

State of Montana's Economic Development Administration Revolving Loan Fund Plan

STATE OF MONTANA

ECONOMIC DEVELOPMENT ADMINISTRATION

MONTANA DEPARTMENT OF COMMERCE

**January 5,2015
through
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**ECONOMIC DEVELOPMENT ADMINISTRATION
COMMUNITY DEVELOPMENT BLOCK GRANT
REVOLVING LOAN FUND PLAN**

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Revolving Loan Fund Strategy

Strategic Purpose

I. INTRODUCTION AND GENERAL REVOLVING LOAN FUND POLICIES

Montana's Economic Development Administration/Community Development Block Grant Revolving Loan Fund (EDA/CDBG RLF) Program, established in 1991 was designed to stimulate economic development activity by assisting the private sector in order to create or retain jobs for low and moderate-income persons. EDA/CDBG RLF funds are intended to be used in situations where a funding gap exists and alternative sources of public and private financing are not adequate. These funds are intended to complement conventional business financing techniques and those of other local, state, and federal programs such as the Small Business Administration (SBA). The program is also designed to complement the Montana Department of Commerce (MDOC) programs for business assistance such as the CDBG Economic Development program administered by the Business Resources Division (BRD) and programs within the Montana Board of Investments.

The program was initially funded with an \$840,000 Title IX grant from EDA and matched with \$300,000 in CDBG funds from the State of Montana. The initial grant was used as an \$800,000 loan to Centennial Foods in Beaverhead County, with the remaining \$340,000 committed to viable projects located in the Beaverhead Economic Development District. In July 2010, the State added an additional \$40,000 with a voluntary increase in funds, for a total of \$340,000 in matching funds, bringing the total funding amount to \$1,180,000. The EDA/CDBG RLF funds are kept in an interest bearing state account for such purposes according to existing policies on investments of state funds.

The EDA/CDBG RLF is needed to offset financing problems in Montana which limit economic development and growth such as:

- Conservative lending policies by bankers;
- Bank lending policies that usually preclude loans to start-up firms or firms in early stages of maturity or in high risk ventures; and limited amount of equity financing and venture capital sources; and
- High demand for public funding and affordable loan rates.

Staff capacity

The EDA/CDBG RLF revolving loan fund will be managed by CDBG Economic Development (CDBG-ED) staff in the Business Resources Division (BRD) of the Montana Department of Commerce (MDOC). The CDBG program in the BRD currently operates an economic development program which is very similar to the EDA/CDBG RLF fund and has staff experienced with credit analysis and management of economic development projects.

The BRD utilizes all of its resources to provide a variety of services and resources to businesses assisted with this program. The BRD can provide capital assistance, marketing and business management assistance, public and private contracting and other technical assistance. The Division has a staff of experienced Finance Officers, Marketing Officers, International Trade Officers, and Government Contracting Officers. Administration of the program is funded with CDBG funds, General Funds, EDA Program Income and other available

funding sources.

CDBG-ED staff services the loan portfolio and maintain ultimate responsibility for loan servicing, monitoring, and management. Loan documents are similar to the ones already in use in the CDBG-ED program. They are modified slightly to include special requirements of the EDA/CDBG RLF program. Contractual agreements are reviewed by the Department's legal staff. UCC forms are filed as necessary and insurance requirements are tracked and enforced. Chapter 8 of the CDBG Administration Manual provides guidance on management of economic development projects. Procedures for delinquencies and defaults are contained in the loan agreements and in Chapter 8. Chapter 8 of the CDBG Administration Manual can be found at: <http://cdbgged.mt.gov/default.mcpix>.

Marketing Strategy

The Business Resources Division will actively market the program as one of its economic development tools along with the regular CDBG-ED program. The Department regularly holds workshops around the state and maintains contact with hundreds of businesses annually. Public announcements will be made many times annually and press releases will be issued regularly to promote the program.

Considerations for Financing Strategy/Lending Criteria

Projects funded by the Montana EDA/CDBG RLF must meet eligibility requirements under the CDBG Program set by the Department of Housing and Urban Development (HUD), the State of Montana (see **current application guidelines for the CDBG Economic Development program at <http://cdbgged.mt.gov/default.mcpix>**), and the Revolving Loan Fund Standard Terms and Conditions set by the US Department of Commerce, Economic Development Administration.

ALL LOCAL GOVERNMENTS ARE REQUIRED TO READ THE CURRENT APPLICATION GUIDELINES FOR THE CDBG ECONOMIC DEVELOPMENT PROGRAM, AND FILL OUT THE APPLICATION FORM AND RELATED APPENDICES IN THE GUIDELINES TO SUBMIT A REQUEST FOR EDA/CDBG RLF FUNDING. CONTACT DEPARTMENT STAFF TO CLARIFY WHICH APPENDICES APPLY TO AN EDA/CDBG RLF APPLICATION.

ALL AREAS OF COMPLIANCE DESCRIBED UNDER THIS REVOLVING LOAN FUND PLAN ARE DESCRIBED IN DETAIL IN THE CDBG APPLICATION GUIDELINES FOR ECONOMIC DEVELOPMENT PROJECTS.

Local Capital Market Analysis

The MDOC will consider whether EDA/CDBG RLF assistance to any nonprofit or for-profit business is the most effective use of EDA/CDBG RLF funds, including the extent of the need for assistance and the amount of assistance to be provided in relation to the public benefit that would result. Applicants must show that all reasonable resources have been considered and are available or sufficient to complete the project financing. Applicants must provide a narrative explaining what funding sources have been applied for and the status of those funds.

It is the responsibility of the applicant to verify that all other reasonably available sources of private financing have been maximized for the project proposed. Other private sources such as

banks, venture capital companies, or additional private equity should be sought and verified before finalizing the project budget and applying for EDA/CDBG RLF funds.

Targeted Businesses' Financing Needs

Funding is targeted towards projects located in areas which create and/or retain the largest numbers of permanent jobs, principally for low and moderate income persons, and which have the greatest financial viability.

Operational Procedures

A. ELIGIBLE ACTIVITIES

The Montana EDA/CDBG RLF program has limited financial resources and, as such, places highest priority on projects which will have the greatest potential for creating and retaining long-term employment opportunities for low and moderate-income Montanans, and for providing other long-term economic benefits to Montana's communities.

Frequently, an important consideration for local governments considering an EDA/CDBG RLF application for economic development is whether they would be assisting a business that would be in direct or indirect competition with other local businesses. Retail and service businesses have the greatest potential of creating local conflict over the provision of assistance to competitors. The purpose of the EDA/CDBG RLF program is to create jobs. No EDA/CDBG RLF funds may be used to relocate businesses from other areas, regions or states.

The EDA/CDBG RLF program is designed to assist businesses by making appropriate long-term, fixed-rate financing available to them at reasonable interest rates, and by providing public improvements in support of economic development activities.

Typical eligible activities that fall within the EDA/CDBG RLF program include: grants to local governments and non-profits for public facilities and other improvements in support of economic development, such as water and sewer lines, and access roads; and loans to for-profit businesses for land acquisition, construction, rehabilitation, or installation of commercial and industrial buildings, facilities, equipment, or working capital.

PUBLIC IMPROVEMENTS: Applications for grants that propose public improvements as assistance to businesses will be accepted by the MDOC and reviewed with similar procedures as loans to for-profit businesses. Local governments may request funds from the EDA/CDBG RLF fund for such projects. The application must demonstrate that the provision of public improvements is "necessary or appropriate" and that other funds, including private funds from the business, are insufficient to complete the project without EDA/CDBG RLF participation.

Each application must include a complete business plan and financial package for each business assisted. The procedures for determining whether a project meets the HUD "necessary or appropriate" guidelines for provision of assistance to a for-profit entity must be followed. A "financing gap" must be identified and documented in the financial package submitted with the application. The application must meet the same threshold requirements, demonstrate viability, include a hiring and training plan for each business assisted, and meet all other appropriate requirements contained in these guidelines.

B. INELIGIBLE ACTIVITIES

EDA/CDBG RLF funds cannot be used to:

- a. Acquire an equity position in a private business;
- b. Subsidize interest payments on an existing loan;
- c. Provide the equity contribution required of borrowers under other Federal loan programs;
- d. Enable an RLF borrower to acquire an interest in a business, either through the purchase of stock or through the acquisition of assets, unless the need for the RLF financing is sufficiently justified and documented in the loan write-up.
- e. Provide loans to a borrower for the purpose of investing in interest bearing accounts, certificates of deposit, or other investments not related to the objectives of the RLF;
- f. Refinance existing debt unless there is sound justification and there are sufficient documents in the loan write-up to document that the RLF is not replacing private capital solely for the purpose of reducing the risk of loss to an existing lender, or to lower the cost of financing to a borrower; or to purchase the rights of a prior lien holder during an in-process foreclosure action in order to preclude a significant loss on an RLF loan.
- g. Finance any activity that serves to relocate jobs from one commuting area to another.

C. ELIGIBLE APPLICANTS

Eligible applicants are limited to general purpose local governments: counties, incorporated cities and towns, and consolidated city-county governments. Billings, Great Falls, and Missoula are generally ineligible to apply to the state EDA/CDBG RLF program because they receive CDBG funds from a separate HUD allocation for communities with populations over 50,000. Montana's Indian tribes also receive CDBG funds from a separate HUD CDBG program and are not eligible to apply to the State program.

Funds are granted to the Local Government submitting the application on behalf of the assisted business. The local government acts as a pass-through and the funds are then granted or loaned to the assisted business, depending on the status of the business and the proposed project. Generally, if the local government will maintain ownership of the infrastructure (water/sewer lines, power lines, etc), or if the funds will be used to assist a non-profit business, the funds remain in the form of a grant and no payback to MDOC is required. If the funds will assist a for-profit business, the funds are loaned to the business and repayment to MDOC is required.

The local government can enter into a Sub-recipient Agreement with the local Certified Regional Development Corporation (CRDC) to manage the day-to-day operation of the project. The CRDC is then responsible to coordinate with the assisted business to ensure all reporting requirements are met, job tracking reports are sent to MDOC, act as a liaison between the business and MDOC, and generally assist the business during the contract period.

Businesses are not eligible to apply directly to the Department. Special purpose agencies such as local development corporations are also not eligible to apply directly; however, they may be

involved in implementing and administering a program by a sub-recipient agreement, if the eligible applicant agrees to such an arrangement.

Local governments that are currently administering one or more EDA/CDBG RLF projects will not be eligible to reapply unless: (1) its current EDA/CDBG RLF project is being managed in an acceptable manner consistent with the implementation schedule contained in its EDA/CDBG RLF contract with the Department, and (2) the project management plan submitted with the new application is considered acceptable to the Department.

1. County Applications

For projects proposed within the unincorporated jurisdiction of a county, the county governing body is the eligible applicant. A county may apply for a project which will include activities within the jurisdiction of an incorporated city or town if the proposed activity is intended to serve all county residents, including those located in the unincorporated jurisdiction of the county.

For the purposes of this requirement, consolidated city-county governments will be considered as two separate jurisdictions; (1) the city jurisdiction, and (2) the unincorporated jurisdiction of the county. For application purposes, the jurisdiction of each will be defined by the city and county boundaries as delineated on the date of consolidation.

In order to improve cost-effectiveness for project administration, a county may submit an application for a project which would address the same economic development need in two or more separate unincorporated communities as long as the request is under the established ceiling. If considering such a project, the applicant county would want to be sure that the involved communities have an equally high level of need and that the proposed response is equally appropriate and would achieve comparable impact on the needs of each of the communities.

2. Municipal Applications

For economic development projects proposed to serve residents within the jurisdiction of an incorporated city or town, the city or town governing body is the eligible applicant. A municipality may apply for a project which would include an activity to be located outside city limits if the proposed activity will principally benefit residents within the city's jurisdiction.

3. Joint Applications

In situations where two or more eligible local governments face a common community development problem, a joint application may be submitted under the following conditions:

- a. the problem to be addressed lies in an area of contiguous jurisdictions;
- b. the solution to the common problem clearly requires cooperative action and is the most efficient strategy; and
- c. the local governments involved have contacted the Department of Commerce and received prior approval of such an arrangement before submission of an application. Requests for approval must be submitted at least 30 days prior to the submittal date for the application.

The eligible local governments involved must each meet the requirements for all applicants. One local government must be designated as the lead applicant and accept full responsibility for application submission, project administration, and financial management, should the full

application be awarded funds. All joint applications must contain a draft interlocal agreement, in accordance with the Montana Interlocal Cooperation Act (Sections 7-11-101 through 108, MCA), which identifies the responsibilities and obligations of the cooperating local governments, including long-term operation and maintenance, if applicable.

Loan Portfolio Management Procedures

II. APPLICATION PROCEDURES AND REVIEW SYSTEM - PRUDENT LENDER PRACTICES – BUSINESS PLAN REQUIREMENTS

Applications for economic development projects will be accepted at any time until all available funds are committed. The ceiling for each economic development request is \$400,000. Although there is no minimum fund request, the Department does not encourage applications requesting less than \$100,000 in EDA/CDBG funds, including administrative costs. Administrative costs for grantees and the state are generally not proportionate to the total amount requested and, therefore, can be very excessive for projects of less than \$100,000. All administrative functions must be performed for all projects, regardless of size. The Department will provide administrative funds on a case-by-case basis from their HUD CDBG-ED funds if available. EDA funds are not allowed to be used for administrative purposes. Applicants should consult the Department when considering administrative costs. The level of difficulty in managing EDA/CDBG projects varies considerably depending on the type of project and requirements that are triggered for each.

Local governments are the only eligible applicants. They may apply more than once in a fiscal year for economic development and may be eligible to receive up to a maximum of \$400,000 in a CDBG program year for economic development projects (April 1 through March 31). In addition, all eligible applicants may also apply for the regular CDBG economic development program, even if they have already received the \$400,000 limit for economic development projects from the EDA/CDBG RLF fund.

Applicants should also be aware that it may take two months or longer before funds are disbursed after a decision to award funds has been made. This delay occurs because several activities must take place in the interim. For example, the contract between the awardee and Department must be prepared, the awardee must conduct a review of environmental factors, and all the details for assuring proper management of the project and the expenditures of federal funds must be finalized. Unless prior written approval is given, it is absolutely essential that the applicant and the business do not incur costs or obligate funds, which are intended to be reimbursed with EDA/CDBG RLF funds, prior to the date that all contract start-up conditions (including the final execution of the loan agreement) are satisfied by the awardee and approved in writing by the MDOC.

Loan Processing Steps

A. APPLICATION PROCEDURES

1. Application Acceptance and Staff Review

Applicants must read and fill out all required application forms from the most current edition of the Community Development Block Grant – Economic Development Program Application Guidelines in order to submit a complete application. All appendices are not cited in the text within this revolving loan fund plan, therefore, it is essential that applicants review the application guidelines in its entirety, including completion of the application form (Appendix A) and submit all other related forms and narrative as described in the guidelines at: <http://cdbged.mt.gov/default.mcp>.

Applications will be reviewed and analyzed by staff on a “first come, first served” basis, as determined by the date the application is found to be complete by the Department. When the application is found to be complete, Department staff will prepare a report and submit it to the Review Committee, generally within 30 days. EDA/CDBG RLF staff will work closely with applicants during the review process to negotiate any changes and resolve issues identified during the review. Staff will always consult the applicant’s contacts before an application is deemed complete and the staff report is submitted to the review committee. The Department may ask applicants to make modifications to their applications in order to meet programmatic compliance issues, and to clarify or provide additional information for sections in their applications.

The review committee will consist of the Department of Commerce Deputy Director, the Business Resources Division Administrator, Assistant Division Administrator, and Business Resources Section Managers.

2. Order of Precedence for Committee Review and Funding

Applications that are received and deemed complete, and have received staff analyses and recommendations, will be submitted to the Review Committee at the earliest committee meeting after the financial analysis is finished. Once applications are submitted to the Review Committee, they will be reviewed in the order in which they were received. However, when more than one application is submitted to the committee in the same review cycle, they will be considered to be submitted simultaneously and will be reviewed and/or funded in the order of the dates on which the applications were received.

The committee will make a recommendation to the Department of Commerce Director, who will make the final decision on the award. In the event that the Director revises the recommendation by the review committee, the Director will prepare a written finding, consistent with the criteria established in these application guidelines, describing the rationale upon which the alternative decision was made.

3. Applications for Assistance to For-profit Businesses in the form of a loan to the business

For applications involving assistance to for-profit businesses, the business plan will be analyzed on the basis of the:

- Need for EDA/CDBG RLF assistance and the appropriateness of the proposed use of EDA/CDBG RLF funds;
- Presented financial strength of the business plan;

- Appropriateness of the proposed terms (e.g., security, interest rate, etc.) of the EDA/CDBG RLF loan; and
 - Past performance of the firm or principals
4. Applications for Assistance to Nonprofit Entities in the form of a grant to the business

For applications where facilities or activities are proposed that: will remain the responsibility of the applicant local government or a nonprofit entity, and which will not involve assistance to a for-profit business, the business plan will be analyzed on the basis of the:

- Level of documentation demonstrating the ability of the facility or activity to support itself over time;
- Need for EDA/CDBG RLF assistance;
- Appropriateness of the proposed use of EDA/CDBG RLF funds; and
- In instances where the local government or nonprofit entity will assume an ongoing subsidy of the project, the level of subsidy, effect of the subsidy on local revenues, and the anticipated long-term benefits of the project.

B. SUMMARY OF THE FULL APPLICATION

The Department will analyze the application based on completeness, financial feasibility, and to determine whether the minimum thresholds can be met based on the documentation provided. Applications will be held to the same requirements as regular CDBG Economic Development applications as described in the CDBG program's yearly application guidelines.

C. LOAN TERMS

All loans made to for-profit businesses with EDA/CDBG RLF funds are subject to the following guidelines:

The terms of the loan should be consistent with the projected use of funds, and individual project needs. For example, terms for financing machinery and equipment should generally be between 5 to 10 years. For buildings and real estate, terms should generally range between 15 to 20 years. Working capital loans should be limited to 7 years. If a deferral of repayments is requested by the applicant and is accepted by the Department, the term of the loan will include the deferred period. For example, a loan with a ten year term with a one year deferral period has a total term of ten years, not eleven.

D. DEFERRAL OF REPAYMENTS

Repayments of principal may be partially deferred up to one year. Deferment of interest payments is not allowed. The need for a deferral must be supported by the projected cash flow of the business and the defined financial gap.

E. LOAN SECURITY

All loans must be secured with fixed assets (i.e., land, buildings, capital equipment) personal guarantees, or any other reasonable source of available collateral. EDA/CDBG RLF funds may be placed in a subordinated security position to other lenders involved in the project. Applicants

must include documentation for the value of collateral offered for security and a description of all security positions held by lenders and any liens which may apply to the collateral (tax liens, mechanics liens, or other liens). The Department will negotiate with the business for the most secure position which is reasonably available, regardless of the proposed use of the EDA/CDBG RLF funds (for example, fixed assets may be used to secure working capital loans). The loan to the business is between the Department and business, so the Department will be listed on the loan documents and all UCC filings, and not the Local Government.

F. INTEREST RATES

Generally the interest rate is four (4) percent. Interest rate may be adjusted higher according to level of risk. EDA regulations require that the minimum interest rate that may be charged is four (4) percentage points below the current money center prime rate as quoted in the Wall Street Journal but no less than four (4) percent. However, if the prime interest rate listed in the Wall Street Journal exceeds fourteen (14) percent, the minimum RLF interest rate is not required to be raised above ten (10) percent. See 13 C.F.R. § 307.15(c).

G. PROGRAM INCOME AND LOAN PRINCIPAL REPAYMENT

All loan repayments from the EDA/CDBG RLF will be recovered by the State of Montana.

“Program income” is any interest income earned from EDA/CDBG RLF supported activities such as from loans for economic development. Approximately 50% of the interest payments recovered will be used by the state for administration of the program and the remaining 50% will be returned to the EDA/CDBG RLF revolving loan fund. Program income is loan origination fees, penalties, and loan servicing fees.

H. CAPITAL UTILIZATION

The EDA/CDBG RLF repayment and lending schedules will provide that the Capital Base will have at least seventy-five (75) percent of the RLF Capital Base loaned out or committed.

I. LOAN PROCEDURES:

Closing Steps

The loan origination process will follow common lending procedures. Upon approval of a loan the Loan Manager will prepare the loan documents. These will include, at a minimum, a promissory note, loan agreement, amortization schedule and appropriate security instruments. Equity capital will be evidenced by a balance sheet and a deposit account statement.

Disbursement Steps

Borrowers are required to establish and maintain a non-interest bearing depository account in a local financial institution. Requests for drawdowns will be reviewed for completeness including appropriate documentation for all requested costs. Drawdowns will be routed to a supervisor for approval and then routed to the financial department for actual processing of payment. Funds will be deposited into the specified account via EFT where appropriate.

Loan Payment and Collection Procedures

Borrowers will make monthly payments to the MDOC in accordance with the promissory note executed at loan closing via ACH payments. All loan payments will be deposited into the MDOC EDA/CDBG RLF account.

Late Payments

Borrowers will be notified by mail immediately if their monthly loan payment is not received by the 10th day after which a payment is due. Payments received 10 days or more past due dates will be assessed a five (5) percent late fee, or \$25.00, whichever is less. If a payment is not received within 30 days, EDA/CDBG RLF staff will make a phone call to the business. If the payment is 45 days late EDA/CDBG RLF staff will make an appointment with the business to meet with the borrower on site to assess the situation.

Foreclosure Steps

Loans 90 Days in Arrears

Loans that are over 90 days in arrears will be declared in default and appropriate recovery action will be taken if the loan is not brought current. If the borrower requests a postponement of payment obligation, the request will be submitted to the Review Committee immediately.

Loan Write-Offs

In the event all efforts to bring a loan current fail and default is declared by the MDOC, the MDOC may write-off the loan when all possible value from loan collateral has been realized.

J. Reporting Requirements

The following is a list of reports that the Department requires from the Assisted Business:

1. During the first two (2) years after receipt of the Grant or Loan:

Monthly Reports

- (a) Hiring and Retention reports, and
- (b) Payroll reports, verifying current employees, date of hire, hourly wage, and number of hours worked.

Quarterly Reports

- (a) Project Progress reports describing the status of the project activities, including, at a minimum, the percentage complete, costs incurred, and funds remaining. The report must also describe any significant problems encountered in carrying out the project.
- (b) Financial reports showing the financial condition of the business including, at a minimum, a current balance sheet and a current profit and loss statement.

2. Every year for the life of the loan:

Annual Reports

- (a) Year-end Financial Statements submitted annually within 120 days of the close of the Business' fiscal year. If the annual financial statements are not audited or reviewed by an independent CPA, a copy of the corresponding federal tax return will also be required.
- (b) Completed Hiring and Retention report as of June 30th each year, due to the Department no later than July 15th each year.

The Department will provide the Business with a calendar listing specific reports and their corresponding due dates.

K. Monitoring Steps

Borrowers will be required to submit quarterly financial statements for the duration of their contract with EDA/CDBG RLF program, through the CRDC. MDOC will send a written reminder notice to the CRDC if the quarterly or annual reports are late. Copies of all insurance notifications sent to borrowers are also required to be sent to MDOC. UCC filings will be renewed every five (5) years. The collateral backing a loan will be assessed every three years. MDOC will visit the assisted business and the CRDC at least annually for a monitoring visit to verify the business is still open and that all assets pledged as collateral for the loan are still located at the business and in good repair. MDOC will schedule additional monitoring visits if determined necessary. MDOC will also review the annual audit of the Local Government and will promptly follow up on any issues noted in the audit that pertain to the EDA/CDBG RLF project.

III. DETERMINATION OF APPROPRIATENESS FOR FUNDING

A. BUSINESS PLAN (See Appendix T, Sample Business Plan, Application Guidelines)

NOTE: All business plan information and financial exhibits will be considered confidential, for evaluation purposes only, and will not, except as required by law, be provided to any third person, firm, corporation or public entity without the express written consent of the business. A confidentiality agreement will need to be completed between the assisted business and the Department before any information can be considered confidential, subject to applicable laws.

Each applicant must submit a business plan for each business or entity to receive assistance, whether for-profit or nonprofit. Each business plan must contain sufficient information for the Department to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. The business plan components contained in this section are required for all EDA/CDBG RLF applications.

Note: The Montana EDA/CDBG RLF program has developed a brief Business Plan Outline that may be helpful in developing a business plan for the application. Please see Appendix T in the attached CDBG-ED guidelines.

Applications involving more than two businesses will require a longer review period. Each business included in an application will be evaluated and rated separately. An application will be more likely to be funded if each individual proposed business is financially strong. An otherwise strong application on behalf of more than one business may not be fundable if a business with weak financials is included.

The business plan must include the following elements and must provide sufficient detail for adequate analysis. *The Department may accept variations including more or less information at its sole discretion based on its review of the proposal.*

1. Business Description

Include a description of the company or enterprise and an explanation of the products or services offered.

2. Management

Provide the names, titles, and resumes of each of the principals to be responsible for the management of the business.

3. Market

Discuss the present or proposed market area and share, as well as future projections, and provide an explanation of how the information was developed (for example, market surveys). Document any identified potential markets (for example, contracts, letters, or other evidence of interest in the product(s) by potential buyers or distributors), especially if sales projections show annual increases exceeding 25%.

4. Sources and Uses of All Funding

This section would discuss the source, use, and terms of all funds to be included in the project. The sources and uses form should include all sources of funding for the project. No grants can be made to for-profit businesses, all funds will be in the form of a loan. A description of all aspects of the proposed assistance (i.e., loan terms, security, etc.), and the rationale for each must be included with the application.

5. Financial Exhibits

The business must be able to show that projected cash flow will be sufficient to cover projected debt service and that a positive net worth can be attained. The projections must include a narrative explanation of how the figures and assumptions were derived with special emphasis on any changes in major assumptions from existing conditions (i.e. changes in cost of goods sold and general administrative expenses as a percentage of sales, or if sales increases exceed 25% annually). Special care should be taken to include increased labor costs related to achieving the hiring goals contained in the hiring plan.

The business plan must include the following financial exhibits:

a. Financial Statements

For existing businesses, provide financial statements for the three most recent years of operation to include the following:

- Balance Sheet;
- Profit and Loss Statement;
- Cash Flow Statement; and
- Reconciliation of Net Worth.

Financial statements, compiled or reviewed by an independent certified public accountant, with full disclosure notes are preferred. All financial information must be signed by a responsible officer of the business. Financial statements must also include a current Aging of Accounts Receivable and Payable. There must not be any time period gaps between the historical statements and the projected statements. The financial statements should not be dated more than 90 days prior to the date the application is submitted.

b. Earnings Projections

Provide the following projections for three years:

- Balance Sheet;
- Profit and Loss Statement; and
- Cash Flow Statement.

Earnings projections must include a projected monthly cash flow analysis for at least one year, and until the business reaches its projected break-even point. For businesses that experience regular or occasional cyclical variations in cash flow, provide a narrative explanation of the reasons for the occurrence of the cycles and the effect, if any, on the business's ability to meet its debt obligations identified in the existing and projected debt schedules.

c. Debt Schedule

Provide descriptions of all existing and projected debts and lenders, annual debt service amounts, and any related loan requirements. Financial statements should include current maturities of long term debt and adjusted principal balances. All debt sources must be identified independently and not combined into one long term debt number on the balance sheet. Principal and interest payments for at least three years should be included for all sources.

d. Working Capital Needs

Provide information on working capital needs and verify through cash flow projections, explaining changes in inventory and receivables.

e. Personal Balance Sheets

Provide current personal balance sheets for each individual with 20 percent or more ownership in the proposed business. The Department may require the submittal of personal or corporate income tax returns, if necessary.

f. Personal Credit Check Release

The principal owners of the business, as defined above, must provide a release allowing for a personal credit history check by the Department as part of the application review. Applicants should include any other information which may be helpful in documenting the economic viability of the project.

6. Private Sector Commitments

Applications should be submitted only for those projects that are ready to proceed pending receipt of EDA/CDBG RLF funds.

Applicants must provide firm commitment letters from any private sector lenders or investors involved in the project. Such commitments should be binding, contingent only upon receipt of EDA/CDBG RLF funds.

Letters of commitment from funding sources must be submitted with the application and must:

- Be on letterhead from the lender/investor and signed by an official of the firm authorized to commit the organization;

- Provide a clear statement of the lender/investor's concept of the project, (i.e., the location, scope and cost);
- Specify the nature of the commitment, (e.g., amount of private commitment, amount of borrower's commitment, type and size of the project, number of jobs to be created, commitment to hire low and moderate income individuals, etc.); and
- State a willingness of the lender/investor to sign a legally binding commitment upon award and that the lender/investor has reviewed the application and has approved its content.

Letters of commitment from private financing institutions must specify the amount and type (for example interim construction financing) of the loan being provided for the specific activity to be undertaken. The commitment should be binding, contingent only upon receipt of EDA/CDBG RLF funds.

7. Public Sector Commitments

If resources from the public sector or nonprofit entities are to be involved in the proposed economic development project, applicants must provide written evidence of firm commitment of public funds and/or other resources. Such commitments should be binding, contingent only upon receipt of EDA/CDBG RLF funds to the project. Evidence should include resolutions passed by the local governing body and/or a letter of commitment from other sources.

8. Conclusion

The review of the application will be expedited and the application's likelihood of being funded will increase if the applicant and business have adequately demonstrated that:

- A financing gap exists, has quantified the gap as much as is reasonably possible, and has determined that the project needs EDA/CDBG RLF assistance in order to proceed;
- The level of EDA/CDBG RLF assistance is appropriate in relation to the public benefit expected to result from the project;
- The application is complete as submitted, and contains accurate information;
- The earnings projections submitted with the application are realistic and attainable, are supported by historical trends, and indicate that projected cash flow is sufficient to support increased debt;
- The EDA/CDBG RLF funds would be adequately secured with fixed assets and/or personal guarantees;
- The application documents a sound, well-reasoned proposal with a perceived strong chance for success if EDA/CDBG RLF funds are received;
- The private or public sector lenders involved in the project have provided firm commitment of funds;
- The project is ready to proceed if notification that a tentative EDA/CDBG RLF award is given and implementation will begin immediately, and
- The application conclusively demonstrates that the project will support itself over time, and will not impose a burden on any local government or nonprofit entity participating in the project.

Applications where viability may be questionable, or where the overall business plan or need for EDA/CDBG RLF assistance is inadequately documented, may be restructured, renegotiated or

not funded depending on the severity and nature of the problems identified.

B. NEED FOR PUBLIC ASSISTANCE TO FOR- PROFIT BUSINESSES

EDA regulations and the Federal Housing and Community Development Act requires the Montana Department of Commerce to consider whether EDA/CDBG RLF assistance to any for-profit business is necessary and appropriate to the project, including the extent of the need for assistance and the amount of assistance to be provided in relation to the public benefit that would result.

Applicants must clearly demonstrate the need for EDA/CDBG RLF assistance by documenting that a financing “gap” exists in funding the proposed project. Applicants must show that all reasonable resources have been considered and are not available or appropriate. A “gap” may be documented in several different ways, as described below.

The U.S. Department of Housing and Urban Development (HUD) requires that the applicant follow the steps outlined below in order to document that the proposed level of financial assistance is “necessary and appropriate.”

1. Evaluate All Project Costs

The applicant must verify all project costs and document how they were determined and by whom (land appraisal, engineer or architect prepared estimates, equipment lists and cost schedules, etc.). The applicant must determine the reasonableness and completeness of the cost estimates (such as the inclusion of Davis-Bacon prevailing wage rates, if applicable).

2. Verify and Maximize Private and Other Public Funding Sources

It is the responsibility of the applicant to verify that all other reasonably available sources of private financing have been maximized for the project proposed. Other private sources such as banks, venture capital companies, or additional private equity should be sought before the project budget is finalized and EDA/CDBG RLF funds applied for.

The applicant must include documentation that other federal funding sources have been considered such as the Small Business Administration, and the Economic Development Administration, as well as State sources such as the Montana Board of Investments.

The applicant must document that each reasonable potential funding source is inappropriate, insufficient, or unavailable for the project. For example, if a private lending institution, such as a community bank, denies an application for a loan by the proposed business to be assisted, the letter of denial should be included in the application. The application should also include a copy of any letters from private lending institutions that state they can only loan a portion of the needed funds, thus showing the need for the EDA/CDBG RLF funds. If the owners of the business are not able to inject additional equity into the project, their personal financial statements should support that position. The applicant must be able to show that all funds necessary for the completion of the project are firmly committed before MDOC will release any funds for the project.

Before submitting a proposal to the applicant community, the business should first request a loan (or loans) from lending institutions for the amount needed for the project after as much new private equity as possible has been committed to the project. If the lenders or investors are

unable or unwilling to make a loan or investment for the amount needed to complete the project, the business and applicant community should approach them with a financing package that includes EDA/CDBG RLF funds and request a loan contingent on EDA/CDBG RLF funds being received. Documentation showing all such attempts at private financing should be included in the application.

All reasonable funding sources should be seriously and thoroughly investigated prior to applying for EDA/CDBG RLF funds. EDA/CDBG RLF funds should be requested only when the business and the applicant can document that other funding sources are insufficient for the proposed project.

3. Make a Determination of Need for EDA/CDBG RLF Assistance

The applicant must demonstrate that the business it is proposing to assist with EDA/CDBG RLF funds has a quantifiable need for the funds. There are several methods of determining the need for EDA/CDBG RLF assistance or Financing "Gap." The applicant should request that the business answer the following questions in order to quantify the "gap".

- a. Are the annual earnings of the proposed business sufficient without EDA/CDBG RLF assistance to meet the annual debt service requirement of a loan at market rate?

The application should include two pro forma forms. One should project earnings and debt service without EDA/CDBG RLF assistance and the other with EDA/CDBG RLF assistance in the assumptions.

- b. Is there insufficient equity to meet collateral and other lending requirements of private lending institutions? Can the assisted business contribute sufficient equity to the project to meet the collateral requirements of the first or the second position lenders?

The application should include letters from the private lending institutions contacted by the business for loans. The letters should document one or more of the following situations:

- The lender will not make any loan to the business;
 - The lender can only lend a portion of the total project costs; or
 - The lender will only participate if EDA/CDBG RLF funds are involved in the project and states that its participation is contingent on EDA/CDBG RLF funds.
4. The amount of the financial gap should be quantified based on the pro forma. For example:
 - If a lender can only provide a loan (contingent on EDA/CDBG RLF) for a portion of the project costs, and all available private equity is invested into the project, the amount of the financing gap equals the amount remaining in the project that cannot be financed privately; or
 - If a lender agrees to finance the project costs above the amount of private equity invested, but the annual debt service is higher than the projected cash flow from the project, the amount of the financing gap is equal to the amount of EDA/CDBG RLF funds needed to lower the debt service so that a reasonable cash flow coverage is achieved and the project's financial feasibility is maintained.

5. Determine the Amount of EDA/CDBG RLF Assistance

The local government should determine the minimum amount of EDA/CDBG RLF financial assistance necessary to stimulate private investment based on the quantified financial gap and ensure that the business is not unduly enriched compared to the public benefits expected to occur as a result of the project.

IV. THRESHOLD REQUIREMENTS FOR EDA/CDBG RLF ECONOMIC DEVELOPMENT PROJECTS

The following threshold requirements are applicable to applications for EDA/CDBG RLF economic development assistance.

A. EDA/CDBG COST PER JOB

The non-administrative EDA/CDBG RLF cost per job to be created or retained for low and moderate income persons must not exceed **\$25,000 per job**. This is determined by dividing the total number of permanent full-time or full-time equivalent jobs to be directly created or retained by the assisted enterprise into the total amount of the non-administrative EDA/CDBG RLF funds requested.

B. PERCENT OF JOBS TO BENEFIT LOW AND MODERATE INCOME PERSONS (See Appendix S, Income Certification Forms and Racial/Ethnicity Category Forms, Application Guidelines)

In order to be eligible for EDA/CDBG RLF assistance, the applicant must demonstrate that a minimum of 51% of the jobs to be directly created or retained by an economic development project are held by, or made available to low and moderate income persons.

A "low and moderate income person" is defined as a member of a low and moderate income family. The total income and size of the family, not the individual's income, determines whether an individual is considered to be low and moderate income. "Family" is considered to be husband, wife and dependents, such as the IRS determination for income tax purposes. For new hires, income is determined for the year prior to the date the person is hired.

For projects involving the retention of jobs, the income levels should be documented for the prior year's income of the family. The verification forms should be completed no more than 30 days prior to submittal of the application. The application must provide clear and objective evidence that, in the absence of the EDA/CDBG RLF assistance, the jobs will be lost. The business will have to commit to filling as many new job openings from turnover and job creation as is reasonably possible with low and moderate income persons. The full application must include a complete listing of all existing jobs by title, race, ethnicity, gender and handicapped status; and indicate which positions are currently held by low and moderate income persons. The business should also provide an estimate of its expected job turnover rate during the next two years, especially if job turnover will be counted toward the low and moderate income benefit percentage.

The Department will use full-time annual equivalent positions as the basis for determining compliance with this threshold. If part-time or seasonal employment is proposed, the

application must include an estimate of the number of hours to be worked each year for each proposed position. Only permanent jobs may be counted.

Temporary construction jobs and other temporary and some seasonal jobs may not be counted. Projects involving primarily seasonal jobs are not generally acceptable under federal EDA/CDBG RLF requirements. In order to be counted, a seasonal job must be the primary occupation and the principal source of income to the low to moderate income person for the year. This situation is very difficult to document and is not encouraged for EDA/CDBG RLF projects.

Only jobs that are created directly by the assisted business within a 24 month period following the award of funds will usually be counted towards this requirement. The Department cannot consider indirect employment created through a contractual relationship. To fulfill this requirement, applications must include a letter from each business to be assisted stating the firm's commitment to hiring low and moderate income individuals.

Documentation of benefit to low and moderate-income persons must be completed with the form "Calculation of Benefit to Low and Moderate Income Persons" and included with the full application. Businesses claiming retention of jobs must submit with the full application documentation of the verification of existing employees' eligibility to be considered low and moderate income by using the income verification form.

- Racial Category Forms – for each income survey completed, a racial category form must also be completed.

C. DEBT/EQUITY RATIO

Where EDA/CDBG RLF funds will be expended to assist a for-profit business, the final debt/equity ratio, calculated from the projected balance sheet after all EDA/CDBG RLF financing and all matching and other financing for the project have been received, should be no greater than 5:1. The Debt/Equity Ratio shall be calculated, under Generally Accepted Accounting Principles, according to the following formula:

$$\text{Debt/Equity Ratio} = \frac{\text{Total Liabilities} - \text{Officer Subordinated Debt}}{\text{Total Net Worth} + \text{Officer Subordinated Debt} - \text{Intangibles}^*}$$

- * "Intangibles" are assets for which no market exists or no market value can be firmly established, such as organizational costs, noncompetitive agreements, and patents (unless a firm cash offer is in hand.)

D. PRIVATE INVESTMENT

In preparing its project budget, the applicant is required to identify the sources and uses of funds and the amounts to be contributed by each financial source. To be eligible for consideration, an applicant must assure the participation of:

- At least two non-EDA/CDBG RLF dollars for each dollar of non-administrative EDA/CDBG RLF funds requested (a 2:1 leverage ratio). The non-EDA/CDBG RLF funds may come from a variety of sources, such as new investment by the firm to be assisted, bank loans, SBA Loan Guarantees. Although only private funds count towards leverage, the Department also welcomes other leverage. Loans to be repaid to a state or federal loan program, or government grant, are considered public funds. Applicants should ensure that documentation committing the non-EDA/CDBG RLF dollars states that the commitment is contingent on the receipt of EDA/CDBG RLF funds.

- Ideally 100% of the required leveraged funds will be met by new cash in the form of new cash equity, new loans, or other new grants. Leveraged funds should be committed and documented at the time of application and approval. The Department reserves the right to reduce the leverage requirement in exceptional circumstances, such as high impact projects in areas demonstrating significant levels of need.

Projects that are primarily for job retention and meet the 51% benefit test may include refinancing as leverage at the discretion of the Department when the source of refinance for leverage is not used only for lowering the lender's risk.

It is absolutely essential that the applicant and the business not incur costs or obligate funds, which are intended to be reimbursed with EDA/CDBG RLF funds, prior to the date that all contract start-up conditions, including signing the loan agreement, are satisfied by the awardee and approved in writing by the MDOC. Administration costs may be incurred as of the date of the tentative funding decision.

It should be clear that expenses incurred by the recipient or the assisted business, are incurred at their own risk. Until a formal release of funds is awarded by the MDOC, no activity costs will be considered reimbursable until the MDOC has given the recipient a release of funding in writing. Eligible administrative costs are those costs incurred after the MDOC date of award.

The following will not be considered as leverage:

1. Existing assets;
2. In-kind services;
3. Other costs incurred prior to the application date;
4. The refinancing of existing debt;
5. Projected operating cash flow;
6. Existing equity;
7. Existing bank line of credit amounts (Note: Increases in lines of credit contingent upon the receipt of EDA/CDBG RLF funds may be accepted.)

Business can use leverage accrued up to one year prior to application.

E. CITIZEN PARTICIPATION AND THE COMMUNITY DEVELOPMENT NEEDS ASSESSMENT

1. Citizen Participation

The Community Development Act requires the Department of Commerce to adopt "a

detailed Citizen Participation Plan". In order to receive EDA/CDBG RLF funds, both the Department and applicants for funds must certify that they are carrying out citizen participation in a manner that complies with this plan.

Applicants must provide citizens, especially low and moderate income residents, an adequate notice and opportunity for meaningful involvement in the planning and development of EDA/CDBG RLF applications.

At a minimum, the applicant must hold two public hearings, one before preparing the application and the other prior to passage of a resolution by the governing body authorizing the submission of the full application. The public hearings may be conducted either as part of a regularly scheduled meeting of the governing body or as hearings convened especially for EDA/CDBG RLF purposes.

A record of the required hearings must be submitted with the full application for EDA/CDBG RLF funds, along with copies of the public notices for the hearings or affidavits of publication for the notices. A verbatim record is not necessary; the names of persons who attended and a summary of comments by local officials and citizens are sufficient.

FIRST PUBLIC HEARING: The purpose of the first public hearing is two-fold to:

(1) to inform citizens about the EDA/CDBG RLF program, the amount of funds available, how it may be used, the range of activities eligible for funding and other general program requirements, and

(2) to solicit public comment, particularly from low and moderate income people, on community needs and priorities for economic development, housing and public facilities, including the needs of low and moderate income persons. In considering the needs of low and moderate income, the governing body is encouraged to consider the needs of households which may be especially needy, such as those with lower incomes, female heads of households or minority, elderly or disabled members. The first public hearing must be held not more than twelve months prior to the date of the submittal of the application.

For economic development projects, the local government should solicit publicly for prospective businesses which may be interested in applying for an EDA/CDBG RLF loan from the State through the local government. The local government should then select the most reasonable and viable proposal for consideration for an application to the Department.

SECOND PUBLIC HEARING: The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed project adequate opportunity to review and comment on the community's EDA/CDBG RLF application, before it is submitted. The issues to be considered include the proposed project location, activities, and the budget (including the estimated amount proposed to be used for activities that will benefit low and moderate income families).

Frequently, an important consideration for local governments considering an EDA/CDBG RLF application for economic development is whether they would be assisting a business that would be in direct or indirect competition with other local businesses.

Formal public notice must be provided before public hearings are held. Notice should also be directed to persons of low and moderate income, those persons who will benefit from or be affected by EDA/CDBG RLF activities and/or representatives of low and moderate income persons. Hearings must be held at times and locations convenient to potential and actual beneficiaries and with accommodation for the handicapped. In the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate, arrangements must be made to have an interpreter present.

Notice of each public hearing should be published at least once in a newspaper of general circulation in the community at least seven days prior to the hearing. In addition to the published notices, the applicant should make reasonable efforts to inform citizens of the hearings who may be affected by an EDA/CDBG RLF project but who might not be reached through formal newspaper notices. Examples of actions applicants may take to ensure citizen participation include a meeting with community groups and leaders prior to public hearings, holding informational meetings, distributing notices of public meetings to residents, or posting of notices in ways customary to the community. These efforts should be especially concentrated in any neighborhood which may be affected by a proposed EDA/CDBG RLF project. The hearings should be scheduled at times and locations which will encourage broad citizen participation. (Communities without a newspaper may substitute alternatives for notifying the public such as radio announcements, mailed notices, and posters.)

2. Community Development Needs Assessment

The Housing and Community Development Act requires that each EDA/CDBG RLF recipient must "identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs." A summary of the applicant's Community Development Needs Assessment or their Comprehensive Economic Development Strategies (CEDS) must be submitted as part of the EDA/CDBG RLF application. The applicant can submit either document, depending on which one was completed for the community.

Each applicant must include a brief description of its needs, which, at minimum summarizes:

- a. The process used to identify community development needs, and establish priorities and objectives, including efforts to encourage meaningful participation of local citizens, particularly those of low and moderate income;
- b. The applicant's short-term and long-term community development needs in:
 - Economic development,
 - Housing and neighborhood revitalization,
 - Public facilities,
 - Including the needs of low and moderate income persons, and its priorities for responding to the needs;
- c. The planned activities to be undertaken to meet the identified needs; and
- d. The alternative projects considered for EDA/CDBG RLF funding and the rationale for selecting the proposed project(s).

The needs assessment process does not have to be conducted annually for applicants re-applying for EDA/CDBG RLF funds if a previously prepared needs assessment still accurately reflects existing conditions and community development objectives and meets

the requirements set out above. If an existing needs assessment will be used as the basis for reapplication, the applicant should solicit public comments on the previously identified community needs and priorities at one or more of the two public hearings required. For further information on alternative methods of preparing needs assessment, applicants can request a copy of the Department's publication, *The Community Development Needs Assessment Process*.

F. HIRING AND TRAINING PLAN (See Appendix O1, Hiring and Training Plan, Application Guidelines)

The primary goal of EDA/CDBG RLF funded economic development awards is to increase job opportunities for local residents, particularly persons of low and moderate income. For income verification purposes, family income is calculated at the time the jobs are filled or retained, not after the low and moderate income person is hired.

Applicants must provide a Hiring and Training Plan to ensure preferential recruitment, hiring, and training of local workers, particularly those of low and moderate income. Jobs must be equally available to low and moderate income persons. In the event of award, the applicant's commitment to the Hiring and Training Plan will be considered binding. A final hiring plan will be incorporated in the award agreement between the local government and the Department.

Hiring goals should be reasonable and justified by the financial statements and projections. Claims for the number of jobs to be created or retained should be realistic and not inflated or overly optimistic.

All jobs must be converted into full-time equivalent positions. A full-time equivalent employee is an individual who is employed for 40 hours a week on the average, or a combination of individuals whose combined hours of employment equal 40 hours per week. If the assisted business has a profession where the customary work week is less than 40 hours per week, this will be taken into account by the Department and the appropriate FTE calculations will be made.

The assistance agreement between the community and the assisted business will contain conditions regarding hiring of low and moderate income persons. The assisted business must show substantial compliance with the Hiring and Training Plan and a "good faith" effort towards accomplishing the hiring goals set out in the assistance agreement before the project can be closed out.

Assistance in the development of a Hiring and Training Plan may be obtained from the local Job Service or the Human Resource Development Council. Successful applicants must ensure that complete hiring records are maintained by the assisting agency, the assisted business and by the awardee.

The base level of employment with a list of all current employees and job titles must be provided with the application in order to determine the actual number of new hires. For existing firms, applicants must provide employment levels for the past year. The date for determining the base level of employees will be the application submission date.

Applicants should take into consideration equal opportunity and nondiscrimination laws to ensure that women and minorities are not excluded from participation, denied time benefit of, or subjected to discrimination under any program or activity funded in whole or in part with EDA/CDBG RLF funds.

At a minimum the Hiring Plan must include the following:

1. A breakdown of jobs to be created or retained indicating the percentage which are full-time, part-time, skilled, semiskilled, or unskilled;
2. A discussion of the actions to be taken to ensure that the positions created will be filled by persons of low and moderate income;
3. A breakdown of jobs to be created indicating the job titles and descriptions and the rates of compensation. For applications proposing positions involving less than full-time employment, an estimate of the number of hours to be worked each week or months to be worked each year for each position must be included;
4. A timetable for creating the jobs, the total number of persons, and number of low and moderate income persons to be hired.
5. An assurance that equal opportunity and nondiscrimination laws will be complied with;
6. Procedures for outreach, recruitment, screening, selection, training and placement of workers which will ensure maximum access for local residents particularly persons of low and moderate income;
7. A description of the training curriculum and resources, if applicable;
8. Written commitments from any agencies or organizations participating in the implementation of the plan; and
9. Written commitment from the assisted business to comply with the plan.

Minimum job requirements should not exceed the equivalent of a high school education and one year's experience in order to be counted as a job opening available to be filled by low and moderate income persons. If job qualification requirements exceed the equivalent of a high school education and one year's experience, training should be provided to enable otherwise unqualified persons to qualify for the position. The jobs that are to be created must be physically accessible to the low and moderate income population within a reasonable geographic area.

G. MANAGEMENT PLAN (See M1, M2, or M3 Sample Management Plans, Application Guidelines)

As part of its application, each applicant must submit a Management Plan which, at a minimum:

1. Addresses the local government's plans for assuring proper management of the EDA/CDBG RLF project, including financial management of funds, compliance with State and federal requirements, effective and timely start-up and completion of project activities;
2. Identifies the person or persons who will be responsible for day-to-day project management (or position descriptions developed for these persons) and any contracted services to be utilized while carrying out the project;
3. Includes a quarterly schedule for project implementation which identifies time frames for major activities and expenditures and the coordination of non-EDA/CDBG RLF

resources for the project.

4. Addresses potential environmental concerns and demonstrates that there appear to be no significant problems. A form entitled “Preliminary Environmental Checklist for CDBG Applications” must be filled out for each application; and
5. If more than a single funding source or organization is involved, a description of how these will be coordinated and directed. The applicant must demonstrate adequate pre-planning to ensure that project activities can commence quickly if funds are awarded and that firm commitments exist for the other resources to be involved in the project.

If the applicant is a previous or current awardee under the State EDA/CDBG RLF Program, their performance of project management responsibilities must be acceptable. Local governments that are currently administering EDA/CDBG RLF projects will not be eligible for reapplication if:

- The local government is not in compliance with the project implementation schedule contained in its EDA/CDBG RLF contract with the Department; or
- There are outstanding audits or monitoring findings on a previously funded project, where the grant recipient has not satisfactorily resolved the identified problem.

To be awarded funds under the EDA/CDBG RLF Program, a local government must have the management capacity to undertake and satisfactorily complete the project it is proposing. An applicant is assumed to have the capacity to undertake the proposed project unless available information raises a question concerning an applicant’s capacity. If any question arises during the evaluation of an application, the Department may request additional information from the applicant.

If an applicant does not believe that it currently has the capacity to manage an EDA/CDBG RLF project, it may propose to hire administrative staff or arrange for project administration by another local government through an interlocal agreement, or by contracting for administrative services with a consultant after award. In all cases, the applying local government assumes direct responsibility for proper financial management of the EDA/CDBG RLF funds.

V. OTHER REQUIREMENTS

A. PROJECT BUDGET (See Appendix N, Sources and Uses Form and Pro-Forma Balance Sheet Format, Application Guidelines)

Applicants should apply only for the level of funding necessary to carry out the project. Requests must be sufficient either by themselves or in combination with other proposed funding sources to complete the proposed activities within the contract period. Each applicant must propose a budget which is sufficient to assure effective administration and timely project completion. The total budget of any proposed EDA/CDBG RLF project should be for “activity costs” (such as loan to a for-profit business for equipment or working capital).

The budget must be accompanied by a narrative justification for the specific proposed EDA/CDBG RLF project activities and related costs, including a breakdown of total project costs which identifies sources and amount of all non-EDA/CDBG RLF funds to be used. The cost

estimates for each item in the proposed budget must be explained in the narrative. For other sources of funds that are needed to complete the project, the status of these funds and how they will be used with EDA/CDBG RLF funds should also be described and documented (land and equipment appraisals, architects cost estimates, etc.)

Costs incurred by the business prior to award of the funds and release of funds by the Department (such as: fees for preparing the application; a community survey or needs assessment; preparation of the environmental review record if conducted prior to award; or expenses incurred by the business to be assisted) are not eligible for reimbursement with EDA/CDBG RLF funds in the event of an award.

Applicants should be especially careful to see that all potential costs for carrying out the project are identified prior to submitting the application.

Consideration should be given to costs if applicable such as:

- Day-to-day project management activities specific to the type of project proposed;
- Compliance with State and federal requirements;
- Tracking the hiring of low and moderate income persons;
- Assuring that the income status of persons claiming low and moderate income status is verified;
- Monitoring the expenditure of EDA/CDBG RLF funds and matching funds by the business;
- Preparation of reports;
- Bookkeeping;
- Legal services;
- Travel or registration fees for project-related training;
- Conducting the environmental review and publishing required public notices;
- Appraisals;
- Acquisition of land or easements;
- Engineering design;
- Davis-Bacon (prevailing wage) requirements which will increase construction costs and monitoring responsibilities;
- Construction inspections; and
- Audits and project closeout.

The Department recommends that applicants budget from \$2,000 to \$3,000 for A-133, Single Audits. Any local government expending more than \$500,000 of federal funding in a fiscal year must complete an A-133 specific audit. Awardees, depending on the usual audit frequency of the local government, may be audited more than once during the term of the project. Chapter 14 of the CDBG Administration Manual describes auditing requirements. The CDBG Administration Manual can be found at: <http://comdev.mt.gov/CDBG/cdbgggrantadminmanual.mcp.x>.

A community considering a relatively small request should consider whether the proposed project would result in questionably high administrative costs relative to the actual project cost. In these circumstances, applicants are encouraged to contact the Department of Commerce to discuss their proposed project prior to submittal of the application.

B. MAPS

Each application must include clearly legible maps which illustrate the proposed project area. Applicants are encouraged to submit maps at the minimum size and scale that will clearly convey all required information. Applicants must submit maps of a different scale where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

The map of the proposed project area must identify:

- The boundaries of the project area;
- The locations of the proposed activities; and
- Federal Emergency Management Agency (FEMA) Floodplain map

All project activities must take place within the project area boundaries, unless specifically authorized by the MDOC.

Administrative Procedures

C Conflicts of Interest Prevention

The MDOC will take steps to ensure that interested parties comply with conflicts of interest provisions. An “Interested Party” is defined in 13 C.F.R. § 300.3 as “any officer, employee or member of the board of directors or other governing board of the MDOC, including any other parties that advise, approve, recommend or otherwise participate in the business decisions of the MDOC, such as agents, advisors, consultants, attorneys, accountants or shareholders.” An Interested Party also includes the Interested Party’s “Immediate Family” (defined in 13 C.F.R. § 300.3 as a person’s spouse, parents, grandparents, siblings, children and grandchildren, but does not include distant relatives, such as cousins, unless the distant relative lives in the same household as the person) and other persons directly connected to the Interested Party by law or through a business organization. In addition, “Immediate Family” includes a person’s “significant other” or partner in a domestic relationship with an “Interested Party.”

The MDOC will establish safeguards to prohibit an Interested Party from using its position for a purpose that constitutes or presents the appearance of personal or organizational conflicts-of-interest or of personal gain. (See 13 C.F.R. § 302.17(a) and (b), 15 C.F.R. §§ 14.42 and 24.36(b)(3), and Forms SF-424B (*Assurances – Non-Construction Projects*) and SF-424D (*Assurances – Construction Projects*), and 7-5-4109, MCA (as applicable) regarding the avoidance of conflict of interest.)

An Interested Party must not receive any direct or indirect, financial or personal benefits in connection with this Award or its use for payment or reimbursement of costs by or to the MDOC. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a sub-award. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice. It also could result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field. (See 13 C.F.R. § 302.17(b).)

In addition to the rules set forth in 13 C.F.R. § 302.17(a) and (b), the MDOC will adhere to these special conflicts-of-interest rules set out in 13 C.F.R. § 302.17(c):

- a. An Interested Party of MDOC of an RLF Award will not receive, directly or indirectly, any personal or financial benefits resulting from the disbursement of RLF loans.
- b. MDOC will not lend RLF funds to an Interested Party.
- c. Former board members of MDOC and members of his or her Immediate Family will not receive a loan from the RLF for a period of two (2) years from the date that the board member last served on the RLF board of directors.

Safeguarding Assets

All loans must be secured with fixed assets (i.e., land, buildings, capital equipment) personal guarantees, or any other reasonable source of available collateral. EDA/CDBG RLF funds may be placed in a subordinated security position to other lenders involved in the project. Applicants must include documentation for the value of collateral offered for security and a description of all security positions held by lenders and any liens which may apply to the collateral (tax liens, mechanics liens, or other liens). The Department will negotiate with the business for the most secure position which is reasonably available, regardless of the proposed use of the EDA/CDBG RLF funds (for example, fixed assets may be used to secure working capital loans).

Compliance with Federal and Local Laws

The following subsections discuss federal laws that may affect the business and the total cost and complexity of the project.

D. ENVIRONMENTAL IMPACT (See Appendix E, Preliminary Environmental Checklist for CDBG Economic Development Applications, Application Guidelines)

All EDA/CDBG RLF projects are subject to the National Environmental Policy Act and the Montana Environmental Policy Act. Both laws seek to avoid adverse impacts on the environment by mandating careful consideration of the potential impacts on any development assisted with federal funds or approved by a state agency. In addition, EDA/CDBG RLF projects are subject to numerous other state and federal environmental laws. Applicants are encouraged to be sensitive to potential environmental impacts while their EDA/CDBG RLF projects are first being considered and planned in order to avoid problems which could delay or even prevent a project from being implemented. Chapter 2 of the CDBG Administrative Manual explains in detail all environmental considerations and procedures for applicants. Local officials who have any concerns or questions regarding the potential environmental impacts of their proposed EDA/CDBG RLF project or the environmental requirements should contact the Department in advance of submitting their application for EDA/CDBG RLF funds.

In order to expedite the start up and implementation of a project, applicants have the option to proceed with the level of environmental review which is determined to be appropriate during the application process. The applicant would have to assume all costs, if any, of conducting the environmental review before the final EDA/CDBG RLF application is submitted. Applicants are encouraged to contact the BRD for guidance regarding the level of environmental review necessary, the procedures required, and the potential time constraints associated with the process.

E. FEDERAL LABOR STANDARDS

Federal labor requirements should be given careful consideration when planning EDA/CDBG RLF funded economic development projects. The Federal Contract Work Hours and Safety Standards Act, Copeland “Anti-Kickback” Act, and the Davis-Bacon Act will probably apply to most economic development projects which involve the use of EDA/CDBG RLF funds for construction, remodeling, site development, extensive equipment installation or other similar activity which involves the use of contracted labor and services for contracts over \$2,000.

The Davis-Bacon Act requires the payment of federal prevailing wage rates on construction paid for in whole or in part with EDA/CDBG RLF funds. Determining the applicability of Davis-Bacon wage rates to an economic development project can be complex. Contact the Department during the planning stages for a proposed project for guidance and copies of the applicable wage rates and requirements. The additional costs associated with Davis-Bacon wage rates, if applicable to a project, must be considered when calculating project costs and when obtaining estimates from potential contractors.

Davis-Bacon wage rates might not apply in some cases. Applicants should contact the Department for further information. The following are examples of instances where Davis Bacon might not apply:

- A contractor that bids successfully on the project is a sole proprietor and the work will be performed entirely by the owner, without additional employees;
- The installation of equipment is limited to the equivalent of plugging it into the electrical system, placing it on the floor with only minor attachment work required, where equipment installation by the company selling the equipment is a condition of the guarantee, and where the cost of installation is less than 13% of the total cost of the equipment.

Davis-Bacon wage rates do not apply to the assisted business’s existing work force or to newly hired low and moderate income persons when they are employed at their regular duties as described in their regular job description. The business receiving EDA/CDBG RLF assistance may utilize its existing labor force for minor, incidental work on project construction activities only when no separate contracts to perform the work involved in the project activities are entered into by the business and its existing work force. The laborers cannot conduct work that is required to be done by licensed or certified persons (e.g. electricians, carpenters, or plumbers)

F. BUILDING CODE AND CONSTRUCTION STANDARDS ENFORCEMENT

Economic development projects often include EDA/CDBG RLF funds for renovation, construction, rehabilitation, expansion and modification of structures for commercial purposes. Commercial and industrial facilities for which EDA/CDBG RLF funds are used for construction must be in compliance with all current state and local building codes.

Permits must be obtained from the Building Codes Bureau of the Montana Department of Labor and Industry for all electrical and/or plumbing work undertaken with EDA/CDBG RLF funds unless the local government has been certified by the Division to enforce the codes cited above.

In such cases, permits will be obtained locally. Awardees will be responsible for assuring that such work is inspected by proper authorities.

G. PROPERTY MANAGEMENT AND DISPOSITION

Federal property management requirements apply to real property within the awardee's control which was acquired or improved in whole or in part using EDA/CDBG RLF funds in excess of \$25,000. These requirements apply from the date EDA/CDBG RLF funds are first spent for the property until five years after closeout of the grant from which the assistance to the property was provided.

H. ACQUISITION

Federal requirements specify that local governments proposing the public acquisition of real estate or easements as part of an EDA/CDBG RLF funded project must formally notify the effected property owner, prepare an appraisal to determine the fair market value, have the appraisal reviewed, and make a written offer to purchase based upon an amount determined to be "just compensation".

Federal requirements also apply to assisted nonprofit agencies or private for-profit businesses which propose to use EDA/CDBG RLF dollars for land acquisition. Local governments or businesses considering acquisition of real property as part of an EDA/CDBG RLF project should contact the Montana Department of Commerce.