

**BUSINESS LOAN
PROGRAM GUIDELINES**

For
CDBG

California Community Enterprise Fund and Micro-enterprise
Revolving Loan Fund

(Adopted 6-19-12)

1.0 INTRODUCTION

The City of Oroville’s Community Development Block Grant (CDBG) Revolving Loan Fund (RLF), CDBG Micro-enterprise RLF, and CDBG California Community Enterprise Fund (Enterprise Fund), hereinafter referred to as “Business Loan Program” have been established to provide critical and necessary capital needs of businesses and real estate projects that shall create and/or retain jobs for low and moderate income persons and to increase the community’s tax base. Section 102(a)(20) of the HCDA defines the term “ low and moderate income persons” as families and individuals whose incomes are no more than 80 percent of the median income of the area involved.

An RLF, in this context, refers to a loan program in which loan repayments are “revolved” or “recycled” to be re-loaned again in the same program. Therefore, the initial funds that capitalize the program shall be used again to create additional jobs, assist more businesses and projects, and provide significant benefits beyond these initial loans.

2.0 PURPOSE AND OBJECTIVE

2. Purpose

Business Loan Program shall provide funds necessary to allow the project to move forward. The Business Loan Program is targeted to businesses and projects that have the greatest potential for long-term job creation or retention; particularly jobs created or retained for low and moderate income persons.

2.2 Economic Benefits and Objectives:

The following elements are critical in the selection of loans for the Business Loan Program:

- Existence of a financing need that hinders the business or project from obtaining or affording the project without the Business Loan Program
- That the terms and conditions of the Business Loan Program are more “appropriate”

- At least 51% of the jobs created and/or retained must be of low/moderate income. The low/moderate income group is a low/moderate income person whose household income does not exceed 80% of county median household income. To meet the criteria for created/retained jobs, the employees must be from the low/moderate income group at the time they are hired or retained. For job retention projects, an income self-certification shall be conducted on all employees prior to the approval of the loan. For job creation projects, all of the low/moderate income persons shall be income self-certified at the time of hire.
- The loan meets the Business Loan Program underwriting criteria and HUD underwriting standards.
- A project may qualify to meet the CDBG national objective of elimination of slums and blight if documentation of meeting HUD standards for this national objective is provided. If a project meets the national objective of elimination of slums and blight then jobs still need to be created for public benefit requirements but those jobs do not need to be provided to low-moderate income persons.

2.3 Sources of Funding:

The source of funding for the Business Loan Program is the State of California Community Development Block Grant Program and any CDBG program income generated by the RLF. Loans are not made from the City's General Fund.

3.0 DESCRIPTIONS OF FUNDING

3.1 Guidelines & Features RLF/Enterprise Fund:

There is no minimum or maximum Business Loan Program loan amount. However, Enterprise Fund loans shall require additional approval by the State Department of Housing and Community Development (HCD) and loans of \$245,000 or more will require approval by the state HCD Economic Development Advisory Committee (EDAC).

- Leveraging: The Business Loan Program overall goal is to leverage private dollars from equity and/or debt. On a case-by-case basis this leverage requirement may be waived. A private dollar can be either a loan 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 loan award are not counted unless made as part of the submittal, and made within 60 days of the Business loan submittal, related to and in anticipation of such submittal.

- Loan Terms: Loan term up to twenty-five years is available, depending on the assets being financed and the demonstrated need for the Business Loan Program.
- Interest Rate: The interest rate is set based on the needs of each loan not to exceed 3.5% If the financial constraint is the cost of capital (rate, term, or collateral requirements), then the interest rate is set below 3.5% by an evaluation of the financial information to determine at what interest rate the project would be viable.
- Loan Fee: Two points (2%), with a minimum of \$250 loan packaging fee and any direct costs incurred in loan processing and closing such as recording fees, attorney fees, and escrow fees. This fee is for costs not paid with CDBG grant funds or program income.
- Loan Modifications: All costs incurred for loan modifications will be paid by the borrower.
- Prepayment Penalty: 5% of the outstanding loan balances if the loan is prepaid during the first twelve (12) months after loan closing.
- Deferral of Payments: On a case-by-case basis, determination is based on the cash flow needs of the business and a strong case being made by the business that the payment deferral will allow the business to return to a cash flow that will result in the resumption of the loan payments..
- Job Creation/Retention: One full time equivalent job (1,750 hours annually) per \$35,000 loan shall be achieved for each loan. Two permanent part-time jobs (at least 875 hours annually) can be aggregated to count as one full-time equivalent job. For loans meeting the national objective of principally benefiting low/moderate income persons, at least 51% of the jobs created/retained shall be held by low/moderate income persons.
- Collateral Requirements: All business loans over \$50,000 shall be to the extent possible secured by collateral to maintain the Business Loan Program. Types of collateral may include:
 - Liens on real property,
 - Deeds of Trust,
 - Liens on machinery, equipment, or other fixtures,
 - Lease assignments, as appropriate,
 - Personal and/or corporate guarantees, as appropriate, and
 - Other collateral, as appropriate.

3.2 Guidelines & Features Microenterprise and Micro RLF

A microenterprise is a business with five or fewer employees, one or more of whom owns the enterprise. The size limitation applies only at the time the assistance is provided. A person developing a microenterprise is a person who has expressed interest and who, after an initial screening process, is expected to be actively working toward developing a microenterprise. Loan funds will provide for the establishment, stabilization and expansion of a microenterprise.

- Leveraging: The Micro RLF overall goal is to leverage private dollars from equity and/or debt. On a case-by-case basis this leverage requirement may be waived. A private dollar can be either a loan 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 Micro RLF loan award are not counted unless made as part of the submittal, and made within 60 days of the RLF loan submittal, related to and in anticipation of such submittal.
- Loan Terms: Working Capital 3-5 years, Purchase of Machinery and Equipment 5-7 years, Real Estate Financing 10-15 years, depending on the assets being financed, and the demonstrated need for the Micro RLF.
- Interest Rate: The interest rate is set based on the needs and demonstrated "financial gap" of each loan not to exceed 3.5%. If the financial gap is the availability of capital, the interest rate shall be near 3.5%. If the financial gap is the cost of capital (rate, term, or collateral requirements), then the interest rate is set below 3.5% by an evaluation of financial information to determine at what interest rate the project would be viable.
- Loan Fee: Any out-of-pocket expenses necessary to secure the loan.
- Prepayment Penalty: 5% of the outstanding loan balances if the loan is prepaid during the first twelve (12) months after loan closing (if the loan term exceeds 5 years).
- Deferral of Payments: On a case-by-case basis, determination is based on the "financial gap."
- The HUD definition of a micro-enterprise is a person starting a business or an existing business owner who qualifies as low/moderate income. Further, an existing business must be documented as having five or fewer employees, including the owner(s). Both the income status of the

beneficiary and the number of employees and owners must be documented on the on the income self-certification form.

Meeting a national objective through job creation principally benefiting the low/moderate income group, requires that at least 51% of the jobs created or retained, including the owner, must be held by a member of the low/moderate income group.

- Collateral Requirements: All Micro RLF loans over \$50,000 shall be to the extent possible secured by collateral to maintain the Micro RLF Program. Types of collateral may include:
 - Liens on real property,
 - Deeds of Trust,
 - Liens on machinery, equipment, or other fixtures,
 - Lease assignments, as appropriate,
 - Personal and/or corporate guarantees, as appropriate, and
 - Other collateral, as appropriate.

3.3 General Administration Features:

- Confidentiality of Client Financial Information, as allowed by law;
- Equal Opportunity/Affirmative Action Policy;
- Attorney review of all contracts and legal forms;
- Monitoring and Reporting Forms;
- Collection and Foreclosure Policy;
- Compliance with HCD and HUD regulations;
- Program marketing and monitoring;
- Overall project loan evaluation, loan packaging, and monitoring.

3.4 Project Evaluation Criteria:

The City shall use Part 570, Appendix A of the Guidelines and Objectives for Evaluating Project Costs and Financial Requirements issued by the Department of Housing and Urban Development.

3.5 Loan Packaging:

City staff, Consultant and/or designated loan underwriter shall be responsible for loan packaging activities, including review of all proposals presented to the Loan Advisory Committee.

3.6 Loan Review:

City staff and Consultant and/or designated loan underwriter shall be responsible for reviewing funding proposals and making recommendations to the City's

Economic Development Loan Advisory Committee (LAC). The LAC shall be responsible for reviewing funding proposals and making recommendations to City staff. The LAC shall be comprised of three City Council Members and three or more members (including alternates) comprised of representatives from the City of Oroville's Business Community. After loan proposal review and consideration, the LAC shall be responsible for loan approval or denial of Loan proposals on which the LAC recommends "denial" may be returned to Business Assistance/Housing Development Department staff for further review and consideration. Business Assistance/Housing Development Department staff, consultant and/or designated loan underwriter will certify that the prospective loan is eligible and meets HUD Underwriting Guidelines. . For all loans the designated Presiding Officer for the LAC shall execute the certification that the loan meets HUD Underwriting Guidelines contained in Appendix A to Part 570-Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.

The LAC shall be comprised of three (3) City Council members that shall be appointed by the Mayor for a maximum two-year term. There shall be four (4) representatives of the City of Oroville's Business Community and two (2) alternates that shall be appointed by the Mayor. The LAC shall be responsible for the approval of all loans and changes in loan structure that does not adversely impact the City of Oroville's collateral position and changes in ownership that may enhance the City of Oroville's loan security. Any substantial changes in loan structure may be referred to the City Council for approval based on a determination of the LAC.

For Microenterprise loans, the LAC may waive some or most of these standard criteria given the differences in the capacity, special needs, and level of sophistication of microenterprises as compared to small businesses which employ 10 or more employees. It is the intent of the microenterprise loan program to assess only those circumstances that are relevant to make a reasonable determination based on common sense. In general, microenterprise loans in excess of \$25,000 should require more sophisticated underwriting as noted in Appendix A to Part 570-Guidelines and Objectives for Evaluation Projects Costs and Financial Requirement.

3.7 Linking Jobs with Long-Term Unemployment:

The City of Oroville shall work closely with the designated County Job Training Agency (CJTA) that provides assistance to the unemployed and low and moderate income persons.

The training, recruitment and placement activities currently operating in the community are the primary vehicle for ensuring that the unemployed, underemployed, and low- and moderate-income persons are linked with jobs created through the Business Loan Program. These programs provide training

and can be tailored specifically to meet a company's needs. All loan recipients shall be required to sign a Loan Agreement. This Loan Agreement includes a Non-Financial Employment Plan Agreement that lists specific jobs to be created with Business Loan Programs and designates CJTA as the primary personnel resource for all available positions. CJTA shall provide 100% income verification of all hires placed by them.

4.0 ELIGIBILITY

4.1 Eligible Applicants:

Eligible applicants include ongoing and start-up private, for profit business concerns, corporations, partnerships, sole proprietorships, and cooperative incorporated and licensed, that are located in or expanding in the City of Oroville. The project to be financed with the Business Loan Program must be within the incorporated area of Oroville, the Oroville Recycling Market Development Zone (RMDZ) and the Oroville Enterprise Zone (EZ) including the County of Butte portions of these zones. The business area is being expanded outside the city to benefit more city residents with employment opportunities as that is in the city's community development interest. Additionally, the City administers both the Oroville Enterprise Zone and the Oroville Recycling Market Development Zone and the ability to make business loans in those zones will eliminate confusion regarding loan services for these areas.

4.2 Eligible Uses:

The project must have primarily commercial or industrial purpose. Business Loan Programs can be used for construction and permanent financing, working capital, inventory, equipment, real property acquisition, construction, and rehabilitation as well as loan participations with other private and public lenders.

4.3 Ineligible Uses:

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 87100 et seq. for any current council Members, City employees, and/or Loan Advisory Committee members. Projects must create or retain jobs, primarily for the TIG, and must leverage private equity or debt investment.

4.4 Eligible Projects:

Project eligibility is based on the project satisfying the CDBG Program's National Objective of principally benefiting low/moderate income group persons through job creation/retention, or aid in the elimination of slums or blight, or meet

community development needs 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. All loan applicants must provide a business Dun and Bradstreet (DUNS) number prior to the loan being submitted to the ED LAC.

5.0 ROLE OF THE PARTICIPANTS

5.1 Roles of the City of Oroville:

City of Oroville staff shall make the daily decisions called for or implied regarding the activities of the Business Loan Program.

- Publicize and market the Business Loan Program;
- Preliminarily screen all applicants;
- Refer applicants that are not eligible or need technical assistance to outside City financial management consultant;
- Maintain the loan records and monitor for compliance with job objectives;
- Prepare package for OTC Loan applications with, recommendations, to Loan Advisory Committee and City Council;
- Shall perform loan collection duties including:
 - Loan servicing and accounting;
 - Collect semi-annual financial statements on each loan and forward to Business Assistance/Housing Development Department staff who shall be responsible for quarterly statement analysis;
 - In concurrence with City, State, and Federal Policy, undertake loan collection, including asset liquidation;
- Make recommendation to Loan Advisory Committee and City Council pertaining to defaults and foreclosure;
- Monitor ongoing operations of the loan recipient;
- Consult and monitor during the term of the contract;
- Serve as the contract person for the State Department of Housing & Community Development for the Business Program;
- Meet with each applicant to ensure that the applicant maintains the documentation required;
- Brief each applicant on obligations and requirements of the Program.
- Authorize the City Administrator to execute all necessary documents pertaining to the daily operation of Business Loan Program (i.e., agreements for purposes of obtaining loan analysis/underwriting and loan execution).

5.2 Roles of Consultant and/or Designated Loan Underwriter:

- Prepare packages, along with recommendations to LAC.
- If approved, assist City with loan processing and closing.
- Monitor participating businesses' quarterly and year end financial reports.

6.0 LOAN SELECTION/APPROVAL PROCESS AND MARKETING

6.1 Marketing:

The marketing of the Business Loan Program shall be accomplished by a variety of means. There shall be media coverage, a marketing brochure, and joint marketing efforts through the Downtown Business Association, Chamber of Commerce, local realtors, local lenders, Butte College SBDC, 3CORE, Oroville Economic Development Corporation, CSU Chico Center for Economic Development and other business associations when appropriate.

6.2 Procedure:

Once a potential project has been identified, City staff shall conduct a preliminary review for eligibility with the Business Loan Program criteria. If another lending source is more appropriate, or the project does not meet the Business Loan Program criteria, City staff shall refer the prospective borrower to another organization for assistance.

If the project appears to meet the criteria, the applicant shall be asked to submit preliminary information necessary to determine financial feasibility.

The preliminary information shall be reviewed by City staff. If the project is viable, the designated loan underwriter will prepare the loan analysis/loan underwriting. If the decision is made to decline the request, the designated underwriter shall provide the applicant with a written explanation of the denial and appropriate referrals to other organizations shall be made. The applicant, in conjunction with City and CJTA, shall develop the employment plan.

Upon completion of the necessary information, applicants shall be presented by Business Assistance/Housing Development Department staff, consultant and/or designated underwriter to the Loan Advisory Committee. The consultant and/or designated underwriter presentation shall include a recommendation. This recommendation shall include the proposed terms and conditions, based upon the identified business need and the "appropriate" analysis undertaken by consultant and/or designated underwriter along with justification that the loan meets the RLF guidelines and criteria.

The Loan Advisory Committee shall review the loan proposal and recommend approval or denial of the loan request. Prior to Loan Advisory Committee consideration, City staff, consultant and/or designated underwriter shall review the loan package for completeness and regulatory compliance, as well as final review for compliance with the Business Loan Program Guidelines and criteria. If

the loan is denied, the applicants shall be informed in writing by the City as to the reason. If recommended, the Loan Advisory Committee's recommendation can be under the terms and conditions proposed by the City staff/Loan Underwriter, or the Loan Advisory Committee can recommend alternative terms and conditions.

The Loan will be referred to the LAC (other than OTC Loan Application) for final authorization. The LAC approval shall include a certification statement that, based on the recommendations of the City's underwriters and City staff, the loan proposal and analysis, the LAC finds that the loan is appropriate and that the assistance is commensurate with both

6.3 Loan Closing:

Upon approval by the LAC, the Presiding Officer shall sign the LAC meeting minutes attesting to the LAC approval. Subsequently, City staff prepare for the loan closing. The Borrower shall sign all the necessary documents and agreements. The City shall request a drawdown or reimbursement of funds from the State Department of Housing & Community Development if applicable (the timing of the request may vary depending on the Project). The City shall prepare the loan closing documents; prepare title and lien searches, and UCC-1 filings, if appropriate. (The sample pre-closing checklist and escrow instructions are attached and shall be developed and used for each loan closing). The City Attorney or designated attorney shall review all agreements and documents as necessary.

Loan closing shall be undertaken by the City. The Borrower shall be provided with a checklist outlining their obligations under the Business Loan Program at closing, or another specified time, and funds shall be disbursed to the Borrower.

The City shall complete any remaining legal, regulatory or other items. Monitoring and compliance files shall be set up at this time.

6.4 Loan Monitoring:

Two separate loan files shall be maintained. The first is the legal file which holds all the original loan documentation. This file shall be kept in the City's fireproof vault for safekeeping. The second is a credit file which shall contain the day-to-day administrative records of the loan. At a minimum the legal file shall include:

- Note
- Loan Agreement, including Non-Financial Employment Plan
- Deed of Trust
- General Security Agreement
- Personal Guaranty
- Corporate Guaranty

- Subordinate Agreement
- Life Insurance Policy and Agreement
- Hazard Insurance Policy and Agreement
- General Resolution
- Certificate of Security
- Opinion of Counsel
- Inter-creditor Agreement
- Lease Agreement

The credit file shall contain, at a minimum, the loan application and financial information associated with the application with the application, credit memo, Loan Advisory Committee recommendation, final City approval, disbursement records, reports of site visitors, updated financial information provided by borrower, job creation/retention data, etc.

A reporting system shall be established for each loan and the loan portfolio as a whole. The report should be updated at least annually. The report shall be used by the City to monitor the loans and identify problems. The report shall 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 Business Loan Programs which are unencumbered. The monthly receipts from the lender on each loan shall 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 action to date to collect delinquent loans shall be included.
- Employment Report: A semi-annual 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 shall 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, a loan monitoring file shall be established which shall include a summary of the monitoring requirements of the State Department of Housing and Community Development. A tickler file shall be part of this overall file to insure that loan and Business Loan Program monitoring is undertaken and completed.

7.0 DELINQUENCES, DEFAULTS, AND FORECLOSURES

7.1 Acknowledgement of Temporary Limited Repayment Ability

The City acknowledges that circumstances beyond the borrower's control may temporarily limit their repayment ability. The City of Oroville desires to be flexible and accommodating to our business clients. Therefore, if for any reason a business can not make their loan payments in accordance with the terms and conditions of their agreements, the City shall be so notified in writing by the client.

Although the City may accommodate a crisis that restricts the borrower's repayment ability, it should in no way be construed that the loan is not due and payable in a timely fashion. All loans made by the City of Oroville Economic Development Loan Program shall be repaid in accordance with the terms and conditions of the loan agreement.

7.2 Delinquency Notices

- A. Twenty (20) Day Delinquency Notices- The City or its designee will send the borrower a letter noting the delinquent payment amount plus any applicable late charges. This letter will be followed by a telephone call reminding the borrower of the loan amount and due date.

- B. Thirty (30)- Sixty (60) Day Delinquency Notices- The City or its designee will send a registered letter noting the delinquent amount plus any applicable late charges. In this letter, a date and time will be set for a meeting between the borrower and the Business Assistance Coordinator and/or Director of Business Assistance and Housing Development or designee. At this meeting a letter that addresses the following shall be provided by the borrower.
 - 1. Explanation of delinquency.
 - 2. Any changes in the business' fiscal status that limits repayment ability.
 - 3. Loan amount in arrears along with a specific proposal to bring loan payments current.

At the conclusion of this meeting the following will be determined:

- a. How and when the loan will be brought current- this will be provided by the borrower in writing within five (5) calendar days.
- C. If it is determined by Staff, consultant and/or designated underwriter and the borrower that a temporary payment deferment is needed, the borrower shall submit said request in writing to Staff and then forwarded to the Loan Advisory Committee for consideration.

The Loan Advisory Committee can approve of a temporary loan payment deferment or interest only payment for a period not to exceed a total of nine (9) months based on a mutually acceptable repayment proposal.

Should a mutually acceptable repayment proposal not be reached, the Loan Advisory Committee, in collaboration with City Staff, the City's underwriting designee and/or consultant, will bring the matter before the full City Council for review and consideration.

- D. If the borrower does not appear for the 30-60 day delinquency meeting and does not contact the Business Assistance Coordinator or the Director of Business Assistance/Housing Development as outlined in B above, staff shall take this matter before City Council for review and consideration.
- E. All foreclosure proceedings shall be initiated by Resolution of the City Council authorizing and directing the Mayor to execute a Notice of Default.

8.0 FEDERAL OVERLAY REQUIREMENTS

8.1 Acquisition, Anti-Displacement, and Relocation- The City of Oroville shall comply with CDBG acquisition procedures. The City discourages and minimizes the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) that may result from Business Loan Program funded activities. (24 CFR 570.606). If displacement occurs, then the City shall insure that affected parties are provided with adequate relocation assistance (24 CFR 570.606) in accordance with the City of Oroville's adopted Anti-Displacement and Relocation Policies and Procedures.

8.2 Equal Opportunity/Section 3- The City of Oroville shall ensure that no one is being excluded from participating in, or benefiting from, the CDBG Business Loan Program on the basis of race, color, religion, national origin, or sex (24 CFR 570.602). If CDBG Business Loan Program funded construction projects exceed employment opportunities to qualifying businesses and persons (24 CFR 570.602). "Protected class" loan applicants, loan recipients, job applicants, and job recipients are tracked by the City of Oroville.

8.3 Procurement- The City of Oroville shall comply with all procurement procedures and requirements that maximize free and open competition and the

efficient, economical use of all CDBG Business Loan Program funds (24 CFR 85.36).

8.4 Contractors-The City of Oroville shall insure that all contractors are not on the federal list of ineligible contractors and that they are licensed and in good standing (24 CFR 570.609).

8.5 Labor Standards- The City shall comply with Davis-Bacon wage compliance and other federal labor laws and regulations which are applicable to construction contracts over \$2,000 including: new construction or rehabilitation; on-site improvements in support of new construction; and labor used to install equipment when the installation of equipment becomes integral to the building housing it and installation costs equal or exceed 13% of the purchase price of the equipment.

8.6 Environmental Review Procedures- The City of Oroville shall complete an environmental review whenever CDBG Business Loan Program funds are used to provide business assistance in accordance with NEPA environmental guidelines as set forth in Section 24 CFR Part 58.