

Section 108 Fact Sheet

The CDBG Loan Guarantee Program (Section 108 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 program is a method of assisting non-entitlement local governments with certain unique and large-scale economic development projects that cannot proceed without the loan guarantee. In order to be eligible a project must meet all applicable CDBG requirements and result in significant employment and/or benefit for low and moderate income persons. Projects that are eligible for financing under existing federal, state, regional or local programs will generally not be considered for guarantee assistance unless the programs would fail to fully meet a project's need.

Unlike the traditional CDBG or EIP Program, the Section 108 Program does not operate through assistance from the Department of Community Affairs (DCA). Rather, funds are raised through DCA's "Pledge of Grants" to the U.S. Department of Housing and Urban Development (HUD) in order to obtain a federal guarantee of notes issued by the local government. The federally guaranteed notes are sold into private markets through public offerings conducted by HUD. By approving the project, the State pledges its future CDBG funds as the ultimate repayment source should a Section 108 loan default. The State's participation in the Section 108 program does not involve a pledge of Georgia's full faith and credit nor does it commit any funding to the local government. HUD makes the ultimate approval or denial of the federal guarantee.

Since CDBG funds are an essential and critical resource for Georgia's non-entitlement local governments, the Department will use conservative rating, selection and underwriting criteria in evaluating requests for the State's concurrence and Pledge of Grants. Only those projects that DCA determines can generate sufficient revenue from local and project resources to debt service all obligations will be competitive under the State's Section 108 rating and selection system.

Maximum Loan Guarantee Amount: \$5,000,000 (In the interest of limiting exposure and promoting a diversified portfolio, the Department reserves the right to limit the amounts "pledged" to any one unit of local government or business interest).

Total Funds Available

The Department may set aside a multi-year, cumulative total of up to twenty percent (20%) of its current and future CDBG allocations plus any CDBG program income for Pledge of Grants that will be used as security for notes and other obligations issued by units of non-entitlement local government pursuant to Section 108 of the Housing and Community Development Act of 1974, as amended.

For certain projects that would provide extraordinary public benefit, job creation, and private investment, the DCA Board of Directors may approve allocation and loan amounts that exceed the twenty percent (20%) set-aside and/or maximum loan guarantee

amounts. However, in no event may the amounts pledged exceed the limits contained in CFR Part 570.705(a) or up to five (5) times the amount of its last CDBG grant less the amounts of any unpaid balances previously guaranteed.

These Pledges of Grants do not immediately reduce the State's non-entitlement CDBG allocations, but rather create an obligation on the part of the State to use its CDBG funds to make payments on behalf of local governments that default on their loan payments to note holders. For any notes backed by the State's Pledges, the Department will require appropriate covenants that transfer an appropriate share of the risk to the local government and sub-recipient business.

Soft Costs and Fees

Local governments interested in obtaining Section 108 financing must cover their own application preparation and administration costs in order to be competitive. Certain underwriting and issuance costs required by HUD in order to participate in the program are allowable and will not affect an application's competitiveness; however, all "soft costs" not necessary to cover HUD-required underwriting and issuance costs are not eligible for inclusion under Section 108 financing and must be paid from non-Section 108 sources. Limited technical assistance will be available from the Department on the preparation of a pre-application and application.

Eligible Activities:

Eligible activities under the Section 108 program are those identified in 24 CFR Part 570.703 which include (but are not limited to): (a) Acquisition of improved or unimproved real property, including acquisition for economic development purposes; (b) Rehabilitation of real property owned or acquired by the public entity or its designated public agency; (c) Payment of interest on obligations guaranteed under the 108 program; (d) Clearance, demolition and removal, including movement of structures to other sites, of buildings and improvements on real property acquired or rehabilitated pursuant to activities a and b of this section; (e) Site preparation, including construction, reconstruction, or installation of public and other site improvements, utilities, or facilities (other than buildings), which is related to the redevelopment or use of the real property acquired or rehabilitated pursuant to activities a and b of this section, or for an economic development purpose; (f) Payment of issuance, underwriting, servicing, trust administration and other costs associated with private sector financing of debt obligations under the 108 program; (g) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit sub-recipients; (h) The provision of assistance to a private for-profit business, including, but not limited to loans and other forms of support where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in CFR Part 570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods. (i) A debt service reserve to be used in accordance with requirements specified in the contract entered into pursuant to CFR Part 570.705(b)(1); and (j)

Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities.

For each activity funded under the 108 Program, at least seventy percent (70%) of all proposed beneficiaries and/or jobs to be created or retained as a result of the 108 project must be documented to be created for and able to be "taken by" or retained by persons defined as low and moderate income by DCA. Before project closeout, at least 70% of all jobs created must be documented to have been "taken by" persons defined as low and moderate income.

For certain projects that would provide extraordinary public benefit, job creation, and private investment, the Department may approve a slightly reduced low and moderate income benefit threshold. However, in no event may a specific project's low and moderate income benefit level fall below fifty-one (51%) or a level that the Department determines could cause the State to fall below the mandated program-wide low and moderate income benefit levels contained at CFR Part 570.484

Application Procedures:

Local governments interested in applying to HUD for a loan guarantee must first apply to DCA in order to obtain the State's concurrence and Pledge of Grants.

The application procedure for the Section 108 Program includes a pre-application and final application phase. Final applications may only be submitted following a written invitation from the Department. The purpose of the pre-application will be to underwrite, evaluate and score a proposed project to determine if the proposed project meets the requirements for the State's concurrence and Pledge of Grants. The purpose of the final application will be for the Department to approve the final form of the local government's application to HUD and negotiate any local certifications, credit enhancements and other understandings required as a condition of the State's Pledge of Grants approval.

Local governments may submit pre-applications for consideration at any time. Pre-applications and Applications may be submitted individually by one unit of general-purpose local government, or jointly, by two (2) or more units of general-purpose local government. Joint submissions must contain a copy of the Cooperating Agreement entered into by the cooperating units of government. The Agreement should designate the unit of local government that will serve as lead applicant.

Pre-applications and applications for the 108 program must be submitted in conformance with the format and applicable instructions specified by the Department of Community Affairs Section 108 pre-application and application manuals.

Rating and Selection Process:

- a) Upon receipt of a Pre-application under this program, staff will review the pre-application for completeness and for evaluation against the various rating and selection

factors.

- b) For purposes of this program, the rating and selection factors shall be those specified in this section and any additional and/or supplemental information, data, analyses, documentation, commitments, assurances, etc. as may be required or requested by the Department for purposes of evaluating, rating, and selecting applicants under this program. Applications that contain insufficient information or documentation to be evaluated may be returned to the locality without further review.
- c) The staff may conduct site visits and hold discussions with applicants and proposed sub-recipients for the purposes of confirming and evaluating information contained in the pre-application or application. The staff may consult with other appropriate government and private entities in the course of reviewing and evaluating information contained in pre-applications and applications.
- d) The scores obtained for the various selection factors will be totaled and only those applicants with scores of at least 325 points will be considered for a Pledge of Grants.

Selection System for Section 108 Applications:

Section 108 Applications will be rated and scored against each of the following factors:

| <u>Review Factors:</u> | <u>Maximum Points Available:</u> |
|--------------------------------|----------------------------------|
| Demographic Need | 090 points |
| Program Feasibility | 120 points |
| Program Impact | 120 points |
| Program Strategy | 120 points |
| Bonus (for Credit Enhancement) | 25 points |
| <hr/> | |
| Total Available Points | 475 points |

a) Demographic Need (90 points)

1) Absolute Number of People in Poverty (30 points)

All eligible local governments will be compared in terms of the absolute number of people whose incomes are below the poverty level. Individual scores will be obtained by dividing each government's absolute number of persons in poverty by the greatest number of persons in poverty of any eligible local government and multiplying by 30.

2) Percent of People in Poverty (30 points)

All eligible local governments will be compared in terms of the percentage of people whose incomes are below the poverty level. Individual scores will be obtained by dividing each government's percentage of persons in poverty by the highest percentage of persons in poverty of any eligible local government and multiplying by 30.

3) Per Capita Income (30 points)

All eligible local governments will be compared in terms of their per capita income. Individual scores will be obtained by dividing each government's per capita income into the lowest per capita income of any eligible local government and multiplying by 30.

Demographic scores will be based on the latest available data, consistent as of the same point in time for each factor. Scores will be based on county data.

b) Program Feasibility (120 points)

The following factors will be considered:

- 1) Local government's financial condition?
- 2) Local social-economic conditions and need?
- 3) Organizational status of development agency or sub-recipient business?
 - i) Reputable history for business and all related entities?
 - ii) Credit History?
 - iii) Litigation?
 - iv) Gov't Findings / Sanctions?, etc.
- 4) Is the proposed business or development concept/product/service proven or does the proposal represent an untried business model? Does (or can) the concept/product/service meet standards for acceptability, affordability, availability and awareness?
- 5) Does the proposed Section 108 investment/purpose contain the basis for its repayment?
- 6) Is the development agency's or sub-recipient business' historical performance and standing secure in the following areas: capital management, debt capacity, management character & experience, collateral value, economic and market conditions?
- 7) Is the development agency's or sub-recipient business' proposed development or business plan reasonable and does it use reasonable assumptions in the following areas: capital investment, debt service capacity, management ability, collateral value, industry analysis, response to future economic and market conditions?
- 8) (real-estate projects) Does the proposed development team have a successful record of accomplishment? Developer? Contractor? Architect? Leasing Agent? Property Manager? Syndicator? Construction Manager? Interim and Permanent Lenders?
- 9) Does the proposed project comply with the CDBG regulations and guidelines for "appropriateness", underwriting, and public benefit?
- 10) Are all project costs verified through either original source documents, architectural and engineering reports, or a MAI or other certified appraisal acceptable to DCA?
- 11) Is the balance of all financing sources verified and committed?
- 12) Is all required real-estate available, have clear title, and under proper option?
- 13) Is the development agency's or sub-recipient's investment and job commitment letter in the proper format?
- 14) Are all needed architectural plans, engineering reports, plans, and specifications completed and approved by appropriate authorities?

15) Can the project be carried out in accordance with all applicable federal, state, and local law, regulation and permitting requirements?

Feasibility points will be awarded by a DCA staff review panel, in accordance with the levels below, based on how well the applicant addresses the impact factors:

| | |
|---------------------------|-------|
| Level One (poor) | 00.0 |
| Level Two (below average) | 30.0 |
| Level Three (average) | 60.0 |
| Level Four (good) | 90.0 |
| Level Five (excellent) | 120.0 |

c) Program Impact (120 points)

The following factors will be considered:

- 1) Number of jobs created and/or retained;
- 2) Section 108 cost per job;
- 3) Availability of jobs to low/mod income persons;
- 4) Quality of jobs and employee benefits (health, retirement, leave, etc.);
- 5) Project's impact on local unemployment rates; and
- 6) (if applicable) Project's impact on blighting conditions that threaten public health and safety or impede economic development.

Points for impact will be awarded by a staff review panel, in accordance with the levels below, based on how well the applicant addresses the impact factors:

| | |
|---------------------------|-------|
| Level One (poor) | 00.0 |
| Level Two (below average) | 30.0 |
| Level Three (average) | 60.0 |
| Level Four (good) | 90.0 |
| Level Five (excellent) | 120.0 |

d) Program Strategy (120 points)

The following factors will be considered:

- 1) Documentation that the proposed project is not eligible under existing federal, state, regional or local economic development financing programs or else the programs would fail to fully meet the project's need.
- 2) Documentation that the proposed project represents a unique, large-scale project that will further the objectives of Title I of the Housing and Community Development Act.
- 3) Documentation that the local government will assign certain responsibilities under 108 to the State to insure efficient credit monitoring, sub-recipient loan servicing and 108 loan payments.

- 4) The ratio of private equity and investment to Section 108 funds?
- 5) Documentation that the sub-recipient business or development agency will generate sufficient revenue and that sufficient credit enhancements are in place to reasonably insure that the Section 108 loan can be amortized without any risk to future CDBG allocations.
- 6) Documentation that the public benefits to be achieved are reasonable and to the extent practicable Section 108 funds will not substitute for other available funds.
- 7) Adequacy of financing strategy?

Repayment ability?

Rate?

Term (maximum consideration for terms less than 10 years)?

Type (maximum consideration for permanent financing. Users that provide their own construction financing will be most competitive).

Collateral and Security?

- 8) Validity of sub-recipient's commitment to fulfill hiring and investment commitments?
- 9) Project's conformance to: i) local and regional plans; ii) service delivery strategy and iii) the Georgia Planning Act;
- 10) Project's conformance to federal, state, and local laws and regulations; and
- 11) Relationship to overall objectives of the Section 108 and CDBG Program, including the extent of benefit to persons of low and moderate income.

Strategy points will be awarded by a staff review panel, in accordance with the levels below, based on how well the applicant addresses the strategy factors:

| | |
|---------------------------|-------|
| Level One (poor) | 00.0 |
| Level Two (below average) | 30.0 |
| Level Three (average) | 60.0 |
| Level Four (good) | 90.0 |
| Level Five (excellent) | 120.0 |

e) Bonus for Pledge of Assets and/or Credit Enhancement (25 points)

Localities which have a local Revolving Loan Fund (RLF) capitalized with EIP or CDBG proceeds, federal Economic Development Initiative (EDI) or Brownfield (BEDI) grants or other assets may, at their discretion, pledge those assets as a "loan loss reserve" or other security or credit enhancement in order to boost the competitiveness of their 108 application. Likewise, borrowers may also receive bonus points for agreeing to provide other credit enhancements such as stand-by letters of credit, guarantees or other recourse instruments. The consideration will consist of a maximum of an extra 25 points for use in the State's Section 108 "Pledge of Grants" decision.

Invitation to Submit a Final Application

The points received by a pre-applicant on the rating factors will be totaled. In order to

receive an invitation to submit a final application, a pre-application must receive at least 325 points. In cases where fundable pre-applications exceed available funds, the pre-applicant with the highest number of jobs benefiting low and moderate income persons will be given priority.

Final Application Funding Determination

- a) Final applications are invited only for those projects that meet the pre-application threshold requirements;
- b) The locality submitting the Section 108 final application must hold public hearing(s) in accordance with the requirements of HUD and Georgia's CDBG program;
- c) Final applications for the Section 108 program must be submitted in conformance with CFR Part 570.704 and the format and applicable instructions specified by the Department of Community Affairs and the U.S. Department of Housing and Urban Development;
- d) The final application review will ensure that all appropriate funding criteria have been considered, and the overall benefits to be achieved warrant the State's concurrence, acceptance of the responsibilities outlined in CFR Part 570.710 and "Pledge of Grants";
- e) Upon approval by DCA, the Final Application will be placed in its final form by the applicant local government and submitted to HUD for their review with assistance from DCA. It should be noted that DCA reserves the right to ask local governments to submit their applications without the State's Pledge of Grants in cases where the final security requirements or other issues are unknown. In such cases, the State's Pledge of Grants would be forthcoming to HUD upon the successful negotiation of a security arrangement and repayment schedule acceptable to the State.

CDBG Loan Guarantee Performance Thresholds

Recipients of prior CDBG funding that have outstanding audit, monitoring findings and/or other program exceptions which involve a violation of federal, state or local law or regulation, and/or that have failed to substantially meet their proposed accomplishments in their current CDBG or EIP projects, are ineligible for 108 consideration. Local governments and businesses that default on a loan payment under the 108 program shall be sanctioned and immediately become ineligible to compete for or receive any DCA grant or loan until the State is "made whole" in regards to its CDBG loss. In addition, applicants must be in compliance with their reporting under the Georgia Planning Act, the Service Delivery Strategy Law (H.B. 489), the Georgia Solid Waste Management Act, the Local Governments Audit Act and the DCA Local Government Finance Report requirements.