

PA Commonwealth Financing Authority Gives Green Light to “Business in Our Sites” Program

At its September 7, 2004, meeting, the Commonwealth Financing Authority approved program guidelines for the Business in Our Sites Program, a grant and loan program specifically targeted to the development of “shovel-ready” sites within Pennsylvania.

The Authority and the program were both part of Governor Ed Rendell’s economic development stimulus package that was enacted into law in April of this year. The Authority is governed by a seven-member board and is responsible for administering seven of the new stimulus programs and issuing the bonds to fund those programs.

The Business in Our Sites Program is one of the Commonwealth’s more anticipated programs. The program will provide grant and loan funds for site development projects. The intent is to use these funds to create an inventory of “shovel-ready” sites – that is, sites ready for new building construction to commence immediately. Most activities required to develop a site, apart from actual construction of a new building, are eligible for funding under the program.

Private developers are eligible to take advantage of this program funding, as well as municipalities, redevelopment and municipal authorities, and economic development organizations. While private developers are not directly eligible for grant funding, a project that involves a developer working in partnership with a governmental entity or economic development organization can qualify for grant funding through the governmental/economic development partner.

Funds are available for both planning and site preparation activities. Planning grants are available for up to \$250,000. There is no maximum on loan funds for site preparation activities, but grant funds are limited to \$5 million or 50 percent of the total financing award made by the Authority.

Unlike other state programs, there is no requirement that applicants match the funded amount. Loans made under the program will be placed in a non-amortizing, non-payment status until the developed site is sold or leased.

Summaries of the Business in Our Sites planning grant and construction grant/loan program are presented below.

Summary: Commonwealth Financing Authority Business in Our Sites Planning Grants Program:

The Business in Our Sites Program provides grant and loan funding for site development projects. The intent is

to make funds available to create “shovel-ready” sites, that is, sites ready for new building construction to commence immediately. The program is administered by the Commonwealth Financing Authority (“CFA”).

Purpose:

The Business in Our Sites Planning Grant Program will award grants to fund predevelopment activities related to site development projects. Grant funds may be used to determine the feasibility of a proposed site development project for an ultimate end use and to obtain technical information necessary to carry out specific activities needed to make a site “shovel-ready.”

Eligible Applicants:

1. Municipalities.
2. Redevelopment Authorities.
3. Municipal Authorities.
4. Industrial Development Agencies.

NOTE: A private for-profit developer working in partnership with an eligible applicant may have the applicant apply for a planning grant to benefit the joint project.

Eligible Uses of Funds:

Grant funds may be used to carry out any activity necessary for an applicant to determine whether or not it wants to proceed with a site development project. Eligible activities include, but are not limited to: the preparation of feasibility assessments for marketing and financing, including the preparation of financial projections; preliminary engineering work, including physical assessments, geo-technical assessments, surveys, and engineering design and cost estimates; environmental activities, including Phase I assessments and wetlands delineation; and preparation of impact analyses.

Ineligible Uses of Funds:

Grant funds may *not* be used for the following: fees to secure financing; interest charges on borrowed funds (although direct interest costs on interim financing may be permitted at the discretion of the CFA); tap-in fees; or unpaid taxes or municipal liens.

Costs incurred prior to the approval of a planning grant are also ineligible unless the applicant has received a “letter of no prejudice” from the CFA, which allows the applicant to incur costs while its application is pending with the Authority.

Limitations:

The maximum grant amount for any one project is \$250,000. The applicant is not required to provide any matching funds.

Eligible sites are limited to the following:

- a) Sites that were previously used for another purpose.
- b) Sites that are undeveloped if development is consistent with a comprehensive county plan or comprehensive municipal plan.
- c) Sites that are undeveloped where no comprehensive county or municipal plan exists, if notification of the project has been made to the applicable county and municipal governing bodies.

The anticipated future use of the site may not be for the following purposes: primarily residential; primarily recreational; or gaming by for-profit organizations.

A copy of any report or study prepared with grant funds must be filed with the CFA and will be made available to any person upon request.

Application and Evaluation:

To apply for funding, an applicant will submit a Department of Community and Economic Development (DCED) Single Application for Assistance to the CFA. Applications may also be submitted on-line through the DCED Web site, <http://www.inventpa.com/default.aspx?id=26>.

The following factors, among others, will be considered by the CFA in making funding decisions:

- the scope and nature of the activities to be carried out.
- the reasonableness of the proposed costs.
- evidence of site control or the willingness of owners to participate.
- a substantial likelihood of site reuse.
- the existence or absence of “shovel-ready” sites within the county or municipality.
- the identification of the project as a priority for the county and municipality.
- the anticipated economic and community development impact if the site is developed.

Priority consideration will be given to projects that involve a previously utilized site.

For further information, see the Business in Our Sites Guidelines issued by the CFA.

Summary: Commonwealth Financing Authority Business in Our Sites Construction Grants and Loans

Program:

The Business in Our Sites Program provides grant and loan funding for site development projects. The intent is

to make funds available to create “shovel-ready” sites, that is, sites ready for new building construction to commence immediately. The program is administered by the Commonwealth Financing Authority (CFA).

Purpose:

The Business in Our Sites Construction Grant and Loan Program will award loans and grants to fund activities related to site development projects. Funds may be used for most activities required in order to make a site “shovel-ready.”

Eligible Applicants:

1. Municipalities.
2. Redevelopment Authorities.
3. Municipal Authorities.
4. Industrial Development Agencies.
5. Private Developers (for loans only as direct applicants; other eligible applicants may apply for grant funding on behalf of a project involving a private developer).

Eligible Uses of Funds:

Loan funds may be used to carry out any activity necessary for an applicant to prepare a site and make it ready for new building construction. Eligible activities include, but are not limited to: acquisition of land and buildings, rights of ways and easements; construction or rehabilitation of infrastructure, including storm water drainage systems, energy facilities, sanitary sewer systems, water supply facilities, transportation facilities including road improvements; natural gas pipelines, and telecommunication lines and facilities; demolition of structures and removal of foundations; rehabilitation of existing structures; clearing and preparation of land; environmental assessment and remediation; signage, landscaping and street lighting; and engineering and administrative costs.

Grant funds may be used only for the following purposes: environmental site assessment and remediation; demolition of structures and removal of foundations; site preparation; installation or rehabilitation of infrastructure; and associated engineering and administrative costs.

Ineligible Uses of Funds:

Funds may *not* be used for the following: fees to secure financing; interest charges on borrowed funds (although direct interest costs on interim financing may be permitted at the discretion of the CFA); tap-in fees; or unpaid taxes or municipal liens.

Costs incurred prior to the approval of funds are also ineligible unless the applicant has received a “letter of no prejudice” from the CFA, which allows the applicant to incur costs while its application is pending with the Authority. If the project received a Business in Our Sites Planning Grant, it will be deemed to have received

nonprejudicial approval.

Limitations:

No project may receive a grant unless it also receives a loan.

There is no limit on the amount of loan funds a project may receive. However, grant awards are limited to \$5 million or 50 percent of the financing awarded, whichever is less.

Eligible sites are limited to the following:

- a) Sites that were previously used for another purpose.
- b) Sites that are undeveloped if development is consistent with a comprehensive county plan or comprehensive municipal plan and the site is zoned for development.
- c) Sites that are undeveloped where no comprehensive county or municipal plan exists, if notification of the project has been made to the applicable county and municipal governing bodies.

The anticipated future use of the site may not be for the following purposes: primarily residential; primarily recreational; or gaming by for-profit organizations.

Loan Terms:

The interest rate and term of each loan will be set by the CFA at the time of loan approval. Loan terms may not exceed 20 years.

Loan funds will be disbursed in a manner similar to a construction loan. The loan will not amortize and no principal or interest payments will be required until the site is either sold or leased.

The preferred security will be a first mortgage lien on the premises. Otherwise, security for the loan is subject to negotiation with the CFA.

Application and Evaluation:

To apply for funding, an applicant will submit a Department of Community and Economic Development (DCED) Single Application for Assistance to the CFA. Applications may also be submitted on-line through the DCED Web site, <http://www.inventpa.com/default.aspx?id=26>.

The CFA will consider the following factors, among others, in making funding decisions: substantial likelihood of reuse of the site; relative impact of the development on the surrounding community; proposed time frame for commencement and completion; and identification of the project as a priority investment in a local or regional

development plan. An eligible project will receive *priority consideration* if it meets one or more of the following criteria:

The project is located in an area with a demonstrated need for economic development activity, due to high unemployment, declining population, or similar factors.

The project will directly involve two or more municipalities.

The project is located within a developed area of a municipality.

The project involves a previously utilized site.

There are local matching funds in the project.

The project will commence within 90 days of CFA approval.

For further information, see the Business in Our Sites Guidelines issued by the CFA.

About the Author

Emily J. White is a partner with Duane Morris and was formerly the Deputy Secretary to the Pennsylvania Department of Community and Economic Development, where she was instrumental in developing most of the Commonwealth of Pennsylvania's business incentive programs, including the economic development stimulus package. She served 10 years in an executive capacity with the Department, and also served in the former Pennsylvania Department of Commerce Office of Chief Counsel and the legal office for the Pennsylvania House of Representatives. She practices in the area of corporate law and services for emerging businesses. She also serves as legal counsel to Public Affairs Management.

For Additional Information

For additional information about these programs or any other business incentive programs administered by the Commonwealth of Pennsylvania, contact Emily J. White at 717.237.5501 or ejwhite@duanemorris.com or the lawyer in the firm with whom you are regularly in contact.