

City of Athens Revolving Loan Fund (CoA-RLF)

Mission Statement

The mission of the City of Athens RLF is to encourage economic development within the city of Athens, Ohio.

Program Goals

The CoA-RLF was established to meet the following goals:

1. Encourage the expansion and stability of the economic base of Athens Ohio
2. Encourage increased employment opportunities for low/moderate income residents in Athens Ohio
3. Encourage the establishment of locally-owned businesses in Athens Ohio

Program Objectives

In order to meet these goals, the operation of the CoA-RLF will address the following objectives:

1. Stabilize and diversify the City's economy by providing capital for start-up and expansion of businesses/ industries located in Athens Ohio
2. Assist with small business development
3. Encourage the redevelopment of blighted and/or vacant land or facilities for productive business or industrial use
4. Coordinate with other local and regional economic development organizations to the greatest extent possible

Targeting Criteria

To meet the CoA-RLF program goals and objectives, all private, for-profit businesses and industries located and operating within the geographic boundaries of Athens, Ohio are currently eligible for participation in the CoA-RLF program. However, in the future, changing conditions may result in the targeting of CoA-RLF funds to meet economic needs in specific locations, sectors of the local economy or target population groups.

Priority will be given to projects that meet the development needs identified below:

1. Create jobs for low/moderate income residents
2. Retain existing jobs held by low/moderate income persons
3. Increase the retail square footage of the county and expand the shopping choices of local citizens
4. Capitalize on the unmet tourist trade
5. Bring in new services necessary to the citizens of the city or to other businesses

The CoA-RLF *will not* be used to compete with or replace any capacity of local institutions. It will, however, provide minimum “gap” financing of the portion of the project required to complement conventional financing resources. The capital needs of the business/industry will be addressed by the CoA-RLF by providing only the amount necessary, in the form of a loan at favorable rates and flexible terms, to induce other financial institutions to complete the financing package. The terms will be structured to provide an incentive for business/industry to proceed with a project that is otherwise not affordable.

Standards for the CoA-RLF Portfolio and Individual Loans

1. A project will create or retain at least one (1) full time permanent job for each \$25,000 of CoA-RLF program investment. This standard applies to the entire CoA-RLF portfolio.
2. Each dollar must leverage at least one dollar of other public or private investment (including equity and contributed equity) in the project’s fixed assets costs; RLF cannot be more than 50% of the project;
3. At a minimum, at least 51% of the employment opportunities created or retained must be made available to or held by low/moderate income persons.
4. The owner/developer must invest at least 5% in cash equity toward the projects fixed asset cost; and
5. 5) At least 15% of the project’s fixed asset costs must be privately financed--- this may include owners/developers equity.
6. Job creation attributed to CoA-RLF investment must take place within twenty-four (24) months of project completion.
7. No portion of the project can move forward or be closed prior to receiving an environmental release from OHCP on the **entire** project (not just the RLF portion). **No exceptions.**
8. Eligible applicants for financial assistance will include private for-profit businesses and industries. These may be:
 - a) New or expansion businesses
 - b) Owned locally or outside, so long as facility is located within Athens, Ohio
 - c) Traditional or new technology

Administration

The Athens County Economic Development Council shall serve as the Loan Administrator for the City of Athens RLF. The assistance of outside consultants for the following may be required:

- Legal counsel-preparation of appropriate documents including, but not limited to, mortgage insurance, loan closing documents and review/preparation of legal documents related to loans, delinquencies, and defaults, as needed.
- Underwriting, payment collection, report generation
- Other consultants, who may be required on a case-by-case basis, will be required to execute a letter of agreement with the CoA-RLF.

The Loan Administrator will be responsible for:

- Intake of applications
- Preliminary analysis of loans based on program criteria
- Financial/credit analysis of the application and applicant
- Preparation of an agenda for the Revolving Loan Committee
- CoA-RLF related status reports and semi-annual reports to the Ohio Development Services Agency.
- Project monitoring for compliance with established policies
- Obtaining sufficient applicable documentation/information so that the LRC can make a recommendation on loan applications

Loan Review Committee

The Loan Review Committee will be responsible for the following functions:

- Review and analyze all CoA-RLF applications prior to action by the City Council.
- Make recommendation to City Council on the final disposition of loan applications

The Loan Review Committee will be composed of five persons appointed by the Athens City Council, with one (1) representative from each of the following:

1. Financial institution
2. LMI community
3. Real estate
4. Local government
5. Business community

If representatives from the above sectors are not available, alternate appointments will be made at the discretion of the Athens City Council.

Review and Approval Process

The Loan Administrator will present loan requests to the LRC, providing other documentation if/when requested. The LRC will review each application and the financial analysis of the business/industry to determine:

1. The extent of the need for CoA-RLF assistance in order to achieve the CoA-RLF objectives
2. The public benefit to be derived in relation to the assistance provided
3. The determination that the national objective of "benefit to low and moderate income persons" is met, through creation of jobs for such persons

The LRC will also consider the following factors in their review:

- Job creation potential of the project—the number and types of jobs created or retained
- Experience and “track record” of the business and its management
- Source and reliability of other sources of project funding
- Credit history of applicant
- Reasonableness of project and its costs
- Sufficiency of collateral for loan amount requested
- Past, current, and projected cash flow, and profit and loss statements
- Equity and assets on hand
- Environmental factors
- Evidence that the RLF investment will fill a “gap” in financing

The applicant's financial institution may be requested to prepare a joint financial and credit analysis with the Loan Administrator. Due to direct loan assistance through the CoA-RLF, the credit worthiness of the business/industry must be considered. The ability to cover debt service will be determined by a thorough analysis of the business/industry's current financial status, as well as by projected income and expense reports.

The LRC will then vote to recommend approving the loan with specified terms and conditions, recommend denying the loan or tabling the loan. The Loan Administrator will present the recommendation of the LRC to the Athens City Council.

The Athens City Council has final authority to approve or deny all loans.

If the loan request is denied, a letter will be sent to applicant, stating reason(s) for denial of the loan, and what applicant could/would be required to correct or improve before reapplying.

If the loan request is approved, a signed resolution authorizing the loan amount, interest rate, terms, and conditions is secured from the Athens City Council.

The loan closing binder will then be provided to legal counsel, for approval as to form.

Contact is then made with the applicant, outlining terms and conditions of loan, and to schedule loan closing.

Once the resolution has been authorized, the Loan Administrator will submit the Loan Review Report Form to the Department of Development for approval.

Emergency Procedures

When a project requires immediate action by the Athens City Council before the next scheduled meeting of the Loan Review Committee, or before a full meeting can be called, the Loan Administrator is empowered to present the application material directly to the Athens City Council for their approval or denial. This procedure will be utilized only when it is impractical to convene the entire LRC and/or delay may cause undue financial burden to the applicant.

Financing Policies

The Athens City Council must document that each loan meets the "necessary or appropriate" requirement (from Section 105(a)(17)) of the Housing and Development Act, which applies, to assistance made directly to private, for-profit entities to carry out development projects. To determine if the loan is "necessary and appropriate", the administrator must complete the following analysis:

1. Evaluate the proposed project costs: Each project must have a "source and use" table, which reconciles total project costs with all participating sources. All costs associated with the project must be verified prior to determination of level of assistance. Third party cost estimates will be obtained to document the fair market value of all project costs. Third party cost estimates are those that are developed by an independent informed source that has no financial interest in the overall project. The agency must determine that proposed costs are reasonable in amount and are justifiable project expenditures.

2. Verify and maximize other sources of funding: The loan applicant must first approach a bank or other lending institution for financing of the project. The bank will determine the level of financing at which it can contribute. Bank commitment letters, or rejection letters must be provided to document this. Bank letters must state the maximum input to be committed to the project.

The review process must also address the lack of other public funds for the project. All sources of funds must provide evidence of firm commitments to the project.

3. Determine the need for CoA-RLF assistance: Private sector and/or the other public sources can raise only a portion of the debt and equity necessary to fund the project. A financing gap must exist between verified sources and uses.

4. Meeting the National Objective: At a minimum, the loan administrator must document that for each loan, at least 51% of the jobs that will be created or retained are taken by or made available to persons from low or

moderate income households. These income limits--below 80% of median income--are based on Section 8 determinations. Both family size and household income must be considered.

The evaluation of the loan application must include verification that 51% or more of the jobs will be taken by and made available to persons from low or moderate income households. The determination would involve an analysis of future job classifications.

Once a loan is made and the business has begun hiring, the administrator must verify that those jobs are actually being made available to LMI households. In order for the business to demonstrate availability to low- or moderate-income persons, the business must agree to either:

- Obtain and keep on file for verification the person's name, household size and household income or
- Agree to consider referrals from a screening agency that will document income

Written certification from the employee of his or her family income and family size to establish eligibility is acceptable. The forms for certification are attached.

A business claiming job retention must first provide documentation from a third-party source that a closing or move resulting in job loss is imminent. The business must also verify that 51% of the jobs to be retained are held by persons from LMI households. Documentation of these issues will be available for review.

While third party documentation concerning the loss of jobs may vary (newspaper accounts, independent financial advisors) the evidence provided must be specific in demonstrating that job losses are imminent. The agency reserves the right to request specific documentation from the applicant.

Documentation of the required 51% benefit to LMI households in retained jobs can only be accomplished by determining the status of employees who will lose their jobs. A survey of those employees may be completed to determine income status, documenting name, household size, and household income.

5. Eligible activities: Eligible activities include provision of financial assistance to private, for-profit and public entities to carry out economic development projects, as well as public improvements directly and primarily related to the creation, expansion or retention of a particular business. Financing through the AC-RLF may cover:

- fixed assets, including land (its acquisition and improvement),
- buildings and facilities (new construction or renovation)

- machinery and equipment
- infrastructure investment directly related to the business or industrial development
- demolition and site preparation
- working capital

The amount and type of financial assistance provided to a project must be deemed necessary or appropriate with respect to the financial gap and the public benefit to be derived.

6. Ineligible activities include:

- refinancing of existing debt
- rolling stock
- non-capital equipment
- training costs
- inventory
- Financing of a project that involves the relocation of a business or industry from another part of Ohio unless:
 - A. it can be demonstrated to the satisfaction of the State that the operation of such business or industry cannot be continued in the existing location and,
 - B. the relocation will demonstrate additional long-term job creation.

Other projects that will not be considered for financing assistance through the CoA-RLF are those that:

- Involve financing of speculative activities or projects, including "pyramid" ventures
- Attempt to finance historically noncompetitive or unsuccessful ventures
- Have unsolvable environmental problems
- Cannot demonstrate the ability to repay the loan
- Have the capacity to finance required funding through conventional loan market at acceptable terms
- Are not willing to offer equal opportunity in the employment of women and minorities, and/or have a history of Civil Rights violations or unfair labor practices
- Do not have the proper patent rights, licenses, permits, certification, etc. in advance of commencement of operations
- Are not current with local, state, or federal taxes
- Are not current with other loans

7. Standards to achieve other benefits: Special consideration will be given to:

- Minority business enterprises
- Women's business enterprises
- High growth potential
- High level linkage within the area's economy--existing or potential

- Introduction of new goods or services to the area
- Redevelopment of blighted and/or vacant land and/or facilities for productive use
- High level of tax revenue generation
- High level of employment creation
- Prevention of loss of significant number of employment opportunities except for the involvement of the CoA-RLF program

These standards are subject to change as area needs are met or developed.

To use the available funds to maximum extent possible, reserving the CoA-RLF program as the "funder of last resort", applicants will be directed to concurrently pursue funding through other programs offered by federal, state, and local authorities including:

- Ohio Development Services agency
- Grow Now
- Ohio Water Development Authority
- United States Department of Agriculture Rural Development
- Buckeye Hills-HVRDD
- Appalachian Regional Commission
- Other groups dedicated to investment in the Appalachian region

Terms

Loan financing will not be offered for a term longer than the useful life of the asset financed. The capital needs of the business/industry will be addressed by the CoA-RLF by providing only the amount necessary in the form of a direct loan at favorable and flexible terms, to encourage the commercial lending institution to participate in the project. The effect of flexible terms is an incentive for business/industry to proceed with an otherwise affordable project.

- Loans of \$25,000 to \$500,000 are available with a one to one leverage at least 15% coming from private sources/ owner equity.
- The interest rate is based on risk rating.
- Each loan will be secured with appropriate collateral, mortgages, and/or liens, in addition to a promissory note. To the greatest extent possible, loans will be secured by personal guarantees.
- The CoA-RLF may take a subordinate position of mortgages and liens where this is necessary in order for a commercial lending institution to participate and for the project to proceed.
- An equal monthly repayment schedule for the term of the loan will normally be required. Alternative loan repayment schedules may be developed where circumstances warrant. Special terms may include but are not limited to:

- A. Deferral of principal payments for up to one (1) year; deferral of principal and interest payments for up to four (4) months.
- B. Consideration of restructuring the loan or modification of loan terms after one year, based on thorough analysis of financial capacity and recertification of financial need.
- A penalty of 4% of the payment due will be assessed on any payment ten (10) days or more past due.

Outreach Program

As funds are made available to the CoA-RLF, the loan administrator will advertise the program via the following methods:

- News articles and
- Public announcements
- Promotional brochures
- Website

The outreach program will ensure that all potential applicants may be given the opportunity to share in the CoA-RLF program's resources.

Application Process

All applicants for assistance from the CoA-RLF program will be pre-screened by The Loan Administrator to determine that the loan request meets all CoA-RLF eligibility guidelines. Once it is determined that the project is feasible, that the CoA-RLF financing is necessary and that the project will go forward if assistance is provided, the applicant will be invited to submit a full application. The borrower may be required to bear the costs of legal counsel, accounting services, environmental reviews, surveys, appraisals, and any other fees associated with preparation and filing of the application.

Once the application is received, due diligence documentation of assets and collateral will be performed. A loan request summary is to be prepared for the LRC. It should provide a synopsis of:

- Amount of loan requested and recommended terms
- Business history
- Personal and business financial position
- Personal and business credit issues
- Owner/management team profile
- Professional support
- Strengths and weaknesses of business
- Specific use of loan funds
- Ability to service debt
- Financial projections

Loan Servicing

Once the Athens City Council have authorized a loan, the Loan Administrator will take action to ensure that all necessary closing and filing documents are prepared, and that necessary review and discussion with the applicant and legal counsel are accomplished. When a loan closing is completed and funds are disbursed, the Loan Administrator will establish a loan servicing file to contain:

- Application
- Committee minutes showing approval
- Approval from Athens County Commissioners
- All closing documents
- A loan service checklist
- An amortization table
- A log of all conversations and correspondence relating to the loan
- The financial institution agreement for collection, posting, calculation of principal and interest and monthly payment reports.

The loan will be recorded in a master follow-up file (loan software) to ensure loan monitoring functions are performed on a timely basis.

Time Schedule for Loan Closing

Upon the approval of a loan, a loan closing will be held within 120 days.

Collection Procedures

Each loan agreement has a ten-day grace period after the due date before late fees are assessed, and new invoices printed. If payment is not made, a friendly reminder call will be made to the borrower on the first business day after the deadline. The following will be discussed:

1. Remind borrower of the date
2. Inquire why the payment is late
3. Work out a solution

If unable to reach borrower by phone or if a phone call produces no response, Loan Administrator will send letter A.

If account remains unpaid in 30 days, Loan Administrator will send letter B, by certified mail. Default-defined as thirty days past due.

Action to be taken:

- Letter A. Loan Administrator will send a certified letter to the loan recipient informing them of delinquency and the penalty incurred and requesting that they contact Loan Administrator within five (5) working days to determine the extent of the problem. If contact is made within this time, they will meet to discuss problems, remedies and proposed actions.

- Letter B. If no reply from borrower, either by attendance at scheduled appointment or a phone call; or if there is a response with no payment of amount due or no attempt to explain financial difficulties, Loan Administrator will notify the City Council of collection progress and ask for permission to pursue legal remedy.
 - Loan Administrator will conduct timely follow-up based on time frame of promised actions to ensure compliance.
 - If the required actions do not occur, the Loan Administrator will continue to pursue efforts to remedy the delinquency. If the situation has not been remedied within ten (10) working days after the agreed-upon deadline, the Loan Administrator will contact the loan recipient's financial institution to determine what, if any delinquency exists there and if so, what action has been taken regarding the primary loan.

Legal remedies will be pursued using legal counsel.

Compliance with Loan Conditions

The Loan Administrator will be responsible for collecting and maintaining evidence of ongoing compliance with loan requirements, including but not limited to:

- Job creation and retention
- Insurance
- Financial reporting
- Prevailing wage laws
- Civil rights
- Environmental compliance
- Relocation/displacement

Semi-Annual Report

The loan Administrator will submit to the Athens City Council a semi-annual portfolio report within 15 days after the reporting period that describes loans as current or delinquent and resulting actions to be taken. Upon City Council approval, a report will be submitted to the Department of Development within 30 days.

DSA required reporting periods are: **1/1-6/30 and 7/1-12/31**

Using CoA-RLF Funds for Non-loan Activities

If CoA-RLF program income exceeds the amount needed to meet the demand for business loans, the Athens City Council may use those funds for other CDBG eligible activities. Before any ED-RLF funds are used for any activity other than business related loans, the City of Athens must receive written authorization from the ODOD/ OHCP.

Sources of Funding and Recapitalization

The program is funded by Community Development Block Grants from the Ohio Department of Development and all loans must comply with CDBG program requirements.

Program income from the CoA-RLF is placed in an interest-bearing account, with the interest being returned to the fund.

The impact of the CoA-RLF is directly related to its level of total capitalization. Sources for additional capitalization include area foundations, corporations, and individuals.

Administrative Costs

Funding sources for administration will include the following:

- Up to 20% or \$50,000, whichever is less, of program income received in a calendar year, according to the CDBG program income guidelines established by the Ohio Department of Development, can be utilized for administration costs, including legal and consulting fees.
- Members of the Loan Review Committee will donate their time.

Other Requirements

Compliance with applicable federal and state requirements are dealt with via borrower commitments and/or loan closing documents, along with regular monitoring activities as follows:

1. Assurance regarding compliance with:
 - A. Environmental
 1. The National Environmental Policy Act of 1969, as amended
 2. The National Historic Preservation Act of 1966
 3. The Clean Air Act, as amended
 4. The Federal Water Pollution Control Act, as amended
 5. The Wild and Scenic Rivers Act
 6. The Endangered Species Act of 1973
 7. The Historical and Archeological Data Preservation Act, as amended
 8. The Safe Drinking Act
 - B. Construction
 1. Davis-Bacon Act "Land Use Near Federal Airfield" and Public Law 13 CFR 309.1 "Certification as to Waste Treatment"
 2. 13 CFR 309.3 "Non-relocation"
 3. 13 CFR 209.15 "The National Flood Insurance Program and Requirements Regarding Flood Hazards"

4. Davis-Bacon Act, as amended (40 USC 276a-276a5) labor standards and prevailing wage schedules

C. Civil Rights

1. 13 CFR Sub-Title A, Part 8, "Civil Rights and Title VI of the Civil Rights Act 1964
2. 13 CFR Part 311, Sub-Part D, "Non-discrimination"

D. Access of the Handicapped

1. All loan projects involving construction of new facilities will provide for access to the handicapped.
2. Description of employment practices and other civil rights information (E.O. certifications) will be included with loan application.
3. Current and projected employment data will be included with loan application.
4. The preliminary project review will identify any potential area of non-compliance with Civil Rights, environmental, relocation, handicapped access, or Davis-Bacon labor standards and prevailing wage schedule requirements. The Ohio Department of Development will be contacted regarding steps to be taken for compliance and the environmental review process will be completed prior to final approval of the project.
5. An individual environmental review of each project will be conducted prior to Athens County's Request for Release of Funds. For each AC-RLF project funded with program income, the Loan Administrator, or a qualified consultant, will prepare an environmental review. For any adverse project impacts, special conditions to mitigate such impacts will be required as part of the loan closing conditions.
6. The Ohio Historic Preservation Office will be contacted in writing, as part of the environmental review process, by the Loan Administrator prior to approval of any project with a potential effect on historic or archeologically significant properties.
7. Upon loan approval, the Loan Administrator will request the assistance of the local Labor Compliance Officer (dependent on the geographic location of the project) to assure compliance with labor standards and prevailing wage schedules during construction.
8. Borrower commitment will include stipulations that the borrower will:
 - A. Cooperate with the Loan Administrator in efforts to obtain monitoring and compliance information and documentation.
 - B. Provide documentation to verify employment creation/retention commitments are met.
 - C. Provide evidence of continued required insurance.
 - D. If working capital funds are part of loan package, submit a monthly status report to the Loan Administrator.
 - E. Provide annual financial statements.
 - F. Provide documentation of payment of all local, state, and federal taxes due.

9. Corrective action may be instituted on the basis of monitoring, on-site visits, and/or complaints received, depending on the area of required compliance.
10. Project must be completed within twelve (12) months of loan closing.
11. If job creation estimates are not met within the twenty-four (24) month time frame, the business may be penalized by one (1) interest percentage point for each 10% of the estimated jobs which have not been created. The stipulation shall be included in borrower commitments. However, the penalty may be waived if the jobs commitment is exceeded within 12 months of project completion.
12. The loan agreement between the borrower and the Athens City Council will stipulate that the loan be called, and the borrower found in default, if the business/industry should move its operation from the geographic boundaries of the City of Athens, Ohio.
13. A project which is funded and fails to comply with any of the above items, after the date of loan closing, must be brought into compliance within a time frame to be established by Loan Administrator in conjunction with the loan recipient and the appropriate federal and/or state authorities. If the loan recipient fails to comply with the requirements within the established time frame, the loan will immediately be recalled in full. This stipulation will be included in borrower commitments.
14. The City of Athens will assure that the loans are available on a non-discriminatory basis.

Conflict of Interest Policy

No elected official, employee of the city, or any contractor who exercises or has exercised any function or responsibility with respect to CoA-RLF activities or who is in any position to participate in the decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest in any contract, subcontract or agreement or CoA-RLF activities, or funds related to the execution of those activities, or the proceeds thereunder, either for themselves or those with whom they have business or immediate family ties during their tenure or for one year thereafter. This includes any person who is an employee, agent consultant, officer, or elected official or appointed official of the recipient, or any designated public agencies, or subrecipients which are receiving funds and to which the recipient delegates the administrative authority for maintaining the standards set forth for the CoA-RLF program, including the Loan Review Committee members.

Those administering Community Development Block Grant funds are responsible for maintaining the integrity of the CoA-RLF. CDBG regulations (24 CFR, Part 570.611) prohibit conflict of interest. Activities falling under this definition and therefore prohibited include:

1. Personal or financial interest of benefits, including money, favors, gratuities, entertainment or anything of value that might be interpreted as conflict of interest.
2. Direct or indirect interest in any contract, subcontract, or agreement for any CDBG activity. This extends to contracts in which the persons spouse, minor child, dependent, or business associate may have personal or financial interest. This period extends for one year after the person leaves his/her position with a CDBG activity.
3. Exceptions may be granted to these conflict of interest provisions by the Ohio Department of Development legal counsel, if it determines that such an exception will enhance the effectiveness of the project. Such requests for exceptions must be made in writing by the CDBG grantee to the ODOD.

The above measures apply to CoA-RLF staff, LRC members, and CoA-RLF applicants. If waivers are granted, the applicant cannot vote or otherwise influence the final decision.