



Development
Services Agency

Program Income Policies and Procedures Guidelines

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The Office of Community Development (OCD) is responsible for the oversight of program income derived from the Small Cities Community Development Block Grant (CDBG) and HOME Program. The following document will provide guidance and procedures that OCD utilizes in the administration of program income. In order to provide guidance and decisions pertaining to program income, OCD relies on five sources of authority. The five include the following:

1. The Housing and Community Development Act of 1974, as amended;
2. 24CFR Part 570;
3. The State of Ohio Consolidated Plan, as amended from year to year;
4. Policy memorandums issued by OCD; and
5. The local Revolving Loan Fund plan.

The Program income policies are interpretations of federal regulations by OCD designed to provide guidance for the administration of the CDBG and HOME Revolving Loan funds by the units of local government.

Program Income Policy

A. “Program Income” means gross income received by a unit of general local government or a sub-recipient of a unit of local government that was generated from the use of CDBG funds, except that program income does not include the total amount of funds which is less than \$25,000 received in a single year that is retained by a unit of general local government and its sub-recipients. When such income is generated by an activity that is partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used.

1. Program income includes, but is not limited to the following:
 - i. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
 - ii. Proceeds from the disposition of equipment purchased with CDGB funds;
 - iii. Gross income from the use or rental of real or personal property acquired by a unit of general local government or a sub-recipient of a unit of general local government with CDGB funds, less the costs incidental to the generation of such income;
 - iv. Gross income from the use or rental of real property owned by the unit of general local government or a sub-recipient of a unit of general local government that was constructed or improved with CDGB funds, less the costs incidental to the generation of such income;

- v. Payments of principal and interest on loans made using CDBG funds;
- vi. Proceeds from the sale of loans made with CDBG funds;
- vii. Proceeds from the sale of obligations secured by loans made with CDBG funds;
- viii. Interest earned on funds held in a revolving fund account;
- ix. Interest earned on program income pending disposition of such income;
- x. Funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG portion of a public improvement; and
- xi. Gross income derived from the ownership interest in a for-profit entity acquired or purchased with CDBG funds.

2. Program income does not include:

- i. Interest earned (except for interest earned on a lump sum drawdown for financing of property rehabilitation activities within the current applicable requirements governing such lump sum draw downs) on cash advances from the U.S. Treasury. Such interest shall be remitted to HUD for transmittal to the U.S. Treasury and will not be reallocated under section 106 (c) or (d) of the Act. Examples of other receipts that are not considered program income are proceeds from fundraising activities carried out by sub-recipients receiving CDBG assistance; funds collected through special assessments used to recover the non-CDBG portion of a public improvement; and proceeds from the disposition of real property acquired or improved with CDBG funds when such disposition occurs after the applicable time period specified in 24 CFR 570.489 (j).
- ii. Interest earned by units of general local government on grant funds before disbursement of the funds for activities is not program income and must be returned to the U.S. Treasury, except that the unit of local government may keep interest amounts up to \$100 per year for administrative expenses.

B. "Revolving fund" means a separate fund (with a set of accounts that are independent of other program accounts) established for the purposes of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out such activities.

- 1. Payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the state for revolving fund activities.

2. A revolving fund established by a unit of general local government may not be directly funded or capitalized with grant funds.
3. Expenditures from the revolving fund account must be made in accordance with the unit of general local government revolving fund plan as approved by the state, and according to all applicable federal and state laws and regulations.

C. Program income retained by a unit of general local government.

1. Program income may be retained by the unit of general local government if the program income will be used to continue the activity from which the program income was derived. The state will determine when an activity will be considered to be continued. Funds not to be expended in the same manner must receive prior approval from the state. The state reserves the right to recapture local program income from communities which fail to adequately meet statutory and regulatory requirements. Any program income derived by the grantee through the administration of economic development funds must also be expended according to applicable federal and state statutory and regulatory requirements. Smaller units of government that do not have an ongoing grant relationship with OCD or an existing Revolving Loan fund, will be required to arrange Revolving Loan Fund agreements with the county in which they are located. OCD will evaluate the grantee's ability to effectively administer a local Revolving Loan Fund at the time of application approval. If it is determined that the local Revolving Loan Fund is not being satisfactorily administered, collateral effectuation, promissory notes, and loan repayments must be provided to the state. A determination on what constitutes a "satisfactorily administered" Revolving Loan Fund is the sole discretion of the state.
2. The unit of general local government, to the maximum extent feasible, is required to disburse program income that is subject to CDBG requirements before requesting additional funds from the state for activities, except as provided in (b) (1) of this policy.
3. The unit of general local government must maintain financial records on the receipt and expenditure of program income funds separately from the other CDBG program funds currently being administered at the local level. The total amount of program income on hand must also be reported when submitting a drawdown request for CDBG funds (Request for Payment and Status of Funds Report – Form DS5). In addition, documentation must be maintained, by activity, as to how the program income expenditure(s) meets a CDBG national objective as well as other program requirements.
4. The unit of general local government is required to submit to OCD, at least annually, a status report on program income received and expended for the previous 12-month period as well as projected levels of program income for the upcoming 12-month period. Units of general local government administering local revolving funds for economic development or housing activities must report on a semi-annual basis using the Semi-Annual RLF Status Report.

5. Program income that is received and retained by a unit of general local government is treated as additional CDBG funds and is subject to all applicable requirements of the CDBG Program, including but not limited to, prevailing wage, environmental review, eligibility, national objective, etc.
6. The unit of general local government must demonstrate to the state's satisfaction that these program income funds will be or have been expended in compliance with CDBG requirements, or program income funds must be returned to the state. The state will evaluate the grantee's administration of program income funds based on administrative capacity, timeliness in submitting reports, timeliness in expenditure of program income funds, and documented compliance with CDBG requirement.

D. Program income retained after closeout

1. For federal fiscal year 1992 and previous years' CDBG funds, program income that is received and retained by the unit of general local government, after closeout of the grant that generated the program income, is not subject to the CDBG requirements, except:
 - i. if the unit of general local government has another ongoing CDBG grant from the state at the time of closeout, the program income continues to be subject to the CDBG requirements as long as there is an ongoing grant; and
 - ii. if the program income is used to continue the activity that generated the program income, the CDBG requirements apply to the program income as long as the unit of general local government uses the program income to continue the activity. The state will determine when an activity will be considered to be continued.

At the point of closeout of a grant, the unit of general local government must provide the state with information concerning the amount of program income on hand.

2. For federal fiscal year 1993 and future years, any program income that is received and retained by the unit of general local government, even after closeout of the grant that generated the program income, is subject to CDBG regulations.

E. Program income activity expenditures

1. Program income generated through an economic development revolving fund capitalized by Economic Development or Formula Program funds must be expended on additional loan financing to eligible businesses. The unit of general local government may, however, use a portion of the revolving fund for eligible public infrastructure improvements resulting in job creation upon prior approval by the state.

2. Program income generated through housing rehabilitation activities from a Comprehensive Housing, Community Housing Improvement or Formula Allocation Program grant must be expended on eligible housing rehabilitation primary activities, such as owner or renter occupied rehabilitation, emergency home repair, weatherization, water or sewer tap ins, etc. The unit of general local government may expend CDBG Housing program income funds on secondary activities provided that a housing program is being undertaken in a defined target area and OCD has given prior approval to the targeted program and secondary activity expenditures.
3. Program income generated from activities other than downtown revitalization and economic development revolving funds and housing rehabilitation may be expended on any eligible CDGB activity.
4. Program income generated through a local rental rehabilitation program must be used to continue the rental rehabilitation activity.

F. Program Income Agreements

Effective calendar year 2003, OCD required legal agreements between the unit of local government receiving CDBG Economic Development Program Income and OCD. The agreement is valid for three years and is required in order for the community to maintain the ED Program Income.

Effective calendar year 2006, OCD required legal agreements between the unit of local government receiving CDBG CHIP or HOME program income and OCD. The agreement is valid for three years and is required in order for the community to maintain the Housing Program Income.

G. Timely Disbursement of OCD Available Balance

Pursuant to 24 CRF 570.504, OCD requires that substantially all program income cash on hand be disbursed for loans, or committed for loans (as outlined in OCD loan commitments policy), or held as required reserve for RLF liabilities, before additional funding will be awarded via the CDBG Economic Development Program.

Any RLF balance in excess of \$100,000 will be deemed by OCD to be a substantial amount and will be required to be disbursed first **before applying for other CDBG Program funds** by this policy.

Communities which have continually (one year or more) maintained an excessive cash balance in the local RLF may be instructed to use the excess cash on a yearly basis in conjunction with the CDBG Formula Allocation Program or for **any eligible CDBG project**.

ECONOMIC DEVELOPMENT REVOLVING LOAN FUND

GENERAL GUIDELINES AND INSTRUCTIONS

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I. Goals and Objectives

The goal of the RLF program is to enable eligible communities to overcome specific gaps in local capital markets that inhibit business and industry from obtaining suitable credit, and thereby impede local economic growth and stability.

The primary goal of each RLF project will be private sector job creation or retention of which at least 51 percent of such jobs must be taken by or made available to persons from low and moderate-income households.

II. Eligibility Requirements

A. Eligible Communities

The Office of Housing and Community Partnerships (OCD) is seeking to limit the number of RLF's in operation. A city that does not currently have a Community Development Block Grant (CDBG) ED RLF may be awarded a CDBG Economic Development (ED) grant but must arrange for receipt of loan paybacks, and other loan servicing with a pre-existing fund operated either by the county or nearby community. Only counties will be eligible to establish a new RLF. **(Exception: A city that receives an Economic Development Loan and the county in which they reside currently doesn't have a RLF, OCD will look at on a case by case basis. OCD will look at the city's capacity to administer a RLF.)**

RLF's may be administered by community based non-profit organizations, small business investment corporations or local development corporations that have legal authority to make loans.

A written "administrative agreement" must exist between the community and the RLF administrator. At a minimum, provisions in the "agreement" should entail a statement of work, records and reports to be maintained, requirements for how the program is to be managed, and provisions for suspension and termination of the agreement. **NOTE: Final authority for approving loans at the local level lies with the Chief Elected Official (CEO) of the community.**

B. Revolving Loan Fund Plan

Communities must have an OCD approved Revolving Loan Fund RLF Plan. The RLF Plan provides the local RLF with policies and procedures for the implementation of the RLF. The local RLF Plan should be updated every five years so that recent changes to the program can be incorporated.

C. Revolving Loan Fund Board

The Governing Board of the Revolving Loan Fund (LRF) must be appointed by the elected authority of the RLF jurisdiction and shall represent a broad cross section of community interests.

The board must include members representing the LMI community and members with financing experience. The board may also include members representing active economic development organizations in the area and members representing other identifiable community segments. In areas where there is a significant minority population, the board must include appropriate minority representation. The RLF files must maintain a list of active board members, whom they represent, and their term of office.

D. Eligible Borrowers

In general, only private, for-profit entities are eligible borrowers for RLF loans. A non-profit agency may borrow from the RLF if the request will carry out a fundable activity. Prior to this taking place, the community must submit a written request explaining the project before the Loan Review Report Form (LRRF) is completed.

For a business with an open RLF loan to obtain additional RLF loans, it must have successfully completed the initial project, reached its job creation commitment, and demonstrated compliance with all other terms of the agreement.

E. Eligible Types of Loan Activity

The following are eligible types of RLF loan activity:

1. Fixed assets for acquisition and/or improvement of land, building, equipment, new construction or renovation of existing facilities, demolition and site preparation.
2. Working capital loans for start-up of new businesses or existing businesses will be limited to thirty percent (30 percent) of the RLF program income the grantee receives in one year. **(Exceptions to this limit will be looked at on a case by case basis and can only be overridden with written consent of OCD.) NOTE: The maximum term on a working capital loan is five (5) years.**

A loan made with the RLF must submit a Loan Review Report Form (LRRF) to OCD at least two weeks prior to disbursement of the loan. The OCD review of the LRRF will consist of primarily gaining assurances that the required analysis of the Appropriate Nature of the loan has been conducted, the project is eligible and national objective compliance has been documented.

F. Other—Eligible RLF Grant Activities

The community's RLF can make a grant for an infrastructure project as long as there is job creation and/or retention in the private sector. A RLF infrastructure grant must meet the same criteria as the CDBG ED program. (i.e. off-site/grant; on-site loan)

For infrastructure projects, the community must submit the Infrastructure Review Report Form (IRRF) as long as the infrastructure investment is directly related to the business.

With an approved waiver, the RLF funds can be used for any CDBG eligible activity as long as that activity meets a national objective. The RLF can also be used in conjunction with the other CDBG eligible programs. (i.e. Formula Allocation, Water & Sewer, Downtown Revitalization, etc.)

G. Ineligible Activities

The following are a list of activities that **cannot** be funded as fixed assets with RLF funds:

1. This would include refinancing of existing debt, non-capital equipment, inventory, rolling stock, using the RLF as seed money for an activity, operational cost (i.e. salary), and training costs.
2. Financing of a project that involves the relocation of an industry or business from one Labor Market Area to another as defined by OCD and HUD.

This evidence must be submitted to OCD for review to make the final determination.

3. The RLF cannot be used in the financing of speculative projects (i.e. a spec building or land banking).

H. Eligible Administrative Costs

Revolving Loan Funds may expend twenty (20 percent) or \$50,000, whichever is less of program income the community receives each year on administrative costs. The program income is the principal and interest received on the loan fund in a calendar year. Program income is looked at as being on a "cash basis" meaning year to year. Therefore, a community that does not utilize all of the administrative cost they are eligible for one year and over charge the fund the following year, will have to reimburse the RLF fund the overage amount. It is looked at year to year and is not retroactive. (Exception: If a community can prove over a period of consecutive years that the RLF administrative line item was under utilized, the community may be able to recapture the difference. OCD will look at this on a case by case basis.)

Eligible administrative costs include salaries, supplies, utilities, marketing costs, and similar expense necessary for managing the RLF portfolio and implementing the RLF projects. **All costs must be exclusively related to RLF activities and supported by detailed timesheets and work logs, and paid invoices that must be kept in the RLF files.**

In the event the RLF is used in conjunction with any other CDBG program, the administrative costs guidelines will apply for that program. All costs and regulations concerning procurement and financial management must be documented.

NOTE: Planning activities shall not exceed ten percent (10 percent) of the total amount program income received in one year up to a maximum of \$10,000. This will not be charged against the administrative cap.

III. Financing Threshold Requirements

The Borrower and financial thresholds for RLF lending are generally the same as the thresholds for participation in the CDBG Economic Development Program, except that the number of created/retained jobs per project may be fewer than five (5).

The maximum RLF award is consistent with the CDBG Economic Development Program. The borrower will not be allowed to receive the maximum amount of both pools. The borrower can do a combination project (i.e. loan and infrastructure), but the RLF award will be based on the lesser of the maximum amount that can be awarded.

The RLF will mirror the CDBG Economic Development Program in that projects must be completed in 12 months and job creation must be completed within 24 months of project completion.

Application thresholds include the following:

- 1) at least 51 percent of full-time permanent jobs created and/or retained must be taken by or made available to persons from low to moderate income households;
- 2) the cost per job must not exceed \$25,000 for loans and \$10,000 for infrastructure projects;
- 3) each dollar must leverage at least one dollar of other public or private investment (including equity and contributed equity) in the project's fixed assets costs; RLF cannot be more than 50 percent of the project;
- 4) the owner/developer must invest at least 5 percent in cash equity toward the projects fixed asset cost; and
- 5) at least 15 percent of the project's fixed asset costs must be privately financed---this may include owners/developers equity.
- 6) no portion of the project can move forward or be closed prior to receiving an environmental release from OCD on the **entire** project (not just the RLF portion).
No exceptions.

IV. Disbursement of RLF Funds

Communities must initiate the disbursement of RLF in the following manner:

- 1) must receive approval of the Loan Review or Infrastructure Review Report Form from OCD;
- 2) must receive approval of all waiver requests from OCD;
- 3) **must complete an environmental review and receive release of funds from OCD before any portion of the project can move forward;**
- 4) the grantee must complete a closing binder document for each RLF loan/grant made to the borrower before disbursement of funds;
- 5) upon receiving OCD approval, the grantee by resolution and/or ordinance must allocate the funds and submit a copy to OCD.

In particular, the RLF administering agency must be able to demonstrate and communities must keep records, showing that proper invoices or other evidence of the actual costs of the borrower's expenses were documented before disbursement of RLF funds. The community must also ensure that their disbursements are only for items approved under the agreement with the borrower. Overall, the communities must ensure that all CDBG rules and regulations are adhered to prior to disbursement of funds.

V. Recordkeeping and Reporting

The community must maintain all records of financial, programmatic, and compliance activities in accordance with procedures outlined in the Ohio Small Cities CDBG Handbook.

All loans and infrastructure grants approved must contain an authorized signature from the community's CEO. This will certify that all the requirements for "appropriate" and "national objective" determinations were followed in the financial analysis and structure of each loan or infrastructure grant.

All communities must report to OCD, on a semi-annual basis—(August 15 and February 15) of each year, the loan(s) made, the amount of RLF loan, **the date the loan closed**, and the job creation/retention that occurred during that six month reporting period. (The reporting period is June 30 and December 31 of each year.) **Failure to submit reports in a timely manner may result in the community's OCD administered funds being put on hold.**

Once job creation has been met, the community must submit a copy of the Job Certification Form signed by the company and community or the Job Verification Forms for the jobs that were created/retained and make sure both forms are kept on file in the borrowers' record.

Before any loan can be removed from the Semi-Annual Report, the community must provide the following evidence:

- 1. the loan payoff—provide evidence that loan has been paid in full;**
- 2. job information—submit job certification showing job creation; and**
- 3. loans in default—provide evidence via community’s attorney that due diligence has been made to collect on the loan.**

VI. General Overview of RLF—Other Uses

1. The RLF can be used for any CDBG eligible activity as long as it meets a national objective and it receives prior approval from OCD.
2. The RLF can be used in conjunction with any CDBG Program. The community must notify the RLF Coordinator of their intent with \$\$ amount(s).
3. All CDBG rules and regulations must be adhered to when using RLF funds. (i.e. environmental review, proper procurement procedures, labor standards, etc.)
4. When the RLF is used with another program (i.e. Water & Sewer, Downtown Revitalization, etc.) those program guidelines apply to the RLF.
5. **Most important thing to remember is with all RLF projects no portion of the project can move forward until all rules and regulations are met.**
6. Communities with large RLF balances and/or no activity (within 1 year) will be required to use their RLF on CDBG eligible activities unless a plan of action is provided outlining its use and timeline.
7. Any questions regarding the RLF should be directed to the RLF Program Income Coordinator at (614) 466-2285.

ATTACHMENTS

Revolving Loan Fund "Appropriate" Analysis and National Objective Compliance

The community must document that each CDBG loan is fundable in that (a) it is an eligible activity and meets the appropriate requirement and (b) it meets a national objective by ensuring that jobs are available to and/or taken by persons of low- and moderate-income households.

The first part of this requirement must be met by conducting a financial analysis of the business' need for CDBG assistance. This analysis should consist of the following steps at a minimum:

Appropriate Determination

A. Reasonableness of Proposed Project Costs

The grantee must review each project cost element and determine that the cost is reasonable and consistent with third-party, fair-market prices for the cost element.

The general principle is that the level of CDBG assistance cannot be adequately determined if the project costs are understated or inflated. The provision of CDBG assistance beyond the true cost of the project would be inappropriate.

B. Commitment of Other Sources of Funds

The grantee shall review all projected sources of funds necessary to complete the project. The grantee shall verify that all sources (in particular private debt and equity financing) have been firmly committed and are available to be invested in the project.

The general principle is that the grantee, when the grantee acts in the role of a lender, should take all reasonable steps to ensure that other committed resources are available.

C. No Substitution of CDBG Funds for Private Sources of Funds

The grantee shall financially underwrite the project and ensure that CDBG funds are not being substituted for available private debt financing or equity capital. The analysis must be tailored to the type of project being assisted (i.e., real estate, user project, capital equipment, working capital, etc.). Real estate projects require different financial analysis than do working capital or machinery and equipment projects.

The analysis must determine the need for CDBG financial assistance, the amount of CDBG financial assistance needed and the likelihood of the project's success. For example, a business' need for CDBG assistance may be based upon a lack of sufficient capital and access to standard sources of credit or the additional locational costs and risks of locating in a lower income neighborhood, which, without CDBG assistance, would result in unsatisfactory rate of return on equity.

Note that there may be some limited circumstances in which there is no provision for a cash equity investment in the project. Such situations may include a business owner who already owns an asset, such as land, a building, or equipment that will be invested in the project in lieu of cash equity. In these cases, the grantee should verify the inability of the business to make an equity investment (based upon the conclusion of its financial underwriting discussed above) and establish appropriate CDBG financing terms (see D. below) to ensure that the business owner is not unduly enriched.

The grantee should carry out these reviews consistent with generally recognized industry standards for the type of project involved, the rates of return on equity investment and level of risk. Again, the general principles are: it would be inappropriate to substitute CDBG funds for available private debt financing or equity; and it would be inappropriate to assist a project which has no likelihood of success regardless of the amount of assistance.

Front-end analysis is especially critical in cases where CDBG funds are spent for "up-front" costs, such as land acquisition or construction of speculative buildings. **Grantees should ensure both that a significant equity commitment by the for-profit business exists, and that the level of certainty of the end use of the property or project is sufficient to ensure the achievement of national objectives within a reasonable period of time.**

D. Establishing CDBG Financing Terms

The amount of CDBG assistance provided to a for-profit business should be limited to the amount, with appropriate repayment terms, sufficient to allow the project to go forward without substituting CDBG funds for available private debt or cash equity. The grantee should structure its repayment terms so that the business is allowed a reasonable rate of return on invested equity, considering the level of risk of the project. A neighborhood grocery in a high crime area is riskier than the same grocery in a low crime neighborhood. The project's file should demonstrate the basis for the term of the loan, the rate of the loan and any other special financing terms granted which in the judgment of the grantee are appropriate for financing the project.

A grantee **is not** expected to so limit the provision of CDBG financial assistance as to jeopardize the chance of success of the project. At the same time, it is inappropriate to substitute CDBG funds for equity funds if the project's rate of return suggests additional equity should be invested. **It should be remembered that equity funds should bear the greatest risk of all funds invested in a project.**

E. Assessing Public Benefit

The extent of public benefit expected to be derived from the economic development project must be assessed. While no standards have been developed, the assessment of public benefit should consider such factors as the number and type of jobs to be created or retained, in relation to the needs of low- and moderate-income and other persons who are likely to be employed, the extent to which a business provides essential services to low- and moderate-income neighborhoods, and increases to the tax base including property, sales and income taxes in the area. Note that these factors are not all inclusive. The recipient is expected to document those public benefit factors it considered. In assessing the extent of public benefit with the amount of CDBG assistance provided to the project, consideration should also be given to the risk of the project and the affect on public benefit if the project fails.

The above reviews for "appropriateness" should be made by the grantee and documented in the project's file before CDBG assistance is committed to the business.

National Objective Compliance

1. At a minimum, communities must document that for every loan made **or infrastructure grant**, at least 51 percent of the jobs created or retained were taken by or made available to persons from low- and moderate-income households (below 80 percent of median income). These income limits are based upon the Section 8 income limits of that county. When making judgments about whether an individual is low- or moderate-income, both the family size and income of the entire family must be considered.
2. The evaluation of the loan **or infrastructure** application must include verification that 51 percent or more of the jobs **will be** taken or made available to persons from low- and moderate-income households. The determination should involve an analysis of the future job classifications and whether those jobs require special skills.

Once a loan **or grant** is made and the business begins hiring, the community must verify that those jobs are **actually** being made available to low- and moderate-income persons. In order for the business to demonstrate availability to persons from low- and moderate-income households, the business must agree to either (1) obtain and keep on file for verification information about the persons name, household size, and range of household income; or (2) agree to consider referrals from The Ohio Department of Jobs and Family Services or local employment agency, which will evaluate an individual's income prior to that referral. OCD will accept a written certification by a person of his or her family income and family size to establish the low- and moderate-income status. The forms for such certification must include a statement that the information is subject to verification.

The Job Benefit Verification form must be used to document meeting the low- and moderate-income national objective. Once the jobs expected to be credited as a result of the project are in place, the business and community must complete and sign the Job Certification form.

The Job Benefit and Job Certification forms are included in the policy book.

3. A business claiming job retention **must first** provide documentation from a third party source that a closing or move, which would result in a job loss is imminent. **Second**, the business must verify that 51 percent of the jobs claimed to be retained by the project are held by persons from low- and moderate-income households. OCD requires that documentation of both these issues be available for review.

While third party documentation concerning the loss of jobs may vary (i.e., newspaper accounts, independent financial advisors), the evidence provided must be specific in demonstrating that the loss of jobs is imminent. If in packaging the project the information is less than specific -- request more information from the business or contact OCD to determine if the available information is adequate.

Documentation of the required 51 percent benefit to persons from low- and moderate-income households in a retained job situation can only be accomplished by determining the status of the employees who will lose their jobs. OCD requires that a survey of those employees be taken. The information needed to make a determination of low- and moderate-income status will be: 1) the individual's name; 2) their household size; and 3) whether the employee's household income is at or below the corresponding Section 8 Income Limits -- 80 percent of the county median income for that county for that household size. OCD requires the Job Verification Benefit form be completed for each affected worker.

4. **RLF activities should be completed within one year of approval. Should the grantee need additional time, they must submit a written request to extend the timeline. Job creation must be completed with 24 months of project completion.**

National Objective Checklist

1. The National Objective for this project is to benefit persons of LMI households.

2. LMI Benefit
 - a. Total existing jobs _____
 - b. Number of jobs to be created _____ retained

 - c. Number of jobs for persons of LMI households to be created _____
retained _____
 - d. Percentage (%) of jobs created/retained for persons of LMI households

 - e. Number of minority jobs existing _____; to be created _____
 - f. Number of female jobs existing _____; to be created _____

3. Will the project meet the 51 percent LMI benefit requirement? Yes ___ No ___

Appropriate Checklist

1. Type of Project: user _____; developer _____; combination _____

2. Evaluation of Project Cost:

a. Costs listed in the chart are verified? Yes _____ No _____

How? _____

b. Costs are justified and reasonable: Yes _____ No _____

c. Source/method of verification: _____

3. Verification and Maximization of Private Funds:

a. Evidence exists to demonstrate that an effort was made to maximize private funds?

Yes _____ No _____

Explain: _____

b. Evidence exists to demonstrate that an effort was made to verify other public/private funds? Yes _____ No _____

Explain: _____

c. Private funds are firmly committed? Yes _____ No _____

d. Describe any conditions on use of funds (if any):

4. Rational for Assistance:

a. Financing Gap: Used _____ Not Used _____

i. Evidence exists to demonstrate gap? Yes _____ No _____

ii. Amount of Gap? _____

iii. Amount of CDBG provided? _____

b. Rate of Return: Used _____ Not Used _____

i. Evidence exists that lack of adequate return on investment justifies assistance? Yes _____ No _____

Explain: _____

ii. Rate of return without assistance is: _____

Rate of return with assistance is: _____

iii. Identify methodologies used to determine rate of return.

iv. Is return, after assistance, consistent with industry standards:

Yes _____ No _____

v. Describe method used to compare with industry standards:

5. Sizing/Pricing Assistance:

a. Does the amount, rate and term ensure that the assistance is not excessive in terms of making the project financially feasible?

Yes _____ No _____

b. Likewise, does the amount, rate and term ensure that the assistance is adequate in terms of making the project financially feasible?

Yes _____ No _____

If no to either, briefly describe why:

c. Has borrower agreed to terms in writing: Yes _____ No _____

6. Public Benefit

a. Briefly describe the total public benefit used to justify the project: _____

b. Does the public benefit appear to justify the decision to fund the project at the level of assistance funded? Yes _____ No _____

Describe briefly: _____

7. State the Need Justification of the funding decision:

Uses and Sources of Funds Checklist

Uses

Sources

Description Of Use	Proposed Amounts	Verified Amounts	3 rd Party Estimates Received	Participating Sources	Proposed Amounts	Committed Amounts	Firm Commitment Rec'd (Y/N)
Total							

Assistance to For-Profit Businesses Job Tracking/Loan Servicing Policy

Job Tracking

1. The business is required to track job creation for compliance with the low- and moderate-income national objective from the date a written commitment of assistance (grant approval letter from the Office of Community Development [OCD] or local Revolving Loan Fund [RLF] committee approval) is made by the grantee to the individual business.
2. The agreement under which assistance is provided must include a reasonable time period for meeting the job creation goals on which the assistance is predicated. The time period should reflect the period of time during which jobs, expected to result directly from the assistance, will be created. OCD allows a maximum of 24 months from project completion as the period of time for job creation to occur.
3. Should the projected jobs, expected to result directly from the assistance provided, be reached prior to the job creation deadline stated in the agreement, the business may cease tracking jobs provided that:
 - a. the percentage of Full Time Equivalent (FTE) jobs is at least 51 percent low and moderate income;
 - b. the business submits a completed job certification to the community the month the job creation commitment is reached;
 - c. the grantee verifies the total job creation and low- and moderate-income jobs; and
 - d. the grantee submits to OCD the completed and signed job certification form.

In any case the business is required to continue to track jobs until the job certification is submitted to and approved by OCD.

4. Job creation scenarios:
 - a. job creation and jobs for low- or moderate income persons at or above the figures in the agreement -- submit job certification to OCD and maintain supporting documentation.
 - b. job creation at or above agreed level but jobs for low- and moderate-income persons do not meet the 51 percent threshold:
 - i. the grantee/business may meet the national objective by providing OCD with documentation that at least 51 percent of the created jobs were made available to low- and moderate-income persons. This process requires supporting documentation on all applicants and a narrative analysis explaining the "made available to" process.

ii. if national objective compliance is still not met:

- the business may be required to pay off the loan, if applicable, with principal balance paid to OCD if assistance is from an Economic Development Program loan or, to the grantee, if the assistance is from a local Revolving Loan Fund;
- □the grantee may be required to reimburse the state for CDBG funds used for infrastructure improvements to a business which does not meet a national objective; or
- the grantee/business may petition OCD for an extension of time to meet the national objective. This request must clearly explain the reasons for not meeting the national objective within the time frame and the likelihood of compliance within a reasonable period. OCD reserves the right to determine the appropriate course of action.

NOTE: Projects that do not meet a national objective are deemed to be ineligible uses of CDBG funds with repayment as noted above.

- c. job creation below agreed level -- a detailed narrative analysis must be submitted by the business with the job certification outlining the reasons for not meeting the numbers of projected jobs. OCD will review the explanation and make a determination on the appropriate course of action. OCD will generally act favorably as long as no more than \$25,000 of CDBG loan funds are spent for each full-time equivalent job created or retained, and, as long as, a national objective is met. **For infrastructure improvements, no more than \$10,000 of CDBG funds are spent for each full-time equivalent job created or retained, and as long as, a national objective is met.** If a national objective is not met the grantee/business must also follow procedures outlined in item b) ii) above.
- d. no job creation -- since CDBG dollars are used for assistance to private-sector business enterprises, there may be business failures or situations where no jobs are created. While OCD is sensitive to these instances, appropriate procedures must be followed in order to safeguard public-sector funding:
- i. if the business is still operating, but no jobs were created as a result of the CDBG assistance, procedures outlined in item b), ii) should be followed.
 - ii. if the business is no longer operating several scenarios may come into play:
 - if jobs were created and maintained for a reasonable period, and the business folds prior to submission of the job certification form, OCD will evaluate each case to determine an appropriate course of action. Unless documentation supporting job creation and jobs for low- and moderate-income persons can be obtained, repayment of CDBG funds must follow procedures outlined in b), ii) above; or

- if jobs were created and maintained for a reasonable period, and the business folds after submission of the job certification form, there is no obligation to repay or reimburse CDBG expenditures. The grantee is, however, required to provide OCD with an explanation of the business failure and, in the case of loan funds, follow Loan Workout procedures.

Loan Collections

Grantees are required to follow sound lending practices in dealing with delinquent and/or defaulted loans. Loans must not be carried for extended periods of time as delinquent to avoid the legal ramifications of defaults. The unit of local government is responsible for all costs incurred in providing loan workouts or enforcing loan conditions.

1. **Delinquent Loans**

Generally, a loan becomes delinquent as soon as the payment is late. Grantees may extend to the borrower a 15-day grace period. On the 16th day following a missed payment, the grantee should contact the business in writing requesting payment. If the loan is not brought current as a result of the written notification, the RLF administrator or representative should visit or call the business to discuss the situation. Thereafter, the business should be contacted at least once a month during the delinquent period. Written records should be kept in the loan files of all collection contacts and activities. Grantees have limited latitude and discretion in dealing with delinquencies. The RLF Administrator, however, should be diligent and aggressive in protecting the public-sector resources. The grantee need not notify OCD during the process of dealing with delinquencies, except for regular reporting of loan status via the RLF Semi-Annual Report.

2. **Loan Defaults**

A loan is in "default:"

1. when the business acts or fails to act, which constitutes a "default" as described in the loan agreement or other closing binders (loan notes usually describe a variety of acts, omissions and circumstances which qualify a loan to be declared in default); and
2. **After** the RLF Board in a vote recorded in the Board minutes, declares the loan "defaulted."

With proper follow-up the loan assets may be recovered. If possible, the grantee should attempt to "work out" the default situation (i.e., buy-out by another business, percentage of principal paid back, etc.) Prior approval by OCD must be provided for any of these situations. In cases where the grantee must take legal action against the borrower to enforce the security agreements, OCD must be informed in writing during the process. The grantee will be required to take action against **all** collateral positions or guarantors of the loan. Proceeds received from liquidations may be retained as program income by the local RLF for future loans, unless OCD determines otherwise.