

MONTGOMERY COUNTY ECONOMIC DEVELOPMENT PROGRAM

Revolving Loan Fund REGULATIONS

1.0 PROGRAM ADMINISTRATION

Funding for the Revolving Loan Fund is provided from Community Development Block Grants (CDBG) awarded to Montgomery County by the U.S. Department of Housing and Urban Development (HUD) and subsequent program income (repayment of principal and interest of past and current loans). The use of CDBG funds is governed by regulations of HUD which are detailed in the Code of Federal Regulations at 24 CFR Part 570. Responsibility for compliance with these regulations remains with the County and/or agencies to which specific administrative authority may be delegated.

1.1 Office of the Revolving Loan Administrator

The Montgomery Department of Economic Development and Planning, in conjunction with the Montgomery County Industrial Development Agency will assume primary responsibility for the administration of the Revolving Loan Fund. Specific tasks may be delegated to other County offices or other agencies. Outside professional assistance may be secured as necessary to assist with processing of loan applications and to provide other support or assistance required for proper administration of the Revolving Loan Fund. The Department of Economic Development and Planning will assemble application materials and documentation, complete an analysis of each application for action to the Industrial Development Agency.

1.2 Montgomery County Industrial Development Agency

The County Board of ~~Supervisors~~Legislatures will assist the Montgomery County Industrial Development Agency which includes not fewer than 3 nor more than 7 individuals who will provide the skills and experience needed for this program (i.e. business, finance, marketing, legal, etc.). Members of this board will serve without compensation, except that the MCIDA may authorize reimbursement of direct expenses incurred in connection with the activities of the board. The Chairman of the Montgomery County Industrial Development Agency shall, upon receipt of all required documents, make a formal recommendation to the entire Board of the Montgomery County Industrial Development Agency, which may include any of the following actions:

- A. Recommend the loan as proposed
- B. Recommend the loan with specific modifications to terms, conditions, etc., or
- C. Disapprove the loan for reasons which will be specified in writing.

If the application is endorsed, the next action will be predicated by the County Board of ~~Supervisors~~Legislatures. The ~~Supervisors~~Legislatures may choose to submit the application for further review by another loan committee or may opt for action by the entire Board of ~~Supervisors~~Legislatures.

The Department of Economic Development and Planning in conjunction with ~~the office of the County~~designated Attorney will take the necessary action to close and execute required loan documents, obtain added information or inform the applicant of the County's rejection of the loan application.

2.0 ELIGIBILITY REQUIREMENTS

Each of the following criteria must be satisfied before an application for loan assistance can be considered under the Revolving Loan Fund.

2.1 Location

Before any funds may be advanced under this program, the business to be assisted must be located in Montgomery County. Proper evidence will be required.

2.2 Business Activity

The project for which financing is requested must be a commercial or industrial activity which employs people in the production, sale, distribution or handling of goods or services for sale to individuals, companies or organizations other than the applicant.

2.3 Real Estate Taxes

All real estate taxes (i.e. Town, County, School) applicable to the property for which financing is requested must be current or at a minimum, the landowner must have a valid and current agreement with the effected taxing jurisdiction concerning payments or delinquent amounts before a loan is approved under the Revolving Loan Fund.

2.4 Insurance

Applicants must provide suitable evidence that adequate insurance coverage has been obtained for any real estate and/or improvements financed under the Revolving Loan Fund.

2.5 Eligible Costs

Loan assistance obtained under the Revolving Loan Fund may be used to finance any of the following activities in or related to eligible properties or businesses;

- A. Land acquisitions including legal, engineering, survey, title, mapping site improvements and related expenses necessary to acquire the project site and prepare it for use by the business.
- B. Building construction or rehabilitation including legal, engineering, architectural and related costs necessary to acquire and/or construct or rehabilitate structures required by the business.
- C. Machinery and equipment including legal, engineering, shipping, erection and other costs necessary to acquire and install equipment used in the business.
- D. Carrying costs incurred during the construction period before the facility is completed and ready for operation (i.e. insurance, taxes, construction interest, utilities, etc.).
- E. Working Capital necessary to finance inventory payables and other cash requirements before income is generated from business operation.
- F. Refinancing of existing debt necessary to make the project feasible.

3.0 MINIMUM STANDARDS

The following standards and criteria have been established in the Application for CDBG funding for the Montgomery County Revolving Loan Fund and/or in federal regulations applicable to all local CDBG activities. These standards must be met as a minimum by any project approved for loan assistance under the Revolving Loan Fund.

3.1 Job Creation/Retention

For every \$30,000 of loan assistance under the Revolving Loan Fund, the applicant must provide satisfactory evidence that at least one full time job has been created or retained at the project site. In the case of job retention, clear evidence must be provided which demonstrates that jobs would be lost at the project site if the requested loan assistance were not available.

3.2 Benefit to Low or Moderate Income Persons

Documentation must be maintained in the project files showing that at least 51% of the jobs created with the Revolving Loan Fund assistance are available to low or moderate income persons. This standard is applied to each project individually.

3.3 Leverage

The CDBG funds are typically used to bridge the financing gap between public and private funding sources and the total project costs. Financing for those costs not covered with the loan may be provided from any other source including bank loans, personal savings, other public or private funding programs or contribution of real property (i.e. land, building, capital equipment) needed for the business.

3.4 HUD Regulations

In the event CDBG funds are used to finance all or part of the cost of any building construction or renovation, the applicant must provide suitable assurance and documentation that all applicable labor standards (including payment of prevailing wages as required by the Davis-Bacon Act) have been or will be satisfied in connection with the project.

3.5 Program Income

All of the provisions of these regulations shall apply equally to project assisted with CDBG funding provided by the County and to projects assisted with Program Income generated from the repayment of other loans (principal and interest) under the program.

4.0 FINANCIAL ASSISTANCE

The following terms and conditions apply to all loan assistance considered under the Revolving Loan Fund with CDBG funding or Program Income. Other conditions or modifications may be imposed by the Department of Economic Development and Planning and/or the Montgomery County Industrial Development Agency on a case-by-case basis, as necessary, to protect the interests of the County and to assure compliance with applicable federal state, and/or local regulations.

4.1 Credit Analysis

No loan will be reviewed by the Montgomery County Industrial Development Agency until a basic credit analysis is completed for the project being proposed for assistance under this program. The credit analysis will document the ability of the borrower to repay the loan on the basis of projection, historical financial statements, the assets of the borrower or other factors considered relevant to each case.

4.2 Loan Terms

A. The loan interest rate, term and amount will be determined during the financial analysis. Each individual loan will be analyzed on the basis of its own financial needs to ensure that the correct amount of assistance is provided.

~~B.~~ TERM: Loan terms may vary depending on the proposed use of the loan proceeds and the security given for each loan, as follows:

Maximum 20 year Term for Buildings
Maximum 10 year Term for Capital Equipment
Maximum 5 Year Term for any project including Working Capital

C. DEFERRALS: The Montgomery County Board of ~~Supervisors~~Legislatures may authorize deferral of principle and/or interest payments for any portion of the loan term if necessary to ensure that each project is financially sound. Such deferrals may be made after the determination that adequate security is available and projections demonstrate that adequate resources will be available to make loan payments as scheduled.

4.3 Loan Security

Montgomery County will take a security interest in all assets financed with loan proceeds under this program. This security interest may be subordinated to private lenders who supply other financing necessary for the project. The Montgomery County Industrial Development Agency will determine the amount, quality and position of security interest necessary for each project after review and recommendation by the Economic Development and Planning Department. The County will request personal guarantees of the principals of the borrower. Adequate personal net worth must be documented in the form of personal financial statements for each principal and appropriate notes and guaranty documents must be executed before loan proceeds are advanced.

4.4 Loan Accountability

The Montgomery County Treasurer would report and account for all monies dispersed and/or collected relative to the loans made from the County Revolving Loan Fund. All loans would be subject to independent audit to be conducted by a certified public accountant on an annual basis. In addition, the County Treasurer in conjunction with the Economic Development and Planning Department would supply to the Board of ~~Supervisors~~Legislatures on a monthly or quarterly basis, a report detailing the status of all loans.

5.0 APPLICATION PROCESS

This section outlines the steps involved in processing an application for loan assistance under the Revolving Loan Fund. Information and documentation required at each step is detailed where appropriate.

5.1 Application

All requests for financial assistance shall require an application to have been first completed and filed an application form submitted to the Economic Development and Planning Department. Said form shall be submitted on the official application form as required by the County Board of ~~Supervisors~~Legislatures.

5.2 Supporting Documentation

When a project is determined eligible for consideration by the Economic Development and Planning Department, additional information and/or documentation will be requested in order to complete a detailed credit analysis and begin processing the loan request. Such information may include, without limitation, the following:

- A. Financial Statements - 3 years, including one not more than a month old
- B. Proforma Projections - ~~maximum-minimum~~ 53 year projections detailing income and expense, cash flow and balance sheets for the company/project proposed for loan assistance.
- C. Cost Documentation - detailing all costs to be financed with the proposed loan and other financing under the project, including:
 - land acquisition
 - site improvements
 - building construction/rehabilitation
 - capital equipment
 - other equipment
 - materials/supplies/inventory
 - fees (legal/accounting/design)
 - interest/taxes/insurance
- D. Job Projections - including existing positions to be retained and new positions to be created under the proposed project.
- E. Private Financing - detailing the amount, status and terms of all other financing required for the proposed project, including commitment letters.
- F. Management - including resumes for key managers or employees detailing relevant successful experience with the types of project proposed for loan assistance.

5.3 Credit Analysis

Before any loan application can be approved by the Montgomery County Industrial Development Agency, the Department of Economic Development and Planning will complete a Credit Analysis which documents the fiscal soundness of the proposed venture and the availability of resources adequate to repay the loan on a schedule which complies with these regulations. The Department of Economic Development and Planning will recommend specific loan terms on the basis of this analysis or suggest conditions that should be imposed on the project if a loan is approved.

5.4 Economic Impact

All loan applications will be analyzed to assure that the basic eligibility criteria detailed in Section 3.0 above are satisfied before a loan is considered by the Montgomery County Industrial Development Agency. In addition, the Department of Economic Development and Planning will review each proposal and assess its overall impact on economic conditions in the County. This analysis may include, without limitation:

- A. Job creation -- number, type, timing
- B. Job suitability -- compared to skills and needs in the local work force
- C. Market --(i.e. sales to local businesses or individuals vs. larger market areas which bring in new revenues in addition to recycling local resources).
- D. Taxes -- including real estate, sales and local user fees (water, sewer, etc.) generated by the project
- E. Relations to other local business (i.e. major supplier or customer)
- F. Other factors considered relevant to the loan assistance requests.

5.5 Review/Approval

The Montgomery County Industrial Development Agency will consider loan application after all analysis has been completed by the Department of Economic Development and Planning. If all information is complete and the loan is approvable, the Board may authorize the loan subject to approval and release of CDBG funding by the County. The Board may also modify the terms, conditions, security requirements, etc., or impose any ~~conditions~~ ~~or conditions~~ or restrictions deemed necessary.

5.6 Loan Documents

Following the loan approval, documents may be prepared by the County attorney or attorneys designated by the Montgomery County Industrial Development Agency and approved by the Montgomery County Board of ~~Supervisors~~ ~~Legislatures~~ for each project. Loan documents will include a Loan Agreement detailing the terms and conditions of the loan, Notes and/or Mortgages as required and Security Agreement or other documents required to perfect the security interest of the County in the approved project. The cost of preparing all documents will be borne by the borrower. Assurance liens will be filed with the County Clerk and New York State.

5.7 Loan Advances

Loan funds may be advanced pro-rata with any private financing required for the project. Accordingly, funds will be advanced on the specific authorization of the Director of Economic Development based on documentation of costs incurred on the project and other funds actually received from private financing sources.

5.8 Loan Servicing

All loans will be repaid into the Revolving Loan Fund and become available for subsequent loans to support more investment and development in the area. Complete records of each loan and all payments, deferrals or other transactions will be maintained by the Economic Development and Planning Department and the County Treasurer. Periodic reports will be made to [both] the Montgomery County Industrial Development Agency, the County Treasurer and the County Board of ~~Supervisors~~ ~~Legislatures~~ detailing the status of the Revolving Loan Fund and each loan in the portfolio. The Economic Development and Planning Department will periodically review site visits.

6.0 Conflict of Interest

Section 570.611 of the CDBG regulations indicate that any person who is an employee, agent, consultant, officer, elected official or appointed official of the recipient, or any designated public agencies, or ~~subrecipients~~ ~~subrecipients~~ receiving funds have a conflict of interest. This section further provides that no person who exercise or have exercised any functions or responsibilities with respect to CDBG activities or who are in a position to participate in a decision making process or gain inside information with regards to such activities may obtain a personal or financial interest or benefit from a CDBG assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there-under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

7.0 COST

Costs are associated with the Revolving Loan Fund.

7.1 Agency Cost

The Department of Economic Development and Planning will fulfill the functions expended in the document and be eligible for reimbursement of time and expenses from the fund.

7.2 Financial Assistance Fee

All completed requests for financial assistance shall require a non-refundable application fee in an amount equal to one-half of one percent (1/2%) of the amount of financial assistance requested payable to “Montgomery County.”

7.3 Additional Costs

Legal cost will be needed for the program while additional engineering and/or accounting costs may be needed to be appropriated for this program. These additional costs will be incorporated into the cost of closing.