

A guide to Personal Guarantees and Letters of Comfort for the 2015–18 Incentive Program

All successful applicants under the 2015-18 Incentive Program must provide Local Land Services Western Region with a Personal Guarantee and/or a Letter of Comfort in order to receive their grant monies. This factsheet describes what these documents are and when they are required.

What is a Personal Guarantee?

A personal guarantee is a promise made by a person or a business to take over the loan of someone else if they cannot pay it back. If a project funded through the 2015–18 Incentive Program is not completed, Local Land Service Western Region requires that the grant is repaid. If a landholder cannot repay the grant themselves, the person or company making the guarantee (*'the guarantor'*) is obliged to pay it back.

Agreeing to be a guarantor is not a decision someone should take lightly. The guarantor should be aware that they are responsible for repaying the grant if the landholder (*'the grantee'*) cannot do so. If the guarantor also cannot repay the grant, a bankruptcy order may be made against them.

Some questions a prospective guarantor should ask themselves are:

- Do I think the project will be completed?
- If the project is not completed, will the landholder be able to repay the grant?

- Would I be able to repay the grant if the landholder does not repay it?
- Have I sought independent legal advice before making the guarantee?

Local Land Services Western Region has requested personal guarantees so we can be confident that projects will be completed. We understand that some of the time this may not be possible; however, a personal guarantee will make it more likely that the grants will be repaid to Local Land Services Western Region.

Who can make a Personal Guarantee?

A Personal Guarantee can be made by a relative, partner, company or individual prepared to and capable of being responsible to repay grant monies should the project not be completed. For example, if an application is being made by a company, then an individual associated with that company can act as guarantor. Local Land Services Western Region may also accept Personal Guarantees from the applicants themselves.

What is a Letter of Comfort?

A letter of comfort is a letter from a guarantor to Local Land Services Western Region providing some form of 'comfort' or assurance that they understand their obligations to Local Land Services Western Region. It is in some ways similar to a personal guarantee.

The letter of comfort assures us that:

- the guarantor is aware of its obligations if the landholder cannot repay the grant

- the guarantor will take all necessary measures to ensure the grant is repaid
- if the guarantor is a company, that it will not divest its interests in the landholder
- the guarantor has considered obtaining independent legal advice.

A letter of comfort ensures that Local Land Services Western Region, the landholder and the guarantor are all working together.

What is a Guarantee Advice Certificate?

A Guarantee Advice Certificate is an acknowledgement from the guarantor that he/she understands the legal, financial and other effects of signing the guarantee. A guarantor may choose to seek independent legal advice on this matter. However, if they don't, they need to provide a waiver stating that they acknowledge the risk of not obtaining independent legal advice. This certificate assures Local Land Services Western Region that the guarantor has consented to enter into the security arrangements.

Who can provide a Letter of Comfort?

Letters of Comfort must be signed by the grantee's lending institution. Each institution's policy about Letters of Comfort may vary and there may be a cost associated with obtaining it. It is the applicant's responsibility to meet this cost.

Who needs Personal Guarantees and Letters of Comfort?

Anyone who accepts a grant of more than \$50,000 from Local Land Services Western Region must provide a Personal Guarantee *and* a Letter of

Comfort. For grants under \$50,000, only a Personal Guarantee must be provided.

When will this process take place?

Personal Guarantees and Letters of Comfort will be requested from grantees during the contracting phase of the incentive process.

After both copies of the Minor Works Contract have been signed, we will send a letter to the grantee requesting completion of either a Personal Guarantee or a Personal Guarantee *and* a Letter of Comfort. Documents and forms enclosed in the letter will be:

For grants under \$50,000

- the grantee's copy of the executed Landholder Minor Works Contract
- Deed of Guarantee form
- Guarantee Advice Certificate.

For grants over \$50,000

- the grantee's copy of the executed Landholder Minor Works Contract
- Deed of Guarantee form
- Letter of Comfort form
- Guarantee Advice Certificate.

The Deed of Guarantee and Letter of Comfort must be completed and returned to Local Land Services Western Region before the first grant payment can be made.

More information

Jennifer Azevedo, Team Leader Land Services,
Northern Rangelands
jennifer.azevedo@lls.nsw.gov.au

Benjamin Slingsby, Team Leader Land Services,
Sunraysia and Southern Rangelands
ben.slingsby@lls.nsw.gov.au

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For updates go to www.lls.nsw.gov.au