

(Pub. L. 85-699, title III, §383, as added Pub. L. 110-140, title XII, §1207, Dec. 19, 2007, 121 Stat. 1776.)

§ 690c. Selection of Renewable Fuel Capital Investment companies

(a) Eligibility

A company is eligible to apply to be designated as a Renewable Fuel Capital Investment company if the company—

- (1) is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;
- (2) has a management team with experience in alternative energy financing or relevant venture capital financing; and
- (3) has a primary objective of investment in smaller enterprises that research, manufacture, develop, produce, or bring to market goods, products, or services that generate or support the production of renewable energy.

(b) Application

A company desiring to be designated as a Renewable Fuel Capital Investment company shall submit an application to the Administrator that includes—

- (1) a business plan describing how the company intends to make successful venture capital investments in smaller enterprises primarily engaged in the research, manufacture, development, production, or bringing to market of goods, products, or services that generate or support the production of renewable energy;
- (2) information regarding the relevant venture capital qualifications and general reputation of the management of the company;
- (3) a description of how the company intends to seek to address the unmet capital needs of the smaller enterprises served;
- (4) a proposal describing how the company intends to use the grant funds provided under this part to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company has employees with appropriate professional licenses or will contract with another entity when the services of such an individual are necessary;
- (5) with respect to binding commitments to be made to the company under this part, an estimate of the ratio of cash to in-kind contributions;
- (6) a description of whether and to what extent the company meets the criteria under subsection (c)(2) and the objectives of the program established under this part;
- (7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the business plan of the company; and
- (8) such other information as the Administrator may require.

(c) Conditional approval

(1) In general

From among companies submitting applications under subsection (b), the Administrator shall conditionally approve companies to oper-

ate as Renewable Fuel Capital Investment companies.

(2) Selection criteria

In conditionally approving companies under paragraph (1), the Administrator shall consider—

- (A) the likelihood that the company will meet the goal of its business plan;
- (B) the experience and background of the management team of the company;
- (C) the need for venture capital investments in the geographic areas in which the company intends to invest;
- (D) the extent to which the company will concentrate its activities on serving the geographic areas in which it intends to invest;
- (E) the likelihood that the company will be able to satisfy the conditions under subsection (d);
- (F) the extent to which the activities proposed by the company will expand economic opportunities in the geographic areas in which the company intends to invest;
- (G) the strength of the proposal by the company to provide operational assistance under this part as the proposal relates to the ability of the company to meet applicable cash requirements and properly use in-kind contributions, including the use of resources for the services of licensed professionals, when necessary, whether provided by employees or contractors; and
- (H) any other factor determined appropriate by the Administrator.

(3) Nationwide distribution

From among companies submitting applications under subsection (b), the Administrator shall consider the selection criteria under paragraph (2) and shall, to the maximum extent practicable, approve at least one company from each geographic region of the Administration.

(d) Requirements to be met for final approval

(1) In general

The Administrator shall grant each conditionally approved company 2 years to satisfy the requirements of this subsection.

(2) Capital requirement

Each conditionally approved company shall raise not less than \$3,000,000 of private capital or binding capital commitments from 1 or more investors (which shall not be departments or agencies of the Federal Government) who meet criteria established by the Administrator.

(3) Nonadministration resources for operational assistance

(A) In general

In order to provide operational assistance to smaller enterprises expected to be financed by the company, each conditionally approved company shall have binding commitments (for contribution in cash or in-kind)—

- (i) from sources other than the Administration that meet criteria established by the Administrator; and

(ii) payable or available over a multiyear period determined appropriate by the Administrator (not to exceed 10 years).

(B) Exception

The Administrator may, in the discretion of the Administrator and based upon a showing of special circumstances and good cause, consider an applicant to have satisfied the requirements of subparagraph (A) if the applicant has—

(i) a viable plan that reasonably projects the capacity of the applicant to raise the amount (in cash or in-kind) required under subparagraph (A); and

(ii) binding commitments in an amount equal to not less than 20 percent of the total amount required under paragraph¹ (A).

(C) Limitation

The total amount of a² in-kind contributions by a company shall be not more than 50 percent of the total contributions by a company.

(e) Final approval; designation

The Administrator shall, with respect to each applicant conditionally approved under subsection (c)—

(1) grant final approval to the applicant to operate as a Renewable Fuel Capital Investment company under this part and designate the applicant as such a company, if the applicant—

(A) satisfies the requirements of subsection (d) on or before the expiration of the time period described in that subsection; and

(B) enters into a participation agreement with the Administrator; or

(2) if the applicant fails to satisfy the requirements of subsection (d) on or before the expiration of the time period described in paragraph (1) of that subsection, revoke the conditional approval granted under that subsection.

(Pub. L. 85-699, title III, §384, as added Pub. L. 110-140, title XII, §1207, Dec. 19, 2007, 121 Stat. 1776.)

§ 690d. Debentures

(a) In general

The Administrator may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any Renewable Fuel Capital Investment company.

(b) Terms and conditions

The Administrator may make guarantees under this section on such terms and conditions as it determines appropriate, except that—

(1) the term of any debenture guaranteed under this section shall not exceed 15 years; and

(2) a debenture guaranteed under this section—

(A) shall carry no front-end or annual fees;

(B) shall be issued at a discount;

(C) shall require no interest payments during the 5-year period beginning on the date the debenture is issued;

(D) shall be prepayable without penalty after the end of the 1-year period beginning on the date the debenture is issued; and

(E) shall require semiannual interest payments after the period described in subparagraph (C).

(c) Full faith and credit of the United States

The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee under this part.

(d) Maximum guarantee

(1) In general

Under this section, the Administrator may guarantee the debentures issued by a Renewable Fuel Capital Investment company only to the extent that the total face amount of outstanding guaranteed debentures of such company does not exceed 150 percent of the private capital of the company, as determined by the Administrator.

(2) Treatment of certain Federal funds

For the purposes of paragraph (1), private capital shall include capital that is considered to be Federal funds, if such capital is contributed by an investor other than a department or agency of the Federal Government.

(Pub. L. 85-699, title III, §385, as added Pub. L. 110-140, title XII, §1207, Dec. 19, 2007, 121 Stat. 1778.)

§ 690e. Issuance and guarantee of trust certificates

(a) Issuance

The Administrator may issue trust certificates representing ownership of all or a fractional part of debentures issued by a Renewable Fuel Capital Investment company and guaranteed by the Administrator under this part, if such certificates are based on and backed by a trust or pool approved by the Administrator and composed solely of guaranteed debentures.

(b) Guarantee

(1) In general

The Administrator may, under such terms and conditions as it determines appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administrator or its agents for purposes of this section.

(2) Limitation

Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

(3) Prepayment or default

If a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture rep-

¹ So in original. Probably should be "subparagraph".

² So in original. The article probably should not appear.