

**LOCAL GOVERNMENTS CAPITAL  
IMPROVEMENTS REVOLVING LOAN PROGRAM**

**(CAP LOAN)**



**GUIDELINES**

## **LOCAL GOVERNMENTS CAPITAL IMPROVEMENTS REVOLVING LOAN PROGRAM (CAP)**

The Local Governments Capital Improvements Revolving Loan Program (CAP) administered by the Mississippi Development Authority (MDA) is designed for making loans to counties or municipalities (Applicant) to finance capital improvements in Mississippi. Applicants are encouraged to use these loans in connection with state and federal programs. Funding for loans to Applicants is derived from the issuance of state bonds. The State Legislature enacted CAP during the regular 1994 session. (See Section 57-1-301 through 57-1-335 et seq., Mississippi Code, Annotated.)

### **ELIGIBILITY REQUIREMENTS**

#### **Eligible Applicants**

Application for assistance must be submitted by the governing authority of the county or an incorporated municipality.

#### **Eligible Projects**

Projects that are eligible for assistance must be for capital improvements in Mississippi's counties and municipalities. Section 57-1-301(2)(a-n)

- Construction or repair of water and sewer facilities
- Construction or repair of drainage systems for industrial development
- Improvements in fire protection
- Construction of new buildings for economic development purposes
- Renovation or repair of existing buildings for economic development purposes
- Construction or repair of access roads for industrial development
- Purchase of buildings for economic development purposes
- Construction or repair of railroad spurs for industrial development
- Construction of any county or municipally owned health care facilities, excluding any county health departments
- Construction, purchase, renovation or repair of any building to be utilized as an auditorium or convention center
- Construction of multipurpose facilities for tourism development
- Loans to a county to aid in retiring interest-bearing loans utilized for the purchase of a motion

picture sound stage

- Construction, repair and renovation of parks, swimming pools and recreational and athletic facilities. (Not intended to be used for school districts or for commercial purposes, such as health clubs, skating rinks, miniature golf courses, etc.)
- Remediation of brownfield agreement sites in accordance with Sections 49-35-1 through 49-35-25

## **LOAN REQUIREMENTS**

### **General Loan Limitations**

Economic Development related projects are defined as projects that promote full time private sector job creation and/or retention. One full-time job is the equivalent of a minimum of 1,820 annual work hours. Project awards will be limited to not more than \$20,000.00 per job, or a maximum loan amount of \$2,500,000.00 whichever is less.

Community Development related projects are defined as non-job creating projects that benefit a need in a community unrelated to economic development. Project loan awards will be limited to \$1,250,000 per project or \$1,250,000 per applicant, per calendar year.

Loans for the construction, repair and renovation of parks, swimming pools and recreational and athletic facilities shall not exceed \$250,000.00 per project Section 57-1-301(a). Limited to one active project per applicant (one project in construction).

Up to 8% of the principal loan amount may be used for design work, i.e., engineer or architect excluding brownfield projects. Engineering and/or architectural costs above 8% must be paid from other sources.

CAP Loan funds cannot be used for project signs, administrative costs, legal or appraisal fees.

All loans shall have annual interest computed daily on the outstanding loan balance. Daily interest begins to accrue at the time of the first disbursement.

The Applicant will be required to expend all CAP loan funds within two years from the date of loan approval, unless a waiver at MDA's discretion is granted upon good cause shown. If the funds are not expended within the two years, MDA will have the option to adjust the loan to the actual disbursements and de-obligate the remaining funds.

### **Loan Terms**

The term of any loan must be reasonable and shall not exceed 20 years Section 57-1-303(4). The loan amount allowed will be determined by the Applicant's ability to repay the loan within acceptable terms. The rate of interest on all CAP loans is calculated according to the actuarial method Section 57-1-303(3)(i-ii).

CAP loans that qualify for tax-exempt status, according to bond counsel review, shall be at 2% per annum Section 57-1-303(3)(ii); and taxable CAP loans shall be at 3% per annum Section 57-1-

303(3)(i).

The interest on any loans converted from non-interest-bearing loans on sound stages to other eligibility categories will be changed to an applicable interest-bearing rate.

The loan term for fire trucks shall not exceed 10 years.

### **Accrued Interest**

Applicants should be aware that interest begins accruing daily on the outstanding loan balance after the first request for cash is dispersed. Once the CAP activity is complete, the applicant will be responsible for the first month's payment and interest plus the total of accrued interest from the construction phase of the CAP activity.

## **GENERAL PROJECT REQUIREMENTS**

The Applicant must fulfill the requirements of the standard application, which must be submitted to MDA for review and acceptance.

The Applicant may only submit one project per application.

The construction or renovation of economic development buildings for speculative purposes requires a 50/50 match. The match must be in cash or in-kind assets.

The Applicant may not use the funds to retire any debts, except for current construction type loans directly related to the project.

Recreational sites acquired and/or developed with CAP assistance cannot be converted to uses other than their original scope/intent during the life of the loan.

The Applicant must not purchase a building or facilities from individual(s), company(ies), or corporation(s) with CAP funds, and subsequently lease them to the seller (previous owner) within 5 years of acquisition.

The Applicant may not purchase a building that has been constructed in the last six months.

The Applicant may not purchase an existing building or facility for more than the appraised value.

The Applicant may not utilize CAP proceeds for the purchase of construction-related equipment, rolling-stock type equipment, or any equipment not integral to the operation of the facilities or structures being purchased, constructed, or repaired.

The Applicant may not utilize CAP proceeds to make a loan to any private entity, public entity, or individual(s).

If applicable, the Applicant must obtain written approval from the MDA-appointed legal counsel stating that the project qualifies for a tax-exempt status (projects already in construction at the time of application will not qualify for tax-exempt status). The associated costs are the responsibility of the applicant and will be billed directly by the appointed legal counsel.

Before releasing any CAP Funds, the Applicant must provide title insurance on all real property acquisitions or title opinion on all other projects from the Applicant's attorney.

The Applicant must follow all state procurement and purchase laws. If an applicant has not advertised for bids within 120 days after receiving loan approval, the state will have the option to recall the CAP funds.

The Applicant must comply with all nondiscrimination and equal employment opportunity requirements. MDA encourages the use of Minority-owned Business Enterprises (MBE) and Women-owned Business Enterprises (WBE).

If the CAP funds are used in a joint project with other funds, then the CAP may be subject to the other funds' regulations.

If applicable, an access road for industrial development must follow state aid requirements. CAP loan funds are not to be utilized on major highway projects.

The Applicant must retain title and maintain, preserve, and keep the project in good working order and condition until the CAP loan is satisfied.

## **APPLICATION REQUIREMENTS**

A certified copy of the Resolution of Intent from the Applicant (All Applicants must use the Public Notice Form provided by MDA).

In order for MDA to consider eligibility for a CAP loan, the Financial Analysis Worksheet must be completed, signed, and the original signed copy submitted either in advance or along with the application.

A letter on official letterhead from the Applicant's certified public accountant, auditor or fiscal officer verifying that the Applicant's financials reflect the ability to repay the CAP loan. This verification must include the source of repayment, i.e., surcharge or other verifiable means of repayment.

Certified Proof of Publication of the required Public Notice of the Applicant to enter into a Loan Agreement with MDA for CAP funds. The Resolution must be published once a week for at least four (4) consecutive weeks in a newspaper having general circulation in the county. The public hearing should take place after the date of the final publication. The Resolution must have been published within the last 6 months prior to submittal of the loan application.

Once the publication process is complete, a certified copy of the minutes of the Applicant showing their decision to proceed with the loan. If applicable, written verification that the Applicant has consulted with the Public Service Commission regarding proposed water and wastewater projects.

Fire Protection loans must be made to enhance structural firefighting capabilities. Loans for fire trucks must provide proof that the National Fire Protection Association standards are/will be met.

If applicable, official certification of preliminary project plans and specifications from the project engineer and the operating railroad indicating that the project meets American Railway Engineering

and Maintenance-of-way Association (AREMA) and Federal Railroad Administration (FRA) standards and other necessary compliance requirements.

If applicable, an appraisal and two review appraisals, must be conducted no more than three months prior to loan closing, on buildings and/associated land to be purchased.

Maps reflecting the project location as well as detailing of the improvements.

Cost verifications must be on engineers' or architects' original letterhead, signed and sealed by the firm's representative.

Budget sheet breakdown of sources and uses of funds.

The Applicant's certified public accountant, auditor, or fiscal officer must furnish to MDA the most current annual audit and the latest financial summary reflecting any additional long-term debt or any changes in their financial position since the last annual audit was prepared.

If two separate local units of government jointly fund a project, the Applicants must have an inter-local agreement with the Attorney General's approval.

If applicable, the Applicant must provide an award letter or documentation verifying other funding sources.

### **AUDIT**

Funds provided under the CAP Loan Program are subject to audit and/or monitoring by the MDA, Office of the State Auditor, Department of Environmental Quality, and/or Department of Health.

### **REPAYMENT PENALTIES**

An Applicant which fails to meet repayment obligations shall cause all or part of its sales tax allocation and/or homestead exemption reimbursement to be withheld and may be subject to other penalties Section 57-1-303(4). The applicant will also be ineligible for additional financial assistance from the agency until the loan balance is current.

### **DELINQUENT NOTICE PROCESS**

Invoices will be sent to communities with an active CAP loan status. Payments are due on the first of each month.

Failure to submit timely payments will prohibit that community from other MDA assistance until the loan is no longer delinquent.

In addition, the following procedures will take place: If a community becomes 60 days delinquent, MDA may issue a letter stating the catch-up amount, terms of their loan agreement and explain the process for turning collection over to the State Auditor.

If a community becomes 90 days delinquent, MDA may issue a letter stating in 30 days if catch-up payment amount has not been received, then MDA will turn the community over to the state auditor.

If a community becomes 180 days delinquent, MDA may request the State Auditor to audit the receipts and expenditures of the loan Section 57-1-303(5). If the State Auditor finds that the county or municipality is in arrears in payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority. Section 57-1-303(5)

### **BROWNFIELD PROJECT REQUIREMENTS**

Remediation of brownfield agreement sites in accordance with Sections 49-35-1 through 49-35-25 may be considered as an eligible project. Section 57-1-301(1)(n)

Loans for remediation of brownfield agreement sites in accordance with Sections 49-35-1 through 49-35-25 shall not exceed \$250,000.00 per site.

Up to 10% of the principal loan amount may be used for a Mississippi Department of Environmental Quality (MDEQ) approved Brownfield Consulting Firm's fees for brownfield projects during the cleanup phase. Consultant fees above 10% must be paid from other funding sources.

Remediation costs shall not include costs incurred after the issuance of a No Further Action letter under Section 49-35-15, Mississippi Code of 1972; costs incurred before the executed brownfield agreement; costs incurred for any legal services or litigation costs; and any funds provided by any federal, state or local governmental agency or political subdivision.

Administrative fees and legal fees are not an allowable cost to be reimbursed by CAP funds.

The operating expenses, monitoring expenses and maintenance expenses incurred after the brownfield cleanup phase will not be an allowable cost to be reimbursed by CAP Loan funds.

Before loan approval for remediation of a brownfield site, the Applicant must provide MDA with an executed copy of the brownfield agreement between the Applicant and the Executive Director of MDEQ.

Within thirty days after the brownfield agreement is executed and before any loan disbursements are released, the Applicant shall provide a copy of deed, clear certificate of title or other instrument certifying that the property is owned by the Applicant and subject to a brownfield site agreement.

During the brownfield clean-up process, the CAP funds must be expended within one year from the date of the loan approval, unless a waiver is granted by MDA upon good cause shown.

The Applicant will be responsible for the operating and maintenance (O&M) of the brownfield site and for any post remediation monitoring required under the brownfield agreement.

Any amendments, changes or violations of the brownfield agreement site must be reported to MDA and

MDEQ within 10 business days.

The applicant shall include in all contracts with Participating Parties a provision that each Participating Party agrees that any duly authorized representative of MDA and/or MDEQ shall, at all reasonable times, have access to any portion of the Project in which such Participating Party is involved until the completion of all brownfield agreement requirements.

**Program inquiries and applications should be directed to:**

Mississippi Development Authority  
Community Incentives Division  
Post Office Box 849  
Jackson, Mississippi 39205  
Telephone: (601) 359-3179 Fax: (601) 359-3108

These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such action is to promote the public purpose of the Act and is not prohibited by State Law.

Adopted:            Adopted: MDA Board Meeting: May 3, 2021  
Adopted: Administrative Procedures Act: July 1, 2021 (System Number 25697)



**CAP LOAN PROGRAM**

**Public Notice**

The (Mayor and Board of Alderman or the Board of Supervisors), acting for and on behalf of {the City of \_\_\_\_\_, Mississippi (the "City") or \_\_\_\_\_ County, Mississippi (the "County")} took up for consideration the matter of authorizing and approving a loan on behalf of the (City or County) from the Mississippi Development Authority (the "Department") for the purpose of completing capital improvements identified as:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BE IT RESOLVED BY THE GOVERNING BODY OF THE (CITY OR COUNTY), AS FOLLOWS:**

**Section 1.** The Governing Body of the (City or County) does hereby declare its intention to enter into a loan agreement with the Department in the principal amount not to exceed \_\_\_\_\_ Dollars (\$) for the purpose of completing the capital improvements identified above.

**Section 2.** The Loan will be secured by a Note executed and delivered by the (City or County) to the Department. Failure of the (City or County) to meet its repayment obligations shall result in the forfeiture of sales tax allocation or homestead exemption reimbursement in an amount sufficient to repay obligations due until such time as the indebtedness has been discharged or arrangements to discharge such indebtedness satisfactory to the Department have been made.

**Section 3.** The Governing Body proposes to authorize and approve the Loan from the Department in the amount and for the aforesaid purposes at a meeting of the Governing Body to be held at its regular meeting place at \_\_\_\_\_ in \_\_\_\_\_, Mississippi at \_\_\_\_\_ o'clock a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, or at some meeting held subsequent thereto. This date assigned to authorize and approve the aforementioned loan documents has been set to meet program requirements which mandate that four public notices be issued prior to loan closing. This will allow sufficient time for public comments.

The motion having received the foregoing vote of the Governing Body, the (Mayor or President) declared the motion carried and the Resolution adopted, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(MAYOR OR PRESIDENT, BOARD OF SUPERVISORS)  
(CITY OR COUNTY OF) \_\_\_\_\_, MISSISSIPPI

(SEAL)

\_\_\_\_\_  
CLERK

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