which the rate on the unguaranteed portion of the loan may exceed the guaranteed portion to 5 percent;
- eliminating the requirement that a project must be located in a rural area (although whether a project is in a rural area remains an important scoring criterion);
- allowing the use of bond financing;
- reducing the minimum retention requirement for lenders to 7.5 percent of the total loan amount; and
- eliminating the citizenship requirement for borrowers.

The interim final rule became effective on March 16, 2011, although the USDA accepted comments on it through April 15, 2011. The interim final rule will remain in effect until the USDA adopts a final rule. The USDA is currently reviewing the comments submitted on the interim final rule and expects to publish the final rule in the coming months. Changes in the final rule are likely to be minimal compared with the previous overhaul, but there is a likelihood that the final rule will be expanded to accommodate alternative project terms and, possibly, new project sectors such as bio-based chemical production.

**Program Funding.** With workable rules in place and the opportunity for valuable expansion, funding will be the next major challenge for the 9003 Program. The 9003 Program was initially authorized and funded by the 2008 Farm Bill, with a total mandatory funding allocation of \$320 million, drawn from the Commodity Credit Corporation to provide for credit subsidy costs. The Farm Bill also provided additional authorization for the 9003 Program of up to \$150 million in discretionary funds, to be appropriated by Congress during the annual budget cycle. To date, Congress has not utilized any discretionary budget authority to fund the 9003 Program. Early estimates and conversations with senior USDA officials suggest that the credit subsidy allocations in the 9003 Program may be leveraged three to four times, resulting in an approximately \$1 billion guarantee facility. With \$485 million committed and other applicants currently under consideration, the initial \$1 billion tranche likely will be conditionally committed by the end of FY2011.

The budgetary debate in Congress has made discretionary funding for FY2012 challenging at best. While the president's FY2012 budget does not request funding for the 9003 Program and the USDA expects all current funding to be conditionally committed by the end of FY2011, some carryover balances may be



available in 2012 from the 2008 Farm Bill. Therefore, the potential for additional future funding and meaningful continuation of the 9003 Program ultimately depends on the reauthorization of the Farm Bill and its energy-related programs in 2012. Discussions on the 2012 Farm Bill have already commenced in the House of Representatives.



## USDA Business & Industry Guaranteed Loan Program

**Background.** The USDA administers the Business and Industry (B&I) Guaranteed Loan Program to help establish, expand, or modernize rural businesses. The B&I Guaranteed Loan Program guarantees loans for businesses to pursue activities that will:

- provide employment;
- improve the economic or environmental climate;
- promote the conservation, development, and use of water for aquaculture; or
- reduce reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems and other renewable energy systems (including wind energy systems, geothermal energy systems, and anaerobic digesters for the purpose of energy generation).


It is a general purpose economic development program, but if employed creatively, it can be used to support demonstration-scale projects for innovative energy technology. The level of flexibility in the B&I Guaranteed Loan Program varies by state, so it is important to begin a dialogue at the state and/or federal level, as applicable, early in the process. Funding in the B&I program focuses on supporting high-priority areas of the administration, which includes the deployment of clean and renewable energy. Senior leadership within the USDA, particularly Secretary Tom Vilsack, has provided tremendous support for energy initiatives across the agency, and state-level programs are a key aspect in executing and fulfilling these broader objectives.

**Loan Guarantee Amounts.** Loans eligible for a guarantee can range in size up to \$25 million. Loans up to \$40 million can be guaranteed if the borrower is a cooperative organization, as defined below. As an example of the flexibility in the program, it is occasionally possible to combine multiple loans from the B&I program, or to combine B&I and Rural Energy for America Program (REAP) loans, for a total of up to \$65 million. The percentage of the loan that is guaranteed varies depending upon the size of the loan, as follows:

- 80 percent guarantee of loan amounts up to and including \$5 million
- 70 percent guarantee of loan amounts greater than \$5 million, up to and including \$10 million
- 60 percent guarantee of loan amounts greater than \$10 million

The 2008 Farm Bill also provides for 90 percent guarantees for high-priority projects under \$10 million; however, the USDA exercises that authority infrequently.

**Designated Lender Program.** The B&I Program requires the participation of an eligible lender. Federal- or state-chartered banks, Farm Credit System institutions, savings and loan associations, credit unions, insurance companies, and the National Rural Utilities Cooperative Finance Corporation automatically are eligible lenders, while other types of lenders must pre-qualify with the USDA. The relevant eligible



lender determines the loan's terms (within the program guidelines), disburses the funds, and must hold at least 5 percent of the unguaranteed portion for the life of the loan. The guaranteed portion of the loan can be resold in the secondary market, and interests in the remaining 95 percent of the unguaranteed portion can be shared through participations (with the designated lender retaining title to the notes but not the economic interest in them).

The guaranteed and unguaranteed portions of the loan are secured by the same collateral, with equal lien priority. The program contemplates that lenders and the USDA may consider providing loans that are junior to or on par with pre-existing loans if the collateral is sufficient for both the prior loan and the B&I guaranteed loans.


**Eligible Projects.** Eligible projects include:

- business and industrial acquisitions when the loan will keep the business from closing, prevent the loss of employment opportunities, or provide expanded job opportunities;
- business conversion, enlargement, repair, modernization, or development;
- purchase and development of land, easements, rights-of-way, buildings, or facilities;
- purchase of equipment, leasehold improvements, machinery, supplies, or inventory; and
- financing of renewable energy-related projects.

Accordingly, projects that propose any of the above to provide employment, improve the economic or environmental climate, promote conservation, or reduce reliance on non-renewable energy resources are eligible. This can include previously piloted renewable energy projects in virtually any sector, including solar, biomass, biopower, and electric vehicles, among others. For most energy-related projects, the USDA will make eligibility determinations on a case-by-case basis. In particular, biomass power and biogas-to-energy projects must have completed two operating cycles, and projects that produce steam or electricity must be interconnected with the purchaser of the output and meet other program-specified criteria.

All eligible projects must be located in a rural area (with a population less than 50,000 and not in an urbanized area), and they must use a pre-commercial or commercially available, replicable, and feasible technology. While the project must be creditworthy and possess collateral sufficient to secure the loan, there is no owner-occupancy requirement as found in other USDA programs.

**Guaranteed Loan Requirements.** Guaranteed loans are required to be fully secured based on a sound loan-to-value policy, including a feasibility analysis in which stronger feasibility justifies relatively higher loan-to-value amounts. Designated lenders have the primary responsibility of determining that the loan is fully secured. Overall, lenders can be expected to judge the size of loan they are willing to make based both on the value of assets pledged as collateral and the expected cash flow from the project that will support repayment. The program also states that managerial ability can be taken into account to overcome collateral deficiency.



In addition, to qualify for a loan guarantee, the borrower must show that the project has tangible balance sheet equity of at least 10 percent for loans to existing businesses, 20 percent for start-ups, and 25-40 percent for energy projects. Rather than requiring cash equity (as the REAP guaranteed loan program requires), the B&I program's equity requirements are measured based on tangible balance sheet equity as determined by financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP).

**Eligible Project Costs.** All eligible project costs must be an integral and necessary part of the total project. The following is a list of those eligible uses:


- Businesses and industrial acquisitions
- Purchase of land, machinery, and equipment
- Construction, enlargement, or modernization
- Eligible fees and costs
- Educational or training facilities
- Tourist facilities
- Pollution control or abatement
- Working capital
- Refinancing when necessary to improve cash flow and create new or save existing jobs

**Eligible Borrowers.** Cooperative organizations, corporations, partnerships, and other for-profit and non-profit organizations are eligible. Indian tribes and other federally recognized tribal groups, public bodies, or individual persons also are eligible. A cooperative organization is defined as a non-chartered entity that operates as a cooperative, being owned and operated for the benefit of its members and distributing dividends and assets to them. Individual borrowers must be U.S. citizens, and corporations must be at least 51 percent owned by U.S. citizens or permanent residents of the U.S.

**Other Key Terms and Conditions.** The length of a guaranteed loan may be up to 30 years for real estate, 15 years for equipment (or the length of its useful life, if shorter), and seven years for working capital. The interest rate of the guaranteed loan may be fixed or variable, and is negotiated between the lender and the borrower.

Interest must be paid at least annually, and principal payments may be deferred until the project is operational. Lenders are required to pay a one-time guarantee fee of 3 percent for loans made in and after 2011, and an annual servicing fee of 0.25 percent for as long as the guaranteed loan is outstanding and payable. Such fees may be passed on to the borrower.

**Application and Approval Process.** Application materials are prepared by borrowers, in coordination with the eligible lenders, and are submitted by eligible lenders to the USDA State Rural Development Office where the project is located. All applications must provide a business plan, costs estimates and forecasts of contingency funds to cover expected and unexpected project costs, financial statements for



the project and applicant, and, in some instances, a technical report and independent feasibility study. Personal guarantees are generally required from all proprietors, partners, and major shareholders (i.e., those with a 20 percent or more interest in the applicant), but exceptions may be granted in some instances. Demonstrated financial need and inability to get credit elsewhere is NOT a requirement.

Any project receiving federal funds is subject to the environmental requirements of the National Environmental Policy Act (NEPA). The USDA will perform the NEPA review, but applicants will need to provide environmental information about their project. The USDA may contact the applicant after preliminary review if more information is needed. Due to the time-intensive nature of this process, borrowers should initiate the environmental review process as early as possible.

Applications are generally approved if they meet the program requirements. Applicants meeting the criteria outlined above in a way that is sufficient to provide a reasonable assurance of repayment are likely to be awarded loan guarantees. In instances where the program cannot award loans to all eligible applicants, priorities will be assigned to applicants based on a point system. Points are allocated based upon the location of the project, the business type, community support, jobs created, and other factors.

**Fiscal Year 2011 Funding:** The FY2011 budget provided \$44.9 million to support approximately \$900 million in B&I guaranteed loans—roughly the same as the 2010 level.

**Fiscal Year 2012 Funding.** The president requested \$53 million in FY2012 to support approximately \$823 million in loans. The House Appropriations Committee markup provides approximately \$40 million in FY2012 to support \$600 million in B&I guaranteed loans. This represents a decrease of approximately \$5 million from FY2011, and \$13 million less than the president's request. Funding is available on a rolling basis, but applicants are encouraged to begin the application process early.



## Navigating State and Local Incentives for Clean Energy\*

\*Contributed by: *Sharon Heaton, Managing Director, Wellford Energy Group*

Opportunities for companies to obtain funding for demonstration projects, manufacturing facilities, and commercial projects are available at the state and local levels. Given how diverse the offerings are on a state-by-state and city-by-city basis, navigating these opportunities can be challenging.


Virtually all states provide traditional economic incentives in the form of real property or sales tax abatement, expedited permitting, and/or tax credits. These programs either reduce costs that the company would otherwise incur, or refund corporate expenditures. This section will focus on the more elusive opportunities to obtain upfront and (often) non-dilutive funding from states and localities. While the ARRA and other federal funds provided initial monies for a number of these state and local programs, states have been looking at long-term ways to offer competitive incentives through grants and loans for clean energy and advanced technology companies. States are well positioned to continue these programs in the years to come. Below is an overview of the most popular types of state and local programs.

**Grants.** Many states have developed grant programs to provide small amounts of non-dilutive funding for various projects, including research and development, demonstration, infrastructure development, and energy efficiency projects. These grant programs range in size, are administered by the appropriate state agency, and are often subject to annual appropriations from the state legislatures.

For example, in Ohio, the state recently allocated \$700 million to its Third Frontier Fund, which makes grants in numerous high technology areas, including advanced energy, advanced materials, fuel cells, and photovoltaics. Accessing these grants often requires submitting an application that will be subject to a merit review process. By beginning the process early, often before solicitations come out, companies can build good relationships with the state agencies administering the funds, and use this time to make them aware of and excited about the technology or project being proposed.

The California Energy Commission (CEC) hosts numerous energy-related grant programs. The Public Interest and Energy Research (PIER) Group within CEC is actively involved in building end-use energy efficiency research, emerging technology demonstration grants, and energy systems integration and demand response research, among other things. PIER's grant effort complements the other grant work the CEC performs. For example, Assembly Bill 118 created the California Energy Commission's Alternative and Renewable Fuel and Vehicle Technology Program. AB 118 authorizes the CEC to develop and deploy alternative and renewable fuels and advanced transportation technologies to help achieve the state's climate change goals. The CEC has an annual program budget of approximately \$100 million for projects that support this effort.

Some states have created programs that are not subject to appropriations, such as the Virginia Tobacco Indemnification and Community Revitalization Commission's grant program for projects that take place



on lands formerly used for the production of tobacco and assist in the economic revitalization of the area. Grants under this program can range from \$20,000 to more than \$5 million.

Some localities impose a small retail sales tax in order to aggregate the funds necessary for innovation and development programs. For example, the City of Hazelwood, Missouri, has imposed a one-quarter cent tax on the goods sold at an outlet mall in town, which provides the city with roughly \$2 million per year to attract development projects.


**Loans.** While loan programs vary in size and scope, most states have some type of loan guarantee or preferential lending program for clean energy projects. Some of these loan programs are federal dollars that the states are tasked with administering, as with the Clean Water and Drinking Water State Revolving Funds, which are channeled to the states by the Environmental Protection Agency and used for various water quality and efficiency projects.

Many states (such as Pennsylvania and North Carolina) administer loan programs for renewable energy power projects or energy efficiency upgrades for public buildings, small businesses, and homeowners. Loan programs at the local level also exist for these purposes in many places, and might offer more flexibility than state programs. The size of these low-interest loans often can be contingent on the number of jobs created.

Some states, such as Oregon, administer loan guarantee programs that are similar to the DOE Title XVII federal loan guarantee program. These state programs support energy efficiency, renewable energy, and alternative vehicle projects generally, with award sizes ranging up to \$25 million. Other states, such as Connecticut and Kentucky, have created “Green Banks,” or lending agencies that provide financing for clean energy and energy efficiency projects in the state. Funds for these types of programs can be appropriated initially or accessed through innovative charges on electricity sales or other nominal taxes.

**Innovation Hubs, Incubators, and Commercialization Centers.** Innovation hubs and incubators are becoming popular in many states, and often they are aided by state economic development boards. These innovation centers often provide specialized facilities, access to capital, technical and business experts, resources, and specialized service providers to companies that work with the centers. The DOE has funded several innovation hubs across the country, including one at the Navy Yard in Philadelphia, Pennsylvania, where 11 academic institutions, national labs, regional development agencies, and private industry partners have all been organized to look at developing innovative building efficiency technologies. The Energy-Efficient Building Systems Design Hub is located by the Greater Philadelphia Innovation Cluster at Navy Yard where over 90 organizations are working to help achieve the goals of national energy independence and regional economic development.

Other non-DOE funded innovation hubs and centers exist around the country. The Institute for Advanced Learning and Research (IALR) in Danville, Virginia, seeks to drive the commercialization of technologies it considers crucial to regional economic success. Given the heavy forest concentration in



this part of the state, much of its work focuses on biofuels and bioconversion processes, as well as assessing the viability of biorefineries in Virginia.

South Carolina used a Small Business Administration grant to create EnginuitySC, a public-private partnership that, in collaboration with other state and local initiatives, works to encourage entrepreneurs to commercialize research and technology research, and to create strong public policy to help companies and create access to start-up investment capital. Together with the South Carolina Hydrogen Alliance and affiliated state offices and universities, Columbia has established itself as a leading region for fuel cell research and development. It works to attract companies to the region and advocate for state incentives and policies for the industry. Many other cities around the country are pursuing similar approaches to other technologies.

**Direct Investment and Public-Private Partnerships.** At the most basic level, states have economic development boards that are responsible for helping companies navigate the siting or expansion process. These economic development boards administer many of the grant, loan, and investment programs that the state has developed.

Novel approaches to state-funded investment and development programs have emerged in recent years, looking at ways to leverage state and private funds to accelerate economic development and create jobs. For example, the federal Small Business Jobs Act created the State Small Business Credit Initiative (SSBCI), which authorized \$1.5 billion for state-run programs that partner with private lenders to increase the amount of credit available to small businesses. States apply to the Treasury for funds with the expectation that for each federal dollar awarded, the state will leverage \$10 in private investments. Earlier this spring, the federal government made the first awards to Connecticut, Vermont, and Missouri to fund small business lending and programs.

Each state has different plans on how to administer its funds. Missouri's approved plan dedicates \$16.9 million of the state's \$26.9 million in SSBCI funding to establish the high-tech Missouri Innovation, Development, and Entrepreneurial Advancement (IDEA) Seed and Venture Capital Funds. The Missouri IDEA funds assist small businesses and help transfer science and technology research and development into job creation. The funds provide financing to eligible businesses through the four stages of venture growth: (1) pre-seed capital stage financing; (2) seed capital stage financing; (3) venture capital stage financing; and (4) expansion stage debt.

**Tax Credits and Programs.** Though differing in type, most states offer some type of corporate tax incentive for clean energy or energy efficiency companies or projects. Renewable energy production tax credits and tax credits for home or corporate renewable energy systems installations are all fairly common. Refundable tax credits also are often options for companies. Companies can work to monetize the future value of the tax incentives in order to harness the value of these funds prior to being revenue positive, which often can take years.



## Overseas Private Investment Corporation

**Background.** OPIC is a U.S. government agency that serves as a development finance institution working with the private sector. Through a variety of support mechanisms (primarily to investors), OPIC helps U.S. businesses gain footholds in emerging markets. OPIC supports private equity funds and other investors with three primary product offerings:

- *Investment Fund Financing*
- *Corporate or Project Financing*
- *Political Risk Insurance*

In particular, investments in the renewable energy sector have become one of OPIC's top priorities, where the agency is focused on fulfilling its mandates for increased renewable energy and energy efficiency projects. Similarly, government mandates around the world for energy efficiency and renewable energy have spurred demand for the types of projects OPIC can support; however, certain markets remain difficult for OPIC to penetrate. For example, India has aggressive goals for renewable energy, but local content requirements have limited OPIC's ability to lend into this growing market for innovative technology projects. For the emerging clean tech sector, technology risk is often a hurdle for financing. Because OPIC typically guarantees equity that is already in place, technology risk issues have not been as significant a determining factor for the agency as they have been for other government-guaranteed financing.

Below are summaries of the three product offerings available through OPIC to support clean tech projects and investments.


**Investment Fund Financing.** OPIC provides long-term government-guaranteed debt to privately owned and managed investment funds. Investment funds then leverage OPIC's participation and government guarantee to (a) attract equity (or other subordinated capital) from institutional investors and financial institutions, and (b) make investments in companies seeking to expand or develop projects overseas. Through these investment funds, OPIC supports long-term, patient capital investment in new companies, expansions, restructuring capitalizations, or privatizations.

OPIC's investment fund program began in 1987, and since then OPIC's commitments have totaled more than \$3.6 billion to over 50 private equity funds. The funds have in turn invested more than \$4.6 billion in over 470 private companies, the vast majority of which are small and medium-sized entities. OPIC maintains a complete list<sup>6</sup> of its investment funds, including the fund size, country, or region; primary investment focus; and status (e.g., fundraising, investing, divesting).

**How It Works.** OPIC supplements private equity capital by lending long-term debt (typically with a 10 to 12 year maturity) to an investment fund. Financing typically is provided in the form of a loan or a loan

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<sup>6</sup> The OPIC list of funds can be found at <http://www.opic.gov/investment-funds/full-list>.



guarantee in which certificates of participation (COPs) guaranteed by OPIC (and backed by the full faith and credit of the U. S. government) are sold to eligible investors. For private equity funds and private equity funds-of-funds, OPIC can provide a loan guarantee between \$20 million and \$150 million per fund, or up to a 50 percent match to the equity capital raised. For debt facilities, OPIC can provide between \$10 million and \$100 million in the form of senior debt, up to 60 percent of the capitalization of any debt vehicle.


The investment fund manager can then leverage OPIC's participation to attract additional equity, but will ultimately deploy its capital to a portfolio of investments using the instruments it deems most appropriate. These may include equity and equity-related investments, participating debt, and other structures appropriate to the local investment environment. OPIC does not guarantee individual investments made by the investment fund in portfolio companies, nor does the agency guarantee an investor's equity commitment to an investment fund.

**Impact Investment Initiative to Spur New Clean Tech Investment Funds.** In March 2011, OPIC announced an *Impact Investment* initiative, whereby the agency solicited proposals from investment fund managers whose investment strategies focus on key sectors, including (but not limited to): renewable resources, sustainable agriculture, water, sanitation and waste management, and basic infrastructure. Up to seven new investment funds will be selected as part of the *Impact Initiative* and will raise capital to make new investments according to their proposed strategies. For the selected funds, OPIC is considering providing up to a 100 percent match to the equity capital raised, or up to one-half of a fund's total capital. At least one fund will be geography-focused on investments in China and India, and at least two are expected to be focused on agriculture-based investments.

**OPIC Structures to Support Investment Funds.** OPIC support of investment funds is structured most often as leveraged debt, but it may be provided in the form of a guarantee on fund capital whereby equity and debt interest "units" are sold into the capital markets.

- **Leveraged Debt Structure.** OPIC typically provides its support to private equity funds in the form of a senior secured loan. OPIC has sold participations in these loans to institutional investors in the U.S. capital markets, where proceeds from the sale of COPs are used to fund OPIC's loan. An OPIC-guaranteed loan will typically bear a base interest rate comprised of (a) the rate for U.S. Treasury securities with comparable terms and tenor determined separately for each disbursement plus (b) a premium over U.S. Treasury securities, which COP holders require.


For loan guarantee support to debt facilities where there is significant involvement of a U.S. small business, OPIC can make a direct loan. Otherwise, OPIC obtains funding for its loan through COPs, or through a risk-sharing arrangement with a U.S. financial institution. OPIC expects that its creditor participation in debt facilities will be on a senior basis, *pari passu* with the holders of other senior debt, if applicable, and that OPIC will have (or share in) a first lien on all assets. Other structures will be considered on a case-by-case basis.

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- **Unit Structure.** OPIC can also guarantee equity fund capital from eligible investors through a unit structure, whereby institutional investors purchase “units,” consisting of an equity interest and an OPIC-guaranteed debt interest in the investment fund. The debt portion (with interest) is fully guaranteed by OPIC and can provide investors with some level of downside protection on a portion of their overall capital commitment to an investment fund. Units can only be purchased by U.S. Eligible Investors, defined as “U.S. Persons,” but also including a trust that is “substantially beneficially owned by U.S. citizens.”

**Corporate and Project Financing.** OPIC can also provide medium- to long-term financing through direct loans and loan guarantees for eligible investment projects in developing countries and emerging markets. Although all projects are evaluated on a case-by-case basis, OPIC financing will generally support up to 75 percent of the total project costs, with tenors ranging from three to fifteen years. In general, OPIC looks for a debt-to-equity ratio in the range of 60/40, although this will also vary with the nature of a specific business and the variability of expected cash flows.

- **Corporate Financing Support.** OPIC can provide a loan to the U.S. corporate sponsor of an overseas project. Instead of evaluating the project company, OPIC evaluates the U.S. company’s offered collateral as well as the ability of the U.S. company to repay the loan. Although the U.S. company serves as the borrower and provides the collateral, the purpose of this type of financing is to support overseas projects. In terms of driving energy efficiency projects overseas, OPIC’s corporate financing support would be ideal for domestic manufacturers or energy service companies. Under this model, an OPIC loan to an energy service company or engineering firm would enable them to purchase U.S. goods and deploy a project overseas.
- **Project Finance Support.** In contrast to the corporate finance structure, OPIC focuses on the economics of the overseas project in terms of loan repayment. The economic, technical, marketing, and financial soundness of the project are fully evaluated to determine creditworthiness, and there must be adequate cash flow to pay all operational costs and to service all debt. Collateral to secure the loan may be in the host country and/or in the U.S. The project sponsors are expected to support the overseas operation until determined milestones (e.g., completion, implementation, and financial viability) are met. OPIC requires significant U.S. participation in overseas projects, which can be achieved with either an equity or a long-term debt investment. At a minimum, there must be U.S. ownership interests of at least 25 percent. Alternatively, substantial long-term debt from a U.S. bank can be deemed sufficient to constitute U.S. ownership.

Direct loans are usually reserved for projects sponsored by or substantially involving U.S. small and medium enterprises (SMEs), and loan guarantees are utilized for larger projects. There is no minimum loan size, and the agency can loan or guarantee up to \$250 million per project (up to \$325 million in oil



and gas projects). However, any loans or guarantees over \$30 million must be approved by the OPIC board of directors.

In cases where a loan guarantee is the appropriate structure, a financial institution must be identified to provide the funds to OPIC, where the agency serves as the lender for the project, and the institution is protected by the guarantee. Eligible financial institutions include legal entities created under the laws of the U.S., any state or territory, or Washington, D.C., including corporations, partnerships, or other associations like nonprofit associations more than 50 percent beneficially owned by U.S. citizens. Foreign corporations that are more than 95 percent U.S.-owned also are eligible.

Historically, OPIC's project financing efforts have been focused on rural electrification, but the agency is interested in deploying new models that will support energy efficiency projects, as well as exports of goods overseas. OPIC can support lease financing structures on specific equipment, such as vehicles. For example, a municipality in Mexico may want to lease a fleet of advanced vehicles that are manufactured in the U.S. OPIC would provide financing for the U.S. manufacturer through a financial intermediary that receives an OPIC guarantee.

**Political Risk Insurance.** OPIC also provides political risk insurance with a variety of types of coverage, including currency inconvertibility, expropriation, political violence, and terrorism, as well as special coverages related to capital markets, institutional loans, leasing (capital and operating), and natural resource projects. Most recently, OPIC has offered political risk insurance related to carbon credit mandates of a host country.



## Export-Import Bank Financing Programs

The Export-Import Bank of the United States (Ex-Im Bank) is the official export credit agency of the United States. Ex-Im Bank assists in financing the export of U.S. goods and services to international markets through a variety of methods, including direct loans, loan guarantees, and other credit enhancements. Ex-Im Bank does not compete with private-sector lenders but provides export financing to fill gaps in trade financing.

The Environmental Exports program was established in 1994 to increase support for exports of environmentally beneficial goods and services. Today, it is a highly active portfolio exceeding \$3 billion that includes financing for exports of renewable energy equipment, energy efficiency technologies, wastewater treatment projects, air pollution technologies, waste management services, and other goods and services. Through a variety of financing programs, Ex-Im Bank serves as an intermediary between U.S. exporters, lenders, and international buyers, helping to mitigate the risks of exporting to certain markets.


**Direct Loans and Loan Guarantees to International Buyers.** Ex-Im Bank can provide direct loans and loan guarantees to international buyers, enabling them to purchase U.S. goods and services they may not otherwise be able to finance. Because many U.S. banks have been hesitant to lend, Ex-Im Bank's transactions recently have involved more direct loans than loan guarantees. Going forward, it is likely that Ex-Im Bank will have a preference for structuring transactions with loan guarantees, given the added administrative and processing burdens that direct loans impose on the agency.

**Eligibility.** Ex-Im Bank will guarantee medium- and long-term loans to international creditworthy buyers. This financing is available to support international buyers for the following:

- Purchases of U.S. capital equipment and services
- Purchases of refurbished equipment
- Software
- Certain banking and legal fees
- Certain local costs and expenses

Military or defense items generally are not eligible, nor are sales to military buyers (with certain exceptions). Goods eligible for Ex-Im Bank financing must be shipped from the United States to an international buyer.

**Loan Size and Terms.** There are no size requirements for direct loans or loan guarantees to international buyers. Ex-Im Bank's loan guarantee will typically cover 85 percent of the U.S. content of the transaction. The international buyer is required to make a payment of at least 15 percent of the supply contract, for which payment can be borrowed from a lender or from the exporter, or paid with cash.



Repayment terms are determined by several variables, including the borrower's financial condition, common repayment terms for such products in the market, specific industry practices, industry and country conditions, and useful life of the products, among other things. Repayment terms up to five years are generally available for exports of capital equipment and services. Terms of up to 10 years may be available for exports to large-scale projects.

As part of Ex-Im Bank's goal to create jobs through the increase of renewable energy and energy efficiency exports, certain renewable energy transactions are eligible for enhanced terms. For example, certain renewable energy projects are eligible for up to 18-year repayment terms. Clean energy projects also are eligible for capitalized interest during construction and up to 30 percent local cost support.

For example, in 2009 Ex-Im Bank made a \$102 million direct loan to a U.S. wind turbine manufacturer to finance the export of 27 wind turbines for a wind farm in Mexico. The bank also approved a \$4.86 million, 15-year loan guarantee to finance the export of U.S.-based environmental engineering services to a geothermal power plant in Turkey.

**How to Apply.** If discussions regarding an international sales order are underway or the contract order has been awarded, the international borrower or lender may submit an application to Ex-Im Bank. Pre-qualified commercial lenders maintain delegated authority from Ex-Im, and therefore often can expedite transactions.

If the contract has not been awarded, then a lender, an exporter, or an international borrower may request a nonbinding letter of interest (LOI) containing Ex-Im Bank terms for the specific transaction. The LOI is processed within seven working days, is valid for six months, and can be renewed. In exceptional cases, Ex-Im Bank will accept an application for a preliminary commitment (PC). A PC is a non-binding expression of interest from Ex-Im Bank that the borrower's needs, as outlined in the application, generally meet Ex-Im Bank's financing requirements.

The fees associated with applying for an Ex-Im loan or loan guarantee are the same. Ex-Im charges a nominal application processing fee for letters of interest (\$100) and for preliminary commitments (.001 percent of the financed amount). Ex-Im Bank also requires the applicant to pay an exposure fee, which is identical to the Credit Subsidy Cost reference in the DOE Loan Guarantee Programs. However, this fee is not as problematic for borrowers because Ex-Im Bank does allow the borrower to finance the exposure fee, payable over the life of the loan (not upfront at closing, as required at DOE).

**Working Capital Financing Support to U.S. Exporters.** Domestic manufacturers often need working capital financing to support the expansion or establishment of their businesses. In cases where a U.S. company will be exporting goods, Ex-Im Bank will guarantee a loan issued by a pre-qualified commercial lender for working capital financing. This financing may be used to:

- purchase finished products for export;
- pay for raw materials, equipment, supplies, labor, and overhead need to produce goods for export;
- finance foreign receivables; and
- cover standby letters of credit serving as bid bonds, performance bonds, or payment guarantees.

**Eligibility.** Exporters must (i) be located in the United States; (ii) have at least a one-year operating history; and (iii) have a positive net worth. For applicants who meet these criteria, Ex-Im Bank will typically guarantee 90 to 95 percent of a bank loan (including principal and interest) used for working capital. The guaranteed amount, however, depends on whether the exported good meets the threshold U.S. content requirements.

Eligible exports must (i) be shipped from the U.S. to a foreign buyer; (ii) contain at least 50 percent U.S. content; and (iii) any service-based exports must be performed by U.S.-based personnel. The criteria for determining eligible U.S. content are different depending on whether an applicant/exporter is a small business or a non-small business.


- For small businesses, applicable U.S. content includes direct costs (e.g., labor, materials, and direct overhead) as well as indirect costs (e.g., domestic marketing, research, and development) associated with the production of the exported good.
- For non-small businesses, only direct costs associated with the exported good are eligible.

Ex-Im Bank also relaxes some requirements for small businesses relative to where exported goods are originally manufactured.

- For small businesses, if the product or the *aggregate of exported products* in a single invoice meets the 50 percent U.S. content eligibility threshold, the entire gross invoice value (sales price) is typically eligible for coverage. This means that domestic processing of a foreign-manufactured good is eligible for Ex-Im Bank support, as long as the U.S.-added content exceeds the 50 percent threshold.
- For non-small businesses, all products itemized on the invoice must be produced or manufactured in the U.S. Therefore, even if the non-small business adds value to the good that exceeds the 50 percent U.S. content threshold, the value of those exported goods is not eligible for Ex-Im support.

Regardless of an applicant's size, any value added to the good after export from the U.S., including foreign import duties, taxes, or freight, is excluded.

**Loan Sizes and Terms.** Ex-Im Bank does not impose any minimum or maximum financing amount requirements. As a short-term financing mechanism, guaranteed working capital loan terms typically



last for one year but can cover up to three years. The loans can be either transaction-specific or revolving.

Ex-Im Bank also offers higher advance rates so that exporters can increase their borrowing capacity. For example, exporters can borrow based on a 75 percent advance rate on their inventory (including work-in-process), and up to a 90 percent advance rate for foreign accounts receivables.

Guaranteed working capital loans are secured by export-related accounts receivables and inventory (including work-in-process) tied to an export order. For letters of credit issued under the guaranteed loan, Ex-Im Bank only requires collateral for 25 percent of the face value of the letter of credit. On a case-by-case basis, the collateral requirement may be reduced to 10 percent of the face value of the letter of credit.


**How to Apply.** Exporters may apply for a working capital guarantee either through a pre-qualified commercial lender or directly to Ex-Im Bank for a preliminary commitment. Pre-qualified commercial lender partners have already obtained Ex-Im Bank's delegated authority, which expedites the loan process because the lender can commit Ex-Im Bank's guarantee by using such delegated authority. Most of Ex-Im Bank's working capital guarantees are provided through these pre-qualified lenders.

**Export Credit Insurance.** Ex-Im Bank's export credit insurance enables exporters to limit risks associated with nonpayment from international buyers, extend competitive credit terms to international buyers, and improve cash flows.

For the risk of buyer nonpayment, it provides coverage for exporters for a variety of commercial risks (e.g., bankruptcy) and certain political risks (e.g., war or the inconvertibility of currency). Ex-Im Bank's credit insurance can replace the need for cash-in-advance terms and letters of credit, and guarantees accounts receivables so that lenders will be more likely to provide advances against these receivables, and thereby increase working capital cash flows.

**Eligibility.** Ex-Im Bank can insure exports to markets, but may be limited or unable to offer financing in certain countries. The eligibility requirements for short-term and medium-term insurance products are as follows:

- **Short-Term Insurance** – Products must be shipped from the United States and have at least 50 percent U.S. content (excluding mark-up). The same U.S. content rules as discussed previously for the working capital guarantee apply for short-term insurance.
- **Medium-Term Insurance** – Ex-Im Bank will insure up to 85 percent of the net U.S. contract value. If there is less than 85 percent U.S. content in the contract value (i.e., foreign content is more than 15 percent), Ex-Im Bank will support only the amount of the U.S. portion.



**Available Policies and Benefits.** Ex-Im Bank offers a variety of insurance policies to enhance U.S. exporters' access to international markets, and to protect both exporters and lenders from the various risks associated with exporting. Short-term insurance policies cover a wide range of goods, raw materials, spare parts, components, capital goods, and bulk agricultural commodities. Short-term credit insurance policies often can replace bank financing and payment with letters of credit, enabling exporters to offer Ex-Im Bank-guaranteed credit to their customers. In some cases, this offers the exporter a competitive advantage over others who may be competing for those sales.

Medium-term insurance also is available for exporters and lenders who want to protect longer-term financing to international buyers. Medium-term policies can cover capital equipment or services, in one or even a series of shipments. Below are several examples of available policies.

- **Multi-Buyer Policy:** This policy allows exporters to insure all sales to eligible international buyers on "open account" credit terms. This simplifies and streamlines sales for exporters in that in a single policy they receive 90-95 percent commercial and 95-100 percent political coverage against buyer payment defaults. For qualifying small businesses that have export credit sales of less than \$5 million, enhanced terms are available.
- **Single-Buyer Policy:** This policy provides credit protection for short-term credit sales made by an exporter to a single international buyer during a 12-month period. It provides 90 percent coverage against buyer payment defaults with no first-loss deductible, and increases an exporter's borrowing base by allowing for the assignment of an exporter's receivables to a lender.
- **Bank Letter of Credit Policy:** This policy protects U.S.-based banks against losses (i.e., the failure of a foreign issuing bank to make payments or reimbursements) on irrevocable letters of credit opened to finance U.S. exports.



## Small Business Administration – Small Business Investment Corporation (SBIC)

**Background.** The SBIC Program is one of many financial assistance programs available through the U.S. Small Business Administration (SBA). The structure of the program is unique in that SBICs are privately owned and managed investment funds, licensed and regulated by SBA, that use their own capital plus funds borrowed with an SBA guarantee to make equity and debt investments in qualifying small businesses. SBA does not invest directly into small business through the SBIC Program.

The SBIC Program currently offers its licensees access to debt capital with a 10-year maturity and semi-annual interest payments. The structure of this financing means that most SBICs focus primarily on providing small businesses with debt or debt with equity features. SBICs will typically focus on companies that are mature enough to make current interest payments on the investment so that, in turn, the SBIC can meet its interest obligations to the SBA.

**Impact Investment Initiative.** SBA recently launched a \$1 billion initiative that mirrors the *Impact Investment* initiative created at OPIC. SBA's program, in contrast, focuses on domestic investments. As part of the *Impact Initiative*, SBA will commit \$1 billion over the next five years in SBA-guaranteed bonds as a match to private capital raised by privately owned and managed investment funds. No new authority is required for SBA to initiate this program, and SBA is seeking proposals from investment funds interested in becoming licensed as *Impact Investment* SBICs. While there is no deadline for submitting a proposal, it is recommended that interested funds initiate a discussion with SBA as soon as possible. The agency has received several proposals to date, which are currently under review.

An *Impact Investment* SBIC must deploy at least 50 percent of the total dollar amount of its investments into impact investments, defined as investments in Small Business Concerns (SBCs) that target areas of critical national priority, including underserved markets and communities facing barriers to access to credit and capital. *Impact Investment* SBCs must meet one or more of the following criteria:

- **Place-based:** SBCs located in, employing residents of, or with at least 35 percent of its full-time employees at the time of initial investment residing in low- or moderate-income areas as defined in CFR 107.50, or economically distressed areas, as defined by Section 3012 of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3161.
- **Sector-based:** SBCs in industry sectors that the administration has identified as national priorities. Currently only clean energy and education have been identified as priority sectors.

The prospective investment fund's strategy must involve investing growth capital in companies that are either located in economically distressed areas or companies that are in emerging sectors, such as clean energy. SBA will provide up to a 2:1 match to private capital raised by funds that target "impact" investments.



Similar to OPIC, SBA's participation will serve as a catalyst for accelerating capital support for start-ups and high-growth firms. SBA will provide expedited licensing and capital to fund managers who qualify to organize and operate an *Impact Investment* SBIC. SBA will also proactively collaborate with institutional investors to drive capital to experienced private equity fund managers functioning as *Impact Investment* SBICs.