



# City of Dunkirk Community Development Block Grant (CDBG) Small Business Loan Program (SBLP) Guidelines

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## ***Forward***

The US Department of Housing and Urban Development (HUD)'s Community Development Block Grant (CDBG) Program provides local government with funds to use for, among other things, economic development, more specifically, for business start-ups and expansion. These funds are used to provide loans to a business through a Small Business Loan program administered by the Dunkirk Local Development Corporation (DLDC). The business, in return for use of the public funds, provides private investment towards the assisted activity and most importantly creates job opportunities, principally for the benefit of low and moderate persons.

When a business repays the loan (principal and interest), these funds are used to capitalize a local revolving loan fund (RLF). With the RLF, the community can make additional loans to businesses wishing to expand or locate in the City. These loans typically are smaller loans (\$2000 - \$25,000) with some exceptions. When successfully administered, the community's revolving loan fund can expand the amount in its RLF to an amount in excess of the original amount it was able to retain. This happens with the community exercises due diligence by performing a thorough credit analysis to determine business viability and adequately securing and serving the loan. In administering a RLF, a community becomes a 'bank' and accepts all of the responsibilities of a commercial lender when it makes a CDBG or RLF loan to a business.

This manual is based on policies and procedures based on HUD guidance. The City may from time to time amend the provisions of the policies and procedures contained within this manual as needed.

## ***Section 1: General Provisions***

### ***1.1 Purpose***

The City of Dunkirk Community Development Block Grant (CDBG) Small Business Loan Program (SBLP) is a competitive program offering either startup or expansion companies an opportunity within the City Limits of Dunkirk to obtain loan funds up to \$25,000\* upon approval and in compliance with CDBG criteria. \*Some exceptions to this may be recommended and subject to approval by the Loan Committee and the DLDC Board.

### ***1.2 Objectives***

Economic development activities assisted with funds made available through this program are intended to meet the following objectives:

1. To encourage the creation and retention of permanent jobs, which provide a wage appropriate to the skills and experience of the local labor force and that is competitive. A minimum of 51% of the jobs created shall be made available to low and moderate income persons.
2. To encourage the leveraging of new private investment into the City in the form of fixed asset investment, particularly in land and buildings.

3. To perpetuate a positive and proactive business climate which encourages the retention and expansion of existing businesses and helps to attract desirable new businesses.
4. To maintain and promote a diverse mix of employment opportunities and to minimize seasonal or cyclical employment fluctuations.
5. To encourage the development and use of modern technology and create safe work environments.

### **1.3 National Objectives**

Each Business Assistance activity funded under the program must meet at least one of the three federally mandated national objectives. These national objectives are:

National Objective #1: Expanding economic opportunities, principally for low-and moderate-income persons. Most projects funded under the Business Assistance category will meet the national objective of expanding economic opportunities, principally for persons of low- and moderate-income. This is accomplished by documenting that at least 51 percent of the jobs that are created or retained by the CDBG-assisted business expansion or retention project will be filled by or made available to persons of low-and moderate-income.

Ultimate benefit to low- and moderate-income persons is documented by screening the income of the persons hired for the jobs. However, a person may be presumed to be low- and moderate-income if either of the following situations are documented:

- a. the person filling the job resides within a census tract (or block numbering area) that either: 1) has at least 70 percent of its residents who are low- and moderate income; or 2) the business being assisted is located within a qualifying census tract;
- b. the person or business is within a census tract that is part of a federally-designated Empowerment Zone or Enterprise Community or the census tract meets the following criteria: a) a poverty rate of at least 20 percent; b) and no portion of the 4 census tract includes a central business district unless the tract has a poverty rate of 30 percent; and,
- c. the census tract evidences pervasive poverty and general distress as measured by the poverty rates of the block groups or by other HUD-approved measures of distress.

National objective #2: Activities which aid in the prevention or elimination of slums or blight. In general, this national objective is met if the CDBG-assisted activity will directly remedy a slum or blighted condition that is within a designated area that meets a definition of a slum, blighted, or deteriorated area under State or local law. The project being funded must specifically remedy a condition that has been identified in a redevelopment plan as a blighted or slum condition and the CDBG-funded activity should be related to one of the projects specifically identified in an implementation plan as being necessary to remedy an identified slum, blighted or deteriorated condition. Under specific criteria, this objective can also be met on a spot basis.

National objective #3: Activities designed to meet community development needs having a particular urgency. A CDBG-assisted activity will meet this national objective if the jurisdiction certifies that the activity is necessary to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin and the jurisdiction is unable to finance

the activity on its own. A condition will be considered to be of recent origin if it developed or became critical within 18 months of the certification by the jurisdiction.

## ***Section 2: Administration***

### ***2.1 Loan Review Board***

- a. The DLDC will establish and maintain a Loan Review Committee, consisting of a representative of the DLDC, a representative of the City of Dunkirk, and three representatives of local financial institutions familiar with business loans. The Loan Review Committee will review all loan recommendations forwarded to it by the economic development program staff of the DLDC. No loan will be made under the economic development loan program without the approval of a majority of the members of the Loan Review Committee.
- b. The Loan Review Committee shall have the authority to review, select, and recommend loan application to the governing body for final approval. The City shall also have the authority to make policy recommendation for the administration of the program.
- c. The Program Administrator shall explain the program to prospective applicants, provide written information, assist applicants in completing applications, and process requests for financing.
- d. The Program Administrator shall periodically review all financial statements and loan authorization schedules of loan recipients, review and approve documentation of business expenditures financed with loan funds, record security instruments, maintain accounting records which shall be segregated from other City accounts, and report annually to HUD regarding the use of the funds.
- e. The City attorney shall review all loan agreements and review all promissory notes and mortgage or lien instruments.
- f. The Program Administrator shall be responsible for the maintenance of all other records for the program, particularly those related to the expenditures of the funds for program administration purposes.

### ***2.2 Meetings***

Loan Review meetings shall be held on an as-needed basis and may be conducted electronically. A majority of the Committee in attendance constituting a quorum shall be required for official committee action.

### ***2.3 Records***

Written records of all program activities, including program meetings, loan applications, and related documents, shall be maintained in appropriate files. All files should be maintained in a secure place with limited access by authorized personnel. The City's legal counsel shall be consulted in regard to compliance with state and municipal open record laws.

The following files shall be established and maintained for each loan recipient:

1. Loan Application File: All application, business financial statements, personal financial statements, credit reports, business plan documents, and other supporting loan information submitted to the DLDC, including all applicable correspondence, shall be placed in a permanent file
2. Loan Recommendation File: This file should contain a summary of the analysis, recommended actions for the application, and a copy of the minutes for the Loan Review Committee meeting summarizing the action taken on the loan request.
3. Loan Closing File: This file contains copies of all loan-closing documents. This file contains all the legal documents from the loan closing, including security instruments, the note and other applicable correspondence and shall be placed in a locked cabinet. The City attorney should be involved in helping create and complete this file to insure complete loan documentation. Copies of the loan closing documents and an amortization schedule will be provided to the loan recipient, along with an invoice, applicable for loan closing and servicing fees.
4. "Tickler File" System: A tickler file system should be established and maintained to ensure that loan repayments, financial information, the loan agreements, and other time sensitive documentation requirements are tracked and obtained as required. The system should include the following monthly coded index files:
  - a. Expiration dates for property, casualty, and life insurance policies
  - b. Due dates for all financial statements
  - c. Schedule of loan performance and covenant reviews
  - d. Dates for site visits
  - e. Due dates for property tax payments and dates the DLDC expects to hear from the borrower regarding confirmation or payment of taxes
  - f. Review dates for job monitoring
  - g. Dates on which loan recipients will be notified of scheduled changes in the loan amortization scheduled per loan agreements
5. Financial Statement File: The file should contain the business' periodic financial statements as required by the loan covenants with a statement indicating that the Program Administrator reviewed the data
6. Progress Report File: Loan Recipients should be required to submit periodic progress reports during the outstanding term of the loan. The DLDC should make periodic site visits to verify information in the progress report and financial statements. These site visits should be documented for the file
7. Site Visit File: Site Visits should be conducted periodically to each loan recipient and a summary of the site visits should be placed in the file, particularly highlighting any information that can help in rating the overall condition/risk of the loan
8. Repayment Monitoring File: This file should include the loan amortization schedule, status of payments, and the outstanding balance of the loan. Observations suggesting concerns or problems should be reported to the full Committee and notations shall be placed in the tickler file to remind the administrator of the need to provide continued monitoring.
9. Loan Review File: All loans are to be reviewed on an annual basis, and at such other times as may be deemed necessary by the DLDC. The review should follow receipt of the fiscal year-end financial statements, the year-end progress reports, and site visits. A report of the loan review

shall be in the file and address the following: timeliness of monthly payments, condition of collateral securing the loan and status of security documents, overall financial condition of the business; the presence of material liens or lawsuits; and violations of loan covenants and suggested corrective actions.

If the business is experiencing problems with any of the above criteria, the Program Administrator is to work with the loan recipient to identify actions that are needed to correct the identified deficiencies, including possible restructuring of the loan to protect the DLDC and the City's interest and meet the needs of the business. If appropriate the Administrator will arrange for business assistance and training.

In the event the findings of the loan review suggest serious problems, particularly if the loan is at risk for default, the account should be turned over to the City attorney for legal action in order to initiate steps necessary to protect the loan and to insure the maximum repayment of the balance due. Again, corrective actions may be achieved through restructuring or if necessary, foreclosure actions.

## **2.4 Administration**

Reasonable administrative funds may be withdrawn from the RLF to cover personnel costs and other administrative expenses. Local funds may be used in situations when loan repayments are insufficient to cover administrative costs. Administrative expenses of 15% of program income may be used for direct loan administrative costs. In addition to paying costs for the Program Administrator, these funds may be used for the following:

- Legal Costs
- Consulting fees for credit analysis, business plan reviews, and technical assistance
- Office Supplies, copying, typing, mailing, and related
- Training Costs

To generate additional revenue to cover administrative costs, the DLDC may also establish loan origination fees, servicing fees, and other fees to cover charges directly related to either processing an application or servicing a loan. All fees collected go to the RLF. The accounting of the fee revenue placed in the RLF should include separate line items to track administrative expenses recovered.

## **Section 3: Eligibility Considerations**

### **3.1 Eligible Area**

The area served by the RLF / Small Business Loan Program shall be within the City limits of Dunkirk, NY

### **3.2 Eligible Applicants**

- Assisted business owners must show experience in similar business ventures or provide evidence that they have the capability to accomplish the goals set forth. Applicants can also provide evidence of certification through the community college or similar institutions
- Businesses that primarily employ people with low to moderate incomes will be prioritized for funding. Low to moderate incomes eligibility is determined by using household income

guidelines established annually by HUD (51% of the total new employees of the business must fall within the low to moderate-income range).

- Home-based businesses or occupations may be eligible for SBLP funding, as long as the activities of the business are eligible under existing city ordinances and regulations and have potential to impact or benefit the entire city.
- SBLP funds are available to qualified businesses citywide, but priority will be given to businesses that comply with City Long-term planning goals identified through the Comprehensive Plan, or located within target areas where other city programs are taking place such as redevelopment areas, downtown areas or areas in need of reinvestment.
- All applicants must be a citizen of the United States and the proposed business must be located within the city limits of Dunkirk.
- No member of the DLDC, Loan Review Committee, or any other official, employee, or agent of the City who exercises decision-making functions or responsibilities in connection with the implementation of this program is eligible for financial assistance under this program
- Applicants shall not be disqualified based on age, race, religion, color, handicap, sex, physical condition, development disability, sexual orientation, gender identity, or national origin.

### **3.3 Eligible Activities**

CDBG funds may be used for a variety of activities, some of which include:

- Purchase of land or buildings
- Building construction
- Building renovation
- Up-fit tenant improvements
- Purchase capital equipment to conduct the business
- Purchase of inventory necessary for project start-up
- Operating Capital

### **3.4 Ineligible Activities**

The following activities may not be assisted with CDBG funds:

- Refinancing or consolidation of existing debt
- Reimbursement for expenditures prior to loan approval
- Equipment that is not essential to the business operation
- Residential building construction
- Routine Maintenance
- Professional services such as feasibility and marketing studies, accounting, management and other similar services. Legal services incurred in the closing of the RLF loan are eligible.
- Governmental uses or expenses
- Political activities
- Personal property

- Other activities that the Loan Review Committee may identify during the administration of the program.

### **3.5 *Ineligible Businesses***

Program loans shall not be available for the following businesses

- Speculative investment companies
- Real estate investment companies
- Lending institutions
- Gambling operations
- Non-public recreation facilities
- Other businesses not serving the interests of the City

### **3.6 *Minimum Requirements***

To be eligible for funding, a proposed project must meet all of the following minimum requirements

- **Cost per Job Created:** All businesses requesting funds must create a minimum number of jobs that meet HUD income criteria within 1 year of funding based on the following:
  - Loans between \$2000 and \$8000 must create at least 1 new full time job
  - Loans between \$8001 and \$16,000 must create a minimum of 2 new full time jobs
  - Loans between \$16,001 and \$24,000 must create a minimum of 3 new full time jobs
  - Loans over \$24,001 must create a minimum of 4 new full time jobs
- 51% of those jobs must be filled by individuals who fall within HUD Low to Moderate Income and Household Income criteria. (See appendix for criteria)
- **Financial Feasibility and Business Viability:** The applicant must demonstrate that the proposed project is viable and the business will have the economic ability to repay the funds.
- **Low and Moderate Income (LMI) Benefits:** The project shall provide increased permanent employment or will retain existing jobs, which would have been lost locally. Of the jobs created or retained by the project, at least 51% of these jobs must be made available to low to moderate income persons, (as defined by household incomes published annually by HUD)
- **Compliance with Applicable Laws:** Applicants shall comply with the applicable local, state, and federal laws and codes.
- **Project Completion:** Projects shall be implemented within 6 months from the date of the loan approval. Applicants shall provide the DLDC a project implementation schedule not exceeding 12-months for project completion and job creation, and maintain the positions created for 12 months.

### **3.7 *Special Considerations***

Although all loans that meet the minimum requirements will be considered, preference will be given to applicants that meet one or more of the following:



- 1) have demonstrated funds are not available from other sources (SBA 504 or exclusive bank financing)
- 2) have shown they will exceed the minimum requirements of job creation while maintaining the ability to meet debt service
- 3) have shown that RLF funds are fully secured by property or personal guarantee. The greater the security of RLF funds, the higher the priority given to the applicant
- 4) have successfully completed an approved Entrepreneurial training course.

## ***Section 4: Terms and Conditions***

### ***4.1 Terms and Conditions***

Loan terms and conditions shall be structured on need and ability to repay. Minimum standards shall include the following:

1. Loan Amount: Loan amounts are subject to the availability of program funds
2. Interest Rate: The interest rate shall be established by the Loan Review Committee
3. Terms for Loans
  - a. Working capital loans shall have a maximum term of five years
  - b. Loans for machinery, equipment, and fixtures shall have a maximum term of ten years
  - c. Real estate loans shall have a maximum of 12 years which can be amortized on a 20-year basis with the option of refinancing for an additional 8 years.
  - d. In any case, the loan shall not have a term longer than the terms of the other private financing in the project
4. Period of Payment: Terms may include longer amortization scheduled with balloon payments. Amortization schedules shall be set up for monthly payments
5. Repayment: Payment of interest and/or principal may be deferred during the implementation period of the assisted activity if merited in the loan application. Interest shall accrue during the deferment period and may be paid in full or added to the principal amount of the loan. Following the deferral period, interest and principal shall be paid for the remaining term of the loan and shall be due no later than the 5<sup>th</sup> of each month.
6. Prepayment: There shall be no prepayment penalties
7. Collateral: The DLDC will seek to have the best possible collateral position possible to ensure that RLF loans are adequately secured.
8. Good Standing Incentive: If the business maintains a good standing on the loan and completes its original business plan, 10% of the principal balance will be forgiven according to the following:
  - a. Capital projects: 3 years
  - b. Machinery, equipment of fixture loans: 7 years
  - c. Real estate loans: 10 years

## ***Section 5: Application Procedures***

### ***5.1 Discussion of Requirements***

Prior to submitting an application, the applicant shall discuss the program with the Program Administrator. The Administrator shall assist the applicant, as is reasonably necessary, in completing the application. All financial information should be kept in a secure place within limited access by authorized personnel only.

## **5.2 Timing**

Application may be submitted at any time during the year

## **5.3 Priority**

Applications shall be reviewed in the order received and based on readiness for the proposed project to proceed. In the event that loan funds requested exceed available funds, the following criteria will be used to determine which business(es) will be awarded the loan(s).

1. Eligibility of the applicants
2. Eligibility of the project to be undertaken
3. The extent to which private funds are to be leveraged
4. The extent to which jobs are to be created, and the type of jobs and wages
5. The extent to which the loan can be secured
6. Evidence of ability to repay the loan
7. Size of the loan requested
8. Timing of the proposed expenditures
9. Completeness of application
10. Other factors as deemed appropriate

## **5.4 Loan Application**

Applicants shall submit an application using the form available from the RLF program and that includes the following:

- **Business Description:** A written description of the business, including the following
  - A brief history of the existing or proposed business, including when it started or is to start, type of operation, legal structure, markets, and products
  - Key customers and clients
  - A personal resume of each principal associated with the business, including number of years of experience in the business; educational background; and role in the proposed or existing business
  - Three years of financial history including balance sheets, profit/loss statements, and cash flow statements and accounting notes
- **Project Description:** A description of how the business plans to use the requested funds
- **Commitments from Private Lenders:** This consists of commitments from all private lenders making loans to the project. Lender commitments letters should include:
  - Description of the type of loan being made by the lender (first mortgage, permanent financing, construction financing, etc)

- The amount of the loan, interest rate, term, and security, availability, and repayment schedule and amounts

These commitments shall be obtained concurrently with the negotiations of the terms and conditions of the RLF Program loan to insure the interest of the DLDC and City are secured.

- Projections: Provide performance (a balance sheet and income statement and cash flow statement). These should cover a three-year period and should be based on the assumption that the business will receive the requested loan.
- Additional Information: Additional information as may be required by the Loan Review Committee or the Program Administrator.

***Applications should be submitted to:***

City of Dunkirk Development Department  
342 Central Avenue  
Dunkirk, NY 14048  
Attn: SBLP Program Administrator

**5.5 Review Process:**

Specific steps in the review process include the following:

1. Preliminary Review: The Program Administrator will review the application for completeness and verify that the proposed project meets the minimum requirements provided in Section 3.6. If the application is not complete, the Administrator will inform the applicant of the deficiencies.
2. Formal Review: The Loan Review Committee will meet to review an application within 30 days of the receipt of a complete application or at some other predetermined schedule. Once the review is completed and the proposal is acceptable for funding, the Loan Review Committee will forward the proposal to the governing body for final approval or to whatever other body has been authorized to act on loan requests.
3. Negotiation of Terms: Upon the tentative acceptance by the governing body, the Administrator will contact the business in writing to review and explain the terms of the loan.
4. Notice of Award: If the applicant is approved, a closing will be scheduled to execute the necessary loan documents.
5. Rejection of Award: If the application is not approved, the Administrator will send a letter to the applicant stating the reasons for rejection and offer to meet with the applicant to explore ways to strengthen the loan request or to identify alternative funding sources.
6. Terms: The terms of the loan and payment amounts will be determined on a case-by-case basis in consultation with Program Administrator and Loan Review Committee.

**Section 6: Distribution of Funds**

**6.1 Loan Procedures**

Prior to releasing funds, the following documentation must be in place of provided at the appropriate time during the term of the loan

1. Notice of Award: The Loan Review Committee must have reviewed and approved a complete application for an eligible applicant
2. Loan Agreement: The City attorney shall prepare a loan agreement, which shall be executed by the DLDC CEO or other DLDC designated official by virtue of resolution.
3. Promissory Note: A promissory note shall be prepared by the City attorney and signed by the DLDC CEO or other DLDC designated official at the time of loan closing. The note must be dated; it must reference the agreement between the DLDC and the business; and it must specify the amount and terms of the loan funds delivered.
4. Security: Mortgage or lien instruments or personal guarantees provided as security for all loans shall be prepared by the City attorney and executed at the time of loan closing. The Administrator shall record the instrument and place a copy in the project file to include:
  - a. Mortgage and/or security agreement
  - b. UCC searches and filing
  - c. Guarantee agreement
  - d. Title insurance or Abstract
  - e. Assignment of Life Insurance
  - f. Casualty Insurance binder
  - g. Personal guarantee
  - h. Other documentation as may be appropriate
5. Repayment Schedule: A loan repayment or amortization schedule shall be prepared by the Administrator after the loan proceeds are fully disbursed. The repayment schedule shall be dated and signed by both the DLDC CEO and the CEO of the business. At that time, the repayment schedule shall be attached to both parties' copies of the agreement
6. Evidence of Permits: Documentation must be provided by the applicant that all necessary permits, licenses, and any other registrations require have been obtained by the applicant prior to the release of funds.
7. Evidence of Program Expenditures: Documentation must be provided by the business to evidence program expenditures prior to the release of funds. Documentation shall include bills and invoices or receipts for materials, final bills of sale or canceled checks. All documentation shall be reviewed and approved by the Administrator.
8. Fixed Equipment: Fixed equipment financed with program funds must have been purchased, delivered, and installed. The Administrator shall verify the installation of fixed equipment.
9. Other Documentation: As appropriate or necessary, the borrower may be asked to provide the following:
  - a. Articles of Incorporation or By-laws
  - b. A Board resolution to borrow funds and a Secretary's certificate
  - c. Current financial statements
  - d. Evidence of having secured other funds necessary for the project.
  - e. An Environmental Assessment for real estate loans which may be either a Phase I, II, or III analysis, depending on the environmental condition of the site.

With the above documentation in place, the Administrator will schedule a loan closing. All documents will be executed before funds are disbursed, and mortgages and UCC Statements shall be recorded with the Secretary of State

## **Section 7: Post Approval Requirements**

### **7.1 *Obligation of Loan Recipient***

In addition to the terms and conditions of the loan, all borrowers shall agree to comply with the following:

1. The creation or retention of the agreed upon number of jobs within 24 months of the date of the execution of the loan agreement with the DLDC
2. Not to discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, development disability, sexual orientation, gender identity, or national origin in employment or construction activity related to the use of the business loan funds.
3. To use the loan money only to pay the cost of services and materials necessary to complete the project or activity for which the loan funds were awarded
4. To permit inspections by persons authorized by the DLDC of all projects and properties assisted with loan funds. Related project materials shall also be open to inspections, which include, but may not be limited to, contracts, material, equipments, payrolls, and conditions of employment. Requests for inspection shall be complied with by the borrower.
5. To maintain records on the project as may be requested by the DLDC. These files shall be maintained as long as the loan is active or for at least three (3) years after completing of the work for which the loan has been obtained, whichever is longer.
6. To submit periodic progress reports to the Administrator in accordance with the schedule in the loan agreement. These reports shall report on project progress including number of jobs created or retained during the loan agreement.
7. To maintain fire and extended coverage insurance on the project property required during the term of the loan. The DLDC shall be listed as Loss Payee, Mortgagee, or 'additionally' insured on the policy. Term life insurance may be required on the applicant to cover the loan balance through the life of the loan.
8. To abide by all federal laws, when applicable. These include but may not be limited to: The Civil Rights Act, Age Discrimination Act, Davis-Bacon Act as amended, Contract Work Hours and Safety Act, Copeland "Anti-Kickback" Act; and all regulations pursuant to these acts
9. Reporting Requirements: If funded the business will be required to submit a quarterly report beginning the quarter after the business is funded. During the second year, a semi-annual report will be due in June and December. From the third year on, an annual report will be due to the city. The report should contain financial information such as a profit and loss statement and the most recent NCUI 101.

### **7.2 *Documenting Jobs***

For purposes of meeting the CDBG public benefit requirement, all jobs should be created or retained by a reasonable term agreed to by the DLDC and the business.

- a. Job Creation: For job creating, it is required that the business demonstrate that CDBG assistance resulted in the creation of permanent, full-time (or full-time equivalent) private-sector jobs.

- b. Job Retention: For job retention, the business should document that the jobs would actually be lost without the CDBG assistance. There should be evident in the file that prior to providing CDBG assistance, it was clearly and objectively demonstrated that without CDBG assistance the jobs would be lost. Examples of clear and objective evidence include: a notice issued by the business to affected employees; a public announcement by the business or other entities that clearly indicate the need for CDBG assistance to continue the business's operations. The DLDC should maintain documentation that supports the conclusion that without the infusion of the CDBG funds, the jobs would be lost.

If the national objective is being met is through benefit to low and moderate income persons, an income survey of current employees must document that at least 51% of the job retained with CDBG dollars are held by low/moderate income persons.

- c. Permanent Jobs: Only permanent jobs directly related to the assisted activity are considered for purposes of determining whether the project generated the requisite amount of public benefit. Note the business owner can count themselves as an employee if they are working full time in the business. A permanent job is defined as a job classification that provided 2080 hours a year employment.

## **Section 8: Performance Monitoring**

### **8.1 *Private Leverage Commitments***

The Administrator shall monitor the use of the funds and expenditure of private leverage commitments. Documentation may include invoices or receipts for materials and supplies, letter from lenders, final bills of sale, and canceled checks.

### **8.2 *Hiring of New Employees***

The Administrator shall monitor the borrower's progress in meeting agreed upon job creation or retention goals. Job creation must be documented using payroll records. Before project and after-project payroll records should be provided by the borrower to document job creation. Failure of the business to provide the targeted number of LMI level jobs may be a condition for default unless the business can show it made a good faith effort to create the targeted number of LMI jobs but did not succeed due to reasons beyond its control.

### **8.3 *Default***

In the event the business is in default on any of the terms and conditions of the loan agreement all sums due and owing, including penalties, shall, at the DLDC option, become immediately due and payable. To exercise this option, the City attorney shall prepare a written notice to the business. The notice shall specify the following:

- a. The default
- b. The action required to cure the default

- c. A date, not less than thirty (30) days from the date of the notice, by which the default must be cured to avoid foreclosure or other collective action
- d. Any penalties incurred as a result of the default, jobs, etc.

## **Section 9: Use of Loan Repayments and Reporting**

### **9.1 RLF Program**

Repaid loans shall be re-deposited into the Revolving Loan Fund account and used in a manner consistent with the policies and procedures manual. A separate accounting record for each loan shall be kept to account for all funds loaned. The RLF account shall be audited on an annual basis and the Program Administrator shall provide semi-annual reports to the DLDC regarding the use of program income.

## **Section 10: Loan Servicing**

### **10.1 Monitoring**

The Program Administrator shall monitor each loan to ensure compliance with the loan terms and conditions and to monitor the financial health of the business to insure continued repayment of the loan. The monitoring will also ensure that all recordkeeping requirements are met particularly in regard to job creation and expenditures of matching funds.

A loan servicing file shall be established and maintained for each loan recipient that includes all written correspondence; a record of important telephone conversations; a list of applicable loan covenants; certificates of insurance for builder's risk, property-casualty, and life insurance, as applicable; and documentation for job creation and retention including low and moderate income certification forms.

### **10.2 Recordkeeping**

In addition to the above, the RLF financial management records must be comprehensive and designed to provide the following information;

- a. A Revolving Loan Fund Register that records all deposits and disbursements to and from the RLF, including funds used for RLF administration
- b. A CDBG Loan Repayment Register that records repayments made by each business which has received a loan from RLF. It also tracks the balance of repayments from all loans from the RLF
- c. A Collection Register for every loan made. Each register contains the business name, loan date, loan amount, terms, and date repayment begins. Payments are divided into principal and interest payments with a declining principal balance
- d. RLF Loan Repayment Registers that record repayments made by each business, which has received a loan from RLF. It also tracks the balance of repayments from all loans from the RLF.

HUD Income limits per household for Chautauqua County:

FY 2019 Income Limit Area	Median Family Income <a href="#">Explanation</a>	FY 2019 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Chautauqua County, NY	\$60,500	Very Low (50%) Income Limits (\$) <a href="#">Explanation</a>	23,200	26,500	29,800	<b>33,100</b>	35,750	38,400	41,050	43,700
		Extremely Low Income Limits (\$)* <a href="#">Explanation</a>	13,900	16,910	21,330	<b>25,750</b>	30,170	34,590	39,010	43,430
		Low (80%) Income Limits (\$) <a href="#">Explanation</a>	37,100	42,400	47,700	<b>52,950</b>	57,200	61,450	65,700	69,900