

WASHINGTON COUNTY LOCAL DEVELOPMENT CORPORATION

MICROENTERPRISE LOAN FUND

POLICY GUIDELINES & OPERATING PLAN

**Washington County Local Development Corporation
Microenterprise Loan Fund
Policy Guidelines and Operating Plan**

Section 1. GENERAL

1.1 Policy Guidelines and Operating Plan

The Policy Guidelines and Operating Plan (the “Plan”) is adopted by the Board of Directors of the Washington County Local Development Corporation (the “Board”) and is intended to serve as the primary administrative document for the Microenterprise Loan Fund (the “MLF”). Any changes to the Plan must also be adopted by the Board of Directors of the Washington County Local Development Corporation.

1.2 Objectives

The primary objectives of the MLF are to assist in the establishment and expansion of microenterprise business activity within Washington County, create employment opportunities for County residents, and preserve and expand the County’s tax base.

1.3 Form of Assistance

The MLF will provide assistance in the form of loans.

Section 2. ELIGIBILITY REQUIREMENTS

2.1 Eligible Activities

- (a) The principal business activity which will be primarily impacted by the MLF financing must be located within Washington County. Exceptions to this requirement will be granted only where the Board determines that the expanded business activity will have a direct and significant positive impact on the MLF’s stated objectives.
- (b) MLF assistance may be provided for any commercial business activity which effects the MLF program objectives.
- (c) The business activity to be undertaken with assistance from the MLF must directly result in the creation or retention of employment positions consistent with the low and moderate benefit provisions of the Federal regulations governing the Community Development Block Grant (CDBG) Program. Where no employment creation or retention is projected, the MicroEnterprise owner(s) must be low or moderate income persons as defined by HUD at the time of the loan closing.

2.2 Ineligible Activities

Activities which primarily consist of investing, speculation, or realty ownership held primarily for sale or investment; construction or renovations to buildings; purchase of over-the-road vehicles; any activity which is illegal; and any activity which does not further the objectives of the MLF will be ineligible for MLF financing. In addition, applications will not be accepted where the applicant and/or the proposed activity is ineligible for assistance under the Small Business Act, as amended; such further described in Chapter 1 of Title 13, Code of Federal Regulations, and in Chapter 1, Section 3 of the “Standard Operating Procedures” of the U.S. Small Business Administration (SOP 50-10-3 dated 8/31/91).

2.3 Eligible Borrowers

Eligible borrowers must be a MicroEnterprise, which is defined as a commercial enterprise having five or fewer employees, one or more of whom own the enterprise. The form of the MicroEnterprise may be a sole proprietorship, partnership, or corporation. Loans may also be provided to individuals acting as principals of an eligible entity and who will rent or lease assets to an otherwise eligible borrower.

2.4 Eligible Uses of MLF Funds

MLF funds may be used for any justifiable business purpose including, but not limited to fixed assets, current assets including inventory and receivables, and permanent working capital. The use of MLF funds must also be eligible pursuant to the Federal regulations governing the CDBG Program.

Section 3. MLF STANDARDS

3.1 General

The existing or proposed MicroEnterprise must present a reasonable likelihood for long-term viability based on such factors as management, product, marketability, competition and capitalization. Borrowers must be of generally good

character and credit standing.

3.2 Employment

Where the MicroEnterprise will result in the creation or retention of employment opportunities, a minimum of 51% of those opportunities must be held by, or made available to, low and moderate income persons as defined by HUD. For the purposes of calculating employment opportunities, the following will apply:

- (a) Only permanent jobs will be counted; temporary and construction jobs will not be counted.
- (b) Jobs of 35 or more hours per week will be considered as one full-time job. Part-time permanent jobs of less than 35 hours per week will be converted to full-time equivalent jobs by dividing the number of part-time hours by 40.
- (c) Seasonal jobs will be considered to be permanent jobs if the duration of the working period is long enough to classify the job as the employee's principal occupation.
- (d) Projected employment must be reasonably expected to occur as a direct result of the expanded business activity, and such projection may in no instance extend beyond 36 months from the completion of the expansion.

3.3 MLF Financing Amount

Consistent with the Federal regulations governing the CDBG Program, MLF assistance must be no greater than the minimum amount necessary to effect the business activity. Applicants must therefore demonstrate that all other private and public sources of debt and equity have either been maximized or are inappropriate, unaffordable, or otherwise unavailable.

3.4 Minimum Amount of MLF Assistance

No minimum amount of MLF assistance has been established, however the loan amount must be deemed acceptable and appropriate by the Loan Review Committee.

3.5 Maximum Amount of MLF Assistance

Total MLF assistance provided to a single MicroEnterprise or to any owner of a MicroEnterprise may not exceed the aggregate amount of \$25,000.

Section 4. LENDING POLICIES

4.1 General

MLF loans *may* have an initial deferral of principal and interest payments for six (6) months. No interest will be charged or accrued during this period. Prior to the expiration of the six month period, the WCLDC will evaluate the borrower's financial condition and business development status and take one of the following actions to become effective at the end of the six month period:

- (a) Inform the borrower that the loan repayment will commence according to the terms established pursuant to Sections 4.2, 4.3, and 4.4 of this Plan; or
- (b) Extend the deferral for an additional period not to exceed six months. No interest will be charged or accrued during this period. The granting of such additional deferral will be contingent upon the borrower's agreement to accept or procure any technical assistance required by the WCLDC as a condition of the deferral. At the expiration of this second deferral period, the WCLDC will inform the borrower that the loan repayment will commence according to the terms established pursuant to Sections 4.2, 4.3, and 4.4 of this Plan.

4.2 Term of Loans

The MLF loan term will generally be consistent with the life of the assets being financed, with such periods being consistent with standard commercial lending policies and in no instance exceeding seven (7) years plus the deferral period(s). For all loans, the term will be determined by the WCLDC based upon such factors as the structure of other related loans, the nature of the collateralized assets, and the borrower's projected ability to repay the loan.

4.3 Interest Rate

The interest rate charged for the use of funds will be determined by the LDC as follows: 75% of Wall Street Prime at the time of closing; fixed, with a floor of 5% and a ceiling of 9%. Under no circumstance will a variable interest rate be used.

4.4 Repayment Terms

The WCLDC will determine the schedule of loan repayments on a case-by-case basis based on the applicant's projected ability to repay the loan, the projected value of the collateral and other security, and the overall risk assumed by the MLF. Repayment terms may involve standard forms of loan authorization, periods of accruing interest or interest on payments, extended amortization schedules with balloon payments of principal, and/or such other terms as may be determined by the WCLDC to be appropriate.

4.5 Security

The WCLDC will determine the required security for each loan on a case-by-case basis based on such factors as the risk of default, the nature and value of the security, and the position of the MLF in relation to other lenders. In determining the appropriate security, the following will apply:

- (a) The WCLDC will generally require a security interest in all assets financed with MLF funds. Additional collateralization of assets of the borrower may be required at the WCLDC's option.
- (b) For loans to corporations, the WCLDC may require the personal guarantee of all owners of at least 20% of the voting stock of the company.
- (c) For loans to closely-held corporations, the WCLDC may require collateralization of selected personal assets of one or more of the owners.
- (d) For loans to individuals, partnerships, or corporations which have affiliated interests and/or identities of ownership with other business entities, the WCLDC may require additional guarantees.

4.6 Subordination

- (a) The WCLDC will generally allow a subordination of MLF debt and collateral to private institutional lenders where necessary to facilitate the maximum financial participation by the private lenders.
- (b) The standing of the MLF's financing relative to other public or quasi-public lenders will be negotiated on a case-by-case basis.
- (c) The WCLDC will generally require subordination to MLF financing of notes payable to any officer, owner, or similarly affiliated party to the borrower where appropriate and feasible. Such subordination may include subordinate security interests and/or repayment restrictions.

Section 5. APPLICATION PROCESSING

5.1 Loan Applications

Applications for MLF financing must include all of the information required by the MLF Application Form and any additional information as may be reasonably requested by the WCLDC.

5.2 Application Fee

A non-refundable application fee of \$150 is due at the time of submission of the application for Program financing.

5.3 Application Processing

The processing of loan applications will be the responsibility of the WCLDC and will generally consist of the following:

- (a) Review of applications for completeness and procurement of appropriate additional information.
- (b) Review for MLF program eligibility criteria and eligibility pursuant to Federal CDBG regulations.
- (c) Determine economic feasibility, perform credit analysis, and assess risk.
- (d) Determine amount and terms of MLF financing, including appropriate security.
- (e) Perform appropriateness review in conformance with HUD guidelines.
- (f) Prepare written report to the Loan Review Committee summarizing the review process and providing

recommendations as appropriate.

5.4 Loan Review Committee

The WCLDC Board has established a Loan Review Committee to review loan applications.

5.5 Loan Approval

The Loan Review Committee shall have sole authority to approve MLF loans. Such authority shall include the commitment to lend MLF funds, the interest rate(s) to be charged, the repayment terms, and the requisite security for the loan. The application of other appropriate conditions of lending and covenants of the borrower shall be the responsibility of the WCLDC Attorney with input from the WCLDC staff and the Loan Review Committee.

5.6 Loan Disapproval

- (a) Loan applications may be disapproved by the President or Executive Director of the WCLDC based on a lack of application completeness or a failure to meet the eligibility criteria pursuant to Sections 5.3(a) and 5.3(b) of this Plan respectively. In such instances, the applicant will be notified in writing of the reason(s) for disapproval.
- (b) Loan applications may be disapproved by the Loan Review Committee for any reason or reasons which represent a reasonable determination that the approval of the MLF application would not meet the objectives of the MLF program and/or would not represent an appropriate or prudent use of MLF funds. In such instances, the applicant will be notified in writing of the reason(s) for disapproval.

Section 6. POST-APPROVAL PROCESS

6.1 Commitment Letter

Within ten calendar days from the date of the Loan Review Committee's approval of a Program loan, a commitment letter shall be sent to the applicant and will include, at a minimum, the following information:

- (a) The amount of the loan approval, the applicable interest rate, the term of the loan, the terms of repayment and the expiration date of the commitment.
- (b) The required use of the loan funds.
- (c) The LDC's requirements for collateral and additional security - including guarantees, pledges of assets, assignment of life insurance, etc.
- (d) Summary information regarding employment requirements.
- (e) Any other conditions of lending.
- (f) A listing and explanation of any fees to be charged and other closing costs which will be the responsibility of the borrower.
- (g) A listing of those conditions and requirements of the borrower which must be fulfilled precedent to a loan closing.
- (h) Any other information which could reasonably be expected to influence the borrower's decision to accept the terms of the loan commitment.

6.2 Closing Costs

To secure the availability of Program funds and to partially defray the cost of loan application processing, the borrower shall be required to pay a commitment fee equal to two percent (2%) of the approved Program loan amount. One percent (1%) shall be paid to the LDC concurrent with the borrower's acceptance of the terms and conditions of the commitment and one percent (1%) shall be paid at closing.

6.3 Loan Closings

The LDC Attorney shall have the responsibility to prepare and/or require the preparation of all appropriate closing documents. The LDC Attorney shall determine the appropriate closing documents to be executed based upon the terms and conditions of the loan approval and standard commercial lending policies. Such documents shall generally include the following:

- (a) A loan agreement that includes a description of the loan terms and security, appropriate representations

and warranties, the conditions of lending, affirmative and negative covenants - including compliance with applicable federal laws and regulations, requirements regarding employment creation and reporting, default provisions and any other provisions that may be appropriate.

- (b) A note or notes to evidence the indebtedness and the terms of repayment.
- (c) The appropriate documents to evidence and record mortgages, liens, guarantees and such other security as may be required by the terms of the loan
- (d) Other appropriate documents as determined by the LDC Attorney.

6.4 Security

The LDC Attorney will be responsible for perfecting all of the LDC's security interests including, where appropriate, the execution of security agreements, the filing of financing statements, the execution and filing of mortgage documents, the execution of guarantees and any other appropriate actions to adequately protect the LDC's security interests. Inter-creditor agreements should be executed where appropriate to further protect the LDC's interests and to facilitate the processing of defaults and foreclosures.

6.5 Loan Disbursement

The disbursement of loan proceeds shall be the responsibility of the LDC staff. For such disbursement, the following guidelines shall generally apply:

- (a) Subject to the borrower's compliance with the terms and conditions of the loan agreement, all documents evidencing and securing the loan, and other guidelines for disbursement as described in this Section 6.5, the LDC may disburse loan proceeds upon the borrower's presentation of vouchers and other such evidence satisfactory to the LDC that represent paid or accrued expenses of the borrower and which are eligible costs as determined by the LDC.
- (b) Where other debts or equity financing is to be used in conjunction with the Program financing, such debt or equity must, in the opinion of the LDC staff, be firmly committed for such use. Evidence of the commitment(s) must be submitted by the borrower.
- (c) Where other debt or equity financing is to be used in conjunction with the Program financing, the LDC will, at its discretion, determine an appropriate draw schedule for Program funding based on such factors as the magnitude of risk assumed by the LDC, the nature of the activities being financed, the draw schedule for the other financing and applicable federal regulations for the use of CDBG funds. The manner and terms of the disbursement of the Program financing shall be prescribed by LDC staff.

Section 7. LOAN MANAGEMENT

7.1 Delinquencies

The LDC staff will contact the borrower within 14 days of any delinquency of payment to inform the borrower of the delinquency and to determine if there is a need to procure additional information or to provide technical assistance. Delinquencies that continue for 90 days will be referred to the LDC Attorney for further action.

7.2 Annual Financial Review

The LDC staff will be responsible for conducting an annual financial review for all borrowers based primarily on the annual financial statements submitted by the borrower. Additional information may be procured as appropriate. The reviews will be presented to the Loan Committee for further action or recommendations as appropriate.

7.3 Adjustment of Terms and Conditions

Requests by the borrower for adjustment of any of the terms and conditions of the loan will be reviewed by the LDC staff to determine whether the adjustment is in the best interests of the LDC. Requests will be processed in accordance with the following:

- (a) Requests to adjust the interest rate, term of the loan, or security for the loan will be reviewed by the LDC staff, presented to the Loan Committee for review and action. Any such adjustments will require approval of the Loan Review Committee.
- (b) Requests to accrue interest or to pay interest only may be approved by the President or Executive

Director of the LDC for a period not to exceed 60 days. The Loan Committee will have the authority to extend the period at its discretion.

- (c) Requests for changes respecting any covenants or conditions of a financial nature must be approved by the Loan Committee as to content and the LDC Attorney as to form.
- (d) Requests for any other changes to the covenants or conditions of the loan including, but not limited to, such areas as reporting requirements, cost documentation and maintenance of records may be approved by the President or Executive Director of the LDC or referred to the Loan Committee at the President's or Executive Director's discretion.

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