



UDAG REVOLVING LOAN FUND GUIDELINES

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
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City of Johnstown
Department of Community and Economic Development
UDAG Revolving Loan Program
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Purpose

The City of Johnstown maintains an economic development strategy designed to stimulate private investment and generate employment opportunities throughout the City. One of the ways this strategy is being implemented is via the UDAG Revolving Loan Fund, a locally administered loan fund, capitalized by means of repayments on the former Federal Urban Development Action Grant (UDAG) projects, funded during the late-1970's and 1980's. The Federal UDAG program funded by U.S. Dept. of Housing and Urban Development centered on funding projects that created jobs via an injection of Federal funds, which in turn triggered an investment of private sector funding. As such, the UDAG Program was an early attempt at the creation of public/private partnerships in economic development. One of the more unique characteristics of the UDAG Program was that the initial grants were loaned by the City to private businesses. The repayment of these loans would then be returned to the City, which would create additional funds for community and economic development.

The City of Johnstown utilizes a portion of its UDAG repayments to fund a Revolving Loan Fund. UDAG loan funds are earmarked for those developmental activities deemed inappropriate for funding under the City's Job Development or its Enterprise Zone Loan Programs.

Program Eligibility and Statutory Considerations

Any project or activity undertaken with UDAG RLF funds must comply with the provisions of the Housing and Community Development Act of 1974 (42 USC 5301) and regulations promulgated by HUD to implement Act (24 CFR Part 570), and must be eligible activities as identified by the Community Development Block Grant (CDBG) program. Although there are many additional laws and regulations that govern the CDBG Program, primary emphasis must be given to compliance with the project eligibility and statutory objectives of the CDBG Program. These detailed regulations are available for review in the City's Community and Economic Development Department (DCED). Eligibility of economic development activities is discussed in the CDBG regulations at 24 CFR 570.203 which states:

The provision of assistance to private for-profit businesses, including but not limited to grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support; for any activity where the assistance is appropriate to carry out an economic development project.

In addition to meeting the specific eligibility definitions of the CDBG regulations, all activities must address the primary objective of the Act which establishes as its primary objective the development of viable urban communities including decent housing and suitable living environment and expanding economic opportunity. The extension of UDAG financial assistance to private sector investors will be based in part on the number of employment opportunities that will be created or retained as a result of the transaction. Job production or retention is one of the threshold requirements that must be met in order to process a request for loan assistance. The threshold requirements will be explained in a later section of this document.

Eligible and Ineligible Activities

Eligible activities include building and land acquisitions, building construction, renovation, machinery and equipment, inventory, and working capital costs of new and expanding businesses. The UDAG funds may not be used for refinancing of existing debt and cannot be expended for any activity that commenced prior to the date of the initial application for the loan. In certain cases where project timing becomes critical, the investor may be permitted to obtain interim short term financing in anticipation of the loan. The City will not, however, issue any type of written commitment prior to the loan closing date.

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Eligibility Requirements

Threshold requirements for UDAG loan funds include:

- 1) Non-residential economic development project
- 2) Location within the City of Johnstown corporate limits
- 3) Creation of one new employment opportunity for every \$25,000 borrowed or retain one full time position for every \$12,500 borrowed.

Job creation is our primary concern in all new/expanding business projects. Therefore, the City can only lend money based on the number of jobs to be created. For example, if the total cost of a project in the City is projected at \$500,000, and eight (8) employment opportunities would result from the project, the maximum \$100,000 loan could be made. If the same \$500,000 project were planned, but only three (3) employment opportunities would result, the maximum level of UDAG assistance would be \$25,000 times 3 jobs, or \$75,000.

For the purpose of employment projection calculations, a full-time equivalent employee is defined as any employee or employees who work a 40-hour week. As an illustration, the creation of two (2) part-time positions for persons working 20 hours per week would result in the creation of one (1) full-time equivalent employment opportunity. The City, at any time, may set the amount of UDAG funds that can be borrowed depending on the availability of funds and other circumstances that prompt the City to set limits. Employers must be willing to sign a statement of assurance that they will make affirmative effort to produce the level of employment opportunities they projected.

Type of Available Assistance

UDAG loan funds are available to private development projects in the form of a loan, which may be subordinated to any form of existing or proposed private financing involved in the project. All loans made under this program will be secured in a manner deemed most appropriate by the City. Security may be in the form of a mortgage, a judgment note, a financing statement, a general assignment, or some alternative form that provides adequate security for the loan. Personal guarantees may be required in order to complete the collateral arrangement.

Program Participation in Project Financing

The UDAG loan requested must not exceed thirty-three percent (33%) of the total project cost, or a maximum of \$100,000, at the time of initial application. Applicants are required to pledge five percent (5%) of the total project cost as an owner's equity injection. This investment must be in the form of a new capital outlay or an unpledged asset. The remaining sixty-two percent (62%) of the total project cost can be acquired from financial institutions, investors, etc. These sources of financing must be documented.

A complete financing plan for a one hundred thousand dollar (\$100,000) project would look like the following: a request for thirty-three (\$33,000) from the City, owner's equity amount of five thousand (\$5,000), and sixty-two thousand (\$62,000) from other private sources.

Other forms of subsidized public financing, such as the state of Pennsylvania's PIDA, MELF, or SBF loans, may be used in conjunction with UDAG funds, however, the amount of the City's UDAG loan must be the minimal amount needed to render the project financially feasible.

In cases of projects that involve multiple sources of public financing, the borrower must present a complete pro forma analysis of the proposed project together with any additional documentation the City may require to demonstrate the need for UDAG financing. The City will make a determination relative to the project's need for financing, and may elect to deny the request. The City will inform the borrower of its determination as to the amount. Projects that involve

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multiple sources of public financing must meet all UDAG loan program requirements.

Micro-Enterprise Loan Component

As an extension of the UDAG Loan Program and as a means of extending assistance to smaller enterprises, funding assistance is available in smaller amounts for certain activities which create or retain jobs. Eligible applicants and activities are as per the regular UDAG Loan Program. The following Micro-Enterprise Loan program also has the following requirements:

- 1) Funding assistance is available for projects creating of one or more full-time equivalency job(s)
- 2) The maximum loan for projects in the Central Business District is \$25,000 or 70% of the total project cost, whichever is less. Elsewhere in the City, the maximum loan is up to \$25,000 or 50% of the total project cost, whichever is less
- 3) The interest rate is 3% per annum and the maximum term is three (3) years for projects involving inventory and/or working capital, and five (5) years for projects involving equipment and other interior furnishings.

For the purposes of this component, a micro-enterprise is a small business located in the City of Johnstown having five (5) or fewer employees.

Interest Rate and Terms of Repayment

All loans made under this program will be amortized at an interest rate of three percent (3%) provided that the original projection of employment opportunities generated by the project is fulfilled. Interest penalties for failure to meet employment projections are described in a separate section. The term of loans made under this program vary:

- Building/land acquisition building construction – up to 15 yrs
- Building renovations, leasehold improvements, machinery, equipment – 7 yrs
- Working capital, inventory – 3 yrs

Job Creation Requirements

The UDAG Loan requires the creation of one new employment opportunity for every \$25,000 borrowed or retain one full time position for every \$12,500 borrowed. For the purpose of employment projection calculations, a full-time equivalent employee is defined as any employee or employees who work a 40-hour week. As an illustration, the creation of two (2) part-time positions for persons working 20 hours per week would result in the creation of one (1) full-time equivalent employment opportunity. The City, at any time, may set the amount of UDAG Loan funds that can be borrowed depending on the availability of funds and other circumstances that prompt the City to set limits. Employers must be willing to sign a statement of assurance that they will make affirmative effort to produce the level of employment opportunities projected in the UDAG Loan Application.

Job Retention Requirements

In order to consider requests for loan assistance in cases involving job retention rather than creation, there must be clear and objective evidence that permanent jobs will be lost without UDAG Loan funds. For these purposes, “clear and objective” evidence that jobs will be lost would include:

- Evidence that the business has issued a notice to affected employees or made a public announcement to that effect
- Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention

Penalty for Failure to Meet Employment Projections

Providing the required new jobs for unemployed or underemployed persons is an important part of the UDAG Loan Program. Failure to provide the projected number of jobs within three (3) years from the date of loan closing

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constitutes a default to the loan agreement and will trigger an immediate repayment of the loan.

The borrower will be monitored during and at the end of the three (3) years and information is to be provided by the borrower as evidence that the jobs have been created and properly filled by unemployed or underemployed persons.

Monitoring

At the time of monitoring for compliance with the threshold requirements of the loan, the loan recipient must provide all information requested by the City. Monitoring information needed and not provided when requested is just cause for voiding an application and/or for the immediate repayment of the loan, penalties, and legal costs.

Licenses

The applicant must be up to date with all licenses and fees required by the City of Johnstown. If the applicant is not up to date on the licenses and/or fees, the City of Johnstown holds the right to deny the loan request. These licenses and fees include the following:

- Occupancy Permit
- Business License
- Cabaret License for all Entertainment Service Businesses
- Amusement Tax License for all Gaming Machines located within the business
- Building Permit for all businesses that will be conducting renovations
- Certificate of sewage compliance when purchasing a property.

Any and all outstanding code violations with the City's Code Department will also forfeit your loan application.

Required Documentation

A complete package including the following must be submitted to City's DCED along with a non-refundable \$50.00 application fee to be considered for loan funds: **Any Application submitted without the required documentation or loan application fee will not be accepted by DCED.:**

1. Detailed description of the proposed project, including estimate of total cost, cash flow pro forma, projected balance sheets, and profit and loss statements
2. Narrative describing the need for job loan funds
3. Evidence of site control such as a title, lease, agreement of sale, or option
4. Summary of the sources and uses of all funds for the project
5. Evidence of financial commitments
6. Payroll records as of date of initial inquiry for the purpose of measuring the increase in employment opportunities and last three years financials (if a existing business)
7. Personal Financial Statement
8. Credit Report

Loan Services and Fees

At time of closing, the successful borrowers are required to pay a loan servicing fee of one percent (1%) of the City's portion of the loan with a minimum of \$200.00 to the City of Johnstown. Successful borrowers will be provided with all relevant information at the time of the loan closing.

Payments to the City's loan servicing agent are generally due on the first day of each month commencing upon the first payment date. This date (typically roughly 60 days after closing) will be determined by DCED via the borrower's

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generated Loan Schedule and Account. A welcome letter will also be sent via email and mail. It is the responsibility of the loan applicant to follow their agreed upon payment schedule unless otherwise specified by DCED. Payments not received within days of the payment due date will be considered late. Late payments must be accompanied by a flat late payment fee of thirty dollars (\$30.00) plus the loan payment otherwise an outstanding late fee will be added to the outstanding loan balance.

The City of Johnstown has partnered with Bryt Software, a loan management platform, to service loans issued under the UDAG Revolving Loan Fund (RLF). Borrowers will receive login instructions for the UDAG RLF Borrower Portal, which provides access to payment schedules, loan balances and other important loan documentation.

All loans given under the UDAG loan program will be charged a five dollar (\$5.00) monthly RLF Community Service Fee, due with each payment. This fee helps offset administrative costs associated with loan servicing software and ACH processing.

To encourage use of automatic payments, an ACH Authorization Form will be provided at loan closing. Borrowers enrolled in ACH may designate one bank account only for recurring payments. Upon submission and confirmation of the form, 50% of the applicable Community Service Fee will be waived and deducted from the borrower's monthly payment. If the borrower chooses to stop recurring or auto payments the 50% discounted Community Service fee will be removed and the full fee will be due every month moving forward until the borrower re-enrolls in auto ACH. If a borrower enrolled in automatic ACH payments has a payment returned for any reason (e.g., insufficient funds, closed account), they will be notified in writing and given until the end of the 15-day grace period to resolve the missed payment along with any return fees incurred by the City of Johnstown UDAG RLF due to the missed or returned payment.

Repeated failed ACH payments (two or more in a 12-month period) will result in removal from the ACH discount program, and the full Community Service Fee will be reinstated. Late fees may also apply if payments are not received within the established 15-day grace period.

Borrowers must submit updated authorization if bank account information changes.

All loan repayments will be applied in the following order:

1. **Lender fees** (including the Community Service Fee and any return or administrative fees)
2. **Accrued interest and late fees (if applicable)**
3. **Principal balance**

Repayment on all loans will begin roughly 60 days after the loan closing date, unless otherwise approved by the Loan Review Committee.

City Review of Requests for Assistance

DCED will maintain a log on each loan application. If documentation is incomplete three (3) months after the application date, with no justifiable written explanation, the application will be voided and removed from the application file. The completed loan package will be reviewed by DCED staff, the City's attorney and the designated loan review committee who will reach a final determination on any funding action to be taken. Provided that all necessary documentation is in order, the City will be capable of reacting to requests for assistance in a prompt and timely manner. The applicant will be notified, in writing, of any action taken by the City relative to his/her request for

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assistance. Successful applicants will be contacted to establish a mutually convenient date for the loan closing. All private funds must be available for project implementation before the loan closing can take place.

Loan Review Committee

The Loan Review Committee has been established to review all loan applications and documentation relative to the UDAG Loan Program. The Committee will coordinate the lending process and make decisions and recommendations on underwriting issues (i.e., determination of credit worthiness of borrower). The committee will meet at 2 pm on the third (3rd) Wednesday of the month(s) when loan applications have been properly and fully submitted. You will be notified by the City of Johnstown's Department of Community and Economic Development when your committee meeting will occur and you will be encouraged to attend the meeting in order to answer any questions that may arise on your application. You are required to submit your loan packet in full the second (2nd) Monday of the month in order to allow proper distribution and review.

Delinquent and Uncollectable Loans

Any UDAG loan which becomes delinquent, more than 30 days late, shall trigger a written notice of such delinquency from the City of Johnstown Department of Community and Economic Development. Written delinquency notices shall continue to be sent to the loan recipient on a monthly basis, up-to three (3) months delinquent. If the loan is not brought current by resuming payments, restricting the loan agreement and/or become unresponsive for a period of three (3) months delinquent, the loan shall be turned over to the City of Johnstown Solicitor for legal action.

Special Requirements

All executed loans must benefit the City of Johnstown. To insure this, the agreements between the loan recipient and the City contains a provision that if the business relocates outside the corporate limits of the City before the loan is repaid, the outstanding balance, penalty or interest shall become payable within sixty (60) days. Any balance remaining after the sixty days will be affixed with an interest rate at least two (2) points above the New York prime rate.

Reasonable activity must commence as planned and be maintained in completing the project financed by the loan. If the activity is not started or completed within a reasonable and agreed upon time, the unused loan funds will be returned to the City and portions drawn by the recipient will be immediately due and payable to one hundred and ten percent (110%) of that amount. The loan recipient must provide documented proof of mitigating circumstances for delay and receive acceptance by the City in order to eliminate or reduce the penalty.

Further information relative to the UDAG Loan Program may be obtained by contacting the City of Johnstown's Department of Community and Economic Development at DCEDloans@johnstownpa.gov.