

TITLE IX REVOLVING LOAN FUND PROGRAM Program Guidelines and Operating Criteria

1. STATEMENT OF PURPOSE

The Title IX Economic Adjustment Revolving Loan Fund Program is designed to stimulate the creation and expansion of small business for the purpose of retaining and/or creating jobs in Broome County.

The Title IX RLF provides low interest financing to small business concerns unable to fully finance their projects with equity, conventional financing, or other private and public sources.

2. GOALS AND OBJECTIVES

One of the major problems in local business development, and a significant contributing factor to local economic distress, is the problem of credit availability. Even when available, the cost and terms of the credit may prevent firms from expanding, continuing operations, or starting up. The result may be a community's loss of jobs, tax revenues and private investment.

While the Title IX RLF is not a substitute for conventional financing, it can fill in the gaps in existing local financial markets and attract additional capital, which would otherwise not be available for economic development.

3. PROGRAM DESCRIPTION

The Title IX Program is primarily designed to assist start-up and existing firms in Broome County by offering low interest financial support for the purchase of fixed capital assets or working capital. Eligible businesses may finance up to 40% of a project's cost up to a maximum of \$200,000.

Initial participation by conventional lending institutions is preferred, and Title IX will take a subordinated security position to the bank, thus assisting less established firms in forming a banking relationship. However, in the event that conventional lending institutions choose not to participate, Title IX may provide direct lending up to 90% of a project's cost up to \$200,000, in conjunction with an equity investment or in conjunction with other funding sources and an equity investment. Since Title IX participation in a project must not displace local commercial lenders, a request for direct Title IX financing may require a letter from a commercial lender declining participation. If warranted loans may also be granted that require interest only payments for specific terms.

The successful applicant must be able to document that the planned project will result in job creation and/or retention.

4. ELIGIBILITY

AREA: Title IX borrowers must use loan proceeds in operations located within Broome County.

BUSINESS ACTIVITIES: Firms classified in the following for-profit industries are eligible for RLF financing:

- A. Manufacturing; this category includes all industries having a Standard Industrial Classification of 20 through 39.

- B. Industrial/Commercial; this category recognizes the shift from manufacturing to the service sector in today's economy. In recognition of this trend, the ALC will consider businesses including but not limited to data management, computer software, agri-business, printing, publishing, research and development, warehousing and distribution and other companies that sell typically 60% of its products and/or services to customers located outside of Broome County.
- C. Retail; this category recognizes that under certain circumstances there may be a need for the ALC to consider assisting a retail project. Criteria that should be used in evaluating a retail project should include but not be limited to the following:
 - 1. The project is a catalyst/anchor that will insure the success of a larger planned development or re-development project.
 - 2. Substantial employment and investment will occur as a result of the ALC assistance.
 - 3. The ALC recommends to the BCIDA Board that there is no apparent indication that RLF assistance will result in creating unfair competition with a similar business or businesses in the municipality.
 - 4. In addition to these local policies, New York State General Municipal Law, Section 862 prohibits industrial development agencies assisting retail projects unless some of the following conditions are met. These guidelines should also be used by the ALC in evaluating retail projects:
 - a. Is considered a tourism destination facility
 - b. Is operated by a not-for-profit corporation
 - c. Will locate outside of the State without IDA assistance
 - d. Is located in a highly distressed area
 - e. Makes available goods or services not reasonably accessible
 - f. Preserves or increases permanent jobs
- D. Exception; if warranted, a project may be presented by a business other than those mentioned for consideration if substantial economic impact is determined by job creation and/or retention or any other special criteria that are deemed acceptable.
- E. All applicants must demonstrate need for funds.
- F. RLF loans will normally finance industrial, trading or commercial activities, including assistance for light manufacturing and service industries, where the opportunity for private sector job creation/retention are the greatest. However, credit will be extended at the discretion of the ALC and Board of Directors on a case-by-case basis.

COSTS: The following costs are eligible for funding:

- A. Land costs, associated with the purchase, renovation or construction of a building, including acquisition, site preparation, infrastructure, engineering, legal and other related activities.
- B. Building costs, including acquisition, construction, renovation, engineering, architectural, legal and other related costs.
- C. Machinery and equipment, includes purchase, delivery and installation and related costs.
- D. Working Capital.

5. LOAN PARAMETERS

LOAN SIZE: Loans shall be governed by a \$15,000 maximum cost per job factor based upon a three (3) year new employment or job retention project. The maximum loan for land, building, machinery and equipment (fixed assets) or working capital that one applicant may borrow is \$200,000 or 40% of the total project cost whichever is less. Special consideration for greater participation up to 90% will be given to projects that create high end, high wage positions and/or a substantial number of new job opportunities.

PRIVATE SECTOR INVESTMENT: Loans will preferably be made in conjunction with private sector lending sources, owner equity, private equity or other private or public sources.

EQUITY: Projects will normally require a minimum 10% owner equity and a minimum 40% bank participation. Exceptions to this structure may be considered on a case-by-case basis.

LOAN SECURITY: All loans will be secured by the highest position available on one or more of the following assets: Land, Buildings, Machinery, Equipment, Accounts Receivable, Inventory and/or personal assets or such other assets as are deemed appropriate. In addition loans will require corporate and/or personal guarantees unless a situation exists where such guarantors are not available, (i.e., widely held private corporations).

TERMS: Loans for real estate will have a typical repayment period of ten years; special circumstances can allow for a fifteen year term. Machinery and equipment loans will have a maximum term of eight years or no longer than the useful life of the assets being financed. Working capital loans will have a maximum term of three years; special circumstances can allow for a five-year term.

INTEREST RATE: Title IX loans generally have an interest rate set at seventy five percent (75%) of the lowest published (Wall Street Journal) prime rate, fixed at day of closing. Real Estate loans having a term exceeding five years will have the rate fixed for five-year periods and the Agency reserves the right to adjust it according to market conditions. However, for those projects located in State of New York Economic Development Zones (EDZ), the interest rate will be set at sixty percent (60%) of the prime rate at the time of closing. All other aforementioned terms and conditions apply.

The Board of Directors of the Agency, on the recommendation of the Loan Committee, reserves the right to adjust the interest rate within the limitations set forth by the EDA to a level that will stimulate economic development and enhance program use. The minimum interest rate allowed will not be less than four (4) percentage points below the current U.S. Treasury rate for issues of similar size and maturity.

FEES AND PENALTIES: The Agency charges the following processing fees:

- A. Application fee; \$250.00. This fee is non refundable.
- B. Closing fee; reasonable and customary legal costs, filing and recording fees may be charged.
- C. Failure to meet any of the terms and conditions of the loan may result in an increase in the interest rate of up to two points above the prevailing prime rate.

6. INELIGIBLE LOANS

- A. Speculative activities, such as land banking and the construction of speculative buildings are not permitted since they do not normally result in near-term job creation or retention, nor is any prospective employment normally under the control of the borrower.

- B. Loan activities and economic benefits resulting from these activities must be located within Broome County. Title IX assistance will be withdrawn if for any reason the activity financed is moved from Broome County.
- C. Loans that assist in the relocation of jobs from another labor area are prohibited; also, loans that would allow the relocation of jobs within the local labor area unless there is a demonstrated need.
- D. Loans for the purpose of investing in high interest accounts, certificates of deposit or other investments not related to job creation/retention are prohibited.
- E. Prohibitions concerning Title IX loans that would create a potential conflict-of-interest for any officer or employee of the grantee, or any current member of the grantee's loan administration staff who reviews, approves or otherwise participates in decisions on Title IX loans, are contained in the General Terms of the grant agreement.

Former members of the Board, former members of staff and former members of the Loan Advisory Committee are barred from Title IX assistance for a period of one year from the date of termination of their service to the Board, Loan Advisory Committee or staff position of the grantee or any of its subsidiaries. Loan activities which directly benefit individuals or people related to them by blood, marriage, or law will be prohibited in accordance with the General Terms of the Grant, for a period of one year from the date of termination of service of such related person.

- F. Proceeds from the Title IX RLF cannot be used to purchase equity in private business, subsidize payments on existing loans, refinance loans made by other lenders, provide the equity contribution required of borrowers participating in other Federal loan programs and no loan or guaranty shall be made to any recipient of Federal direct loans or assistance without prior notification of the EDA.

7. LEGAL REQUIREMENTS

All borrowers of the RLF must comply with the requirements of Federal and State and local laws concerning civil rights, the environment, flood protection insurance, and access to the physically handicapped.

8. DELINQUENT LOAN & COLLECTION PROCEDURES

The Broome County Industrial Development Agency as the Administrator of the Title IX loan fund will provide its best effort to collect all monies lent under the Title IX loan program.

Delinquent Loan Definition: All loan accounts that have not had any payment activity during a sixty (60) day period or those loans that are sixty (60) days in arrears.

The Broome County Industrial Development Agency will monitor the monthly repayment activity of all outstanding loan accounts and initiate normal collection procedures, i.e., notice for payments, collection calls and other legal means necessary to collect the outstanding debt. When normal procedures fail to produce the desired results the account will be turned over for legal remedies and pursued to a conclusion.

9. PROCEDURE FOR AMENDMENT

As necessary, the Advisory Loan Committee shall review the overall operations of the Title IX loan fund program. When the need for change or modification of policy arises, the Advisory Loan Committee shall submit such recommendations to the Board of Directors of the Broome County Industrial Development Agency for review and subsequent action.

10. LOAN APPLICATION REVIEW

All loan applications shall be reviewed by the members of the Broome County Industrial Development Agency's Title IX Advisory loan committee. Said committee will provide recommendations to the Board of Directors of Broome County Industrial Development Agency for final approval.