

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 70.730

EFFECTIVE DATE: November 30, 2021

TITLE: Infrastructure Loan Program

SUPERSEDES: Governance Manual
February 2021

BOARD ADOPTION: November 30, 2021

REVIEWED:

I. Infrastructure Loan Program

A. The following provisions apply to the Loan Program:

1. Program funded by a \$80.0 million allocation from the Permanent Coal Tax Trust.
2. Applications submitted by eligible local governments.
3. Loan funds infrastructure projects that provide facilities/services to basic sector businesses.
4. Business pays user fee to local government that is pledged to the Board for loan repayment.
5. Businesses may reduce their Montana state income tax liability by the amount of the fee, Section 15-31-301, MCA.
6. The business must create at least fifteen (15) full time basic sector jobs to be eligible for the program.
7. Maximum loan size \$16,666 times the number of full-time jobs created.
8. Minimum loan size \$250,000.
9. Maximum loan term twenty-five (25) years.
10. Interest rates posted weekly.
11. Up to two and a half percent (2.5%) interest rate reduction for job creation.

B. Application Procedures

1. Local governments must submit the application to the Board.
 - a) The application must include:
 - (1) Evidence that the user of the infrastructure meets the following Basic Sector definition:
 - (a) Business activity conducted in the state that produces goods and services for which fifty percent (50%) or more of the gross revenues are derived from out-of-state sources; or
 - (b) Business activity conducted in-state that produces goods and services, fifty percent (50%) or more of which will be purchased by in-state residents in lieu of like or similar goods and services which would otherwise be purchased from out-of-state sources.
 - (2) A complete description of the purposes for which the loan proceeds are to be used.
 - (3) A description of the proposed loan including principal amount, proposed maturity,

proposed repayment schedule, and proposed security.

(4) Information addressing the following:

- (a) Estimated number of permanent full-time jobs and their estimated wages, to be created by the project within a four (4) year period.
 - (b) The impact of the jobs on the state and the community where the project is located.
 - (c) Long-term effect of corporate and personal income taxes estimated to be paid by the business and its employees.
 - (d) The current and projected ability of the community to provide necessary infrastructure for economic and community development purposes.
 - (e) The environmental impact of the project and whether any environmental review or permits are required.
 - (f) Other matters that the Board considers necessary.
 - (g) Information about the business creating the jobs shown on the application form.
- (5) The loan application shall be properly signed and certified by the local government applicant and by the business creating the jobs on its section of the application.
- (6) If the loan is approved, the Board and the local government will enter into a commitment agreement.
- (7) The local government must pass a resolution authorizing the acceptance of the commitment agreement and execute and return the commitment agreement within sixty (60) days of the commitment date or the commitment will expire.
- (8) A development agreement, if applicable, between the local government and the basic sector business must accompany the application.

C. Ineligible Loans

- 1. Loans to any local government in default on any obligation.
- 2. Loans to local governments for infrastructure to businesses in default on any obligation.
- 3. Loans providing infrastructure to business creating fewer than fifteen (15) jobs in a four (4) year period.

D. Interest Rates

- 1. Interest rates, effective for a one-week period, will be posted each Thursday to the Board website.
- 2. Job credit interest rate reductions are available as per Section I of the Infrastructure Loan Policy.
- 3. Initial interest rate determined by the interest rate posted on the Commercial Loan Rate Sheet on the date the Infrastructure Loan application is received.

E. Loan Sizing

- 1. Minimum loan size \$250,000.
- 2. Maximum loan size \$16,666 per full time job created.
- 3. All outstanding infrastructure loans limited to \$80.0 million.

F. Collateral Requirements

1. A note or other evidence of indebtedness.
2. A loan agreement.
3. First mortgage/lien position when appropriate.
4. The local government's pledge of infrastructure fees for repayment of the loan.
5. The loan resolution adopted by the local government.
6. All necessary state, federal and local government permits must be obtained before loan closing.
7. Collateral must have sufficient economic life to support the term of the loan.
8. Personal or corporate guaranty as determined by the Board.
9. Attorney opinion on authority of local government to borrow and the validity of all collateral documents.
10. Attorney opinion to the local government on the legal and binding nature of obligations on the local government and the business for which the infrastructure is provide.
11. Other collateral or loan documents as required by Board.

G. Appraisals

1. Licensed Montana appraisers are preferred unless there is a specialized property collateral requiring an out of state appraiser.
2. Appraisal requirements are based on the total loan amount shown:
 - a) Up to \$500,000 As required by Board to provide basis for value.
 - b) Over \$500,000 Appraisal Report, as defined by the Uniform Standards of Professional Appraisal Practice.

H. Other Loan Policy Considerations

1. Loans for infrastructure on leased land will be considered if the lease does not expire prior to loan maturity.
2. Maximum loan terms are twenty-five (25) years.
3. Consultant fees may be financed as part of the larger project but may not be financed on a stand-alone basis.
4. Commercial Loan Policy underwriting criteria will be considered.
5. If there are not a sufficient number of jobs created within the first four (4) years of the infrastructure loan, the basic sector business:
 - a) Will have ninety (90) additional days to create those jobs, or
 - b) Will have to pay down the infrastructure loan to a level which the current number of jobs supports the outstanding loan balance as specified Section E.
6. The business will reimburse the Board for all legal fees and closing costs associated with the preparation of the loan documents.
7. If there are not a sufficient number of jobs created within the first four (4) years of the infrastructure loan the basic sector business:
 - a) Will have ninety (90) additional days to create those jobs, or
 - b) Will have to pay down the infrastructure loan to a level which the current number of jobs supports the outstanding loan balance as specified in Section E.

I. Job Creation Interest Rate Reduction

1. Business creating jobs as a result of an infrastructure loan are entitled to an interest rate reduction of five-hundredths percent (0.05%) for each job created up to a maximum of two and a half percent (2.50%). The reduction will be reflected in the user fee rate charged the business.
2. One job is equal to the Private Annual Wage shown on the weekly posted Commercial Loan Rate Sheet.
3. For jobs paying more than the Private Annual Wage, job credits will be increased proportionately for each twenty-five percent (25%) increment above the Private Annual Wage to a maximum of two jobs.
4. For jobs paying less than the Private Annual wage, job credits will be reduced proportionately for each twenty-five percent (25%) increment below the Private Annual Wage.
5. Job credits are not available unless one whole job is created.
6. Job credit interest rate reductions are not available for jobs paying less than the State of Montana minimum wage provided for in Section 39-3-409, MCA.
7. The business must provide evidence of the creation of jobs prior to the reduction and annually thereafter.
8. Interest rate reductions provided in this part will be effective on the next scheduled payment date.
9. The business seeking an interest rate reduction must provide payroll records as evidence of the creation of jobs.
10. The Board may increase the interest rate commensurate with the number of jobs eliminated if the borrower eliminates qualifying jobs. The basic sector business must notify the Board if they eliminate qualifying jobs.
11. The beginning date for counting jobs created is the date of the first written contact from the borrower or the business pertaining to the project.

J. Project Specific Requirements

1. Any contract to construct a project financed by loan proceeds must require all contractors to give preference to the employment of bona fide Montana residents, as defined in Section 18-2-401, MCA, in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents.
 - a) Substantially equal qualifications mean the qualifications of two (2) or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.
2. If the Board participates in construction financing, the general contractor and all subcontractors shall be subject to Montana's prevailing wage law specified in Section 18-2-4, MCA.