

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 6, 2008 AGENDA

Subject:	Type:	Submitted By:
AMENDMENT TO CDBG RECOVERED PROGRAM INCOME REUSE PLAN	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and a resolution prepared to approve an amendment to the Community Development Block Grant (CDBG) Recovered Program Income Reuse Plan for Economic Development to allow for additional eligible activities and applicants.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

In May of 1997, the City Council approved a Reuse Plan for retention of recovered program income from CDBG funds. In May of 2004 the City Council approved Resolution No. 04-054 which amended the plan to include loan servicing costs, such as attorney fees and other administrative costs. In reviewing the City's plan recently with the Metropolitan Area Planning Agency (MAPA), staff was advised that other communities have amended their reuse plans to add the national objective of the elimination of slums or blight and to allow projects involving public infrastructure for economic development activities or the removal of blighted conditions, including the planning/engineering studies necessary to design a project.

The City's CDBG Recovered Program Income Reuse Plan for Economic Development is attached with the proposed amendments to Parts II and III. The Plan will then be submitted to the Nebraska Department of Economic Development for approval.

CITY OF LA VISTA
CDBG Recovered Program Income – Reuse Plan for Economic Development

Smokin' Gun Meats Retention of Recovered Program Income
94-ED-016

Amended May 2008

Amended May 18, 2004

PART 1: Regional Plan

Reuse of recovered program income funds, ~~approximately \$150,000~~ from the Smokin' Gun Meats Project (94-ED-016) will be available for reuse in Sarpy County: Bellevue, La Vista, Gretna, Papillion and Springfield.

PART II: Goals and Objectives of the Plan

A. National Objective

~~Projects approved for reuse funds will meet the national objective one of two national objectives, listed as follows: A minimum of fifty-one percent of the jobs created or retained must be held by or made available to low-moderate income persons.~~

- ~~1. Creation and/or retention of jobs which are held by or made available through first consideration to low-to-moderate-income persons.~~
- ~~2. Removal of slums or blighted areas, provided that project activities are consistent with the CDBG regulations established by HUD and the Nebraska Department of Economic Development.~~

~~Projects approved for reuse funds will meet the national objective. A minimum of fifty-one percent of the jobs created or retained must be held by or made available to low-moderate income persons.~~

B. Local Objectives

1. To provide financing for start-up and existing businesses that cannot obtain conventional financing or to attract new business to the Sarpy County area, with preference for La Vista and the La Vista zoning jurisdiction.
2. To create ~~and~~ retain, ~~or replace~~ jobs principally for low- ~~or moderate-~~ income persons.
3. To diversify the area economy by assisting businesses which are presently not in the area.
4. To encourage the redevelopment of vacant or blighted businesses and land.
5. To promote entrepreneurship and new business development.
6. To stop “leakage” of dollars from leaving the Sarpy County area.
7. To provide necessary public infrastructure to businesses.
8. To assist businesses with job training cost for new employees or to upgrade skills of existing employees.
9. To aid in removal of slums and blight.

PART III: Eligibility

A. Eligible Business

Businesses eligible for project assistance through the reuse funds include (in no preferential order):

1. Manufacturing
2. Service Sector when the majority of sales are derived from interstate commerce.
3. Research and Development which includes the conducting of research, development and testing of scientific, food, or industrial purposes.
4. Warehousing and Distribution when the majority of revenue is derived from interstate commerce.
5. Administrative Management Headquarters
6. Transportation when the majority of revenue is derived from interstate commerce.

7. Tourism attractions which are expected to draw 2,500 additional visits from origins of at least 100 miles away. Tourist attractions are sites and facilities which draw visitors from a distance because of their scenic, historic, cultural, scientific, and/or recreational attributes. Examples of eligible attractions are “historic restoration, museums, particularly sports facilities, and convention centers”.

For projects involving the provision of public infrastructure for economic development activities or the removal of slums and blight, local units of municipal and county government are also considered to be eligible applicants.

B. Eligible Activities

1. Assistance to eligible for-profit businesses when the assistance is appropriate to carry out an economic development project.
2. Activities involving eligible business which are carried out by public or private entities, including acquisition, construction, rehabilitation, or installation of (a.) public facilities (except for the general conduct of government), site improvements, and utilities, and (b.) commercial or industrial real property improvements.
- 3. Planning activities necessary to develop strategies for the elimination of slums and blight.**

C. Types of Assistance

Applicants (eligible businesses) may apply for the following types of assistance to carry out eligible activities:

1. DIRECT LOAN for a) working capital, and b) fixed assets which include (1) land acquisition, (2) the acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings/structures, and (3) the acquisition of machinery and equipment.
2. LOAN GUARANTEE for working capital revolving, on a one-year basis with a one year option to extend. A renewal will not be granted unless the job creation requirements have been met.
3. DEFERRED LOANS FOR EQUITY for start-up businesses or existing businesses experiencing increased or rapid growth in meeting equity capital investment of private lenders and such public lenders as the Small Business Administration, Research and Development Authority, and the Farmers Home Administration. Start-up businesses are defined as businesses operational for less than five years, or the buy-out of an existing business in which the restructuring of ownership is essential for the creation or retention of LMI jobs. Increased and rapid growth is defined as increased or anticipated growth in sales related to markets accompanied by a shortage of working capital.

- 4. GRANTS for public infrastructure to aid in removal of slums or blighted conditions in designated redevelopment areas or to facilitate creation/retention of jobs for low-to-moderate income citizens by an eligible business.**

D. Guidelines for Assistance

1. Direct Loan
 - a. CDBG reuse funds shall not constitute more than 50% of the total project costs.
 - b. Owner equity requirements shall be determined on a case-by-case basis, normally ranging from 10% to 20% of the projected costs.
 - c. The remaining portion of the financing will typically come from regulated lenders which include commercial banks, savings and loan associations, savings banks, insurance companies, and other public lenders.
 - d. The CDBG reuse loan shall carry an interest rate between 0% and the “New York Prime” interest rate established by the most recent issue of the Wall Street Journal.
 - e. The CDBG reuse loan term shall generally not exceed seven years for working capital loans and the useful life of the fixed asset financed up to 15 years.

- f. The CDBG reuse loan shall generally be secured by a mortgage, deed of trust, and/or such other security as is appropriate. Collateral value will be established by an appraisal (real estate and equipment) or cost verification must be adequate to secure the loan.
 - g. Personal and/or corporate guarantees are generally required.
 - h. If other federal guarantors or federal lenders are financing project costs, CDBG reuse loan payments will be made concurrently with their loan payments.
 - i. Start-up businesses shall demonstrate the market, financial, and technical feasibility of a proposed project.
 - j. Performance based loans, in which the loan is forgiven, are permitted in projects that significantly increase benefit to lower income persons and the public at large must be matched by the community's direct financial commitment (excluding CDBG program income funds and community improvement financing).
2. **Loan Guarantee**
- a. CDBG reuse funds shall not guarantee more than 80% of the loan's principal amount.
 - b. The guaranteed lender shall, to the extent feasible, secure the loan, and shall cause to be executed a note and all additional instruments and take such actions which shall be required to fully protect or preserve the interests of the lender and the local government in the loan. The note shall generally be secured by accounts receivable and inventory. Additional secured positions might be taken.
 - c. Significant penalties may be imposed on the borrower if job creation requirements are not met.
 - d. The interest rate of the lender shall be negotiated by the lender, the borrower, and the Sarpy County Economic Development Corporation (SCEDC) on behalf of Sarpy County, on a case-by-case basis.
 - e. The lender shall not acquire any preferential security, surety, or insurance to protect its unguaranteed interest in the loan.
 - f. If a default occurs, the grantee and lender are required to take whatever recourse it has against the borrower prior to call the guarantee.
3. **Deferred Loans for Equity**
- a. CDBG reuse shall not constitute more than 49% of the minimum equity requirements to leverage conventional and other public sources of financing. For a business buy-out, any amount attributed to "blue sky" shall be deducted from the purchase price before calculating the minimum equity investment according to this provision.
 - b. SCEDC shall determine financial, market, management and technical feasibility based on the projects ability to leverage other private or public sources of debt and equity financing and appropriate criteria.
 - c. Repayment terms of the CDBG reuse funds will be negotiated on a case-by-case basis and generally commence at the maturity or end of the initial primary loan.
 - d. The CDBG reuse loan shall generally carry an interest rate between 0% and the "New York Prime" interest rate established by the most recent issue of the Wall Street Journal. This rate will accrue over the deferment period. The amortized repayment interest rate will be the same.
 - e. The business shall be required to execute a promissory note, and loan agreement which shall contain a due on sale provision that requires a payback if the business is sold.
 - f. Sarpy County shall take an assignment of security.
 - g. Personal and/or corporate guarantees shall generally be required.
 - h. The business must show evidence of sufficient working capital.
 - i. Deferred Loans for Equity funds cannot be used when the business is receiving other CDBG direct loans and/or loan guarantees.

4. Grants for Public Infrastructure

- a. Grants for public infrastructure improvements shall be reviewed utilizing the same procedures as for loans.
- b. Grants shall be disbursed from the funds monthly as needed, reimbursing the applicant for expenditures.

PART IV: Administration of the Plan

A. Application Process

- 1. Businesses will be able to obtain applications from:

Sarpy County Economic Development Corporation
1301 Harney Street
Omaha, Nebraska 68102
(402) 346-5015

- 2. The application review committee shall consist of the executive board of the Sarpy County Economic Development Corporation. The members of the review committee shall be the SCEDC:

President	Treasurer	La Vista
Vice President	County Commissioner	
Secretary	Legal Counsel	
Director		

Representative - SCEDC Board of Directors

- 3. Recommendations from the review committee shall be approved by the Sarpy County Economic Development Corporation Board of Directors and the City of La Vista City Council prior to approval of the application.

B. Loan Closing and Project Monitoring

- 1. All legal documents and security instruments shall be prepared by the applicant. All legal documents and security instruments shall be reviewed and approved by the legal counsel of the SCEDC and Sarpy County.
- 2. Funds shall be disbursed to the business (1) at the completion of the application and in accordance with criteria established in PART III, Section D.
- 3. Determination will be made on a case-by-case basis whether the loan servicing and monitoring of job creation/retention requirements shall be the responsibility of the SCEDC, Sarpy County, or MAPA.
- 4. Determination will be made on a case-by-case basis whether the CDBG compliance such as environmental review and Davis Bacon compliance shall be the responsibility of the SCEDC, Sarpy County, or MAPA.
- 5. To ensure program continuity, a 1.5 to 2% funding fee will be charged to each borrower to cover the City's cost of servicing the loan.

C. Amending the Plan

Amendments to the Smokin' Gun Meats Recovered Program Income Reuse Plan Project 94-ED-016 must be approved by:

- 1) La Vista City Council
- 2) Nebraska Department of Economic Development

PART V: Reporting to DED

A. First Reuse Approval

The first reuse of program income from grant 94-ED-016 will be submitted to DED for approval.

B. Program Income Reports

Sarpy County Economic Development Corporation shall be responsible for submitting Semi-Annual Program Income Reports to DED by July 15 and January 15.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AMENDING THE CDBG RECOVERED PROGRAM INCOME REUSE PLAN FOR ECONOMIC DEVELOPMENT TO ADD THE NATIONAL OBJECTIVE OF THE ELIMINATION OF SLUMS AND BLIGHT AND TO ALLOW PROJECTS INVOLVING PUBLIC INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT ACTIVITIES OR THE REMOVAL OF BLIGHTED CONDITIONS, INCLUDING THE PLANNING OR ENGINEERING STUDIES NECESSARY TO DESIGN A PROJECT.

WHEREAS, the City of La Vista adopted a CDBG Recovered Program Income Reuse Plan for Economic Development on May 6, 1997; and

WHEREAS, on May 18, 2004, the City Council approved Resolution No. 04-054 to amend the Plan to allow loan servicing costs as an eligible cost; and

WHEREAS, based on discussions with the Metropolitan Area Planning Agency, staff is recommending amendments to the Plan to add the national objective of the elimination of slums or blight and to allow projects involving public infrastructure for economic development activities or the removal of blighted conditions, including the planning/engineering studies necessary to design a project.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska, do hereby amend the CDBG Recovered Program Income Reuse Plan for Economic Development by adding amendments to Parts II and III which add the national objective of the elimination of slums or blight and to allow projects involving public infrastructure for economic development activities or the removal of blighted conditions, including the planning/engineering studies necessary to design a project.

PASSED AND APPROVED THIS 6TH DAY OF MAY, 2008

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

CITY OF LA VISTA
CDBG Recovered Program Income – Reuse Plan for Economic Development
Smokin' Gun Meats Retention of Recovered Program Income
94-ED-016

Amended May 2008

PART 1: Regional Plan

Reuse of recovered program income funds, from the Smokin' Gun Meats Project (94-ED-016) will be available for reuse in Sarpy County: Bellevue, La Vista, Gretna, Papillion and Springfield.

PART II: Goals and Objectives of the Plan

A. National Objective

Projects approved for reuse funds will meet one of two national objectives, listed as follows:

1. Creation and/or retention of jobs which are held by or made available through first consideration to low-to-moderate-income persons.
2. Removal of slums or blighted areas, provided that project activities are consistent with the CDBG regulations established by HUD and the Nebraska Department of Economic Development.

B. Local Objectives

1. To provide financing for start-up and existing businesses that cannot obtain conventional financing or to attract new business to the Sarpy County area, with preference for La Vista and the La Vista zoning jurisdiction.
2. To create, retain, or replace jobs principally for low- or moderate-income persons.
3. To diversify the area economy by assisting businesses which are presently not in the area.
4. To encourage the redevelopment of vacant or blighted businesses and land.
5. To promote entrepreneurship and new business development.
6. To stop "leakage" of dollars from leaving the Sarpy County area.
7. To provide necessary public infrastructure to businesses.
8. To assist businesses with job training cost for new employees or to upgrade skills of existing employees.
9. To aid in removal of slums and blight.

PART III: Eligibility

A. Eligible Business

Businesses eligible for project assistance through the reuse funds include (in no preferential order):

1. Manufacturing
2. Service Sector when the majority of sales are derived from interstate commerce.
3. Research and Development which includes the conducting of research, development and testing of scientific, food, or industrial purposes.
4. Warehousing and Distribution when the majority of revenue is derived from interstate commerce.
5. Administrative Management Headquarters
6. Transportation when the majority of revenue is derived from interstate commerce.
7. Tourism attractions which are expected to draw 2,500 additional visits from origins of at least 100 miles away. Tourist attractions are sites and facilities which draw visitors from a distance because of their scenic, historic, cultural, scientific, and/or recreational attributes. Examples of eligible attractions are "historic restoration, museums, particularly sports facilities, and convention centers".

For projects involving the provision of public infrastructure for economic development activities or the removal of slums and blight, local units of municipal and county government are also considered to be eligible applicants.

B. Eligible Activities

1. Assistance to eligible for-profit businesses when the assistance is appropriate to carry out an economic development project.
2. Activities involving eligible business which are carried out by public or private entities, including acquisition, construction, rehabilitation, or installation of (a.) public facilities (except for the general conduct of government), site improvements, and utilities, and (b.) commercial or industrial real property improvements.
3. Planning activities necessary to develop strategies for the elimination of slums and blight.

C. Types of Assistance

Applicants (eligible businesses) may apply for the following types of assistance to carry out eligible activities:

1. DIRECT LOAN for a) working capital, and b) fixed assets which include (1) land acquisition, (2) the acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings/structures, and (3) the acquisition of machinery and equipment.
2. LOAN GUARANTEE for working capital revolving, on a one-year basis with a one year option to extend. A renewal will not be granted unless the job creation requirements have been met.
3. DEFERRED LOANS FOR EQUITY for start-up businesses or existing businesses experiencing increased or rapid growth in meeting equity capital investment of private lenders and such public lenders as the Small Business Administration, Research and Development Authority, and the Farmers Home Administration. Start-up businesses are defined as businesses operational for less than five years, or the buy-out of an existing business in which the restructuring of ownership is essential for the creation or retention of LMI jobs. Increased and rapid growth is defined as increased or anticipated growth in sales related to markets accompanied by a shortage of working capital.
4. GRANTS for public infrastructure to aid in removal of slums or blighted conditions in designated redevelopment areas or to facilitate creation/retention of jobs for low-to-moderate income citizens by an eligible business.

D. Guidelines for Assistance

1. Direct Loan

- a. CDBG reuse funds shall not constitute more than 50% of the total project costs.
- b. Owner equity requirements shall be determined on a case-by-case basis, normally ranging from 10% to 20% of the projected costs.
- c. The remaining portion of the financing will typically come from regulated lenders which include commercial banks, savings and loan associations, savings banks, insurance companies, and other public lenders.
- d. The CDBG reuse loan shall carry an interest rate between 0% and the “New York Prime” interest rate established by the most recent issue of the Wall Street Journal.
- e. The CDBG reuse loan term shall generally not exceed seven years for working capital loans and the useful life of the fixed asset financed up to 15 years.
- f. The CDBG reuse loan shall generally be secured by a mortgage, deed of trust, and/or such other security as is appropriate. Collateral value will be established by an appraisal (real estate and equipment) or cost verification must be adequate to secure the loan.
- g. Personal and/or corporate guarantees are generally required.
- h. If other federal guarantors or federal lenders are financing project costs, CDBG reuse loan payments will be made concurrently with their loan payments.

- i. Start-up businesses shall demonstrate the market, financial, and technical feasibility of a proposed project.
 - j. Performance based loans, in which the loan is forgiven, are permitted in projects that significantly increase benefit to lower income persons and the public at large must be matched by the community's direct financial commitment (excluding CDBG program income funds and community improvement financing).
2. Loan Guarantee
- a. CDBG reuse funds shall not guarantee more than 80% of the loan's principal amount.
 - b. The guaranteed lender shall, to the extent feasible, secure the loan, and shall cause to be executed a note and all additional instruments and take such actions which shall be required to fully protect or preserve the interests of the lender and the local government in the loan. The note shall generally be secured by accounts receivable and inventory. Additional secured positions might be taken.
 - c. Significant penalties may be imposed on the borrower if job creation requirements are not met.
 - d. The interest rate of the lender shall be negotiated by the lender, the borrower, and the Sarpy County Economic Development Corporation (SCEDC) on behalf of Sarpy County, on a case-by-case basis.
 - e. The lender shall not acquire any preferential security, surety, or insurance to protect its unguaranteed interest in the loan.
 - f. If a default occurs, the grantee and lender are required to take whatever recourse it has against the borrower prior to call the guarantee.
3. Deferred Loans for Equity
- a. CDBG reuse shall not constitute more than 49% of the minimum equity requirements to leverage conventional and other public sources of financing. For a business buy-out, any amount attributed to "blue sky" shall be deducted from the purchase price before calculating the minimum equity investment according to this provision.
 - b. SCEDC shall determine financial, market, management and technical feasibility based on the projects ability to leverage other private or public sources of debt and equity financing and appropriate criteria.
 - c. Repayment terms of the CDBG reuse funds will be negotiated on a case-by-case basis and generally commence at the maturity or end of the initial primary loan.
 - d. The CDBG reuse loan shall generally carry an interest rate between 0% and the "New York Prime" interest rate established by the most recent issue of the Wall Street Journal. This rate will accrue over the deferment period. The amortized repayment interest rate will be the same.
 - e. The business shall be required to execute a promissory note, and loan agreement which shall contain a due on sale provision that requires a payback if the business is sold.
 - f. Sarpy County shall take an assignment of security.
 - g. Personal and/or corporate guarantees shall generally be required.
 - h. The business must show evidence of sufficient working capital.
 - i. Deferred Loans for Equity funds cannot be used when the business is receiving other CDBG direct loans and/or loan guarantees.
4. Grants for Public Infrastructure
- a. Grants for public infrastructure improvements shall be reviewed utilizing the same procedures as for loans.
 - b. Grants shall be disbursed from the funds monthly as needed, reimbursing the applicant for expenditures.

PART IV: Administration of the Plan

A. Application Process

1. Businesses will be able to obtain applications from:

Sarpy County Economic Development Corporation
1301 Harney Street
Omaha, Nebraska 68102
(402) 346-5015

2. The application review committee shall consist of the executive board of the Sarpy County Economic Development Corporation. The members of the review committee shall be the SCEDC:

President		
Vice President	Treasurer	
Secretary	County Commissioner	
Director	Legal Counsel	La Vista

Representative - SCEDC Board of Directors

3. Recommendations from the review committee shall be approved by the Sarpy County Economic Development Corporation Board of Directors and the City of La Vista City Council prior to approval of the application.

B. Loan Closing and Project Monitoring

1. All legal documents and security instruments shall be prepared by the applicant. All legal documents and security instruments shall be reviewed and approved by the legal counsel of the SCEDC and Sarpy County.
2. Funds shall be disbursed to the business (1) at the completion of the application and in accordance with criteria established in PART III, Section D.
3. Determination will be made on a case-by-case basis whether the loan servicing and monitoring of job creation/retention requirements shall be the responsibility of the SCEDC, Sarpy County, or MAPA.
4. Determination will be made on a case-by-case basis whether the CDBG compliance such as environmental review and Davis Bacon compliance shall be the responsibility of the SCEDC, Sarpy County, or MAPA.
5. To ensure program continuity, a 1.5 to 2% funding fee will be charged to each borrower to cover the City's cost of servicing the loan.

C. Amending the Plan

Amendments to the Smokin' Gun Meats Recovered Program Income Reuse Plan Project 94-ED-016 must be approved by:

- 1) La Vista City Council
- 2) Nebraska Department of Economic Development

PART V: Reporting to DED

A. First Reuse Approval

The first reuse of program income from grant 94-ED-016 will be submitted to DED for approval.

B. Program Income Reports

Sarpy County Economic Development Corporation shall be responsible for submitting Semi-Annual Program Income Reports to DED by July 15 and January 15.