

2015 IN REVIEW: SIGNIFICANT INCREASE IN LEVERAGED INVESTMENTS BY THE ABORIGINAL LOAN GUARANTEE PROGRAM

Posted on December 17, 2015

Categories: [Insights](#), [Publications](#)

Ontario's Aboriginal Loan Guarantee Program ("ALGP") has concluded another successful year of growth. As of the release of the 2015 Ontario budget, the ALGP had leveraged almost \$200 million in approved loan guarantees since its inception, an increase of \$70 million from the amount reported in the 2014 Ontario Budget.^[1] In the recent fall address, the Ministry of Finance reiterated Ontario's commitment to working with its First Nation partners^[2], which also bodes well for provincial programs such as the ALGP as we approach the new year.

The Aboriginal Loan Guarantee Program

The ALGP was introduced as part of the 2009 Ontario budget to support First Nation participation in the generation and transmission of wind, solar and hydroelectric energy.^[3] The ALGP was designed in consultation with First Nation communities to assist in overcoming the self-identified barriers to First Nation involvement in the development of new renewable energy infrastructure in Ontario (the "Province").^[4]

The Operation of the ALGP

The ALGP is available to corporations that are owned entirely by First Nation communities.^[5] The ALGP provides a guarantee from the Province to a bank to finance the purchase by a First Nation of up to 75 per cent of its equity interest in an eligible renewable energy project, to a maximum of \$50 million.^[6] Loan guarantees are provided in tandem with, or following, all other financing required for the construction and operation of a renewable energy project.^[7] This occurs at or after the commercial operation date of the proposed project.^[8]

Renewable energy projects seeking an ALGP guarantee are subject to an extensive due diligence process by the Ontario Financing Authority to ensure their commercial viability. The decision to grant an ALGP guarantee is at the Province's discretion.^[9] Proposed projects must meet the eligibility criteria, including having the following items in place:

- Contracts to sell or transmit electricity at a set cost;

- Business partners who are experienced and have past successes in construction and infrastructure projects; and
- Secured commercial financing arrangements.^[10]

ALGP Successes

As reported in the Province's 2015 budget, the approved loan guarantees of the ALGP have supported the investments of 11 communities, representing more than 16,000 First Nation people.^[11] For example, the ALGP guaranteed a segment of the Alderville First Nation's equity investment in the Alderville Solar Project, Ontario's first ground-mounted solar farm owned entirely by a First Nation community.^[12] McMillan LLP represented the Alderville First Nation on this project and has experience representing First Nations on several other ALGP guaranteed loans.^[13] These successes are just the beginning: in 2014 the Province increased the total amount of loan guarantees available under the ALGP from \$250 million to \$650 million.^[14]

IESO Large Renewable Procurement Process

The increase in funding available under the ALGP is coupled with other initiatives backed by the Province that incentivize and help to support First Nation participation in renewable energy projects; an example of such an initiative is the Large Renewable Procurement Process ("LRP"). The LRP is a competitive bid process that gives preference to registered proponents that demonstrate participation from First Nation Communities.^[15] In order for a registered proponent to receive additional points towards their bid, its proposal must demonstrate that a First Nation Community has an economic interest in the registered proponent of at least 10 percent.^[16]

Commencing an ALGP Application

When applying for an ALGP guarantee, certain practical concerns must be satisfied to ensure that a proposed renewable energy project is eligible. For example, the legal tasks involved when creating a proposal can range from sufficient due diligence to drafting legal agreements. Applicants are required to obtain both financial and legal advice.^[17]

by Ken Bursey, Andrea St. Bernard, Lauren Ray (Student-at-Law)

[1] *Government of Ontario*, "[2015 Ontario Budget, Chapter I, Section F](#)" (Government of Ontario: Queen's Printer for Ontario, 2015)

[2] Ministry of Finance, "[Proven Progress: Ontario's Plan Supports Growth, Builds for Future: Province Delivering on Commitments and Beating Fiscal Targets](#)" (Government of Ontario: Queen's Printer for Ontario, 26 November 2015)

[3] Ontario Financing Authority, "[Aboriginal Loan Guarantee Program, Program Overview](#)" (Government of

Ontario: Queen's Printer for Ontario, 2014)

[4] Ministry of Energy, "*Creating Jobs and Promoting Economic Sustainability for Aboriginal People with the Aboriginal Loan Guarantee Program*" (Government of Ontario: Queen's Printer for Ontario, 4 September 2009)

[5] Ontario Financing Authority, "[*Aboriginal Loan Guarantee Program, Program Overview*](#)" (Government of Ontario: Queen's Printer for Ontario, 2014); Ministry of Energy, "*Creating Jobs and Promoting Economic Sustainability for Aboriginal People with the Aboriginal Loan Guarantee Program*" (Government of Ontario: Queen's Printer for Ontario, 4 September 2009)

[6] Ministry of Energy, "*Creating Jobs and Promoting Economic Sustainability for Aboriginal People with the Aboriginal Loan Guarantee Program*" (Government of Ontario: Queen's Printer for Ontario, 4 September 2009)

[7] Ontario Financing Authority, "[*Aboriginal Loan Guarantee Program, Program Overview*](#)" (Government of Ontario: Queen's Printer for Ontario, 2014)

[8] Ontario Financing Authority, "[*Aboriginal Loan Guarantee Program, Program Overview*](#)" (Government of Ontario: Queen's Printer for Ontario, 2014)

[9] Ontario Financing Authority, "[*Aboriginal Loan Guarantee Program, Program Overview*](#)" (Government of Ontario: Queen's Printer for Ontario, 2014)

[10] Ministry of Energy, "*Creating Jobs and Promoting Economic Sustainability for Aboriginal People with the Aboriginal Loan Guarantee Program*" (Government of Ontario: Queen's Printer for Ontario, 4 September 2009)

[11] Government of Ontario, "[*2015 Ontario Budget, Chapter I, Section F*](#)" (Government of Ontario: Queen's Printer for Ontario, 2015)

[12] Government of Ontario, "[*2015 Ontario Budget, Chapter I, Section D*](#)" (Government of Ontario: Queen's Printer for Ontario, 2015)

[13] McMillan LLP, "[*Alderville Solar Project Reaches Financial Close*](#)" (May 2013)

[14] Government of Ontario, "[*2014 Ontario Budget, Chapter I, Section D*](#)" (Government of Ontario: Queen's Printer for Ontario, 2014)

[15] Independent Electricity System Operator, "[*Large Renewable Procurement*](#)" (IESO: 2015)

[16] Independent Electricity System Operator, "*LRP I RFP Frequently Asked Questions (FAQs)*" (IESO: August 6, 2015)

[17] Ontario Financing Authority, "[*Aboriginal Loan Guarantee Program, Program Overview*](#)" (Government of

Ontario: Queen's Printer for Ontario, 2014)

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2015