

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: May 17, 2011	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
Department: Administration	<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Submitted By: Economic Development Office		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Amendment No. 6 to the Palm Beach County (PBC) Section 108 Loan Program Criteria, to modify certain elements of the criteria.

Summary: The proposed Amendment will modify the non-refundable Processing Fee from \$200 to \$1,000 which will no longer be credited to closing costs; and an increase of the one-time Section 108 Administrative Fee from 2% to 3%. This Amendment will offset administrative costs while continuing to offer business loans well below conventional rates. Countywide (DW)

Background and Policy Issues: On March 12, 2002 (Agenda Item No. 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 (R2002-0989 and R2002-0990), 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 County's application for \$15,000,000 of Section 108 funds. The HUD appropriation for these funds ended on September 30, 2008. On January 14, 2009, the PBC Housing and Community Development Department requested an extension of the program term with the remainder of the loan pool balance. On February 24, 2009 (R2009-0255), the BCC approved the extension of the program for a period of five (5) years and accepted the award letter from HUD in the amount of \$13,340,000. The BCC has approved five (5) 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; the third Amendment on December 2, 2008 (Agenda Item No 6A-1), to align the Program policies to HUD's policies, which included a new minimum loan of up to 40% of the total project cost or up to \$1,000,000, whichever is lower; the fourth Amendment on May 5, 2009 (R2009-0725), to authorize the County Administrator or his designee to approve/sign on behalf of the BCC all loan/grant documents/agreements with approved borrowers/grantees that meet the Section 108 Loan and the Brownfield Economic Development Initiative (BEDI) Program Criteria; and the fifth Amendment on May, 4, 2010 (Agenda Item 3A-1), to modify the elements of the Criteria including (Eligibility) by substituting the type of fund matching of Entitlement communities from 100% loan fund match to 100% fund match in the form of a loan, grant, property donation, or a match deemed appropriate by PBC, (Fees and Costs) an increase of the non-refundable Processing Fee from \$100 to \$200 and an increase of the Section 108 Loan Fee from 1.5% to 2%; and (Loan Acceptance) added this Section to explain in detail the process of acceptance of the terms and conditions of the Section 108 Loans.

Attachments:

1. Section 108 Loan Program Criteria red lined
2. Section 108 Loan Program Criteria Final

Recommended By: *James Howard* 5-5-2011
 Economic Development Director Date

Approved By: *Sharon G. Byrd* 5-12-11
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Grant Expenditure	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (PBC)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match (PBC)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	* see below				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes ___ No ___

Budget Account No: Fund ___ Department ___ Unit ___ Object ___

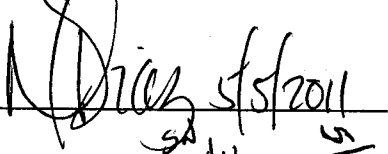
B. Recommended Sources of Funds/Summary of Fiscal Impact:


* Fiscal impact cannot be determined at this time. Increase in revenues will depend on the number of applications received and processed.

C. Departmental Fiscal Review: 
Economic Development

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

OFMB  5/5/2011
WS 5/5/11 SA 5/5/11 5/10/11

 5/10/11
Contract Administration
Ed Jones 5/10/11

B. Legal Sufficiency:

 5/10/11
Assistant County Attorney

C. Other Department Review:

Department Director

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



**PALM BEACH COUNTY
SECTION 108 LOAN PROGRAM**

CRITERIA

(As approved by the PBC BCC on 01/28/2003 including subsequent amendments and as amended on 05/04/17/20102011)
(Subject to future changes)

Formatted: Font color: Red

**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:

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

- 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.
- 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.
- 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.
- 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 (CRA), and Downtown Development Authorities (DDA). However, the local Entitlement Communities of the cities of Boca Raton, Boynton Beach, Delray Beach and West Palm Beach must provide 100% match for projects located within their municipal boundaries. Eligible sources of matching funds may be in the form of a loan, grant, property donation (land, buildings, and easements, at a value derived by Palm Beach County Property Appraiser's assessed value) or a match that is deemed appropriate by PBC

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, whichever is lower. 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 and term 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 Section 108 Loan in combination with a HUD's 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 Palm Beach County rate will be 100 basis points (1%) above the rate that HUD uses on the interim or permanent financing periods. During the interim financing, HUD uses the three-month London Inter Bank Offered Rate (LIBOR), adjusted monthly, plus 20 basis points (0.2%) or any other basis points amount HUD chooses to apply. During the permanent financing period, HUD pledges to yields on U.S. Treasury obligations of similar maturity to the principal amount and depending on the maturity, it adds a small additional basis point spread.

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-profit organizations. 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 Review, 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 to hire 51% of the new hires from the low and moderate income labor pool.

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

- o 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
<u>Real Estate</u>		
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
<u>Equipment</u> (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
<u>Stock Securities</u>		
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
<u>U. S. Government or Municipal Securities</u>	Up to 80% of listed and traded bonds.	NY Times or Wall Street Journal
<u>All Other Bonds</u>	Up to 50% of listed and traded bonds.	NY Times or Wall Street Journal

Collateral Type	Advance Rates	Value Determined By
<u>Accounts Receivable</u>	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 \$200-1,000 is payable at the time an application is submitted. If the 108 Loan is approved, the fees will be credited to closing costs.

Formatted: Underline

2. Section 108 Loan Fee

The applicant will pay 23% 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, which may or may not be adjusted at closing.

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 from the borrower an Environmental I Assessment and if needed, an Environmental II Assessment. The borrower will pay for the environmental assessment(s) and EDO will reimburse the borrower the cost of such assessment(s) with the loan proceeds, 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 Form.

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 firm Letter of Commitment from the participating commercial/SBA/independent institutional lender for the project, EDO and the County's Consultant will prepare a Section 108 Loan Package for the LRC with all of the supportive documentation. 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) Loan Acceptance

- Upon receipt of HUD approval, evidenced by a Fixed/Variable Note to PBC, EDO will submit the PBC's Loan Commitment Letter to the borrower.
- The borrower will review the terms and conditions of the County's Loan Commitment Letter and if accepted, will sign the letter and returning it to PBC by the date indicated.

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

G) Servicing

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

H) 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 Commitment Letter with a \$2001,000 non-refundable fee.
- b. Supportive documents, as required.

Contact Information

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

Field Code Changed



**PALM BEACH COUNTY
SECTION 108 LOAN PROGRAM**

CRITERIA

(As approved by the PBC BCC on 01/28/2003, including subsequent amendments and as amended on 05/17/2011)
(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:

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

- 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.
- 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.
- 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.
- 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 (CRA), and Downtown Development Authorities (DDA). However, the local Entitlement Communities of the cities of Boca Raton, Boynton Beach, Delray Beach and West Palm Beach must provide 100% match for projects located within their municipal boundaries. Eligible sources of matching funds may be in the form of a loan, grant, property donation (land, buildings, and easements, at a value derived by Palm Beach County Property Appraiser's assessed value) or a match that is deemed appropriate by PBC

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, whichever is lower. 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 and term 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 Section 108 Loan in combination with a HUD's 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 Palm Beach County rate will be 100 basis points (1%) above the rate that HUD uses on the interim or permanent financing periods. During the interim financing, HUD uses the three-month London Inter Bank Offered Rate (LIBOR), adjusted monthly, plus 20 basis points (0.2%) or any other basis points amount HUD chooses to apply. During the permanent financing period, HUD pledges to yields on U.S. Treasury obligations of similar maturity to the principal amount and depending on the maturity, it adds a small additional basis point spread.

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-profit organizations. 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 Review, 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 to hire 51% of the new hires from the low and moderate income labor pool.

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.
- 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
<u>Real Estate</u>		
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
<u>Equipment</u> (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
<u>Stock Securities</u>		
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
<u>U. S. Government or Municipal Securities</u>	Up to 80% of listed and traded bonds.	NY Times or Wall Street Journal
<u>All Other Bonds</u>	Up to 50% of listed and traded bonds.	NY Times or Wall Street Journal

Collateral Type	Advance Rates	Value Determined By
<u>Accounts Receivable</u>	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 \$1,000 is payable at the time an application is submitted. .
2. Section 108 Loan Fee
The applicant will pay 3% 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, which may or may not be adjusted at closing.

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 from the borrower an Environmental I Assessment and if needed, an Environmental II Assessment. The borrower will pay for the environmental assessment(s) and EDO will reimburse the borrower the cost of such assessment(s) with the loan proceeds, 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 Form.

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 firm Letter of Commitment from the participating commercial/SBA/independent institutional lender for the project, EDO and the County's Consultant will prepare a Section 108 Loan Package for the LRC with all of the supportive documentation. 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) Loan Acceptance

- Upon receipt of HUD approval, evidenced by a Fixed/Variable Note to PBC, EDO will submit the PBC's Loan Commitment Letter to the borrower.
- The borrower will review the terms and conditions of the County's Loan Commitment Letter and if accepted, will sign the letter and returning it to PBC by the date indicated.

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

G) Servicing

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

H) 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 Commitment Letter with a \$1,000 non-refundable fee.
- b. Supportive documents, as required.

Contact Information

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