

DRAFT
Guidelines

For

Business Loan
Program

Funded By

County of El Dorado

With

Community Development Block Grant

Adopted: ___/___/___

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EL DORADO COUNTY BUSINESS LOAN PROGRAM GUIDELINES

1.01. PURPOSE:

The County of El Dorado Business Loan Program (BLP) is designed to provide the critical and necessary capital needs for business and real estate projects within the County. The BLP is designed to stimulate economic growth and create businesses that will improve the living conditions of residents in the community. Capitalized with funds from the State of California Community Development Block Grant (CDBG) Program, the ~~intent of the BLP is to provide~~ appropriate assistance to businesses and real estate development projects, which in turn will create or retain jobs, along with increasing the commercial and industrial base of the community.

The Business Loan Program provides loans, in which repayments are “revolved” or “recycled” to be loaned again ~~in the same program for CDBG-eligible activities~~. Therefore, the initial funds that capitalize the program ~~will may~~ be used again to create additional jobs, assist more businesses and projects, and provide significant benefits beyond the Business Loan Program’s initial loans.

The Business Loan Program will assist businesses and projects that start-up, expand, and/or locate within the unincorporated areas of the ~~c~~County. The Business Loan Program proceeds can be used to finance:

- Operating capital for staff salaries or leasing space;
- Purchasing inventory, supplies, computer programs for accounting and inventory control or furniture, fixtures and equipment (FF&E);
- Rehabilitation of owner occupied or leased space (tenant improvements) including engineering, architectural and local permits or fees;
- Equipment purchase (with or without installation costs);
- Refinancing of existing business debt in conjunction with financing other eligible costs, except credit cards; and
- Marketing materials and advertising with website development and servicing.
- ~~Working Capital/Lines of Credit,~~
- ~~Inventory Purchase,~~
- ~~Equipment Acquisition~~Real Property Acquisition and, Construction, Rehabilitation; and

These financial assistance guidelines have been formally adopted by the County and approved by the California Department of Housing and Community

Development, hereafter called "the Department". See Attachment A for a copy of the adopting resolution.

• ~~Furniture/Fixtur~~

II.2.0. POLICY:

The following elements are critical in the selection of loans for the BLP:

- ~~That the terms and conditions of the Business Loan Program are appropriate;~~
- That a sufficient number of jobs will be created or retained in accordance with CDBG requirements;
- At least 51% of the jobs created and/or retained must be from the Target Income Group (TIG). The TIG is a low/moderate income person whose ~~household-family~~ income does not exceed 80% of County median household income, adjusted by family size. In order to meet the criterion for created and/or retained jobs, the employees must be from the TIG at the time they are hired or retained. For job retention projects, income self-certification will be conducted on all employees prior to the approval of the loan. For job creation projects, all of the TIG employees will complete income self-certification; and
- The loan meets the Business Loan Programs underwriting requirements.

Eligible applicants include ongoing and start-up private, for profit business concerns, corporations, partnerships, sole proprietorships and cooperatives that are incorporated and licensed, and are located in or locating to the County. The project to be financed with the Business Loan Program must be within the unincorporated area of the County.

The project must be commercial or industrial. Business Loan Program funds ~~can~~ may be used for construction and permanent financing, working capital, inventory equipment, real property acquisition, construction and rehabilitation.

III.3.0. SOURCE OF FUNDING

The source of funding for the Business Loan Program is paid for with CDBG funds provided by HUD to the Department. As such, these funds have a number of state and federal requirements that must be met, as described below. CDBG funds are either awarded to the County through a competitive NOFA process or originate from local CDBG program income (PI) funds administered under the County's PI Reuse Plan approved by the Department in writing.~~is the State of California Community Development Block Grant Enterprise Fund Component Program.~~ Loans are not from the El Dorado County General Fund.

IV.4.0 DESCRIPTION OF FUNDING

4.1 Guidelines:

Loans ~~will may~~ range from a minimum of \$5,000 ~~to a maximum of up to~~ \$100,000. Although all loans must be reviewed by the State Department of Housing and Community Development's (HCD), /CDBG Program, prior to final ~~approval,~~ approval, requests for loans over \$100,000 ~~loans above \$250,000~~ will require additional approval by the County and State Department of Housing and Community Development's (HCD) loan committees.

- **Leveraging:** The Program's overall goal is to leverage a realistic pledge of dollars from equity and/or debt for every one Program dollar loaned. On a case-by-case basis this leverage requirement may be waived. A private dollar can be either debt financing or owner equity. Owner equity can be cash and/or land. The land is counted only for construction projects. Expenditures made by the loan applicant prior to the Business Loan Program loan award are not counted unless made as part of the submittal, and made within 60 days of the Business Loan Program loan submittal, related to and in anticipation of such submittal. A minimum of 10% of the total project funding must be from owner equity.
- **Loan Terms:** Up to ~~ten~~10 years, depending on the asset being financed, and the demonstrated need for the BLP funds. The length of loan shall not exceed the economical life of the equipment/asset being financed.
- **Loan Fee:** A loan fee of up to 1.5% may be charged to the borrower.
- **Prepayment Penalty:** No prepayment penalty.
- **Deferral of Payments:** On a case-by-case basis, determined based on the financial gap.
- **Job Creation and/or Retention:** One full time equivalent job (1,750 hours annually) per \$35,000 loaned shall be achieved for each loan. Two permanent part-time jobs (at least 875 hours annually) may be aggregated to count as one full time equivalent job. ~~All For~~ meeting must meet the national objective of principally benefiting the Targeted Income Group (TIG), ~~);~~ at least 51% of the jobs created/retained shall be held by TIG persons.
- **Collateral Requirements:** All loans should be collateralized to the greatest extent possible. No unsecured loans shall be made. Both personal and business assets will be reviewed for collateral coverage.
Types of collateral may include:
 - Liens on real property with by Deeds of Trust;
 - Liens on machinery, equipment, or other fixtures;
 - Lease assignments, as appropriate;
 - County named as Beneficiary on Life Insurance;
 - Other collateral, as appropriate; and
 - Personal and corporate guarantees.
- ~~All Business Loan Program loans shall be fully secured by collateral in order to maintain the Business Loan Program. No unsecured loans shall be made. Types of collateral may include liens on real property; deeds of~~

~~trust; liens on machinery, equipment or other fixtures; lease assignments; personal and/or corporate guarantees; and other collateral, as appropriate.~~

4.2 General Administrative Features:

The Business Loan Program will comply with all CDBG requirements, including, but not limited to:

- Confidentiality of Client Financial Information, as allowed by law;
- Equal Opportunity/Affirmative Action Policy;
- Attorney review all contracts and legal forms;
- Monitoring and Reporting Forms;
- Collection and Foreclosure Policy;
- Labor standards (where applicable);
- Clearing CDBG special conditions;
- Relocation assistance (where applicable);
- Section 3 requirements;
- Fair Housing requirements;
- Environmental reviews; and
- ~~The~~ County staff will be responsible for overall program marketing, loan evaluation, loan packaging, and monitoring.

4.3 Project Evaluation Criteria

The following evaluation criteria will be adhered to during the course of the Business Loan Program:

- The number of jobs created and/or retained and the percentage benefiting members of the targeted income group;
- The amount of private dollars leveraging BLP funds;
- The financial viability of the proposed enterprise; and
- The demonstrated need for the funds.

4.4 Management and Capacity Requirements

Loan Applicant must show:

- Good character;
- Ability to operate a business successfully;
- Adequate borrowing ability or equity to operate with the new loan payments, on a sound financial basis;
- The proposed loan is of sound value and provides for the current and future needs of the business; and
- Past earnings record and future prospects of the firm indicate ability to repay the loan and other fixed debt, if any, out of the profits.

4.5 Loan Packaging

~~The~~ County staff will be responsible for the loan packaging activities, including review of all proposals presented to the Loan Advisory Board (LAB).

4.6 Loan Advisory Board

The Loan Advisory Board (LAB) shall have an odd number of members. LAB members shall volunteer for this board. The LAB members can be from local financial institutions, County staff, or other interested parties who have the professional capacity to review and evaluate commercial loans.

LAB loan review will take place for each loan applicant prior to funding. LAB meetings will be scheduled by County staff once a loan has been underwritten and is ready for review and approval. LAB members are responsible for reviewing each loan application funding proposals and making recommendations to the County. LAB may request additional information and or attach contingencies for final approval and loan closing. HCD/CDBG will make the final loan determination after LAB and County approval.

4.7 Length of Review Process

~~On average, the BLP review process takes six to eight weeks from submittal of a complete loan application through LAB review. Loan funds can be disbursed two to three weeks after signing the BLP documents, depending on the financing. All loans must be approved in advance by HCD. Additional commitments can be made prior to final approval from another funding source. Every effort will be made to facilitate the process to coincide with the other funding source and the project's requirements.~~

Linking Jobs with Long-Term Unemployed

County staff will work closely with the local One Stop Center to support the Workforce Investment Act (WIA) programs and services that provide assistance to the unemployed and low- to moderate-income persons. Early and consistent involvement with each loan applicant will be an integral policy of the BLP.

V-5.0 ELIGIBILITY

5.1 Eligible Applicants

Eligible applicants include ongoing and start-up private, for profit business concerns, corporations, partnerships, sole proprietorships and cooperatives that are incorporated and licensed in the County, and are located in or locating to the unincorporated area of County.

5.2 Conflict of Interest

No conflict of Interest is allowed, in accordance with Title 24, Section 570.611 of the code of Federal Regulations. As such no person who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Grantee will verify and certify that a conflict of interest does not exist with the business or applicant.

Exceptions to this policy may be approved by the federal Department of Housing and Urban Development (HUD) made only after public disclosure and formal approval by the Board of Supervisors provided that the Grantee's legal counsel makes a written determination that potential conflicts are acceptable.

5.3 Eligible Use of Loan Funds

The project must be commercial or industrial. The County will review the project scope of work proposed by the business. The County and the loan applicant will collect third party cost estimates for all project costs at the application stage. CDBG funds are restricted to certain eligible costs, such as:

- Operating capital for staff salaries or leasing space;
- Purchasing inventory, supplies, computer programs for accounting and inventory control or furniture, fixtures and equipment (FF&E);
- Rehabilitation of owner occupied or leased space (tenant improvements) including engineering, architectural and local permits or fees;
- Equipment purchase (with or without installation costs);
- Refinancing of existing business debt in conjunction with financing other eligible costs, except credit cards;
- Marketing materials and advertising with website development and servicing, and
- Land costs, including engineering, legal, grading, testing, site, mapping and related costs associated with the acquisition and preparation of land.

- Building costs, including real estate, engineering, architectural, legal and related costs associated with acquisition, construction and rehabilitation of buildings including leasehold improvements.
- Working capital, inventory, furniture, fixtures, machinery and equipment.

5.4 Ineligible Use of Loan Funds

Funds under this Program will not reimburse expenses incurred prior to County approval of the loan and environmental review requirements except for private leverage as specified in Section 4.1. Program funds will not be used to pay off non business debt, such as personal credit cards not associated with the business. Loan funds may not be used for personal expenses such as buying a new family car or making repairs to a participant's home. CDBG funds may not be shifted from one approved type of cost to another without resubmitting to the County for approval. Funds may not be used to support other businesses in which the borrower may have an interest.

Projects must be located in the unincorporated part of El Dorado County. Projects cannot be residential in nature. Projects must have reasonable assurance of repayment. Projects are not eligible if they create a conflict of interest pursuant to California Government Code S87100 et seq for any current County employee or Loan Advisory Board (LAB) member. Projects must create or retain jobs, primarily for the Targeted Income Group, and must leverage private or equity funds.

5.5 Eligible Projects

Project eligibility is based on the project satisfying the CDBG Program's national objective of principally benefiting ~~targeted income group~~ TIG persons through job creation and/or retention, ~~or aid in the elimination of slums or blight or meet a community development need having a particular urgency.~~ Additionally, the eligibility of a project is dependent on the appropriate determination being made to justify the provision and extent of CDBG assistance.

6.0 LOAN APPLICANT CONFIDENTIALITY

All personal and business financial information will be kept confidential. Program participant files with personal and business confidential information will be kept in locked secured storage units.

7.0 DISPUTE RESOLUTION/APPEALS PROCEDURE

Any applicant denied assistance from the Program has the right to appeal. An appeal should include a statement explaining the reason for appeal. The appeal must be made in writing and submitted to the County within 10 days of the denial notice. The appeal must be submitted to:

El Dorado County
CAO/HCED Programs
330 Fair Lane, Building A
Placerville, CA 95667

The County has 30 days to review the appeal, seek recommendations from the Loan Advisory Board or County Counsel, and respond in writing to the applicant. This procedure is outlined in the Program Grievance Resolution Notification included with each Program application.

VI.ROLE OF THE COUNTY

8.40 Role of the County Staff

The County of El Dorado staff is responsible to:

~~County staff will, as required will:~~

- Publicize and market the BLP;
- Screen all applicants for loans;
- Meet with potential lenders;
- Perform site visits to businesses, as appropriate;
- Refer candidates that are not eligible, do not meet the BLP criteria or need technical assistance to the Small Business Development Center;
- Obtain from candidates preliminary information and an application, along with accompanying financial information;
- Meet with each BLP applicant at the application conference (prior to submission of application to LAB) to review application and ensure the applicant understands all requirements and obligations of the BLP;
- Prepare loan packages, along with recommendation to LAB;
- ~~• Perform any appeal process;~~
- ~~• Provide expenditure reports and other miscellaneous information to County to operate the BLP;~~
- ~~• Assist the County in any implementation process of the BLP (clearing special conditions, environmental review, etc.);~~
- If approved, assist with loan processing and closing; ~~and~~
- ~~• Once closed, monitor the loan, maintain the loan records, and monitor compliance with job objectives.~~

~~The County of El Dorado staff is responsible to:~~

- ~~• Provide the overall oversight and liaison among the County Staff, loan applicants, recipients, lenders, and other interested parties;~~
- ~~• Prepare all reports, financial information and performance reports as required by CDBG on each loan during the term of the loan;~~
- ~~• Serve as the contact for the State Department of Housing and Community Development for the BLP;~~

- ~~Meet with each BLP applicant at the application conference (prior to submission of application to LAB) to review application and ensure the applicant understands all requirements and obligations of the BLP;~~
- Perform any special conditions clearances required by CDBG;
- Review the standard loan documents (in conjunction with County Legal);
- ~~Amend and submit for approval the BLP guidelines and reuse plan as needed;~~
- ~~Meet with lenders as appropriate;~~
- ~~Make the final decisions to foreclose and declare defaults (in consultation with legal counsel, based upon recommendations of staff);~~
- ~~Monitor on-going operations of the loan recipient;~~
- ~~Monitor compliance with BLP requirements;~~
- ~~Attend HCD/CDBG training as appropriate; and~~
- Assist other County departments as required to implement loan application (Planning/Building, DOTS, etc.)
- Provide the overall oversight and liaison among the County Staff, loan applicants, recipients, lenders, and other interested parties;
- Prepare all reports, financial information and performance reports as required by CDBG on each loan during the term of the loan;
- Once closed, monitor the loan, maintain the loan records, and monitor compliance with job objectives;
- Make the final decisions to foreclose and/or declare defaults (in consultation with legal counsel, based upon recommendations of staff);
- Serve as the contact for the State Department of Housing and Community Development for the BLP;

8.12 Role of the Loan Collection Agent

The County will conduct the duties of loan collection agent. The duties will include the following:

- Loan servicing and accounting;
- Provide monthly receipts of loan payments;
- Provide quarterly statements on each loan;
- In concurrence with the County's legal counsel, undertake loan collections, including asset liquidation; and
- Obtain credit reports on all loan applicants.

VII.9.0 LOAN SELECTION AND APPROVAL PROCESS

9.1 Marketing

Program marketing will be conducted by the County or the Program Operator. Examples of marketing include media coverage with ads in local papers, distribution of marketing brochures to local chamber of commerce and business networking organizations. Presentations will be scheduled for these groups as well as real estate groups, local commercial banks and Grantees. The SBDC will be used as a referral agency.

9.2 Equal Opportunity Compliance

The BLP will be implemented in ways consistent with the County's commitment to state and federal equal opportunity laws. No person or business shall be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG program funds on the basis of his or her religion, religious affiliation, age, race, color, ancestry, national origin, sex, marital status, familial status (number or ages of children), physical or mental disability, sexual orientation, or other arbitrary cause.

9.2 Procedure

Once a potential project has been identified, ~~the~~ County staff will conduct a preliminary review for eligibility with the BLP criteria. If another lending source is more appropriate, or the project does not meet the BLP criteria, ~~the~~ County staff will refer the prospective borrower to another organization for assistance and technical assistance. This will include referrals to the Greater Sacramento Small Business Development Center, the SCORE program, and financial institutions. As a condition of the loan, ~~the~~ County staff or LAB may require that applicants receive pre-loan and/or post-loan counseling.

County staff may require applicants who have received loans to undertake business counseling if it appears that the applicant's financial position is declining and the BLP loan may become delinquent.

If the project appears to meet ~~the~~ BLP criteria, the applicant will be asked to submit preliminary information. Preparation and submission by an applicant of preliminary information and supporting documents include, but are not limited to:

- Business and personal tax returns for the last three years or since commencement of operations (whichever is less);
- Business financial statements (balance sheet and income statement) for current year and prior three years;
- Current personal financial statement;
- Credit history; and
- A proposed project summary.

Start-up businesses must submit pro-forma financial statements for the first three years. Real estate projects must submit pro-forma projections for the first five years, and pre-leasing information.

The County staff will review the preliminary information. If the project is determined to be viable, a draft loan analysis will be prepared. If the decision is to decline the request, the County staff will provide the applicant with a written explanation of the denial. If appropriate, referrals to other organizations will be made.

If the review is positive, the applicant will be invited to an application conference with County staff and to submit a formal application to County staff, which will be presented to the LAB for their recommendation. At the application conference, ~~the~~ County staff will review with the applicant the formal BLP checklist and required information, forms and financial schedules deemed necessary by County staff to complete the loan package. County staff will determine project needs/conformance with local requirements, including the necessary environmental review for the project.

The applicant, in conjunction with ~~the~~ County staff, will develop the a job creation (employment) agreement in accordance with CDBG rules and regulations.

Upon completion of the necessary information, ~~the~~ County staff will present applications to the LAB. The presentation will include a completed BLP Project Evaluation form. If the private funds are from equity, ~~then~~ the commitment letter must be from the applicant. The County staff presentation will include a recommendation. This recommendation will include the proposed terms and conditions, based upon the identified “financial gap” and the appropriate analysis undertaken by County staff, along with a checklist insuring that the loan meets the BLP guidelines and criteria.

The LAB will decide to recommend approval or to decline the loan request. If loan request is declined, the applicant will be informed in writing by County staff as to the reason. If recommended, the LAB’s recommendation may be based on the terms and conditions proposed by County staff, or the LAB can recommend alternative terms and conditions. The LAB recommendation is to be presented to the County staff. Prior to final County approval, County staff will review the loan package for completeness and regulatory compliance, as well as final review for compliance with BLP guidelines and criteria.

When the County approves or denies the loan request, the applicant will be notified in writing. If denied, the reasons for denial will be included. ~~The~~ County staff approval shall include a certification statement that based on ~~his/her~~ review of the staff report and LAB recommendation, the County finds that the CDBG loan is appropriate and that the assistance is commensurate with both the needs of the borrower and level of benefit to TIG persons in addition to other public benefits stemming from the project.

HCD/CDBG will make the final loan determination after LAB and County approval.

9.3 Loan Closing

Upon approval by County LAB, ~~the~~ County Staff will complete the special conditions (including the environmental review). Once approved by HCD/CDBG, the Borrower will sign all the necessary documents and agreements. County staff will request a draw down of funds from the State Department of Housing, Community and Economic Development (the timing of the request may vary depending on the project). ~~The~~ County staff will prepare the loan closing ~~documents, documents;~~ prepare title and lien searches, and UCC-1 filings, if appropriate ~~(the sample pre-closing checklist and escrow instructions attached will be developed and used for each loan closing)~~. County legal counsel will review all agreements and documents, as necessary.

~~The~~ County staff will undertake loan closing. At the time of closing, the Borrower will be provided with a checklist outlining their obligations under the BLP. At closing, or another specified time, funds will be disbursed to the Borrower.

~~The~~ County staff will complete any remaining legal, regulatory or other items. Monitoring and compliance files will be set -up at this time.

9.4 Loan Monitoring

Two separate loan files will be maintained. The first is the legal file, which holds all the original loan documentation, along with the original documents. This file shall be kept in the County's fireproof vault for safekeeping. The second is a credit file, which shall contain the day-to-day administrative records of the loan.

The legal file shall include, at a minimum:

- Note;
- Loan Agreement, including Non-Financial Employment Plan (Job Creation [Employment] Agreement);
- Mortgage;
- General Security Agreement;
- Personal Guaranty;
- Corporate Guaranty;
- Subordination Agreement;
- Life Insurance Policy and Assignment;
- Hazard Insurance Policy and Assignment;
- General Resolution;
- Certificate of Secretary;
- Opinion of Counsel; ~~and~~
- Inter-creditor Agreement.

The credit file shall contain, at a minimum:

- Loan Application;
- Financial Information Associated with the Application;
- Credit Memo;
- LAB Recommendation;
- Final County Approval;
- Disbursement Records;
- Reports of Site Visits;
- Updated Financial Information Provided by Borrower; and
- Job Creation/Retention Data.

A reporting system will be established for each loan and the loan portfolio as a whole. The report should be updated at least quarterly. The County staff shall be responsible for preparation of this report. The County staff will use the report to monitor the loans and identify problems. The report will contain the following:

- **Fund Report Balance:** A monthly summary of the beginning fund balance, principal and interest recaptured during the month, disbursements made during the month and funds committed but not yet disbursed, and amount remaining in the BLP which is unencumbered. The monthly receipts from the lender on each loan will serve as the basis for this report.
- **Portfolio Summary Report:** A quarterly summary of the total loans outstanding and authorized loans. The report shall include a quarterly statement on each loan, prepared by the lender. The quarterly report shall include the last payment date and loan balance. Delinquent loans shall be identified and a summary of actions to date to collect delinquent loans shall be included.
- **Employment Report:** A quarterly report on each project detailing the jobs created/retained, and those hired that meet the Targeted Income Group.
- **Loan Loss and Delinquent File:** A list of all loans that have been classified as uncollectible and a summary of foreclosure procedures to date on the loan. Loans that are delinquent will also be listed, along with a summary of recommended steps, and steps taken to date.
- **Tickler File:** A listing of the current loan portfolio and dates for receipt of financial statements, employment information, renewal of UCC-1 filings, review date, dates for insurance renewal and other information.

In addition, the County staff will establish and maintain a loan monitoring file which will include a summary of the monitoring requirements of the State Department of Housing and Community Development. A tickler file will be part of this overall file to insure that loan and BLP monitoring is undertaken and completed.

VIII.10.0 LOAN UNDERWRITING

The loan underwriting policies of the El Dorado County Business Loan Program (BLP) are designed to insure the Program's ongoing viability, assist businesses that could not proceed without the BLP, and ensure that the BLP assistance is appropriate.

10.1 HUD Underwriting Guidelines

The County has adopted the HUD underwriting guidelines for the BLP to determine whether a proposed CDBG subsidy is appropriate to assist with business expansion or retention. In addition, the project will be reviewed to determine that a minimum level of **public benefit** will be obtained ~~from from~~ the expenditure of the CDBG funds in support of the project.

The objectives of the underwriting guidelines are to ensure that:

- Project costs are reasonable;
- All sources of project financing are committed;
- To the extent practicable, BLP funds are not substituted for non-Federal financial support;
- The project is financially feasible;
- To the extent practicable, the return on the owner's equity investment will not be unreasonably high;
- To the extent practicable, BLP funds are disbursed on a pro rata basis with other financing provided to the project; and
- Sufficient public benefit will be received from the expenditure of BLP funds.

10.2 Project Costs are Reasonable

All project costs will be reviewed for reasonableness, and to avoid providing either too much or too little BLP assistance. The amount of time and resources expended evaluating the reasonableness of a cost element shall be commensurate with its costs. In some instances, it will be necessary to obtain third-party, fair-market price quotations or a cost element. Particular attention will be given to documenting the cost elements in non-arms-length transactions.

Procedures:

1. Start with Sources and Uses of Funds.
2. For each Use of funds, determine if costs are reasonable.
 - a. For construction, machinery, equipment, ~~—Dd~~ determine if the costs are estimated by a third-party (e.g. architect, engineer, equipment supplier, etc.). Determine if the estimates are included in the application. Determine if the contingency is adequate.

- b. For land, determine if the price is based upon Fair Market Value. If not, determine the Fair Market Value and how was price determined. Obtain an appraisal or an opinion of Fair Market Value.
 - c. For development costs (building fees, architectural/engineering costs, financing costs, franchise fees, etc.), determine if these costs are itemized and supported by contracts or other documentation.
 - d. For working capital, compare the amount of working capital to industry averages, risk, historical needs of the business and the projected need. Analyze business financial statements, projections, operating cycle and financial ratios.
3. A higher level of review will be required if there are no third party estimates.
 4. Sources of information:
 - Sources and Uses of Funds Statement;
 - Financial Statements and Projections;
 - Industry Averages (Robert Morris);
 - Third Party Costs Estimates;
 - Building Department/Public Works;
 - Realtors;
 - Appraisers;
 - Architects/Engineers;
 - Contractors;
 - Equipment Suppliers; and
 - Other similar projects.

10.3 Commitment of All Sources of Project Financing

Prior to the commitment of BLP funds to the project, a review shall be conducted to determine if sufficient sources of funds have been identified and committed to the project, and the participating parties have the financial capacity to provide the funds to ascertain if the project is viable and will move ahead in a timely manner. In certain circumstances, the BLP may commit its funds in advance of final commitments from other funding sources. However, to conduct the underwriting analysis, the approximate terms and conditions of the other funding sources should be known. Final commitments from the other funding sources will be required, with substantially similar terms and conditions as used in the underwriting analysis, prior to any loan closing or disbursement of funds.

Procedures:

1. Start with Sources and Uses Form.
 - a. For all sources of funds, determine if there is evidence verifying commitment or intent to commit.
 - b. For debt sources, be in receipt of letters of intent or interest, which specify the level of commitment and terms/conditions of the loan. The proposed terms should be reflected in the business' projected

debt schedule and in the financial projections. Determine if actual loan packages have been submitted to lenders.

- c. For equity sources, determine if the equity injection is verified on the business or personal financial statements. Or, if an investor provides the equity, obtain evidence of the level and terms of commitment (e.g. letter of intent with accompanying financial statement verifying availability of funds).
2. Sources of information:
 - a. Sources and Uses of Funds,
 - b. Business and Personal Financial Statements, and
 - c. Letters of intent/interest form lenders, partners and investors.

10.4 Avoid Substitution of CDBG Funds for Non-Federal Financial Support

The project will be reviewed to ensure that, to the extent practicable, BLP funds will not be used to substantially reduce the amount of non-federal financial support for the project to make the most efficient use of the BLP funds.

10.5 Financial Feasibility of the Project

Each project will be examined to determine the financial viability of the project, and thus the reasonable assurance that the public benefit will be realized. The current and past financial statements for both the business and individuals must be analyzed, along with tax returns and projections. The assumptions behind the projections must be critically analyzed. Income and expense costs shall be evaluated and compared historically, where applicable, and compared to industry averages (using guides such as Robert Morris' Annual Financial Statements). Project costs, including both hard and soft costs, must be determined to be reasonable. Accurate project costs are vital to determining project feasibility.

As part of the financial analysis, the past, current, and projected financial data shall be analyzed to determine if the job estimates are reasonable and supportable. Labor costs shall be ~~looked~~ evaluated at the break-even point. In addition, labor costs shall be checked against industry averages. Variations should be explained in the loan analysis.

The terms and conditions of the BLP loan must be appropriate. In general, the interest rate shall be set at a rate where available cash flow is able to meet debt obligations, after other obligations are met, with enough cash flow remaining to operate successfully. The loan term typically is based ~~in-on~~ the asset being financed. The term should not exceed the economic life of the asset being financed. However, a longer loan amortization schedule, with the loan due at the end of the economic life, may be justifiable

Each loan shall include a written explanation of the appropriate analysis that was undertaken, and the reason the terms and conditions of the loan were approved.

10.6 Financial Analysis.

Historical and projected financial statements will be subject to financial analysis to determine the gap, and structure the terms and conditions of the BLP loan, as discussed above, but also to determine that the project is feasible. In addition, County staff will use prudent underwriting guidelines, to demonstrating that the proposed loan is of sound value, and will note how past earnings and future prospects indicate an ability to meet debt obligations out of profits.

Information that ~~will be required to be submitted by the~~ applicant will be required to submit will depend on the project, ownership structure and whether it is an ongoing or start-up business. In general, the information required is outlined in the BLP checklist in the exhibits.

The financial analysis will differ depending on whether the business is a start-up or existing business. For existing businesses, ~~t~~The analysis will include ~~for existing businesses~~ a spread of the current ~~and~~ financial statements to determine trends. The pro forma statements will then be compared to these past statements. Financial ratios will be analyzed. The statements and ratios will be compared to industry averages. For start-up businesses, es, ~~-~~the projections will be analyzed and ratios developed, and both compared to industry averages.

Ratios that will be analyzed include:

- Current Ratio: Current assets/current liabilities. This ratio is a rough indication of a firm's ability to service its current obligations. A ratio of 2:1 is considered secure.
- Quick Ratio: Cash ~~&and~~ equivalents plus accounts ~~ants~~ ~~&and~~ notes receivable/current liabilities. The ratio is a refinement of the current ratio. A ratio of 1:1 usually indicates ample liquidity.
- Cash Flow Coverage: Net profit ~~&and~~ depreciation ~~&and~~ depletion-amortization expenses/current portion of long term debt. This ratio is a measure of the ability to service long term debt.
- Another coverage ratio ~~is~~: Earnings before interest and taxes/annual interest expenses. This ratio is a measure of a firm's ability to meet interest payments. A Cash Flow Coverage of 1.25 debt service shall be used as a guideline.
- Debt to Worth: Total liabilities/tangible net worth. This ratio is the relationship between debt and a businesses net worth. A lower ratio is an indication of greater long-term financial safety and greater flexibility to borrow. In general, a Debt to Worth ratio of higher than 5:1 should not be exceeded as an underwriting policy. There are exceptions when the industry average is high due to its capital intensive nature or when projections show the ratio lowering quickly.

- Collateral Coverage: The value of collateral as compared to the amount of the loan. Typical underwriting guidelines suggest that 125% of loan balance be used. However, this is highly dependent on the quality and security of the collateral. In addition, collateral requirements are a cause of “financial gaps”. The BLP shall use 125% as a guideline, which shall only be lowered with specific and detailed analysis and explanation.
- Break-Even Analysis: The analysis of the project’s ability to support the projected labor costs and additional debt service at its break-even point (BEP) will be analyzed to determine what proportion of the jobs can be supported at that BEP. This will serve as a worst case look at the business’ prospects for success, ability to service new debt, etc.

The financial and ratio analyses must be supported by the business plan. The business plan must provide a clear understanding of the project, competition, market strategy, sales estimates, management capacity and other factors.

Lastly, to ensure project feasibility, an evaluation will be conducted of the experience and capacity of the business principals to manage the business and achieve the projections.

— County Staff Procedures:

1. Perform financial underwriting analysis.
 - a. Spread historical financial statement and projections. Identify any significant differences and compare to industry averages.
 - b. Review assumptions to projections. Determine if projections are reasonable and supported by market studies, business plan, and historical trends.
 - c. Review financial ratios for project and compare to industry averages. If significantly different, determine the reasons and impact on feasibility.
 - d. Review cash flow for project. Determine if there is adequate working capital.
 - e. Determine break-even point for project, and how much the projections are above the break-even point. Determine if the public benefit will be realized at the break-even point.
2. Review the business plan, market information, historical financial statements, projections, ratio analysis, break-even analysis, spreadsheet analysis, and management capacity to determine the project feasibility.
3. Sources of information:
 - a. Historical Financial Statement;
 - b. Financial Projections;
 - c. Business Plan;
 - d. Market and Industry information; and
 - e. Industry Averages.

10.7 Return on Equity Investment

The return on equity investment is the amount of cash that the investor/business owner is projected to receive in relation to their initial equity. For a sole proprietor, this equates to salary plus net income. To the extent practicable, the BLP should not provide more than a reasonable return on investment to the business owner. This will help ensure that the BLP will maximize the use of BLP funds and not unduly enrich the business owner/investor. However, care shall be taken to ensure that the rate of return will not be too low, so that the business owner's motivation remains high to pursue the business with vigor.

If the project's financial returns are projected to be too low to motivate the business and/or investor to proceed with the project, ~~the then~~ risks of the project outweigh the returns. An inadequate rate of return, adjusted for industry and locational risks, is a third method to determine the gap appropriate to be funded with BLP funds. To analyze this gap, the projected return on investment must be compared to the return on investment on similar projects. If it is shown that a gap does exist, then the BLP financing rate and terms must be set at a rate that provides a return equal to the "market rate". Real estate appraisers and lenders are important sources of information on "market rate" returns.

County Staff Procedures:

1. Review projections.
 - a. Review revenues, expenses (including officer's salary/owners' draw), debt service and net operating income, and compare to historical financial information and to industry averages. Determine if these items are reasonable.
 - b. Review indicators of owners' return on equity, including officers' salary, owners' draw, and net operating income. Given the project's risk and local conditions, determine if the return on equity is reasonable compared to industry averages.
2. Review the business and personal obligations. Determine what return on equity is necessary to meet personal and business obligations.
3. If return on equity is above industry averages, adjusted for risk and local conditions, take steps to reduce the return to within a reasonable rate by restricting owners' draw/officers' salary, or adjusting the BLP loan terms.
4. If return is below average, adjust BLP subsidy to bring the rate of return closer to the industry average.
5. Sources of information:
 - a. Financial projections;
 - b. Historical financial statements;
 - c. Personal financial statements; and
 - d. Industry averages.

10.8 Disbursement of BLP Funds on a Pro Rata Basis

To the extent practicable, BLP funds should be disbursed on a pro rata basis with other funding sources to avoid placing BLP funds at a greater risk than other funding sources. When it is determined that it is not practicable to disburse BLP funds on a pro rata basis, other steps shall be taken to safeguard BLP funds in the event of a default.

County Staff Procedures:

1. Review Sources and Uses of Funds. Determine when BLP funds will be expended as compared to other funds.
2. Determine other funding sources' policies towards expenditure of funds. These policies may require the use of BLP funds first. If so, may need to negotiate with other funding sources.
3. If BLP funds are to be expended first, consider actions to safeguard BLP funds (e.g. performance or completion bonds).
4. Sources of information:
 - a. Sources and Uses of Funds.
 - b. Construction Contracts; and
 - c. Lender Requirements/Policies.

10.9 Standards for Evaluating Public Benefit

Each project will be reviewed to determine if a minimum level of public benefit will be obtained from the expenditure of BLP funds. The minimum standard ~~is~~ are:

- The project must lead to the creation or retention of at least one full-time equivalent (FTE) job per \$35,000 of BLP funds used; ~~or~~
- ~~The project must provide goods or services to residents of an area, such that the number of TIG persons residing the areas served by the project amounts to at least one TIG person per \$350 of BLP funds used.~~

Procedures:

1. Review historical financial statements.
 - a. Review historical labor costs as a percentage of revenues. Compare the percentage to projected labor costs. Determine if the two figures are consistent. If not, obtain an explanation.
 - b. Determine if the number of projected jobs is consistent with the projected increase in labor costs. Compare the labor costs percentage to industry averages.
2. Review the projections.
 - a. -Determine if the assumptions used to project revenues and labor costs are reasonable. Determine if market/industry

information and historical financial statements support revenues and labor costs.

3. Determine if project meets minimum public benefit requirements (one full-time equivalent job for every \$35,000 in BLP funds, ~~or one TIG resident per \$350 in BLP funds residing in the area served by the project~~).
4. For infrastructure projects, determine the area of benefit; negotiate fair share contributions; develop, execute, and implement fair share agreement; and track jobs from the benefiting business(s) if the projected cost/job is less than \$10,000, ~~or track jobs in the area of benefit if the projected cost per job is \$10,000 or more.~~

IX. BUSINESS LOAN PROGRAM (BLP) TASK MATRIX

TASK	COUNTY STAFF	COUNTY
Establish and Maintain Program Loan Files		X
Legal Review of Loan Documents		X
Approve BLP Guidelines		X
Prepare Fiscal/Performance Reports		X
Review Fiscal/Performance Reports		X
Monitor County Staff		X
Conduct Environmental Reviews		X
Participate in LAB Review		X
Loan Servicing and Accounting		X
Provide Monthly Receipts of Loan Payments		X
Provide Quarterly Statements on Loans		X
Implement Collections and Foreclosures		X
Approve Reuse Plan		X
Meet with Participating Lenders		X
Publicize and Market the BLP		X
Screen and Assist Loan Applicants		X
Refer Ineligible Applicants to Others		X
Request Preliminary Loan Information		X
Get Credit Report, Other Documentation		X

TASK	COUNTY STAFF	COUNTY
Prepare Loan Package and Recommendation with Appropriate Determination		X
Present Loan to LAB		X
Close Loan with Other Lenders		X
Monitor Loan and General Compliance		X
Prepare and Sign all HCD Reports		X
Prepare Cash Requests and HCD Reports		X
Clear Special Conditions		X
Site Visits to Borrowers		X
Track Jobs/Benefit (EEO)		X
Monitor Labor Standards		X
Income Screening/TIG Benefit		X
Conduct Appeal Process		X
Planning, Building & Public Works Reviews		X
Attend HCD Workshops		X
Refer for Business Counseling- SBDC		X
Provide Overall Review and Liaison Between BLP Components, County Staff, County and CDBG Program		X

X11.0. OTHER CDBG FEDERAL REGULATIONS

There are a number of other federal laws and state regulations that are triggered with use of CDBG funding. The County, if applicable, will take the lead and ensure compliance with these requirements. Any impacts on a proposed project will be explained at the time of loan application screening so that the loan applicant knows and understands how the project might be impacted by these overlays.

An environmental review is required by HUD for each business funded with CDBG monies (24 CFR 58). The review must be completed prior to any activities commencing with the business and the review must encompass all aggregated activities for the business. The environmental review will comply with HUD's regulations regarding the National Environmental Policy Act (NEPA). The County is required to complete and certify the NEPA review along with any State environmental review under California's Environmental Quality Act (CEQA). The level of environmental review is determined by the type of proposed project and the associated activities. The loan applicant will be informed of any additional

loan processing time due to the NEPA review. No costs will be charged to the applicant for this process.

Federal Davis Bacon regulations and related compliance Acts are required when utilizing CDBG funding for construction which may add additional costs to projects. In addition, state prevailing wage may be triggered with the use of CDBG funding. The County will work with applicants to ensure that funded business projects are in compliance with state and federal prevailing wage laws. Applicants will be informed of any additional time, costs or administrative work required due to the prevailing wage regulations and any additional costs may be incorporated into the business loan.

Federal acquisition and Relocation laws may be triggered when using CDBG funds (24 CFR 570.606). Acquisition laws, both federal and state, must be followed when CDBG funds are used to assist in the purchase of real property. In the same way, federal and state relocation laws apply if a person or a business is displaced because of the use of CDBG funding. The County will work with loan applicants to ensure that the business is in compliance with any state or federal acquisition /relocation laws triggered by the project. Applicants will be informed of any additional time or costs or administrative work required due to acquisition or relocation regulations.

Federal regulations require the use of CDBG program income (PI) first when the County is operating a loan program activity with an open grant that is the same as an existing PI revolving loan account (RLA) activity.

All businesses receiving funds under this Program will be required to obtain a Dun and Bradstreet DUNS number. The DUNS number is free and can be obtained online. A copy of the printout with the applicable DUNS number should be kept in the program participant file.

Verification must be provided to the County that all businesses and participants are not on the federal debarred list.

The Department requires the County collect certain income and demographic data from all program applicants and participants.

No conflict of Interest is allowed, in accordance with Title 24, Section 570.611 of the code of Federal Regulations. As such no person who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision making responsibilities (including members of the loan committee and officers, employees, and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the CDBG program shall directly or indirectly be eligible for this program.

Grantee will verify and certify that a conflict of interest does not exist with the business or applicant.

Exceptions to this policy may be approved by the federal Department of Housing and Urban Development (HUD) made only after public disclosure and formal approval by the Board of Supervisors provided that the Grantee's legal counsel makes a written determination that potential conflicts are acceptable.

ATTACHMENT A

COUNTY'S EXECUTED RESOLUTION ADOPTING GUIDELINES