BARREN COUNTY REVOLVING LOAN FUND

Program Guidelines

Abstract

This document outlines the basic program requirements and process for the Barren County Revolving Loan Fund Program through the Barren County Economic Authority

Non Discrimination Clause The Federal Equal Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status and age or because all or part of the applicant's income is derived from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. Complaints of discrimination may be filed with the USDA, Director Office of Civil Rights, Washington, D.C. 20250

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PART 1: THE REVOLVING LOAN PURPOSE

The purpose of the Revolving Loan Fund (RLF) is to assist new business start-ups and stimulate small business development in Barren County, focused on businesses that will locate within the heart of the city centers of Glasgow, Cave City and Park City.

PART 2: REVOLVING LOAN PROGRAM BENEFITS

- Local jobs – small businesses are job creators and most remain local
- Vibrant Community Center – bring people to the downtown areas, stimulate additional growth a revitalization by example
- Entrepreneurship – small businesses are the spirit of innovation and in many cases can move someone from low income to middle class
- Leverage Assets – the project will leverage local assets such as the fiber, power and vacant buildings
- Diverse, local made products and services – make it a destination, bolstering tourism

PART 3: FINANCING

There is a high demand asset acquisition and expansion of existing businesses. Low-cost financing can also be a significant incentive for businesses to expand and/or relocate in vacant or under-utilized sites, thus achieving the dual goals of business attraction and blight elimination. The program will focus on the greatest financing needs for fixed assets (including machinery/equipment), tenant improvements, and real estate. The loan amounts will have a standard maximum of $20,000.

A. <u>Financing Policies</u> – RLF loans may be made to qualifying businesses for tenant improvements, fixed assets such as equipment and machinery and real estate transaction.
B. <u>Loan Size</u> – the minimum loan amount is $5,000 and maximum loan amount is $20,000.
C. <u>Interest Rate</u> – Interest rate on loans will be fixed, a minimum of 2% interest will be charged and a maximum of 5%.
D. <u>Application Fee</u> – There will be a $200 fee for each application. Fee will be refunded if not approved.
E. <u>Payment Terms</u> - Payments will generally be made monthly; however, customized payment structures may be extended to borrowers depending upon their individual cash flow needs. In the case of multiple disbursement loans for equipment or tenant improvements, there may be an interest-only period until the loan is fully disbursed, generally not more than 180 days. An amortization schedule will be provided upon closing.
F. <u>Loan Terms</u> - The standard loan terms will be 3-5 years fully amortized, depending on loan amount. In general, loan terms will not exceed the average useful life of the assets being financed. The loan term will be the lesser of the average useful life of the asset being financed or the term based upon the borrower's ability to pay. Smaller loans will generally have shorter terms.
G. <u>Private Leveraging/Participation</u> - The RLF is highly encouraged to participate in other financing institutions' loans and/or lines of credit. There is an EDA portfolio requirement in which the RLF will leverage a minimum of two private dollars for each RLF dollar loaned. This leveraging requirement applies to the portfolio as a whole rather than to the individual loan. Private investment is capital invested by the borrower or others or financing from private entities such as banks.

H. Equity/Borrower Injection General Requirement - The RLF will require all borrowers to inject owner equity as a percentage of the requested loan amount; this may be in form of owner equity and/or private financing. The borrower's equity injection should be as follows: at least 10% of requested loan amount for existing businesses and at least 20% of requested loan amount for startup businesses.

   Additionally, start-up business will be required to demonstrate significant industry experience or the equivalent. They will also be required to provide a secondary source of repayment and a complete business plan.

   Exceptions may be made on a case-by-case basis depending upon the particular project. In general, existing equity or existing cash injection into the business indicates a reasonable level of commitment to the business; therefore, consideration will be given to existing equity in determining new equity required as a result of the project being financed.

I. Collateral - Collateral pledged for each loan will depend upon the loan amount, the overall risk of the credit, and the availability of personal and business assets to be pledged as collateral. In general, the market value of pledged collateral will equal or exceed the loan. The value of pledged collateral will be verified through a market analysis, appraisal, or other means that are deemed appropriate for the particular project, costs for the valuation to be borne by the borrower. Lender must engage the appraiser. Collateralized security may include, but not be limited to, interest in machinery and equipment, furniture and fixtures, building, property, inventory and receivables.

J. Security in Personal Assets and Personal Guarantees - Personal guarantees will be required of all principals with 20% or more interest in the borrower's business. Security in the personal assets of principals who owns 10% or more interest in the borrower's firm may be required as additional collateral. Such security can include property outside the business, including, but not limited to real estate of principals.

   The BCEA will secure loans by recording UCC-1 filings to secure equipment, fixtures, furniture, receivables, and inventory. Loans will be secured by collateral to the maximum extent possible to ensure an adequate secondary source of repayment. Generally, collateral pledged through UCC-1 filings for RLF loans shall not be pledged to other lenders or for other obligations of a business.

K. Credit Memorandums - Each application will be reviewed for standard underwriting criteria. A credit memorandum will be signed by the BCEA Executive Director and presented to the Loan Review Committee (LRC). Generally, the credit memo will address the following: location in the Target Area, management ability, and market feasibility, primary source of repayment, secondary source of repayment, leverage, environmental issues, job creation, credit history and the project's economic impact. All credit memos will include an analysis on the non-substitution documentation to verify that funds are not replacing private or commercial financing. Credit memorandums will also address other program requirements, such as the ratio of funds loaned to jobs created.

L. Financing Restrictions - RLF Capital may not be used to:
   - Acquire an equity position in a private business;
   - Subsidize interest payments on an existing loan;
   - Provide the equity contribution required of borrowers under other Federal loan programs;

- Enable a borrower to acquire an interest in a business, either through the purchase of stock or through the acquisition of assets, unless the need for RLF financing is sufficiently justified and documented in the loan write-up. Acceptable justification could include acquiring a business to substantially save it from imminent foreclosure, or acquiring it to facilitate a significant expansion or increased investment;
- Provide loans to a borrower for the purpose of investing in interest bearing accounts, certificates of deposit or other investment not related to the objectives of the RLF;
- Refinance debt

PART 4: PORTFOLIO STANDARDS AND TARGETS

The goal of the RLF is to target commercial and retail business sectors:

A *maximum* of 50% of the portfolio shall be loaned to start-up businesses. Exceptions made to exceed this target shall be made only in situations where repayment is guaranteed through a very strong collateral position.

<u>Private Investment Leveraging Ratio</u>
The portfolio shall maintain a private leverage ratio of 2:1, or $2 of private dollars or funds to every $1 in RLF funding.

<u>Cost per Job</u>

a. Every project shall have a new job creation or jobs saved component.
b. The maximum cost per job for any single loan will not exceed $10,000.

PART 5: LOAN SELECTION CRITERIA

Each application must demonstrate that financing is not otherwise available on terms or conditions that would permit completion and/or the successful operation or accomplishment of the project activities to be financed. The primary evidence for this will be the analysis provided in the credit memo supported by outside documentation, for example, bank decline letters.

Priority in processing loan applications will be given to applications that further the targeting of RLF funds as outlined in Section E. above. Loan applications will be considered for processing, if:

- Staff can demonstrate credit worthiness based upon the financing policies of this plan;
- The project is consistent with the business development strategy;
- The loan will meet program goals to facilitate in the creation of private sector jobs, diversify and strengthen the economy, and stimulate private investment;
- The loan is consistent with the goal of maintaining a diversified portfolio.

PART 6: LOAN PROCESSING PROCEDURES

<u>Standard Application Requirements</u>
Each potential borrower will be required to initially complete the standard Pre- Application (Exhibit C). Staff will review the pre-application to determine if it meets the general intent and purpose of the RLF. In evaluation of applicants, staff will consider whether the project/loan:

Meets the targeting criteria and is in one of the targeted clusters Demonstrates a reasonable assurance of repayment. Is consistent with the portfolio job/cost ratio established for the RLF leveraging of private dollars (minimum of 2:1 target for the entire RLF portfolio)

Exceptions for leveraging are up to the discretion of the board. An example for such exception can include, but is not limited to, start-ups with a high number of projected jobs and high economic impact. With such an example, board will need to weight the entire RLF portfolio to ensure that the minimum 2:1 is met.

Potential borrowers are required to submit the following documents with their application:

1. If available, three years of business and personal tax returns, all schedules, IRS Form 8831
2. Three years of business financial statements, to contain as a minimum, balance sheets and profit & loss statements (quarterly and/or monthly statements may be required as appropriate).
3. Personal financial statement dated not more than three months prior to the loan application. Required for each principal with 10% or more ownership in the applicant company, and may be required for individuals with management responsibilities.
4. Business plan with financial projections Proof of hazard and liability insurance
5. If available, accounts receivable and accounts payable aging schedules, dated the same date as most recent business financial statement;
6. Schedule of debts to include: 1) original amount of debt; 2) current balance outstanding; 3) Payment amount(s); 4) interest rate; 5) collateral; 6) status (current/delinquent).
7. Financial projections, generally to include: 1) a description of the assumptions behind the financial projections, 2) a projected cash flow for a minimum of 12 months; 2) a projected balance sheet and income statement for at minimum of 12 months; 3) other as may be necessary to adequately assess the application.
8. USDA Form AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibilities Matters
9. USDA Form AD-1048, Certification of Lower Tier Transactions
10. USDA Form 400-4, Assurance Agreement
11. USDA Form 3031, Felony Conviction and Tax Delinquency Certification Standard
12. State Clearinghouse Comments, including State Historic Preservation Office
13. Delinquent Debt Certification

Borrowers shall be approved based upon a reasonable assurance and determination of repayment ability and potential economic benefits to the community, i.e., number and quality of jobs they will create and amount of taxes generated.

<u>Credit Reports</u>
Standard commercial and personal credit reports on all principals owning 10% or more of a business under consideration for a loan and the business will be ordered and reviewed. Adverse credit deficiencies that would cause the underwriter to question the ability and or willingness of the potential borrower to repay the loan will be deemed a valid reason for declining the request. A summary review of the results of the credit reports shall be a part of the loan write-up. Costs of credit reports shall be borne by the borrower, whether or not the loan is approved.

<u>Uniform Commercial Code (UCC) Lien Search</u>
A UCC search shall be completed to determine any existing liens, where personal property is being taken as security (i.e. equipment, or business assets).

A real estate title report will be required in those instances where real property is being taken as collateral.

Standard Collateral Requirements
Loans will be secured to the fullest extent possible to protect the interests of the RLF as a secondary source of repayment. The RLF will obtain a perfected interest in a borrower's assets, including outside assets of related parties, as appropriate. Loans may be secured with the following types of assets:

- Real property Machinery & equipment Inventory
- Accounts Receivable Stock pledges
- Patents and other intellectual properties Securities
- Intangibles
- Personal and/or corporate guarantees

A personal guarantee will be required of any principal having a 20% or more ownership in the company being considered; it shall also be required of the principal(s) trust(s) deemed to be controlled by him or her. Personal guarantees may be collateralized with liens or property. Appropriate hazard and liability insurance shall be required, and key man life insurance shall be considered depending on the size and nature of the transaction and the health and ages of the principals. The Barren County Economic Authority (BCEA) shall be named as a Loss Payee on the appropriate insurance policies. Trust deeds will be obtained and supported by lenders title policies in those cases where real property is pledged as collateral. Liens on all personal property will be perfected by UCC-1 filings. UCC searches will be conducted to determine encumbrances and to ensure the RLF obtains desired lien position.

Procedure for Loan Approvals
When a loan is approved:

- Staff will draft a resolution stipulating the terms of approval and obtain the signature of the chairperson of the Loan Review Committee.
- The minutes of the LRC meeting shall reflect this approval and be circulated to all members of the LRC.
- Staff will seek the required Loan Concurrence from USDA
- A commitment letter contingent upon receiving Loan Concurrence from USDA, with a time expiration date signed by the Executive Director of the BCEA to the prospective borrower, stating the terms and conditions of the committed loan consistent with the written credit memo to the committee, and any provisions or changes recommended by the LRC. It shall also state *"this commitment is based on the fact that there have been no material adverse changes in the credit condition of the borrower since statements and information has been submitted to the RLF. If any such material adverse changes have taken place, this commitment is void and not in effect."*

Loan Decline – Appeal Process
The LRC will act upon recommendations for loan approval with the knowledge that the due diligence and underwriting on each loan has been completed, and upon reliance that the financial exhibits provided in the application are correct. Where a loan is denied by the LRC, an applicant may request further review by the LRC if the applicant can provide additional information that addresses the concerns of the LRC about the proposed loan.
However, LRC decisions on loans are final and binding and cannot be appealed to the BCEA.

PART 7: LOAN CLOSING

1. All loans will require a promissory note and a loan agreement.
2. All loan documents will be reviewed and approved by the BCEA Attorney prior to loan closing.
3. Sole proprietorships using a “doing business as/dba” will be required to provide copies of fictitious name filings.
4. Partnerships will be required to provide copies of the partnership agreements and buyout agreements if applicable.
5. Corporations will normally be required to provide copies of the Articles of Incorporation, By Laws, certificates of good standing, and corporate resolution to borrow.
6. All loans will require a security agreement where personal property secures a loan.
7. Perfection of collateral will require UCC-1 filings on equipment and fixtures, inventory and receivables, recording deeds of trust on real property, and certificates of title or stock registration, as appropriate.
8. UCC searches will be performed before closing to determine position. UCC searches may also be performed after loan closing and UCC filings to confirm that the desired lien position was actually obtained.
9. Lenders Title insurance will be required for all financed real property.
10. All principals with 20% or more ownership will normally be required to provide continuing guarantees, and subordination agreements, as appropriate.
11. Inter-creditor Agreement, if necessary, to preclude prior lien holder from increasing debt, and/or to delineate collateral and responsibilities of lenders.
12. Prior to closing, the borrower will present the required hazard and liability insurance policies, and any other insurance coverage such as key life insurance, as required
13. Lease assignments will be taken as appropriate.

PART 8: LOAN DISBURSEMENT

a. The borrower will certify in the loan agreement that the funds are to be used for the purposes intended as specified in the loan application. A positive covenant shall be included in the loan agreement stating the purpose of the loan. A breach of this covenant shall be deemed an event of default and the loan may be called.
b. If the proceeds are for the purchase of equipment, fixtures, or vehicles, the borrower must show original invoices before the check will be created payable to the vendor or jointly to the vendor and business.

PART 9: LOAN SERVICING PROCEDURES

<u>Loan Payment and Collection Procedures</u>

The BCEA staff will provide borrowers with an amortization schedule, receive and deposit loan and interest payments into an interest bearing RLF bank account.

Late fees (which will be incorporated in the body of the Promissory note) shall be 5% of the payment outstanding and begin accruing on the next calendar day after the payment is due. If the loan is past due more than 15 business days, late fees shall commence.

Loan Monitoring Procedures

a. Annual financial statements (defined to include a balance sheet and profit and loss statement, compiled by an independent accountant or certified by the chief financial officer and president) may be required on all loans. Staff shall monitor these and other dated requirements such as insurance renewals, and UCC renewals. If documents are not received on a timely basis as stipulated by the Loan Agreement, designated staff will be responsible for correcting the deficiency.
b. BCEA staff will be required to visit each borrower quarterly for the first 12 months and determine whether the business is on line with its business plan.

Once a year jobs saved/created data will be compiled by BCEA staff and supplied as part of the required reports. All jobs will be reported in full time equivalents. All required loan documentation and special provisions will be monitored.

Late Payment Follow-up Procedures

1. Upon being advised that a payment due was not made, staff will contact the borrower promptly to determine the problem, if any exists.
2. The loan servicer will send a written notice of delinquent payment 15 working days after due date with notification of late penalty, and will notify the staff in writing.
3. Staff will send a second written notice 30 days after the due date.
4. Staff will send a third written notice 60 days after the due date.
5. Staff will send a fourth written notice 90 days after the due date.
6. During the first 30 days of delinquency, written and oral communication, as well as site visits by staff will be utilized to resolve the delinquency.
7. If, after 90 days a delinquency still exists and the loan has not been renegotiated or brought current, the loan will generally be determined to be in default and recovery of the security will commence.
8. Any renegotiation of loan terms to remedy a default must be approved the LRC.
9. If at any time during this 90-day period, the Executive Director believes that the borrower cannot or will not bring the loan current, with LRC approval, staff can declare the loan in default and begin recovery against collateral, if deemed appropriate.

Collection Procedures

The staff will work to exercise all rights and privileges of a lender in order to collect the proceeds on delinquent loans. To ensure that the delinquent loan is collected in an appropriate, efficient, and timely manner, staff will:

1. Prepare a plan of action with guidance by the LRC for collecting the loan and taking action against the collateral.
2. Make sure all required loan documentation is in order.
3. Consult with the BCEA Attorney on all default notices and collection efforts and to ensure that no laws or regulations will be violated by the collection effort and that all legally required actions are taken.
4. Contact all other co-lenders as appropriate.
5. List defaulted or chronically delinquent loans with credit bureaus.
6. Notify the guarantors of the default and put them on notice that they are expected to make payment, in full, upon demand.
7. Begin collection procedures and/or asset liquidation process.

Write-off Policy and Procedures

Loans with an outstanding balance that have been placed in default and remain outstanding after 180 days will generally be written off. However, collection efforts will continue until determined not to be cost effective or prospects for recovery no longer exist. A reasonable loss through defaults will be considered without establishing a loan loss reserve.

Part 10: POLICY STATEMENTS

- The RLF seeks to minimize its financial participation in all projects. The RLF is not intended to compete with other public and private lenders. The RLF will collaborate with other lenders to provide the financial package necessary to advance the project, but at the same time to minimize the RLF financing component.
- The BCEA - Barren County RLF is an equal opportunity lender and requires loan recipients to adhere to all equal opportunity laws.
- All information regarding RLF loan requests will at all times be kept confidential by the members of the BCEA, the loan review committee, and BCEA staff. If necessary, the RLF may seek the advice and counsel of outside consultants and sources in order to adequately perform due diligence regarding the project.