

A Plan For

City of Ottawa

CDBG Revolving Loan Fund

Adopted by the Governing Body
of the City of Ottawa, Kansas

April 16, 2003

Purpose

The Ottawa CDBG Revolving Loan Fund (CRLF) will be used to stimulate private investment and create or retain permanent jobs, with an emphasis on assisting low to moderate income (LMI) persons. CRLF is intended to assist enterprises that are unable to obtain complete financing from commercial sources.

Confidentiality

Because the financing is provided by the City of Ottawa, a public body, applicants for CRLF financing must sign a waiver of release which will allow certain items of information in their loan application to be made available to the public. The city is not required to disclose proprietary information such as financial statements, financial projections, business plans, customer lists, supplier lists, distribution channels, product designs, management resumes, or personal financial data, but may be required to disclose other information provided by the applicant. The obligations of the city to disclose information are governed by the Kansas Open Records Act and are subject to statutory amendment and court interpretation.

Eligibility

The borrower must:

- be located in the City of Ottawa;
- demonstrate that the revolving loan funds will create or retain, within 24 months from the date the funds are advanced, one permanent full-time equivalent (FTE) job for every \$35,000.00 of revolving loan funds requested, and that 51% of those jobs will benefit persons in the low to moderate income families to meet the requirements of the Kansas Department of Commerce and Housing (KDOC&H);
- provide documentation to establish that a lending institution has declined to loan the requested funds, or stating that a lending institution desires CRLF participation in the project and the amount that a lending institution is willing to loan;
- demonstrate that the project is or can be economically viable and sustainable;
- demonstrate that the revolving loan funds will not be used to facilitate the relocation of industrial or commercial plants or facilities within Kansas, unless the Secretary of the Kansas Department of Commerce & Housing finds such relocation does not significantly and adversely impact the level of employment or the economic base of the community from which such industrial or commercial plant or facility is to be located.

Moves within a community will not be subject to this provision;

- demonstrate that the project is being developed in an area that is or can be properly zoned for the project, that does not adversely affect a designated historical building or district, and is not located in a flood hazard area;
- demonstrate that any permits or licenses required for the enterprise are obtainable.

Types of financing

General Terms

All loans from the revolving loan fund must generate a rate of return of no less than 2 1/2% below prime rate without written approval by KDOC&H.

The security position of the revolving loan fund may be inferior to that of other lenders.

For start-up enterprises or projects involving new construction or remodeling, a moratorium on principal payments of up to eighteen months is permitted by KDOC&H regulations and will be considered in appropriate applications.

The revolving loan fund may enter into agreements to guarantee loans from banks or enter into direct loans to a borrower. Terms of guarantee agreements or direct loans may vary and will be negotiated with the borrower.

Direct loan program

Direct loans from the revolving loan fund will be documented with a promissory note, a security agreement and financing statement and/or a mortgage on the collateral, all with appropriate default provisions, and other appropriate documentation as required by the city.

Guarantee program

Revolving loan funds advanced in the form of a guarantee will be deposited with the lender in the form of a certificate of deposit in an amount equal to the loan guarantee.

Application requirements

Each application for financing from the revolving loan fund will be considered on its own merits. Other than the eligibility requirements described above, there are no other preset requirements concerning the type of enterprise, the amount of private investment or owner equity required, the uses of funds, or the structure of the enterprise. There are no minimum or maximum loan limits. Amount of financing is

limited to the funds available in the revolving loan fund. There are no application deadlines. All applications are considered when submitted. Applicants should be aware that applications with little or no private investment or owner equity are less likely to be considered viable.

No loans shall be provided to replace existing financing without written approval by the Kansas Department of Commerce and Housing.

Applications for funding by the revolving loan fund must provide sufficient documentation of the nature and purpose of the project to enable the city to assess whether the project will be consistent with the purposes of the revolving loan program and will meet the eligibility requirements for the program. Applicants must submit a standard CRLF application form or a standard loan application package used by a lending institution involved in the project. An application for financing must include:

- a commitment letter stating that the project will go forward if the requested CRLF financing is approved;
- a detailed description of the project in business plan format;
- specific projections of the number of total jobs that will be retained or created within the first twenty-four months of operation and such documentation of LMI job creation as is required by KDOC&H;
- itemized listing of the sources and uses of funding for the enterprise, including the equity contributions of the participants and all bank loans or other outside funding, with commitment letters from commercial lenders where appropriate;
- the planned uses of the funds;
- assets of the enterprise that will be available as collateral to secure the revolving loan funds;
- written permission for a credit check on all owners of the enterprise;
- personal financial statements, current within 90 days, of the owners of the enterprise;
- a projected profit/ loss analysis for the enterprise, including a description of the assumptions used in the calculation of the analysis;
- commercial real estate appraisal or most current market value real estate appraisal from the Franklin County Appraiser;
- if real estate is being purchased, a completed environmental questionnaire showing no adverse information;
- any other information provided to a commercial lender who will participate in the financing of the enterprise;
- such additional information as may be required by the loan committee.

Application process

A Loan Committee comprised of the City Manager, City Clerk, Planning Director, Chamber/OFCED Executive Director, and local banking or financial representative will be designated as the agent of the city for the purpose of facilitating, reviewing and making recommendations with respect to applications for financing by the revolving loan fund. The City Manager shall oversee the review of applications for financing by the local loan committee.

Applications approved by the local loan committee will be submitted to the city manager for presentation to the Governing Body.

Notice of a public hearing on the financing application will be published in a local newspaper having general circulation in the community at least five days before but no more than 20 days before the date of hearing. The notice must contain a description of the proposed project, the proposed project location, the activities to be carried out, the total estimated cost of activities, the amount requested to be borrowed from the revolving loan fund, the total project cost, and the number of FTE jobs to be created or retained. The amount financed by the revolving loan fund may not exceed the amount stated in the notice. The city shall retain an affidavit of publication from the publisher of the notice.

The purpose of the public hearing is to allow citizens to express their opinion concerning the proposed project. At the public hearing, the city commission shall consider any comments or views before determining whether to approve or disapprove the application for financing.

If an application is resubmitted within the same program year, another public hearing will be required if there are material changes in the application with respect to such factors as the amount of funds requested, job targets, location or activities.

Financing documentation

All funds advanced from the Ottawa CDBG Revolving Loan Fund will be documented with either a loan guarantee agreement with the lender or a promissory note from the enterprise. The lender may require funds to be secured by personal guarantees from the owners of the enterprise. Amortization schedules will be provided for the payment of any direct revolving loan fund financing.

Job certification

Within 24 months after revolving loan funds are advanced, the borrower must certify to the city the retention or creation of at least one job per \$35,000.00 of revolving loan funds advanced, and compliance with requirements of KDOC&H concerning assistance to LMI persons. Applicants are advised that failure to comply with KDOC&H requirements concerning job creation and assistance to LMI persons may result in a demand for immediate repayment of the loan.

Additional requirements

Life insurance

The Governing Body may require revolving loan financing to be secured by assignment to the city of life insurance policies on the lives of each owner(s) of the enterprise. Proof of annual payment of premium will be required.

Construction projects

Where revolving loan funds will finance new construction or remodeling, the borrower must:

- provide an environmental review as required by Community Development Block Grant regulations;
- insure that construction workers are paid at no less than the rates required by the Davis-Bacon Act for Franklin County, Kansas;
- comply with all applicable state and federal regulations concerning accessibility;
- provide such other documentation and agreements as are required by state or federal regulations.

Conflicts of interest

No elected official, officer, or employee of the City of Ottawa, or a spouse of any such person, will be eligible to apply for or receive financing from the revolving loan fund, or to be the owner of a beneficial interest in any applicant or recipient of financing from the revolving loan fund.

Loan delinquency and restructuring

The city places a high priority on maintaining the revolving loan fund so that funds will be available to benefit future enterprises. Borrowers are expected to make payments promptly according to their amortization schedules. If a borrower is in default, the city will pursue foreclosure and collection. In appropriate situations where the borrower is having difficulty, the city may consider restructuring a loan. In no event will the city consent to a moratorium on interest payments. In appropriate cases, a restructuring agreement may provide for a moratorium on principal payments for a period not to exceed six months.

Loan preliminary review

Normally there is no cost associated with the preliminary review of a project proposed for potential funding from the CRLF.

Application fee

Applications for revolving loan financing may be accompanied by a non-refundable fee. An application fee can be financed with revolving loan funds if the project is approved by the Governing Body.

Loan closing fees

Successful CRLF applicants are responsible for all revolving loan closing fees. Closing fees can be financed with revolving loan funds.

Reserved rights of the City

The Governing Body of the City of Ottawa reserves the right to refuse approval of any application in the sole discretion of the city.

This plan may be amended from time to time by the Governing Body, and requirements of this plan may be waived or held inapplicable to a lender, all subject to compliance with state and federal regulations and approval of KDOC&H.

Revolving loan fund administration

The Ottawa CDBG Revolving Loan Fund shall be administered by the city manager in compliance with all requirements, including all reporting requirements, of KDOC&H, and shall be audited annually.

Guidelines

This document provides the general guidelines for implementation of the CRLF program. Additional guidance concerning the loan program is provided in the Economic Development Application Guidelines of KDOC&H.