GUIDELINES FOR THE TYPES OF PERFORMANCE REQUIREMENTS FOR NEGOTIATION OF A SUNNY DAY LOAN AND/OR GRANT APPLICATION

December 31, 2007

The Department of Business and Economic Development has established the following guidelines to be utilized in prioritizing the use of Sunny Day funds as well as the guidelines for the types of performance requirements. This program is internally administrated by the Finance Programs staff.

Extraordinary Economic Development Opportunity

By statute, Sunny Day facilities must cause an extraordinary economic development. An "Extraordinary Economic Development Opportunity" means the:

(A) Attraction of a new private sector enterprise to the State or retention or expansion of an existing private sector enterprise in the State that:

1. Maintains a strong financial condition and minimal credit risk profile;
2. Is capable of accessing alternative sources of financing through financial institutions or capital markets;
3. Is consistent with the strategic plan of the State for economic development;
4. Creates or retains substantial employment, particularly in areas of high unemployment; and
5. Invests in capital at a level equal to five times the value of the incentive offered;

(B) Retention or expansion of an existing public institution, private institution, or a Federal research and development institute that:

1. Is consistent with the strategic plan of the State for economic development; and
2. Creates or retains substantial employment, particularly in areas of high unemployment;

(C) Establishment or attraction of a public institution, a private institution, or a Federal research and development institute new to the State that:

1. Is consistent with the strategic plan of the State for economic development; and
2. Creates or retains substantial employment, particularly in areas of high unemployment.

Regional View

The Department views extraordinary economic development on a regional basis and in the context of local demographics. For example, rural areas may be viewed differently than more urban/suburban regions of the State. The Department also takes into account the size of the business relative to other businesses within the region.

Prioritization

As requests are made to the Department, the projects are tracked on a Departmental deals report that is reviewed by the Secretary and Senior Managers on a regular basis. The recommended programs and potential amounts of funding are discussed and prioritized based on the economic value of the project to the State of Maryland. The criteria for economic value include issues such as: project timing, the number of jobs potentially being affected (both new and retained), the level of compensation (including salaries and benefits), the total cost of the project and the industry sector. The economic value of the project is determined by the completion of a Resource Allocation Model. This model quantifies the dollar value of the business to the State and determines the incremental taxes generated by the business and its employees based on both the existing and the to-be-expanded operation. By calculating the incremental increase in taxes, or the tax values from retaining the business, the Department calculates how long it takes the State to recoup the value of the incentive.

Primary Factors of Project Priority

The primary factors of a project to determine its priority are Total Existing Jobs; Total Payroll; Salary Level; Total New Jobs; Total Capital Investment, the Industry Sector and the geographic region. In addition, the Department also considers and differentiates between retention and expansion projects as well as interstate and intra-state cross-county relocations.

The Department strongly believes the attraction and retention of Corporate Headquarters is of strategic importance. To that end, businesses with national or world headquarters in Maryland are viewed as being critical. The State must focus on creating and maintaining a business friendly environment to support and enhance that image.

The prioritization of Sunny Day funds to certain industry sectors is also a factor. The Department continues to focus resources on projects in biotechnology and support the manufacturing and technology sectors.

Structuring Transactions

The Department takes into consideration the following issues when structuring a transaction.

1) When will the project start?
2) When will the project be completed in regards to capital investments?
3) How many jobs are currently in place?
4) Time schedule for creating the new jobs.
5) Salary levels of the jobs.
6) Job Creation - Generally, the Department wants to see job creation occur within three to five years and then will require a maintenance or retention period of an additional three to five years.
7) Clawbacks - The performance criteria should reflect the scope of the project as provided by the customer. If the customer fails to achieve the performance benchmarks, any loan incentive should provide a default rate of interest and/or have rights of acceleration and any grant should have repayment requirements.
8) Type of Incentive: Loan/Conditional Loan/Grant/Conditional Grant/Investment.
9) Interest Rate.
10) Term.
11) Collateral and or Guaranties (if necessary).
12) Is the Business a good corporate citizen?
13) The level of local support and participation.

Clawback provisions require a minimum threshold of performance that would cause the entire conditional loan or grant to be repaid. If the customer exceeds the minimum level of performance but does not achieve the original projected level of performance, then a pro rata forgiveness could be appropriate. The determining factors for the achievement percentages to be used include whether or not this was a job retention or a job creation incentive.