

**§ 3721. Federal loan guarantees for innovative technologies in manufacturing**

**(a) Establishment**

The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

**(b) Eligible projects**

A loan guarantee may be made under the program only for a project that re-equips, expands, or establishes a manufacturing facility in the United States—

- (1) to use an innovative technology or an innovative process in manufacturing;
- (2) to manufacture an innovative technology product or an integral component of such a product; or
- (3) to commercialize an innovative product, process, or idea that was developed by research funded in whole or in part by a grant from the Federal government.

**(c) Eligible borrower**

A loan guarantee may be made under the program only for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (l).

**(d) Limitation on amount**

A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

**(e) Limitations on loan guarantee**

No loan guarantee shall be made unless the Secretary determines that—

- (1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;
- (2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;
- (3) the obligation is not subordinate to other financing;
- (4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and
- (5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

- (A) 30 years; or
- (B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

**(f) Defaults**

**(1) Payment by Secretary**

**(A) In general**

If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

**(B) Payment required**

Within such period as may be specified in the loan guarantee or related agreements,

the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

**(C) Forbearance**

Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

**(2) Subrogation**

**(A) In general**

If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)—

- (i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or
- (ii) to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

**(B) Superiority of rights**

The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

**(3) Notification**

If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

**(g) Terms and conditions**

A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate—

- (1) to protect the interests of the United States in the case of default; and
- (2) to have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

**(h) Consultation**

In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

**(i) Fees**

**(1) In general**

The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

**(2) Availability**

Fees collected under this subsection shall—

(A) be deposited by the Secretary into the Treasury of the United States; and

(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

**(3) Limitation**

In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

**(j) Records**

**(1) In general**

With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

**(2) Access**

The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

**(k) Full faith and credit**

The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

**(l) Regulations**

The Secretary shall issue final regulations before making any loan guarantees under the program. The regulations shall include—

(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

(A) whether a borrower is a small- or medium-sized manufacturer; and

(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such a product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (i), including criteria related to the amount of the obligation;

(3) policies and procedures for selecting and monitoring lenders and loan performance; and

(4) any other policies, procedures, or information necessary to implement this section.

**(m) Audit**

**(1) Annual independent audits**

The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

**(2) Comptroller general review**

The Comptroller General of the United States shall conduct a biennial review of the Secretary's execution of the program under this section.

**(3) Report**

The results of the independent audit under paragraph (1) and the Comptroller General's

review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

**(n) Report to Congress**

Concurrent with the submission to Congress of the President's annual budget request in each year after January 4, 2011, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

**(o) Coordination and nonduplication**

To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

**(p) MEP centers**

The Secretary may use centers established under section 278k of this title to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

**(q) Minimizing risk**

The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A-129, entitled "Policies for Federal Credit Programs and Non-Tax Receivables", as in effect on January 4, 2011.

**(r) Sense of Congress**

It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

(2) all persons assigned by the borrower to perform work within the United States on the project.

**(s) Definitions**

In this section:

**(1) Cost**

The term "cost" has the meaning given such term under section 661a of title 2.

**(2) Innovative process**

The term "innovative process" means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

**(3) Innovative technology**

The term "innovative technology" means a technology that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

**(4) Loan guarantee**

The term "loan guarantee" has the meaning given such term in section 661a of title 2. The

term includes a loan guarantee commitment (as defined in section 661a of title 2).

**(5) Obligation**

The term “obligation” means the loan or other debt obligation that is guaranteed under this section.

**(6) Program**

The term “program” means the loan guarantee program established in subsection (a).

**(t) Authorization of appropriations**

There are authorized to be appropriated \$20,000,000 for each of fiscal years 2011 through 2013 to provide the cost of loan guarantees under this section.

(Pub. L. 96-480, §26, as added Pub. L. 111-358, title VI, §602, Jan. 4, 2011, 124 Stat. 4026.)

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

**§ 3722. Regional innovation program**

**(a) Establishment**

The Secretary shall establish a regional innovation program to encourage and support the development of regional innovation strategies, including regional innovation clusters and science and research parks.

**(b) Cluster grants**

**(1) In general**

As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the formation and development of regional innovation clusters.

**(2) Permissible activities**

Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

(A) Feasibility studies.

(B) Planning activities.

(C) Technical assistance.

(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

(E) Attracting additional participants to a regional innovation cluster.

(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

(H) Interacting with the public and State and local governments to meet the goals of the cluster.

**(3) Eligible recipient defined**

In this subsection, the term “eligible recipient” means—

(A) a State;

(B) an Indian tribe;

(C) a city or other political subdivision of a State;

(D) an entity that—

(i) is a nonprofit organization, an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity; and

(ii) has an application that is supported by a State or a political subdivision of a State; or

(E) a consortium of any of the entities described in subparagraphs (A) through (D).

**(4) Application**

**(A) In general**

An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

**(B) Components**

The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of—

(i) whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders;

(ii) how the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival existing participants;

(iii) the extent to which the regional innovation cluster is likely to stimulate innovation and have a positive impact on regional economic growth and development;

(iv) whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce;

(v) whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources; and

(vi) the likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

**(C) Special consideration**

The Secretary shall give special consideration to applications from regions that contain communities negatively impacted by trade.

**(5) Special consideration**

The Secretary shall give special consideration to an eligible recipient who agrees to collaborate with local workforce investment area boards.

**(6) Cost share**

The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.