

BUSINESS SUBSIDIES POLICY

Fillmore County, Minnesota

I. Public Purpose

Determining whether to grant a Business Subsidy is an inherently inexact process that greatly depends on individual situations. This policy is a general statement of guidelines. The County adopting this policy retains the sole and absolute discretion to deny or grant any subsidy request for any reason. The County shall have the option, by action of the County Board of Commissioners, to amend or waive sections of this Policy when determined necessary, appropriate, and in keeping with the best interests of the County.

Fillmore County ("County") in accordance with the Minnesota Business Subsidy Law ("Act"), Minnesota Statutes, and Sections 116J.993 through 116J.995 adopts this Policy. Terms used in this Policy are intended to have the same meanings as used in the Act. "A Business Subsidy must meet a public purpose other than increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is imminent and demonstrable." (Act, Subd.1)

This policy shall comply with all other state and federal regulations.

II. Business Subsidy / Community & Economic Development Tools:

The County shall continue its support of community and economic development projects by utilizing any and all available economic development financing tools it deems appropriate, including, but not limited to revolving loan fund gap financing, tax abatement, grants, contribution of personal property, guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to business.

III. Community and Economic Development Goals and Objectives:

The County shall use the available economic development financing tools to assist the County in satisfying its community and economic development goals and objectives. This specifically includes broadening and diversifying the tax base, and one or more of the following:

- Does the proposed project follow the comprehensive plan for Fillmore County.
- Developing and enhancing employment base.
- Encouraging strong, viable growth and development for the commercial and industrial areas of the community.
- Stimulating the redevelopment of underutilized, blighted or obsolete land uses.
- Insuring that publicly assisted economic development projects meet established criteria that guarantee public benefit.
- Providing additional services to county residents.
- Encouraging development that enhances the economic base for the area and provides markets for agricultural products.

- Leveraging funds for local projects.
- Redeveloping property polluted by contaminants

IV. Administrative Authority for Fillmore Business Subsidy Policy

On June 5th, 2002, the County established an Economic Development Authority (EDA) which is responsible, following County Board of Commissioners approval, for the administration and issuance of all business subsidies, pursuant to Minnesota Statutes. The EDA will consider business subsidy requests that meet one or more of the County's stated development goals and objectives as stated in the comprehensive plan. The EDA is responsible for ensuring that the project would not otherwise occur "but for" the assistance being requested.

V. General Limitations & Criteria for all Business Subsidies

To insure that publicly assisted economic development projects guarantee a public benefit and to assist the County in satisfying its community and economic development goals and objectives, the County may grant Business Subsidies to projects in accordance with the criteria listed below. The County will evaluate each request for a Business Subsidy on a case by case basis.

A. Business Subsidies shall be limited to projects within the County in which:

1. The County shall require at least as much Applicant/Owner cash or private equity in the project as the level of public financing. The balance of the project cost may be funded privately or through a private lender.

B. The following criteria will be considered for each Business Subsidy application:

1. Will the project increase the tax base and, if so, to what extent?
2. Will new jobs be created?
3. Do project projections show that the proposed project will be financially feasible?
4. Are the proposed use(s) compatible with the County's goals and objectives pointed out in section III, and are they compatible with zoning ordinances.

C. Criteria: "But For" Test

A key indicator for the use of all Business Subsidies shall be the "but for" analysis that says the proposed development project would not occur "but for" the Business Subsidy assistance. Therefore, the County Economic Development Authority will review each Business Subsidy application based on the following criteria:

1. Whether development obstacles exist on the site (e.g. deteriorated/obsolete buildings; poor soil conditions).

2. Whether the site has been targeted by the City/County/Township and/or Authority for redevelopment. The development will be based on specified needs and policy.
3. Whether the development project will locate or relocate to a different city/county and/or state without local public financing.
4. Whether public infrastructure is necessary in order to serve a large area or targeted site.
5. Whether land acquisition assistance is required in order to address a specified public strategy or need.
6. Whether public financing fills an identifiable financing "gap" for the project due to such factors as inadequate lender financing or below-market return on investments.
7. Whether applicants have authority to incur debt and carry out the proposed project purpose within the County of Fillmore.

VI. Job and Wage Goals

While it is recognized that the creation of high paying jobs is a desirable goal which benefits the community, the County also recognizes that not all projects assisted with subsidies will derive their public purposes and importance solely by virtue of job creation.

Job creation will be highly sought after. As a traditional measure of a subsidy's public benefit, it is also recognized that job creation is by no means the only measurable benefit. In addition, the imposition of high job creation requirements and high wage levels may be unrealistic and counterproductive due to the economic forces in the County and the rural region. Therefore, jobs created shall pay at least 110% of the federal poverty rate for a family of four.

VII. Eligibility Requirements for all Business Subsidies

To be eligible for a Business Subsidy in the County:

- A. Applicants must have the authority to incur debt and carry out the proposed project purpose within the County.
- B. Applicants must have the legal right to own and operate the project for which a Business Subsidy is requested.
- C. A Business Subsidy must not result in any conflict of interest prohibited by law.
- D. Any delinquent debt to the federal, state or local government, by the Applicant or any of its principals, shall cause the Applicant to be ineligible to receive Business Subsidies.
- E. Applicants cannot be involved in any pending litigation.

VIII. Minimum Standards & Costs for All Business Subsidy Projects

- A. A building or zoning permit shall not be obtained and construction shall not begin until the County Board and the Authority have approved the applicable Business Subsidy documents, and executed

with the Applicant a corresponding development agreement / contract for private development, or other appropriate agreements. The project shall show compliance with all state and federal requirements regarding the environment and historical significances.

- B. Applicant shall be responsible for costs associated with contract professionals that review the Business Subsidy application, prepare and approve required documents, and execute the agreements.
- C. At all times, policies and procedures related to the proposed or actual approval of the Business Subsidy Project shall comply with state and federal laws.
- D. All applications and supporting documents shall become the property of the County, and the classification of the data shall be governed by the Data Practices Act.
- E. The Board of Commissioners and Authority reserve the right to select and retain, at the expense of the Applicant, a third party to assist in the evaluation of the proposed development project and corresponding documents and agreements.
- F. The Interest rate shall be determined by the type/source of Business Subsidy.

IX. Business Subsidy Application Procedure

A. Pre-application

- 1. Completed Business Subsidy Application.
- 2. County Staff and/or a third party will review the pre-application and will approve or deny the application. The EDA and County Board of Commissioners will be informed throughout the application process. If a full application is to be considered, staff and/or third party will evaluate project based on the County's Business Subsidy Criteria. Once the full application is completed county staff will bring the proposed project to both the EDA Board and the County Board of Commissioners for approval or denial.

B. Full Application

The Applicant must provide all supplementary information and attachments as required for the Business Subsidy being requested; **and**:

- 1. A "but for" letter documenting the need that sets forth the financial analysis demonstrating need for public financing assistance.
- 2. Letter of feasibility from a bank, lender, or financial advisor, including the following (where applicable):
 - Letter of commitment for bank / private financing
 - Property appraisal if needed;
 - Applicant's Business Plan
- 3. Statements addressing environmental review requirements and evidence of compliance with applicable requirements.
- 4. Building and site plans.
- 5. Property information, including legal description, tax parcel ID number, size of parcel(s), current market value and estimated market value upon completion (land and improvements), and map showing exact boundaries of proposed development.
- 6. Statement of property ownership or control (e.g., purchase agreements and contracts).

7. Business financial statements including the past three years of profit/loss statements and balance sheets.
8. Resumes and personal financial statements of all principals with 20% or more ownership in the business.
9. List of other development projects the applicant has completed. List the value, debt load, and lender(s) of each project and note if the applicant has defaulted on any loan commitment, development or redevelopment agreement, or other subsidy for any of the projects listed.
10. List other information deemed necessary or desirable by the County Board or the EDA.

X. Approval Process

A. Approval Process

The County EDA will make a finding to the County Board of Commissioners based upon information presented by county staff as to whether the proposed project will be approved or denied. If approved, the application will be forwarded to the County Board of Commissioners for their approval or denial.

Once final approval of a business subsidy is given by the County Board of Commissioners, the Board of Commissioners will direct county staff to move forward on all required documents and agreements, including, but not limited to:

1. A Business Subsidy / Development Agreement;
2. A Loan Agreement and Promissory Note;
3. Adequate Collateral
4. Personal Guarantees may be required in any project at the sole discretion of the EDA or County Board and may be collateralized with personal assets where appropriate.

XI. Follow-up Reporting Requirements

The Act requires follow-up reporting on the part of the business to the County and from the County to the State of Minnesota or other funding entity. The County shall provide a description of the information required and the forms / format for such reporting. Failure to abide by the County EDA guidelines, laws and approved plans or agreements may result in the calling of the loan at the County's request.

XII. County Retains the Right to Ultimate Review

Due to the fluctuating nature of business and communities, this policy must remain able to accommodate the changing needs of the County. Due to the inherent inability to fully anticipate future situations and projects, this granting body retains the right to grant subsidies to projects that are deemed in the public interest, yet may deviate from the above criteria.

DATE OF POLICY ADOPTION: October 1, 2002

AMENDED DATE: August 9, 2005

DATE OF POLICY AMENDMENT HEARING: August 9, 2005

AUTHORIZED SIGNATURE: _____
Chair, Chuck Amunrud

TITLE: Commissioner