

CITY OF JEFFERSONVILLE, INDIANA
PROGRAM GUIDELINES AND PROCEDURES
Revolving Loan Fund

The commission has established a Revolving Loan Fund (RLF) to provide financial assistance to small and emerging business enterprises located in the City of Jeffersonville, Indiana. The assistance will be in the form of a low interest, fixed-rate loan to businesses willing to commit to create new jobs or preserve existing employment opportunities in Jeffersonville.

Funding for the RLF program has been provided by the Indiana Department of Commerce. All loans must be considered in accordance with state and commission policies and guidelines.

MISSION STATEMENT:

To provide access to capital and gap financing for eligible Jeffersonville businesses under 200 employees, to create jobs and grow prosperity of the community.

APPLICANT:

- All eligible individuals or corporations applying for loans from the City of Jeffersonville's Revolving Loan Fund must submit a completed application available from the City's Office of Economic Development.
- A \$100.00 non-refundable application fee is required to be paid by the applicant if it is determined the application will be forwarded to the Loan Committee for consideration.
- Loan closing costs will also apply should the loan receive final approval. Closing costs may include lien records, security records, title searches as well as any other reasonable and applicable loan generation expenses.
- These costs are to be paid by the borrower and will be subtracted from the loan proceeds at the loan closing.

From information gathered from the borrower's application and interview, the City's Director of Economic Development or his designee/program administrator will, at a minimum, learn

- Location of the proposed business
- Type of business
- Purpose and use of the loan request
- Amount and period of time of the loan
- Intended security to be used as collateral against the loan
- Expected jobs created or retained, and
- that the applicant is not disqualified because of a relationship to those prohibited from being qualified to participate in the program

Upon confirming this information, the Director of Economic Development will recommend that the business or individual seek assistance from the Southeast ISBDC in creating a full application packet with due diligence information.

If an applicant feels that he or she was unfairly treated by the City's Office of Economic Development and would like the opportunity to have his or her application forwarded to the Revolving Loan

Committee, he or she may appeal directly to the Committee to state his or her grievance. The appeal must be in writing to the Chairperson of the Committee. At the next scheduled public meeting of the Committee, the appeal request shall be placed on the Committee's agenda and the appeal to be considered for a loan be heard and discussed by the Committee.

LOAN CRITERIA:

Eligible Business:

An eligible business includes one engaged in small and emerging, and is owned by U.S. citizens.

Small and Emerging Business:

A small and emerging business is any private business enterprise which employs 200 or fewer new employees and has less than \$1 million in projected gross revenues. A private business must be owned and controlled either by individuals or by a legally organized, non-public entity such as a corporation. Gross revenues are defined as revenue of a business before deductions for any purpose, except for sales returns. In the case of a manufacturing or merchandising business, gross revenue means gross profit (gross sales receipts less cost of goods sold).

U.S. Citizenship:

At least 51% of the outstanding interest in the project must be owned by those who are citizens of the United States or reside in the United States after being legally admitted for permanent residence.

Available Funding:

The RLF program has a limited amount of funds available and has established the following criteria to leverage program benefits:

- Bank lending is required. Only under special circumstances will the Committee approve financing that does not have bank lending participation
- An RLF loan shall not exceed 40% of the total eligible project costs

Term:

The term of any loan awarded through the RLF program should reflect the terms established by the participating bank or banks. It is conditioned upon the useful life of the financed assets with the maximum limit of up to 10 years for real estate (with an amortization to match the bank loan term), and 10 years for machinery, equipment, and other fixed assets.

Interest Rates:

Interest rates will be determined by the Committee but will not exceed two-thirds (2/3) of the prime rate on the day of closing. In setting the interest rate the commission will consider the loan terms, equity percentage, quality of collateral and other relevant factors to each loan being considered.

Equity:

A minimum of ten percent (10%) owner's cash equity is required and twenty percent (20%) is preferred. The Committee reserves the right to establish higher or additional equity requirements depending on the characteristics of each application.

Collateral:

The Committee requires adequate collateral. All assets offered as collateral can have a third party appraisal and environmental clearance at the Committee's discretion. Under most circumstances, the Committee will accept the same documentation provided to the participating bank.

Loan Amount:

The minimum loan amount is \$5,000. The maximum loan amount is \$50,000. No business may obtain multiple loans from the RLF that exceed \$50,000.

Other Requirements:

All program requirements and commission policies must be complied with, including, but not limited to the following:

- Applicant shall be at least 18 years of age
- All corporations requesting loans must be in good standing with the Secretary of State of Indiana and be properly filed with a current status
- Evidence of insurance on assets used as collateral
- Credit report from recognized source
- Personal guarantees from owners with more than twenty percent (20%) ownership in the business
- Corporate guarantees from related companies
- Full or partial letter of credit, if applicable
- Verification of other types of credit enhancement, if necessary
- Adequate life insurance on key business owners and/or managers is recommended
- Business must be located within city limits
- Applicant shall present evidence that indicates the RLF loan is necessary to make the proposed project feasible
- Additional forms or more strict criteria may be required if funds to be used to lend to borrower are from grants or other funds from Federal or State agencies that require such forms or criteria. Applicant will be informed of these requirements, if applicable, at the time of the application, or no later than one (1) business day after Committee review

Family Members:

No active full-time employee of the City of Jeffersonville, Mayor, Clerk-Treasurer or member of the Council, Board of Public Works and Safety or the Revolving Loan Review Committee or their direct relatives are eligible to receive funds from the city loan programs. A relative is defined as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece and whose relationship is the result of birth, marriage, or adoption. If any of the above listed ineligible individuals is a business associate of the applicant in another business enterprise, then the applicant would also be prohibited from receiving a loan. A business associate is defined as a person or that person's relative as listed above that has a financial interest with the applicant in another business.

Required Documents:

- See Exhibit A for a more complete list
- Acceptable business plan package from a reputable source including credit scoring and reporting information
- Adequate collateral
- If applicable, a bank letter of commitment to the project's full funding requirements must be provided.
- Entity documents: EX: Certificate of Existence, Partnership Agreement, Articles of Incorporation to include Bylaws, Articles of Organization to include Operating Agreement
- Most current interim financial statements (income statement and balance sheet) no more than 90 days old
- Three year proforma financial statements
- Copies of previous three year company federal income tax returns
- Copies of previous three year personal federal income tax returns
- If loan is to a corporation, a corporate resolution authorizing the loan will be required. EX: Minutes
- UCC Search if deemed appropriate by the RLF Committee
- Evidence and an affidavit that borrower has at least 10% of the amount of the loan as equity in the business, although 20% is preferred. This affidavit shall be accompanied with a copy of bank statement or letter of intent.
- The administrator of the fund shall have a checklist of all required forms and documents.
- Completed application
- \$100 application fee
- Narrative of community need and impact on other business(es)
- Sources and uses of project funds
- Project description
- Projected budget
- Renderings and details of signage or awnings

Committee reserves the right to request additional information if needed.

Approved Uses of Funds:

- Acquisition of land
- Acquisition of property interests
- Site improvements
- Infrastructure improvements

- Buildings
- Structures
- Rehabilitation, renovation, or enlargement of buildings or structures
- Machinery
- Equipment
- Furnishings

Prohibited Uses of Funds:

- To pay past due taxes
- Financing of speculative projects or businesses
- Working capital (wages, inventory, utilities, rent, etc.)
- Research and development
- Businesses of a sexual nature
- To pay off any previous debts except for non-secured trade payables. Refinancing construction financing is an exception to this rule.
- To pay dividends or repay individual's equity
- To pay credit card debt, personal or business
- To produce agricultural products through growing, cultivation, and harvesting either directly or through horizontally integrated livestock operations except for commercial nurseries, timber operations, or limited agricultural production related to technical assistance projects.
- Comprehensive, area-wide type planning.
- To fund part of a project that is dependent on other funding unless there is a firm commitment of the other funding to ensure completion of the project

Factors that Make a Project Ineligible:

- Projects with unresolved environmental issues
- Projects with less than 10% cash equity
- Projects requiring more than 40% financing from the RLF loan
- Projects lacking proper patent rights, licenses, permits or certifications
- Projects unable to demonstrate ability to repay the loan
- Applicant's unwillingness to offer equal opportunity employment
- Not current with local, state or federal taxes
- Not current with other loans or debts
- Illegal activities

Types of Security for Loans:

- *General Security Interests:* The city requires each borrower grant to the lender a blanket security interest in the borrower's assets including, but not limited to, accounts receivable, inventory and equipment
- *Mortgages:* The city can require a mortgage in cases where real estate is being acquired with loan funds, or the real estate where the borrower's business is located is owned by the shareholders or partners of borrower and leased to borrower, and in any other instances in which the city deems necessary
- *Personal Guaranties:* The city shall require the personal guaranty of repayment by the borrower

RLF Review Committee and Approval Process:

The Jeffersonville Economic Development Revolving Loan Committee shall consist of five (5) members to be appointed by the Mayor, with all such members being representatives of financial institutions in Clark County, Indiana, or persons with a background in public accounting, small business ownership or the legal profession. In any event, at least three (3) of the five (5) Committee Members shall be from different financial institutions in Clark County, Indiana, with the entire Committee Membership having no more than 2 members from the same financial institution.

Three voting members of the RLF Committee shall constitute a quorum necessary for the recommendation for approving, rejecting or to table an application for funding from the RLF. A simple majority (51%) of members voting shall be necessary for approving, rejecting or to table an application. Any tied vote by the Committee will be considered as a tabled application.

The committee will meet within three weeks of a completed application being submitted with a majority present in an open public meeting to review loan applications as provided to the committee from the Director of Economic Development.

At the first meeting of the committee, the committee will elect from its membership a Chairman, Vice-Chairman and Secretary and will at the first meeting after January 1st of the ensuing years, elect officers for these positions for that year. If the Chairman is absent from the meeting, than the Vice-Chairman will chair the meeting. If both the Chairman and Vice-Chairman are absent, then the Secretary will chair the meeting.

If a quorum is not present, the meeting shall not be held. The committee shall operate in accordance with the Public Meetings (Open Door Law) requirements of the State of Indiana as per IC 5-14-1.5.

The Committee will meet in an Executive Session to review the confidential documents presented by the applicant. The Committee will then meet in a public meeting during which the Chairman shall announce the name of the applicant, the type of business, business location, the loan amount requested, use of the loan (general terms – equipment, inventory, etc.) and the requested term of the loan. The applicant or his designee must be present at the meeting. The members may question the applicant concerning the loan request and receive public comments regarding the loan and/or the applicant.

If the request for loan applications exceeds the amount available in the RLF balance and the remaining funds to be drawn from an active grant balance, the applications to be reviewed and funded will be based on the following:

Applications for RLF funds will be accepted on a continual basis. Applicants who choose to apply in times when inadequate funds exist for extending a loan will be informed of the lack of funds. Applications will be reviewed and funded (if eligible) based on the following criteria:

- 1) Applications with the greatest anticipated economic impact for the community shall receive greatest priority. Criteria to be considered in determining economic impact include number of jobs created or saved, wage scale of employees, benefits paid to employees.
- 2) Applications of equal economic impact will be funded in date order of application.
- 3) In accordance with Federal law and U.S. Department of Agriculture policy, the Loan Committee will not, nor will the Director of Economic Development or his designee discriminate on the basis of race, color, national origin, sex, religion, age, disability or marital or family status.
- 4) The Loan Committee will be responsible for determining priorities of application to be funded. Eligibility of applicants will typically be determined within thirty (30) days of receipt of a complete application. An application will be considered complete when all information necessary for the Loan Committee to make a decision has been received.

Closing Process:

- 1) Committee will communicate to applicant recommendation of approval, denial, table, or counteroffer.
- 2) If approved, recommendation will go to City Council for approval, denial, table or counteroffer.
- 3) If approved by City Council, Office of Economic Development will communicate terms and conditions to applicant and City Attorney or those necessary to close.
- 4) City Attorney or designee will perform due diligence which may include title searches, UCC searches or any other loan generation process.
- 5) Terms are conveyed via Office of Economic Development on Term Sheet to include specific terms:
 - a. The term of the loan
 - b. The interest rate
 - c. The form of the note or notes
 - d. The medium of payment
 - e. The place and manner of payment
 - f. The manner of execution of the note or notes
 - g. The terms of redemption
 - h. The funds or sources of funds from which the note or notes are payable, which may be any funds and sources of funds available to the borrower, and
 - i. Any other provisions not inconsistent with IC 5-1-14-14(d)(2)

Borrower must sign and accept Term Sheet as presented.

- 6) City Attorney or designee will prepare promissory note, loan agreement, security agreement and related collateral documents, guaranty agreements
- 7) Director of Economic Development and/or City Attorney will perform closing
- 8) City Treasurer will prepare check, give to Director of Economic Development to give to borrower/vendors
- 9) If funds need to be dispersed in phases, the Director of Economic Development is responsible for monitoring progress of project.
- 10) No loan shall be made without sufficient funds available in the applicable fund account.
- 11) Borrower will be required to have automatic deduction of loan payment from an account.

Loan Default:

Should a borrower fail to make timely payments that exceed 60 days of being due, the Director of Economic Development or his designee will attempt to negotiate with the borrower to rework the loan. If the city is able to reach an acceptable agreement with the borrower, the change in the borrowing agreement must have the express and written approval of a designee of the City of Jeffersonville.

Any loan that is delinquent and an acceptable agreement between the city and the borrower cannot be reached then a designee of the City of Jeffersonville will decide whether the loan should be referred to a collection agency, filing a lawsuit or determine if the loan is uncollectable and removed from the city's accounts.

If the business ceases operations or relocates outside of the previously defined geographical area, a designee of the City of Jeffersonville may require immediate pay off of the loan.

Confidentiality of Personal Information:

As personal, financial, and perhaps other personal information will be included in the loan application, it is imperative that careful control of this personal and confidential information is done. Indiana Code 5-14-3, Access to Public Records, clearly states those records that are excepted from disclosure requirements. Those types of records would include, but not limited to social security numbers, confidential financial information, tax returns, trade secret records, etc.

In order to provide the applicant a high degree of confidence that their personal data is protected, the following procedures will be the standard for securing this information and data from unauthorized individuals:

- After the Director of Economic Development or his designee has received all required forms and documents from the applicant, he/she will only make the necessary number of copies required to provide to the RLF Committee members for their review. The original application with documents will remain in the custody of the administrator.
- The original and duplicate copies will be secured with the Office of Economic Development until needed by the Committee.
- The Committee members will receive these documents at the Public Meeting for their review, but must return all materials following the end of the Public Meeting. The Office of Economic Development will be responsible for gathering the copies from the Committee members.
- Following the completion of the loan process, all unnecessary copies will be properly destroyed.
- Upon denial or approval of the loan, the original documents will be stored with the Office of Economic Development.
- All documents will be stored and maintained in accordance with document retention requirements.

EXHIBIT A

All Applicants:

- Completed loan application
- Business plan or project plan
- Full 3 year financial projection packet
- Copy of any applicable lease agreements
- Detailed listing of machinery and equipment to be purchased with costs
- Letter of commitment if additional bank financing is being committed
- Real estate purchase details
- Personal Financial Statement
- 3 years personal tax returns
- Credit report and credit score
- Credit check and information release forms

For Existing Businesses:

- 3 years business tax returns
- Entity documents (operating agreement, etc.)
- Interim financial statements dated within 90 days of application

For Buying a Business:

- 3 years business tax returns of business to purchase
- Interim financial statements dated within 90 days of application
- Buy-Sell Agreement with detailed listing of items included in the sale

For a New Business:

- Proof of significant business experience
- Resume of all owners and key employees
- Proof of equity investment availability

For a Franchise:

- Franchise Agreements
- FTC Disclosure Report of Franchisor