

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

3A-2

AGENDA ITEM SUMMARY

Meeting Date: May 5, 2009

Consent

Regular

Workshop

Public Hearing

Department: Administration

Submitted By: Administration

Submitted For: Economic Development Office

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to:

- A) Adopt a Resolution authorizing the County Administrator or his designee to approve and sign on behalf of the Board of County Commissioners (BCC) all loan/grant documents and agreements with approved borrowers and/or grantees that meet the criteria of the Palm Beach County Section 108 Loan Program and the Brownfield Economic Development Initiative (BEDI) Grant Program; and
- B) Approve Amendment No. 4 to the Palm Beach County Section 108 Loan Program Criteria.

**Summary:** This Resolution will expedite the Section 108 loans and agreements that meet the criteria of the Palm Beach County Section 108 Loan Program and the BEDI Grant Program, which are funded by the U.S. Department of Housing and Urban Development (HUD). The approval of the BEDI grants are linked to the approval of Section 108 loans only for eligible projects approved by HUD in specific areas. The proposed Amendment will modify the following elements of the Criteria: **Program Requirements:** (Section E, Board of County Commissioners Approval): Includes the County Administrator or his designee in the approval process of projects that require less than or up to \$1,000,000 and that meet all of the Program Criteria and do not require an exception to any of the criterion of the Section 108 Loan Program; and **Program Administration:** (Section D, Obtaining BCC and HUD Approval): Includes the County Administrator or his designee in the approval process of projects that require less than or up to \$1,000,000 and that meet all of the Program Criteria and do not require an exception to any of the criteria of the Section 108 Loan Program. **Countywide (DW)**

**Background and Policy Issues:** On March 12, 2002 (Agenda Item # 6D-1), the Board of County Commissioners (BCC) approved policies for the development and administration of a revolving loan program funded by HUD under the CDBG Section 108 Loan Guarantee Program. On June 18, 2002 (Documents R-2002-0989 and R-2002-0990), the BCC approved the first amendment to the Palm Beach County Five-year Consolidated Plan to incorporate the Section 108 Loan Guarantee Program and the application for 108 funds for \$15,000,000. HUD approved the County's application for funding on September 26, 2002. The BCC has approved three (3) amendments to the Palm Beach County Section 108 Loan Program Criteria as follows: the first amendment on January 28, 2003 (Agenda Item No. 5C-1) to institute a minimum loan amount of \$250,000 and to clarify the approval process for loan requests above \$1,000,000; the second amendment on May 15, 2007 (Agenda Item No. 5A-2) for the Economic Development Office to solely administer the Program and modify the Program Criteria and Application Form; and the third amendment on December 2, 2008 (Agenda Item No. 6A-1) to align the Program policies to HUD's policies.

**Attachments:**

Resolution  
Section 108 Loan Program Criteria

Recommended by: \_\_\_\_\_

Economic Development Director

4-21-09

Date

Approved by: \_\_\_\_\_

Assistant County Administrator

4-28-09

Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Expenditure	_____	_____	_____	_____	_____
Operating Cost	_____	_____	_____	_____	_____
External Revenue	_____	_____	_____	_____	_____
Program Income (PBC)	_____	_____	_____	_____	_____
In-Kind Match (PBC)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	_____	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS</b>	_____	_____	_____	_____	_____
(Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current budget? Yes \_\_\_ No \_\_\_

**Budget Account Number:**

Fund \_\_\_ Department \_\_\_ Unit \_\_\_ Object \_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** NA 4/21/09

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

No fiscal impact  
Jim Orl 4-23-09  
 OFMB  
 (ND) 4/21/09  
 CN 4/21/09

Jim J. Javel 4/24/09  
 Contract Dev. and Control

**B. Legal Sufficiency:**

[Signature] 4/27/09  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

This summary is not to be used as a basis for payment.

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO APPROVE AND SIGN ON BEHALF OF THE BOARD OF COUNTY COMMISSIONERS ALL LOAN & GRANT DOCUMENTS AND LOAN & GRANT AGREEMENTS BETWEEN PALM BEACH COUNTY AND APPROVED BORROWERS/GRANTEES, UNDER THE PALM BEACH COUNTY SECTION 108 LOAN PROGRAM AND HUD'S BROWNFIELD ECONOMIC DEVELOPMENT INITIATIVE (BEDI) GRANT PROGRAM; AND TO CLOSE ON THE LOANS THAT MEET THE PALM BEACH COUNTY SECTION 108 LOAN PROGRAM CRITERIA AND TO ISSUE DEBT OBLIGATIONS PURSUANT THERETO; AND AUTHORIZING AN AMENDMENT TO THE PALM BEACH COUNTY SECTION 108 LOAN PROGRAM CRITERIA TO INCLUDE THE ABOVE CHANGES.**

WHEREAS, Palm Beach has applied and received approval for \$2,600,000 in Section 108 Loan funds and \$1,200,000 in Brownfields Economic Development Initiative (BEDI) Grant funds in May 2008 from the United States Department of Housing and Urban Development, under Section 108 of the Housing and Community Development Act of 1974, as amended, for the purpose of providing financial assistance for a project known as "Avenue A Revitalization Project" in Belle Glade, and

WHEREAS, Palm Beach has applied and received approval for \$13,340,000 in Section 108 Loan funds in March 2009 from the United States Department of Housing and Urban Development (HUD), under Section 108 of the Housing and Community Development Act of 1974, as amended, for the purpose of providing financial gap to existing businesses and leverage private investment from businesses located in eligible cities throughout Palm Beach County, and

WHEREAS, Palm Beach County plans to continue applying for Section 108 Loan funds and BEDI Grant funds from HUD to start other revitalization projects in other cities, and

WHEREAS, HUD authorized Palm Beach County, pursuant to the Section 108 Program and the CDBG Regulations to guarantee loans to the County for the provision of assistance, where necessary and appropriate, to carry out economic development projects which meet the national objectives of eliminating slums or blight, or providing job opportunities to persons of low and moderate income, or providing for an urgent need as defined by HUD; and

WHEREAS, the Palm Beach County Section 108 Loan Program Criteria, as amended on December 2, 2008, is the document that provide the guidelines for the eligibility of projects and approval processes, and

WHEREAS, the Palm Beach Board of County Commissioners has determined that the use of public funds to assist in implementing the Palm Beach County Section 108 Loan Program and HUD's BEDI Grant Program should be approved and processed within a reasonable time frame,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

**Section I.** The forgoing recitals are true and correct and are expressly incorporated herein by reference and made a part hereof.

**Section II.** The County Administrator or his designee is authorized to execute all loan documents and loan agreements related to both the Section 108 Loan Program and the BEDI Grant Program, for individual projects and current and/or future commercial corridor projects planned in Palm Beach County, and to issue debt obligations pursuant hereto, and to provide additional information as may be required.


**Section III.** The Palm Beach County Section 108 Program is amended, as per attachment, to reflect the changes made to the approval process of the loans.

The foregoing resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and being put to a vote, the vote was as follows:

COMMISSIONER JOHN F. KOONS, CHAIRMAN	_____
COMMISSIONER BURT AARONSON, VICE CHAIRMAN	_____
COMMISSIONER KAREN T. MARCUS	_____
COMMISSIONER SHELLEY VANA	_____
COMMISSIONER STEVEN L. ABRAMS	_____
COMMISSIONER JESS R. SANTAMARIA	_____

The Chairman thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:   
Assistant County Attorney

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

ATTEST:  
SHARON R. BOCK,  
CLERK & COMPTROLLER

By: \_\_\_\_\_  
Deputy Clerk



## **PALM BEACH COUNTY SECTION 108 LOAN PROGRAM**

### **CRITERIA**

(As approved by the PBC BCC on 01/28/2003 and as amended on 05/05/2009)  
(Subject to future changes)

**A Program Financed Under the U.S. Department of Housing & Urban Development  
Section 108 Loan Program**

**Administered by the:  
OFFICE OF ECONOMIC DEVELOPMENT**

**IN ACCORDANCE WITH THE PROVISIONS OF THE ADA, THIS DOCUMENT MAY BE  
REQUESTED IN AN ALTERNATE FORMAT. PLEASE CONTACT THE ECONOMIC  
DEVELOPMENT OFFICE AT (561) 355-3624.**

**PALM BEACH COUNTY  
ECONOMIC DEVELOPMENT OFFICE  
SECTION 108 LOAN PROGRAM**

The Community Development Block Grant (CDBG) Section 108 Loan Guarantee Program is an economic and community development financing tool authorized under Section 108 of Title I of the Housing and Community Development Act of 1974, as amended.

The 108 loans are intended to support and stimulate business development and investment by the private sector. The Program Criteria applies to all sources of 108 loan funding from the U.S. Department of Housing and Urban Development (HUD).

**I. MISSION STATEMENT AND PROGRAM OBJECTIVES**

The Mission of the Palm Beach County Section 108 Loan Program is to enable existing businesses and appropriate community-based agencies to conceive and implement business ventures that will create jobs, revitalize communities and enhance the overall quality of life for all Palm Beach County residents.

The objectives of the Program are to:

- Provide subordinated financing to eligible borrowers to fill a financing gap beyond the amount of private participation and equity investment that can be raised.
- Provide long term, fixed or variable rate financing at interest rates lower than conventional financing.
- Provide a means for revitalizing disadvantaged areas.
- Create sources of new jobs.

**II. PROGRAM REQUIREMENTS**

**A) Guidelines**

The Palm Beach County Section 108 Loan Program will follow the HUD and the Small Business Administration (SBA) guidelines for eligibility and underwriting criteria.

**B) National Objectives**

Each activity assisted with a Section 108 Loan must meet one of three State CDBG Program National Objectives:

- Benefiting low and moderate income persons. Fifty one percent (51%) of new jobs created under this program must be offered to Palm Beach County residents that have a low and moderate income;
- Preventing or eliminating slums or blight; or
- Meeting a critical community need.

**C) Notice of Funding Availability**

Each Fiscal Year, the Economic Development Office (EDO) will advertise the Palm Beach County Section 108 Loan Program through a Notice of Funding Availability (NOFA) published in a local newspaper and the County's website, and distributed to local economic development organizations.

**D) Loan Review Committee**

A Loan Review Committee (LRC) comprised of representatives from the County's Economic Development Office, Housing and Community Development, and Office of Financial Management & Budget will review all of the Section 108 loan applications presented by the Loan Administrator and make the recommendation to approve or disapprove the loan application. The following criteria are in full alignment with federal guidelines and will be the benchmark for approval or denial of loans. A quorum of the LRC shall be fifty-one percent (51%) or two (2) of the appointed members. A quorum must be present to review and act upon any application.

The LRC will review each application with the required financial information to determine:

- o Number of jobs to be created
- o Amount of Section 108 loan fund participation necessary
- o Amount of commercial or SBA loan match
- o Ability of loan applicant(s) to repay the loan
- o Collateral or security available
- o Trends from business history or market

No loan shall be made without the favorable recommendation of the LRC.

**E) Board of County Commissioners Approval**

The Board of County Commissioners (BCC) is the only authority that can waive or approve an exception to any of the Palm Beach County Section 108 Loan Program Criteria.

- o When a project requires a special consideration because of the potential benefit it might bring to the area or local economy, EDO will request that the BCC make an exception to the Section 108 Loan Program Criteria.
- o When the project requires exception to any criterion, the BCC is the only authority that can provide the ultimate approval. EDO will request approval from the LRC and the BCC before submitting a formal request to HUD.
- o When the project requires more than \$1 million of Section 108 loan match, the BCC is the only authority that can provide the ultimate approval. EDO will request the approval of the LRC and the approval of the BCC before submitting a formal request to HUD.
- o When the project requires less than or up to \$1 million of Section 108 match, meets all of the Program criteria and does not require an exception to any of the criterion of

the Section 108 Loan Program, EDO will request approval from the LRC and the approval of the County Administrator or his designee, and submit a formal request directly to HUD.

### **III. PROGRAM DETAILS**

#### **A) Eligibility**

##### **1. Area**

Palm Beach County boundaries

##### **2. Eligible Applicants**

- Private, for-profit businesses that have been engaged in industrial, retail or distribution activities for at least two (2) years and are able to demonstrate sufficient profitability. An applicant must be a sole proprietorship, an incorporated business, a partnership or any other legally organized business registered with the State of Florida.
- Non-profit economic development organizations with projects involving the renovation/construction of commercial/industrial buildings (Note: working capital is not available to non-profits.)
- Municipalities, Community Redevelopment Agencies, and Downtown Development Authorities. However, the local Entitlement Communities of the cities of Boca Raton, Boynton Beach, Delray Beach and West Palm Beach must provide 100% loan fund match for projects located within their municipal boundaries.

#### **B) Loan Amount and Required Owner's Equity**

- The maximum loan amount for any given project is forty percent (40%) of the total project cost or up to \$1,000,000. The maximum job-cost ratio for the project is \$35,000 per full-time equivalent job to be created.
- Projects that require under \$1,000,000 of financing will require the LRC approval and HUD approval.
- Projects that require over \$1,000,000 of financing will require the pre-approval of the underwriting by HUD, the approval of the LRC, the approval of the BCC, and the formal approval by HUD.
- The maximum loan amount for working capital will be evaluated on an individual basis. Factors to be considered may include but not limited to the project size, nature of the project, and public benefits.
- The applicant must commit a minimum of ten percent (10%) of the total project cost. The applicant will be required to provide proof of equity availability.



- Applicants that are eligible to receive a Business Economic Development Incentive (BEDI) Grant are not required to commit owner's equity. However, the applicant may choose to commit equity to the project.
- The recommended levels of participation for the project funding are: 50% from a senior lender (bank, SBA, or independent institutional lender), 40% from the PBC Section 108 Loan Program and 10% from owner's equity.

**C) Rate**

The rate will be 100 basis points (1%) above the rate that HUD uses, which is the three-month London Inter Bank Offered Rate (LIBOR), during the interim period and Treasury Strip bonds fixed or LIBOR floating at the election of the borrower during the permanent financing periods.

**D) Terms**

- Working Capital – Up to a maximum of ten (10) years.
- Machinery and Equipment – Up to a maximum economic life of the machinery and equipment or up to a maximum of twenty (20) years, whichever is less.
- Renovation – Up to a maximum of twenty (20) years.
- Acquisition of land, buildings or new construction – Up to twenty (20) years.

**E) Eligible Uses**

- Working capital for labor and moving costs associated with the expansion or relocation of a project, inventory financing, receivable financing, training and marketing financing. Working capital will not be available to non-profits. Working capital expenses will only be considered in conjunction with the total project and it will not be financed independently.
- Renovation and new construction of commercial/industrial buildings.
- Acquisition of commercial/industrial land and buildings.
- Acquisition and installation of machinery and equipment.
- Refinancing of existing debt to an independent institutional lender (as part of a new project creating new job opportunities)
- Utility and road infrastructure improvements.

Funds cannot be used to reimburse for costs incurred prior to Palm Beach County completing a HUD environmental assessment, except for planning costs of the project.

**F) Job Creation**

- Only those applicants proposing to create new jobs will be considered for funding under the Section 108 Loan Program.
- The job creation period begins with the issuance of a certificate of occupancy, the end of a renovation project, or when all funds are disbursed, whichever is first.
- The time frame to create the new jobs will be from one (1) to five (5) years. If EDO considers that additional time is necessary, it will request the approval from the BCC.

- Where required, borrowers shall enter into a "First Source Agreement" with the local workforce organization for the hiring of employees, for the purpose of assuring that a best faith effort will be made that 51% of the hires will be persons of low and moderate income.

## **G) Underwriting**

In considering an application for a Section 108 loan, the following procedure is used for all applicants:

### **1. Financial Analysis**

**Site Visitation** – A site meeting with the applicant at its location will occur early in the process to gain insight into the business, answer the applicant's questions and request any needed information. The meeting should take place prior to submission of an application for the purpose of helping the applicant meet Section 108 guidelines or to discourage applicants who cannot meet such guidelines.

**History and Business** – An evaluation will be made on how long the applicant has been in business and the type of goods or services provided by the applicant. It is critical to analyze the request in respect to the specific type of industry. Not all industries have the same financing needs and payment terms to suppliers, and from customers. The balance sheet and operating ratios vary considerably from industry to industry.

**Project Description** - The applicant is required to provide a detailed description of the proposed project including:

- Benefits to be derived by the applicant.
- The impact the project will have in creating new jobs within HUD guidelines.
- A detailed breakdown of the use of the requested loan proceeds.
- Management and control.

**Resume** – Resumes will be analyzed. The resume(s) will provide insight into the background and qualifications of the principals and key management personnel. For example, someone who has been successful in running a delicatessen may not have the abilities to operate a totally unrelated business such as a manufacturing concern.

**Financial Statements** – Historical financial statements and tax returns are required. If the most recent annual statement is more than two months old, an interim statement of less than 30 days is also required. Statement analysis should include:

- Trend analysis
- Ability to repay debt - both short and long term.
- Comparison to peer group companies as provided by the Robert Morris Association (RMA) studies or other similar companies within the County's existing loan portfolio. Any significant variation from the industry

comparison is discussed with the applicant to ascertain the reasons for the variance(s).

- Adequacy of working capital.

**Projected Financial Statements** – Business financial statements are required, which include balance sheets, operating statements, projections and a reconciliation of the net worth/capital section of the balance sheet. The projections must include the impact of the proposed financing and the underlying assumptions used to create the projections:

- Compare to the RMA industry statement studies.
- Examine the probability of achievement given the underlying assumptions.
- Determine if projected cash flow will service proposed debt.

**Personal Financial Statements** - These are required from everyone having ten percent (10%) or more ownership of the business along with personal tax returns. Personal guarantees are generally required from principals of the applicant.

## 2. Financial Ratios

Loan to Value Target:

- Land and building: 80%
- Used machinery and equipment: 80%
- New machinery and equipment: 90%
- Receivables: 70%
- Inventory: 50%

Debt service coverage ratio: 1.20:1.00

## 3. Appraisal

Appraisal reports will be required for projects involving acquisition and construction. EDO will request from the applicant a copy of the appraisal ordered by the participating lender (bank, SBA, or independent institutional lender). If there is not participation of another lender, EDO will provide the applicant a list of County-approved appraisers. The applicant will order the appraisal and provide a copy to EDO.

## 4. Credit History

- Independent credit investigations are conducted on the applicant and the principals. This includes real estate searches, Uniform Commercial Code (UCC) searches with the Secretary of State and personal credit reports on the principals. This credit investigation is used, in part, to verify the accuracy of the information provided by the applicant and the principals and to find out if there are any undisclosed judgments, liens, etc.

- o The credit investigation will be run by the primary lender when participating in the project and by EDO when the Section 108 loan is the only source of funding.

## H) Collateral Evaluation

Collateral Type	Advance Rates	Value Determined By
<b><u>Real Estate</u></b>		
1. Commercial Owner Occupied	Up to 100%	Appraisal
2. Income Producing Non-Owner Occupied	Up to 100%	Appraisal
3. Raw Land	Up to 100%	Appraisal
<b><u>Equipment</u></b> (includes vehicles)	Up to 80% of Liquidation Appraisal on used and up to 80% of invoice on new equipment. If liquidation appraisal is not available, use 80% of book value.	Appraiser, Balance Sheet, Machinery/Equipment quotes
<b><u>Stock Securities</u></b>		
1. Highly Marketable	Up to 80% of good grade listed in the NYSE, American or NASDAQ Exchanges.	NY Times or Wall Street Journal
2. Less Marketable	Up to 50% of thinly traded under \$10.00 value listed on an exchange.	NY Times or Wall Street Journal
<b><u>U. S. Government or Municipal Securities</u></b>	Up to 80% of listed and traded bonds.	NY Times or Wall Street Journal
<b><u>All Other Bonds</u></b>	Up to 50% of listed and traded bonds.	NY Times or Wall Street Journal
<b><u>Accounts Receivable</u></b>	Up to 80% of eligible accounts receivable. Advance rates on accounts are a function of dilution rate, turnover, quality of customer sold, industry characteristics, warranty liabilities, and any unusual contractual obligations.	Accounting methods

**I) Fees and Costs**

**1. Processing fee**

A non-refundable fee of \$100 is payable at the time an application is submitted. If the 108 Loan is approved, the fee will be credited to closing costs.

**2. Section 108 Loan Fee**

The applicant will pay 1.5% of the total Section 108 loan amount due at the time of closing.

**3. Other Fees**

The applicant will be responsible for all other fees, including bank/SBA/independent institutional lender fees, appraisal and environmental fees, legal fees from outside firms and the Palm Beach County Attorney's Office, and any other fee. Applicants will receive a Good Faith Estimate of the projected Palm Beach County fees.

**J) Environmental Assessment**

All proposed projects are subject to an environmental review. The environmental submission will be the same as required by the first lender or in compliance with the SBA criteria. For projects that do not require the participation of another lender, EDO will request an Environmental I assessment and if needed, an Environmental II Assessment. The cost of the environmental assessments ordered by EDO will be charged to the borrower at closing.

- Projects that require funding for land and building pursuant to HUD guidelines will be required to have a Phase I environmental assessment and if applicable, a Phase II environmental assessment.
- Projects that require funding for machinery/equipment and working capital pursuant to HUD guidelines are exempt from the Phase I and Phase II environmental assessments.

**K) Procurement**

In accordance with HUD regulations, Section 108 funded projects for non-profit and governmental organizations must be obtained in accordance with Federal and/or County procurement requirements.

In accordance with HUD regulations, Section 108 financed projects for private, for-profit businesses are exempt from HUD procurement policies.

**L) Other Program Information**

All Section 108 funded projects are required to comply with federal, state and local statutes, regulations and requirements, including but not limited to the Davis-Bacon Act, Workers Compensation, Section 3 of the Housing and Community Development Act, and insurance requirements.

Section 108 funded activities that result in the displacement of persons or businesses will trigger the Uniform Relocation Act compliance requirements.

#### **IV. PROGRAM ADMINISTRATION**

##### **A) Choosing a Project**

###### Initial Meeting and Site Visitation

EDO staff will meet with the applicant(s) to discuss the project and make a visit to the business and/or site location as necessary. Staff will explain the program and provide the applicants with a checklist of required information. The visit should provide an opportunity for staff to explain to the applicant if assistance might be available or to discourage applicants who cannot meet Section 108 guidelines.

###### Preliminary Review of Information

EDO staff and the County's Consultant, if applicable, will perform a preliminary analysis of the interim financial statements, tax reports, payroll information, debt schedule, business plan, copies of agreements, and any other required documentation. This preliminary review will reveal if (a) the project meets the HUD guidelines and at least one of the national objectives, (b) the applicant has the capacity of paying the debts to a first lender [if applicable] and the Section 108 loan, and (c) the applicant has the capacity of fulfilling all of the requirements of the Section 108 Loan Program. If the preliminary review is positive, the applicant will be allowed to fill out a Loan Application Package.

##### **B) Seeking Lenders' Participation**

After determining that the project and the applicant qualify for the Section 108 Loan Program, EDO staff and the County's Consultant will prepare a Section 108 Loan Package that will include all supportive documentation for underwriting and collateral, and a Project Summary and Analysis. EDO and the County's Consultant will seek the participation of commercial lenders in the project, as first lenders. EDO will send the loan package to the bank(s) of preference of the applicant as well as some of the local, regional, or national commercial banks, and authorized Small Business Administration (SBA) lenders throughout the United States.

The commercial/SBA/independent institutional lender who decides to participate in the project will be required to issue a Letter of Commitment to the applicant. The applicant will be responsible for submitting all of the required documentation requested by the lender to assure private participation.

##### **C) Obtaining Loan Review Committee Approval**

After determining that the project and the applicant qualify for the Section 108 Loan Program and have a participating commercial/SBA/independent institutional lender in the project, EDO and the County's Consultant will prepare a Section 108 Loan Package for the LRC. The loan package shall include the loan application package, all forms and

information as required by HUD, all supportive documentation for underwriting and collateral, a Project Summary and Analysis, and letters of commitment from both the commercial/SBA/independent institutional lender and the applicant. The LRC shall either approve or disapprove the loan application. If approved, the loan package shall be filed for HUD review and the Palm Beach County auditor's review, if applicable.

**D) Obtaining BCC and HUD Approval**

After the LRC approves a loan application, EDO will seek approval from the BCC and HUD as follows:

- When the project requires more than \$1 million of Section 108 loan funds, the BCC is the only authority that can provide the ultimate approval. EDO will request the approval of the LRC and the approval of the BCC before submitting a formal request to HUD.
- When the project requires less than or up to \$1 million of Section 108 funds, meets all of the Program criteria and does not require an exception to any of the criteria of the Section 108 Loan Program, EDO will request approval from the LRC and the approval of the County Administrator or his designee, and submit a formal request directly to HUD.

EDO will submit the applications to HUD as follows:

- To HUD Miami Field Office: A Cover Letter describing the project eligibility, the HUD Certification forms signed by the County Administrator, the Repayment Schedule, and the Project Summary and Analysis.
- To HUD Washington Central Office: Copies of documents submitted to the Miami Field Office.

**E) Closing**

Outside Counsel, selected by and under the supervision of the County Attorney's Office, shall close all loans in coordination with HUD's Counsel.

**F) Servicing**

Loan servicing regarding payments and submission of reports and financial statements will be carried out by a Trustee selected by the County or the Palm Beach County Clerk & Comptroller's Office.

EDO staff and the County Attorney's Office will be responsible for supervising compliance with the loan closing documents.

**G) Supervision and Reporting**

EDO staff shall review on a yearly basis all financial statements of the borrower, compliance reports and make a field visit to the borrower's location at least once a year.

Borrowers who are problematic or cannot be brought into compliance shall be referred to the County Attorney's Office for corrective action.

**V. BUSINESS REQUIREMENTS**

Applicants who are awarded funding will be required to enter into an agreement with Palm Beach County.

Applicants are required to submit the following documents:

- a. PBC Section 108 Loan Application Package with a \$100 non-refundable fee.
- b. Supportive documents, as required.

**Contact Information**

Palm Beach County Economic Development Office  
301 North Olive Avenue, 10<sup>th</sup> Floor  
West Palm Beach, FL 33401  
Phone: (561) 355-3624  
Website: [www.pbcgov.com/edo](http://www.pbcgov.com/edo)





## **PALM BEACH COUNTY SECTION 108 LOAN PROGRAM**

### **CRITERIA**

| (As approved by the PBC BCC on 01/28/2003 and as amended on ~~05/05/2009~~ 12/02/2008)  
(Subject to future changes)

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**II. PROGRAM REQUIREMENTS**

**A) Guidelines**

The Palm Beach County Section 108 Loan Program will follow the HUD and the Small Business Administration (SBA) guidelines for eligibility and underwriting criteria.

**B) National Objectives**

Each activity assisted with a Section 108 Loan must meet one of three State CDBG Program National Objectives:

- Benefiting low and moderate income persons. Fifty one percent (51%) of new jobs created under this program must be offered to Palm Beach County residents that have a low and moderate income;
- Preventing or eliminating slums or blight; or
- Meeting a critical community need.

**C) Notice of Funding Availability**

Each Fiscal Year, the Economic Development Office (EDO) will advertise the Palm Beach County Section 108 Loan Program through a Notice of Funding Availability (NOFA) published in a local newspaper and the County's website, and distributed to local economic development organizations.

**D) Loan Review Committee**

A Loan Review Committee (LRC) comprised of representatives from the County's Economic Development Office, Housing and Community Development, and Office of Financial Management & Budget will review all of the Section 108 loan applications presented by the Loan Administrator and make the recommendation to approve or disapprove the loan application. The following criteria are in full alignment with federal guidelines and will be the benchmark for approval or denial of loans. A quorum of the LRC shall be fifty-one percent (51%) or two (2) of the appointed members. A quorum must be present to review and act upon any application.

The LRC will review each application with the required financial information to determine:

- o Number of jobs to be created
- o Amount of Section 108 loan fund participation necessary
- o Amount of commercial or SBA loan match
- o Ability of loan applicant(s) to repay the loan
- o Collateral or security available
- o Trends from business history or market

No loan shall be made without the favorable recommendation of the LRC.

**E) Board of County Commissioners Approval**

The Board of County Commissioners (BCC) is the only authority that can waive or approve an exception to any of the Palm Beach County Section 108 Loan Program Criteria.

- o When a project requires a special consideration because of the potential benefit it might bring to the area or local economy, EDO will request that the BCC make an exception to the Section 108 Loan Program Criteria.
- o When the project requires exception to any criterion, the BCC is the only authority that can provide the ultimate approval. EDO will request approval from the LRC and the BCC before submitting a formal request to HUD.
- o When the project requires over more than \$1 million of Section 108 loan match, the BCC is the only authority that can provide the ultimate approval. EDO will request the approval of the LRC and the approval of the BCC before submitting a formal request to HUD.
- o When the project requires under less than or up to \$1 million of Section 108 match, meets all of the Program criteria and does not require an exception to any of the

criterion of the Section 108 Loan Program, EDO will request approval from the LRC and the approval of the BCC County Administrator or his designee, and submit a formal request directly to HUD.

### **III. PROGRAM DETAILS**

#### **A) Eligibility**

##### **1. Area**

Palm Beach County boundaries

##### **2. Eligible Applicants**

- Private, for-profit businesses that have been engaged in industrial, retail or distribution activities for at least two (2) years and are able to demonstrate sufficient profitability. An applicant must be a sole proprietorship, an incorporated business, a partnership or any other legally organized business registered with the State of Florida.
- Non-profit economic development organizations with projects involving the renovation/construction of commercial/industrial buildings (Note: working capital is not available to non-profits.)
- Municipalities, Community Redevelopment Agencies, and Downtown Development Authorities. However, the local Entitlement Communities of the cities of Boca Raton, Boynton Beach, Delray Beach and West Palm Beach must provide 100% loan fund match for projects located within their municipal boundaries.

#### **B) Loan Amount and Required Owner's Equity**

- The maximum loan amount for any given project is forty percent (40%) of the total project cost or up to \$1,000,000. The maximum job-cost ratio for the project is \$35,000 per full-time equivalent job to be created.
- Projects that require under \$1,000,000 of financing will require the LRC approval and HUD approval.
- Projects that require over \$1,000,000 of financing will require the pre-approval of the underwriting by HUD, the approval of the LRC, the approval of the BCC, and the formal approval by HUD.
- The maximum loan amount for working capital will be evaluated on an individual basis. Factors to be considered may include but not limited to the project size, nature of the project, and public benefits.
- The applicant must commit a minimum of ten percent (10%) of the total project cost. The applicant will be required to provide proof of equity availability.

- Applicants that are eligible to receive a Business Economic Development Incentive (BEDI) Grant are not required to commit owner's equity. However, the applicant may choose to commit equity to the project.
- The recommended levels of participation for the project funding are: 50% from a senior lender (bank, SBA, or independent institutional lender), 40% from the PBC Section 108 Loan Program and 10% from owner's equity.

**C) Rate**

The rate will be 100 basis points (1%) above the rate that HUD uses, which is the three-month London Inter Bank Offered Rate (LIBOR), during the interim period and Treasury Strip bonds fixed or LIBOR floating at the election of the borrower during the permanent financing periods.

**D) Terms**

- Working Capital – Up to a maximum of ten (10) years.
- Machinery and Equipment – Up to a maximum economic life of the machinery and equipment or up to a maximum of twenty (20) years, whichever is less.
- Renovation – Up to a maximum of twenty (20) years.
- Acquisition of land, buildings or new construction – Up to twenty (20) years.

**E) Eligible Uses**

- Working capital for labor and moving costs associated with the expansion or relocation of a project, inventory financing, receivable financing, training and marketing financing. Working capital will not be available to non-profits. Working capital expenses will only be considered in conjunction with the total project and it will not be financed independently.
- Renovation and new construction of commercial/industrial buildings.
- Acquisition of commercial/industrial land and buildings.
- Acquisition and installation of machinery and equipment.
- Refinancing of existing debt to an independent institutional lender (as part of a new project creating new job opportunities)
- Utility and road infrastructure improvements.

Funds cannot be used to reimburse for costs incurred prior to Palm Beach County completing a HUD environmental assessment, except for planning costs of the project.

**F) Job Creation**

- Only those applicants proposing to create new jobs will be considered for funding under the Section 108 Loan Program.
- The job creation period begins with the issuance of a certificate of occupancy, the end of a renovation project, or when all funds are disbursed, whichever is first.
- The time frame to create the new jobs will be from one (1) to five (5) years. If EDO considers that additional time is necessary, it will request the approval from the BCC.

- Where required, borrowers shall enter into a "First Source Agreement" with the local workforce organization for the hiring of employees, for the purpose of assuring that a best faith effort will be made that 51% of the hires will be persons of low and moderate income.

## **G) Underwriting**

In considering an application for a Section 108 loan, the following procedure is used for all applicants:

### **1. Financial Analysis**

**Site Visitation** – A site meeting with the applicant at its location will occur early in the process to gain insight into the business, answer the applicant's questions and request any needed information. The meeting should take place prior to submission of an application for the purpose of helping the applicant meet Section 108 guidelines or to discourage applicants who cannot meet such guidelines.

**History and Business** – An evaluation will be made on how long the applicant has been in business and the type of goods or services provided by the applicant. It is critical to analyze the request in respect to the specific type of industry. Not all industries have the same financing needs and payment terms to suppliers, and from customers. The balance sheet and operating ratios vary considerably from industry to industry.

**Project Description** - The applicant is required to provide a detailed description of the proposed project including:

- Benefits to be derived by the applicant.
- The impact the project will have in creating new jobs within HUD guidelines.
- A detailed breakdown of the use of the requested loan proceeds.
- Management and control.

**Resume** – Resumes will be analyzed. The resume(s) will provide insight into the background and qualifications of the principals and key management personnel. For example, someone who has been successful in running a delicatessen may not have the abilities to operate a totally unrelated business such as a manufacturing concern.

**Financial Statements** – Historical financial statements and tax returns are required. If the most recent annual statement is more than two months old, an interim statement of less than 30 days is also required. Statement analysis should include:

- Trend analysis
- Ability to repay debt - both short and long term.
- Comparison to peer group companies as provided by the Robert Morris Association (RMA) studies or other similar companies within the County's existing loan portfolio. Any significant variation from the industry

comparison is discussed with the applicant to ascertain the reasons for the variance(s).

- Adequacy of working capital.

**Projected Financial Statements** – Business financial statements are required, which include balance sheets, operating statements, projections and a reconciliation of the net worth/capital section of the balance sheet. The projections must include the impact of the proposed financing and the underlying assumptions used to create the projections:

- Compare to the RMA industry statement studies.
- Examine the probability of achievement given the underlying assumptions.
- Determine if projected cash flow will service proposed debt.

**Personal Financial Statements** - These are required from everyone having ten percent (10%) or more ownership of the business along with personal tax returns. Personal guarantees are generally required from principals of the applicant.

## 2. Financial Ratios

Loan to Value Target:

- Land and building: 80%
- Used machinery and equipment: 80%
- New machinery and equipment: 90%
- Receivables: 70%
- Inventory: 50%

Debt service coverage ratio: 1.20:1.00

## 3. Appraisal

Appraisal reports will be required for projects involving acquisition and construction. EDO will request from the applicant a copy of the appraisal ordered by the participating lender (bank, SBA, or independent institutional lender). If there is not participation of another lender, EDO will provide the applicant a list of County-approved appraisers. The applicant will order the appraisal and provide a copy to EDO.

## 4. Credit History

- Independent credit investigations are conducted on the applicant and the principals. This includes real estate searches, Uniform Commercial Code (UCC) searches with the Secretary of State and personal credit reports on the principals. This credit investigation is used, in part, to verify the accuracy of the information provided by the applicant and the principals and to find out if there are any undisclosed judgments, liens, etc.

- o The credit investigation will be run by the primary lender when participating in the project and by EDO when the Section 108 loan is the only source of funding.

## H) Collateral Evaluation

Collateral Type	Advance Rates	Value Determined By
<b><u>Real Estate</u></b>		
1. Commercial Owner Occupied	Up to 100%	Appraisal
2. Income Producing Non-Owner Occupied	Up to 100%	Appraisal
3. Raw Land	Up to 100%	Appraisal
<b><u>Equipment</u></b> (includes vehicles)	Up to 80% of Liquidation Appraisal on used and up to 80% of invoice on new equipment. If liquidation appraisal is not available, use 80% of book value.	Appraiser, Balance Sheet, Machinery/Equipment quotes
<b><u>Stock Securities</u></b>		
1. Highly Marketable	Up to 80% of good grade listed in the NYSE, American or NASDAQ Exchanges.	NY Times or Wall Street Journal
2. Less Marketable	Up to 50% of thinly traded under \$10.00 value listed on an exchange.	NY Times or Wall Street Journal
<b><u>U. S. Government or Municipal Securities</u></b>	Up to 80% of listed and traded bonds.	NY Times or Wall Street Journal
<b><u>All Other Bonds</u></b>	Up to 50% of listed and traded bonds.	NY Times or Wall Street Journal
<b><u>Accounts Receivable</u></b>	Up to 80% of eligible accounts receivable. Advance rates on accounts are a function of dilution rate, turnover, quality of customer sold, industry characteristics, warranty liabilities, and any unusual contractual obligations.	Accounting methods



**I) Fees and Costs**

**1. Processing fee**

A non-refundable fee of \$100 is payable at the time an application is submitted. If the 108 Loan is approved, the fee will be credited to closing costs.

**2. Section 108 Loan Fee**

The applicant will pay 1.5% of the total Section 108 loan amount due at the time of closing.

**3. Other Fees**

The applicant will be responsible for all other fees, including bank/SBA/independent institutional lender fees, appraisal and environmental fees, legal fees from outside firms and the Palm Beach County Attorney's Office, and any other fee. Applicants will receive a Good Faith Estimate of the projected Palm Beach County fees.

**J) Environmental Assessment**

All proposed projects are subject to an environmental review. The environmental submission will be the same as required by the first lender or in compliance with the SBA criteria. For projects that do not require the participation of another lender, EDO will request an Environmental I assessment and if needed, an Environmental II Assessment. The cost of the environmental assessments ordered by EDO will be charged to the borrower at closing.

- Projects that require funding for land and building pursuant to HUD guidelines will be required to have a Phase I environmental assessment and if applicable, a Phase II environmental assessment.
- Projects that require funding for machinery/equipment and working capital pursuant to HUD guidelines are exempt from the Phase I and Phase II environmental assessments.

**K) Procurement**

In accordance with HUD regulations, Section 108 funded projects for non-profit and governmental organizations must be obtained in accordance with Federal and/or County procurement requirements.

In accordance with HUD regulations, Section 108 financed projects for private, for-profit businesses are exempt from HUD procurement policies.

**L) Other Program Information**

All Section 108 funded projects are required to comply with federal, state and local statutes, regulations and requirements, including but not limited to the Davis-Bacon Act, Workers Compensation, Section 3 of the Housing and Community Development Act, and insurance requirements.

Section 108 funded activities that result in the displacement of persons or businesses will trigger the Uniform Relocation Act compliance requirements.

#### **IV. PROGRAM ADMINISTRATION**

##### **A) Choosing a Project**

###### Initial Meeting and Site Visitation

EDO staff will meet with the applicant(s) to discuss the project and make a visit to the business and/or site location as necessary. Staff will explain the program and provide the applicants with a checklist of required information. The visit should provide an opportunity for staff to explain to the applicant if assistance might be available or to discourage applicants who cannot meet Section 108 guidelines.

###### Preliminary Review of Information

EDO staff and the County's Consultant, if applicable, will perform a preliminary analysis of the interim financial statements, tax reports, payroll information, debt schedule, business plan, copies of agreements, and any other required documentation. This preliminary review will reveal if (a) the project meets the HUD guidelines and at least one of the national objectives, (b) the applicant has the capacity of paying the debts to a first lender [if applicable] and the Section 108 loan, and (c) the applicant has the capacity of fulfilling all of the requirements of the Section 108 Loan Program. If the preliminary review is positive, the applicant will be allowed to fill out a Loan Application Package.

##### **B) Seeking Lenders' Participation**

After determining that the project and the applicant qualify for the Section 108 Loan Program, EDO staff and the County's Consultant will prepare a Section 108 Loan Package that will include all supportive documentation for underwriting and collateral, and a Project Summary and Analysis. EDO and the County's Consultant will seek the participation of commercial lenders in the project, as first lenders. EDO will send the loan package to the bank(s) of preference of the applicant as well as some of the local, regional, or national commercial banks, and authorized Small Business Administration (SBA) lenders throughout the United States.

The commercial/SBA/independent institutional lender who decides to participate in the project will be required to issue a Letter of Commitment to the applicant. The applicant will be responsible for submitting all of the required documentation requested by the lender to assure private participation.

##### **C) Obtaining Loan Review Committee Approval**

After determining that the project and the applicant qualify for the Section 108 Loan Program and have a participating commercial/SBA/independent institutional lender in the project, EDO and the County's Consultant will prepare a Section 108 Loan Package for the LRC. The loan package shall include the loan application package, all forms and

information as required by HUD, all supportive documentation for underwriting and collateral, a Project Summary and Analysis, and letters of commitment from both the commercial/SBA/independent institutional lender and the applicant. The LRC shall either approve or disapprove the loan application. If approved, the loan package shall be filed for HUD review and the Palm Beach County auditor's review, if applicable.

**D) Obtaining BCC and HUD Approval**

After the LRC approves a loan application, EDO will seek approval from the BCC and HUD as follows:

- o When the project requires over more than \$1 million of Section 108 loan funds, the BCC is the only authority that can provide the ultimate approval. EDO will request the approval of the LRC and the approval of the BCC before submitting a formal request to HUD.
- o When the project requires less than or up to \$1 million of Section 108 funds, meets all of the Program criteria and does not require an exception to any of the criteria of the Section 108 Loan Program, EDO will request approval from the LRC and the approval of the BCC County Administrator or his designee. -and submit a formal request directly to HUD.

EDO will submit the applications to HUD as follows:

- o To HUD Miami Field Office: A Cover Letter describing the project eligibility, the HUD Certification forms signed by the County Administrator, the Repayment Schedule, and the Project Summary and Analysis.
- o To HUD Washington Central Office: Copies of documents submitted to the Miami Field Office.

**E) Closing**

Outside Counsel, selected by and under the supervision of the County Attorney's Office, shall close all loans in coordination with HUD's Counsel.

**F) Servicing**

Loan servicing regarding payments and submission of reports and financial statements will be carried out by a Trustee selected by the County or the Palm Beach County Clerk & Comptroller's Office.

EDO staff and the County Attorney's Office will be responsible for supervising compliance with the loan closing documents.

**G) Supervision and Reporting**

EDO staff shall review on a yearly basis all financial statements of the borrower, compliance reports and make a field visit to the borrower's location at least once a year.

Borrowers who are problematic or cannot be brought into compliance shall be referred to the County Attorney's Office for corrective action.

V. **BUSINESS REQUIREMENTS**

Applicants who are awarded funding will be required to enter into an agreement with Palm Beach County.

Applicants are required to submit the following documents:

- a. PBC Section 108 Loan Application Package with a \$100 non-refundable fee.
- b. Supportive documents, as required.

**Contact Information**

Palm Beach County Economic Development Office  
301 North Olive Avenue, 10<sup>th</sup> Floor  
West Palm Beach, FL 33401  
Phone: (561) 355-3624  
Website: [www.pbcgov.com/edo](http://www.pbcgov.com/edo)