

**HOW TO OBTAIN A MICRO - ENTERPRISE LOAN FROM THE
NAVAJO NATION BUSINESS AND INDUSTRIAL DEVELOPMENT FUND**

MICRO - ENTERPRISE LOAN PROGRAM

This portion of the Navajo Nation Micro-Enterprise Loan Program (MELP) was set-up within the Division of Economic Development (DED) to specifically assist Navajo-owned micro-businesses. Collateralized loans can be made in amounts varying from \$500.00 to \$10,000.00 for new businesses. Applicants must have a good credit history and must not be in violation of the Navajo Business Procurement Act or any other Navajo Nation laws. Applicants must provide ten percent (10%) equity contribution for their loan.

An Applicant must start by going to the DED Regional Business Development Office (RBDO); located nearest to the Applicant's business. The RBDO will provide the Applicant with technical assistance with the business plan, etc. When the business plan has been completed in accordance with the loan guidelines, the RBDO will send the loan package to the RBDO Manager. The Manager will review the package for compliance with the guidelines, if everything is satisfactory, the RBDO Manager has the final approval authority.

After the loan is approved, loan documents are prepared and signed, and all appropriate documents have been executed and received, the loan funds will be disbursed to the Applicant. The RBDO representative will ensure the Applicant spends the loan funds in accordance with the approved micro-business loan. It is the policy of the Navajo Nation to hold Applicant responsible for honoring their loan agreements and for making repayments accordingly.

**DIVISION OF ECONOMIC DEVELOPMENT
SBDD / REGIONAL BUSINESS DEVELOPMENT OFFICES**

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**NAVAJO NATION BUSINESS AND INDUSTRIAL DEVELOPMENT FUND
MICRO ENTERPRISE LOAN PROGRAM GUIDELINES**

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(Revised 10/25/04 and Approved on 1/5/05)

**NAVAJO NATION BUSINESS AND INDUSTRIAL DEVELOPMENT FUND
MICRO ENTERPRISE LOAN PROGRAM GUIDELINES**

SECTION 1 - AUTHORITY

- A. By Resolution No. CF-3-88, the Navajo Nation Council established the Navajo Nation Business and Industrial Development Fund (BIDF) to provide a source of funds for small business, industrial and commercial development on the Navajo Nation. Pursuant to 12 N.N.C. Section 1704(B(4), the Division of Economic Development (DED) is delegated the duty and responsibility for developing policies, rules and regulations to implement the BIDF programs. Pursuant to 12 N.N.C. Section 1704(A), the Economic Development Committee (EDC) of the Navajo Nation Council is delegated the authority to review and approve such policies, rules and regulations.

- B. Upon recommendations of the Chief Financial Officer and the Executive Director, Division of Economic Development, the Economic Development Committee of the Navajo Nation Council hereby establishes the Micro-Enterprise Loan Program (MELP). The MELP shall be administered in accordance with these guidelines.

SECTION 2 - PURPOSE

- A. To provide financing for micro-businesses, such as self-employed individuals, home-based businesses, cottage industries and small retail or wholesale businesses which initially employ less than five persons.

- B. To provide business financing to Navajo individuals and businesses who do not have access to conventional financing.

- C. To provide short-term loans of up to \$10,000.00 to small businesses for working capital, purchase of inventory, supplies, furniture, fixtures, machinery and/or equipment.

SECTION 3 - SCOPE AND POLICY

- A. All loans approved and all loan payments received hereunder shall be processed and managed in accordance with these guidelines.

- B. It is the policy of the Navajo Nation to operate the MELP in a businesslike manner, to extend credit based upon credit-

worthiness, to maintain accurate accounting records, and to service loan accounts to protect the assets of the Fund.

- C. It is the policy of the Navajo Nation to consider the special needs of Navajo businesses in the management of the Program, to be culturally sensitive, and to make special efforts to consider qualified Navajo applicants on an equal opportunity basis, regardless of age, sex, religion or political affiliation.
- D. It is the policy of the Navajo Nation to hold borrowers responsible for their debts, for loan agreements to be honored and for repayments to be made accordingly. When applicable, property pledged as collateral shall be seized and sold to satisfy delinquent accounts to the fullest extent permitted by law.

SECTION 4 - LOAN APPROVAL AUTHORITIES

- A. The Program Managers within the Regional Business Development Offices (RBDO) are hereby delegated the authority and responsibility to approve all loans made in accordance with these guidelines.
- B. Loans approved by RBDO Managers may be subject to a quality review by the Chief Financial Officer and/or Executive Director of the Division of Economic Development. It is not anticipated that the Executive Director and Chief Financial Officer will review every loan but will monitor the overall program for compliance with these guidelines. Program Managers are responsible for loans made by their offices.
- C. The Executive Director and Chief Financial Officer together may recommend changes in loan approval procedures if deemed necessary.

SECTION 5 - INITIAL ALLOCATION OF LOAN FUNDS

- A. Initially, loan funds shall be allocated equally among the RBDO's for the purposes stated for the program. Subsequent allocations may be influenced and modified by criteria such as default rates, collection efforts, loan demand, quality of loans, and other criteria.
- B. Each RBDO Manager shall be responsible for administering and monitoring the loans made by his office to ensure that loans approved comply with these guidelines.
- C. For the purposes stated herein, the MELP allocation shall be revolving, such that loan repayment shall be deposited back to

the MELP Account to be used for funding additional future loans.

- D. Allocations of additional funds appropriated for the MELP Program shall be approved by the Economic Development Committee upon recommendation of the Chief Financial Officer and Executive Director of the Division of Economic Development. If necessary, allocations of funds between RBDOs shall be determined by both the Chief Financial Officer and Executive Director.

SECTION 6 - LOAN REQUIREMENTS

A. Applications for loans shall include the following:

1. A signed and completed loan application form developed by DED.
2. A 1 to 3 page loan proposal including a description of the business for which the loan funds are requested and how the loan proceeds will be utilized and subsequently paid back to the MELP. The loan proposal should also include a brief description of the collateral securing the loan and the market value of collateral supported by appropriate documentation.
3. A resume of the owner or owners, and required supporting documents such as partnership agreements, lease agreements, business licenses, permits, site location map, insurance policies, and agricultural tax schedules, etc., as appropriate.
4. A copy of three prior years of federal personal and/or business income tax returns which illustrate business enterprise earnings history and potential.
5. If applicable, copies of documents authorizing the use of land or commercial space in which the business is to be located. Applicants who do not require a business site lease and intend to operate their business out of their home must provide a detailed map of the location of their home-based business.
6. An acceptable credit history as confirmed through an established credit bureau; or three verified credit references evidencing a history of repayment.

In no instance shall a loan be approved and/or disbursed if the applicant has an unacceptable credit report, such as collection accounts, bankruptcy, tax liens, or civil judgments on the report. A good credit history provides reasonable assurance to the Navajo Nation that the loan

will be repaid. If the applicant feels that the credit report is not accurate, the applicant has a right to contact the credit reporting bureau to correct his credit report.

- B. Applicants must be enrolled members of the Navajo Nation who are in business or starting a business venture.
- C. All appropriate documentation submitted by the Applicant shall be analyzed and verified to the fullest extent possible by the RBDO assisting the applicant.
- D. Knowingly making a misstatement of facts on the application shall immediately disqualify the applicant.
- E. No application shall be considered without prior Navajo Business Procurement Act clearance (12 N.N.C. §1501, *et seq.*).

In order to avoid the appearance of undue influence and Conflict of Interest, applications from all program staff, and all other individuals who have an actual or potential Conflict of Interest as defined in the Navajo Ethics in Government Law, 2 N.N.C. §§ 3741 through 3758, shall obtain a written advisory opinion from the Ethics and Rules Office pursuant to 2 N.N.C. § 3879 (B) (7) as to the significance of this potential or actual Conflict of Interest prior to the approval of any loan under this program. Elected officials, political appointees and members of their immediate families shall not be eligible for a loan under these guidelines during their term of office. Division of Economic Development employees and their immediate family members shall not be eligible for a loan under this loan program.

Navajo Nation Employees shall provide written approval from their immediate supervisor and the Personnel Director to engage in outside or self-employment as required under the Navajo Nation Personnel Policies Manual, Section III (C).

- F. Loans to an Applicant may be approved as follows:

From \$500.00 to \$10,000.00 for applicants who meet criteria for loan approval to be repaid over a period up to 48 months. Payback period to be determined at the discretion of the RBDO.

- G. The interest rate charged on all loans shall be fixed for the duration of the loan at prime rate plus 2% per annum, as published in the Wall Street Journal on the first business day in the month in which the loan is approved. Interest shall be calculated on the basis of 365 days.
- H. The Applicant shall provide equity contribution of ten percent (10%). The equity contribution shall be verified by the RBDO

prior to approval of the loan application. For the purposes of this section, 10% equity is determined by estimating the total financing required by the business and then taking 10% of that total financing amount. This 10% amount will be the equity contribution required from the applicant with the balance of 90% to be in the form of a loan by the BIDF or other financing. Time and effort of applicant may be considered as equity at the discretion of RBDO Manager. Such time and effort, if allowed, will be valued at \$50.00 per hour.

- I. The Applicant shall be responsible for the payment of all applicable fees necessary for the loan approval, recording fees of loan security documents, and title and registration fees which shall be payable at loan closing.
- J. Repayment shall commence after loan closing and shall be paid in equal monthly installments until the loan is paid in full including both principal and interest charged.
- K. There shall be no pre-payment penalty. All loan repayments and prepayments shall be applied to accrued interest initially and then to principal balance.
- L. Loan proceeds cannot be used for the following purposes:
 - 1. To pay all or part of any delinquent tax assessment of any type; or
 - 2. To refinance an existing debt unrelated to business or related to personal debt, to purchase real estate, except that working capital loans may be used to pay trade payables; or
 - 3. To pay for or conduct activities considered illegal by applicable law.
 - 4. To pay dividends, repurchase or redeem shares or to make loans or distributions of any sort to shareholders, partners or owners of the business.
- M. The Applicant's business venture must be located within the territorial jurisdiction of the Navajo Nation as defined in Title Seven of the Navajo Nation Code, Section 254, as all land within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo Agency, all land within the limits of dependent Navajo Indian communities, all Navajo Indian Allotments, and all other land held in trust for, owned in fee by, or leased by the United States to the Navajo Nation or any Band of Navajo Indians. The Applicant's proposed business may also be located within close proximity to (or within 40 miles of) the exterior boundary of the reservation as defined above.

SECTION 7 - APPROVAL/DISAPPROVAL PROCEDURES

Applications and all required documentation must be complete before review and approval by the RBDO Manager. An executive summary of the loan application shall be prepared. All loan decisions (i.e., approval, disapproval, modification, etc.) shall be reduced to writing. All loan approvals and actions shall be subject to availability of funds and shall comply with all Navajo Nation and applicable laws (such as the Navajo Business Procurement Act and the Navajo Nation Ethics in Government Act), or shall be deemed invalid and void.

SECTION 8 - LOAN DOCUMENTATION

A. Loans shall be documented as follows:

1. A promissory note signed by the Applicant, the Applicant's spouse, partners, and co-signer, where appropriate;
2. Security Agreement pledging collateral and granting to the Navajo Nation a first lien on all property (real and personal) acquired with the proceeds of the loan.
3. UCC Forms
4. Navajo Nation Payroll Deduction Authorization Form

B. The following types of property shall not be eligible for use as collateral:

1. Property or income restricted by law from being encumbered;
2. Intangible assets such as franchise licenses, patents, copyrights, insurance, etc.; and
3. Assets which are otherwise encumbered by other existing liens.

C. Collateral securing loan must be owned by the Applicant. Borrowers who pledge property that can be titled and registered (i.e., automobiles, mobile homes, trailers, etc.) must consent to the title document showing the Navajo Nation as the first lien holder, and provide current registration and insurance information. Borrowers who pledge property (i.e., inventory, furniture, fixtures, equipment) must consent to the lien by signing financing statement (UCC form) showing the Navajo Nation as securing party, and submit required fees and insurance information. Property pledged as collateral must be physically

inspected, verified and confirmed by the RBDO Manager before the loan application is approved.

SECTION 9 - LOAN CLOSING

- A. Disbursements of loan proceeds shall be made in the name of the Applicant or the business, unless the RBDO Manager directs that disbursements be made directly to third party vendors. At the RBDO Manager's discretion, the loan proceeds may be deposited into a special bank account, which shall require the joint signatures of the Applicant and RBDO Manager for all withdrawals. The RBDO Manager, may set up only one special bank account for the receipt of all loan proceeds and the subsequent disbursement of proceeds to the borrower or the third parties. The RBDO Manager shall ensure that the loan proceeds are disbursed in accordance with the Applicant's approved plan for use of loan proceeds and shall account for all loan proceeds deposited and disbursed through that account on a monthly basis.
- B. Closings may take place at any location convenient to the Applicant and RBDO Manager. All disbursements shall be made by checks or cashiers check.
- C. If the loan is approved subject to certain conditions, the RBDO Manager shall ensure that those conditions are satisfied prior to closing. If one of the conditions is the payment of funds by the Applicant in addition to the loan funds, the RBDO Manager shall receive such funds prior to closing.
- D. No closing or disbursement shall take place unless the RBDO Manager certifies in writing that all appropriate documents have been properly executed and received.
- E. If the loan is not closed within forty-five (45) days for any reason, the loan commitment shall be automatically canceled, funds revert back to the Micro-Enterprise Loan Program and the applicant must reapply.

SECTION 10 - TECHNICAL ASSISTANCE

Upon request from the borrower, each RBDO shall provide technical assistance and training to help ensure success in the borrower's business.

SECTION 11 - COLLECTIONS

- A. Loan accounts that are in arrears or otherwise not in compliance with the loan agreements are forwarded to the Collections Section within the Credit Services Department for collection efforts. The Department's collection officers are the liaisons

between the Department and borrower(s). The goal of the collection officers is to have the borrowers repay their debt on a timely basis through the process of negotiation and cooperation without having to resort to legal proceedings.

- B. Collection efforts by the Department shall be in compliance with all applicable Navajo Nation, Federal and state laws and shall be subject to any new or revised law dealing with credit and collections within the Navajo Nation.
- C. Loan payments are due on the date specified in the promissory note. It is the borrower's responsibility to ensure that the payment is received at the proper office on or before the date specified.
 - a. Payments mailed or delivered to the Department's personnel will be forwarded to the Cashier's Office within the Financial Services Department.
 - b. Payments received by the Department or by the Cashier's Office after 2:00 p.m. will be receipted and posted on the following business day.
- D. The Credit Services Department will be responsible for collections and shall keep detailed records of efforts and contacts with borrowers. Periodic contacts shall be made with the borrowers and co-signers either in person, by mail to the last known address or telephone to demand payments due and owing on the loan account. The loan file is a legal document and any entries made must be considered as potential evidence in a court of law.
- E. It is the responsibility of the borrowers and co-signers to keep the Department informed of their current address and telephone numbers. The Department is not responsible for sending correspondence to other than the last address and telephone number provided by the borrowers.
- F. Throughout the formal collection process, efforts shall be conducted to contact the borrowers and co-signers to collect monies owed to the Nation.
- G. If payments are not received within ten (10) days following the due date, the loan account may be subject to any late charge pursuant to the terms of the promissory note.
- H. If payments are not received prior to sixty (60) days following the due date, and after the Department has sent out five (5) written notices to the borrowers and co-signers, the Nation shall accelerate the debt pursuant to the promissory note.

- I. If the debt is accelerated, the Nation shall declare the loan in default, declare the entire amount due and owing, and demand immediate payment of the same. The borrowers and co-signers shall be notified in writing, by certified mail, of this action.
- J. The borrowers and co-signers will be given opportunities to forestall further legal proceedings. Such opportunities may include, but shall not be limited to, the opportunity to bring the loan account current in a specified time by entering into a new payment agreement with the Department and the opportunity for voluntary relinquishment of the pledged property. It is the responsibility of the borrowers and co-signers to contact the Department to arrange such opportunities.
- K. Voluntary settlements, whereby the borrower relinquishes the collateral pledged as security for a loan, or such other property as may be required, or takes such other action as is appropriate, are encouraged if it appears borrower cannot repay debt by normal means.
 - a. If a deficiency remains on the loan accounts after the liquidation of the property, the borrowers or co-signers shall be liable for the deficiency amount under applicable laws.
- L. The Department shall pursue Small Claims Court proceedings if a loan account has a balance of two thousand dollars (\$2,000.00) or less and the account has been accelerated.
- M. If an account is collected, through judicial action or judgment, including but not limited to Bankruptcy, Voluntary Liquidation, and/or Repossession, the borrowers and/or co-signers shall not be considered for another loan until a minimum of ten (10) years has lapsed.
- N. The Credit Services Department shall have the authority to contract with a collection agency or outside firm to collect on all delinquent loans. In contracting with a collection agency or outside firm, the Department shall comply with the requirements for contracting as provided in N.N.C. Sections 223 and 1013.
- O. Bankruptcy (Chapter 7 or 13) cases shall be subject to the Federal Bankruptcy Laws and all other applicable laws to discharge an individual debt to the Navajo Nation. However, the continued right to foreclose on the property is subject to all applicable Navajo Nation, Federal and state laws in which the property is located.
 - a. In order to qualify for future loans, the borrowers and co-signers may reaffirm in writing to continue payments on the

loan account that was discharged by a Federal Bankruptcy Court.

- P. In the event of death of a borrower, the Department shall contact the surviving spouse or the administrator of the deceased's estate to proceed with the probate in compliance with the Navajo Nation Rules of Probate Procedures.
- Q. Any uncured payment arrearages of employees of the Navajo Nation or entity of the Nation shall be pursued, at the option of the Department through judicial means or through the Navajo Business and Procurement Act, 12 N.N.C. §1507 and pursuant to the Navajo Nation Executive Branch Personnel Policies Manual Article XVI(B) (2), Conduct of Employees.

SECTION 12 - ACCOUNTING

- A. The records and books for the Fund shall be kept by the Division of Finance in accordance with generally accepted accounting principles, with Navajo Nation accounting policies and as required by the BIDF Fund Management Plan. The records and books shall be available for review upon reasonable request and copies shall be provided to DED.
- B. All loan payments shall be credited in the following order of priority to the respective loan account identified by a loan number:
 - 1. First, to accrued interest due and owing calculated from the date of the last payment;
 - 2. Second, to late fees;
 - 3. Third, to direct expenses incurred by the Nation in servicing the loan account, including filing fees associated in the perfecting of security interests, non-sufficient funds fees for returned checks, insurance purchased to protect collateral, or costs associated with collection efforts; and
 - 4. Finally, the remainder, if any, to the principal balance.
- C. Monthly Reconciliation:
 - 1. Cash posting shall be by the Cashier's Section of Financial Services Department through the General Ledger of the Financial Management Information System (FMIS) to Credit Services Department Loan Ledger.
 - 2. Credit Services Department (Department) monthly shall reconcile its Loan Ledger amounts to the Accounts

Receivable shown on the General Ledger maintained by
Financial Services Department.

- D. Idle BIDE funds shall be invested by the Division of Finance. Interest earned on idle funds shall be credited to the program account and shall be available for use in the operation of the Fund.
- E. Month end closeout and reconciliation reports shall be prepared by Credit Services Department and submitted to the General Accounting Section to be applied to appropriate accounts with the following reports to be furnished to DED from Credit Services Department on a monthly basis:
 - a. Journal Voucher
 - b. Close out Worksheet
 - c. General Ledger by Business Unit
 - d. Management Alert
 - e. Cash Report of Loan Ledger
 - f. Trial Balance
 - g. Customer Aging Report
 - h. Bankrupt Customer Listing
 - i. Paid in Full Customer Listing
 - j. New Loans Booked for the Month
 - k. Portfolio At Risk
 - l. Customer Loan Ledger with Notes
 - m. Customer Billing Statements
- F. Quarterly summary accounting reports shall be prepared and presented to the Economic Development Committee for review. Such reports shall include at a minimum, the total amount of funds collected, the amount of such funds collected that represents program revenue (interest and direct expense reimbursements), amounts representing principal repayment, the balance of the program loan account, information pertaining to delinquencies and such other information as the Committee may require.
- G. To obtain a current and accurate payoff figure for an outstanding loan, you must call, write or e-mail the Credit Services Department with the request. The request should include the name of the borrower, loan number, date of loan and the date of the payoff.
- H. Requests for loan disbursements after loans have been approved must be taken from the Division of Economic Development directly to the Credit Services Department, along with copies of the Promissory Note, Security Agreement, UCC filings, Loan Application and a detailed map showing the borrower's business location.

- I. Interest and late fees shall stop accruing for purposes of recognizing loan income on all loans that are more than 90 days delinquent.
- J. Credit Services Department, Division of Finance, shall report all loans to a Credit Bureau on a monthly basis.

SECTION 13 - WRITE-OFF OF LOANS

- A. The write-off of a loan account shall be initiated by the Credit Services Department when a loan is determined to be uncollectible and all collection efforts have been exhausted or when a settlement agreement between the borrower and the Credit Services Department has been entered into in order to collect at least some portion of the remaining outstanding debt.
- B. The Credit Services Department shall consider factors such as death, bankruptcy and other circumstances on a case-by-case basis before recommending a write-off. Any recommendation to write-off a loan or any portion thereof shall require final review by the Chief Financial Officer of Division of Economic Development and the Department of Justice before submittal to the Economic Development Committee for final approval.
- C. All write-offs of loans or any portion thereof requires the final approval of the Economic Development Committee and, upon approval, the principal, interest and fees may be taken off the books of the Navajo Nation. However, even though a loan or some portion thereof may be taken off the books, this does not relieve the borrowers or co-signers from the legal responsibility to repay the loan with interest. A separate record shall be maintained by Credit Services Department showing the loans that have been written off and should the future circumstances change for the borrower, so that he has the means to repay the loan, every effort should be made to collect. The write off of a loan or any portion thereof may be considered as a default and a disqualification for any future loans or other entitlements under 12 N.N.C.§1505(B).

SECTION 14 - MODIFICATION OF GUIDELINES

These guidelines may be modified from time to time and approved by the Economic Development Committee of the Navajo Nation Council, upon written recommendation from the Chief Financial Officer and the Executive Director of the Division of Economic Development.

There shall be no waivers of these guidelines.