

**Rules of
 Department of Agriculture
 Division 100—Missouri Agricultural and
 Small Business Development Authority
 Chapter 4—Small Business Development Loan
 Program**

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**Title 2—DEPARTMENT OF
AGRICULTURE**

**Division 100—Missouri Agricultural and
Small Business Development Authority
Chapter 4—Small Business Development
Loan Program**

2 CSR 100-4.010 General Organization

PURPOSE: This rule complies with section 536.023, RSMo (1986) which requires each agency to adopt as a rule a description of its operation and the methods by which the public may obtain information or make submissions or requests.

(1) The Missouri Agricultural and Small Business Development Authority is authorized to purchase agricultural development loans, small business development loans and small business pollution control facilities originated by lenders, or it may participate with lenders in making those loans and may enter into commitments with lenders for purchase or participation.

(2) The authority will authorize the issuance of small business development revenue bonds to fund the purchase of, or participation in, small business development loans to participating borrowers originated by participating lenders; sell bonds to participating lenders as original purchasers of the bonds or through placement agents to investors to fund the small business development loans and to provide for certain issuance expenses; assign the authority's rights, title and interest in a loan agreement and all revenues and receipts payable under the agreement (other than certain indemnification rights and certain fees and issuance expenses), to the participating lenders who purchased the bonds or to a trustee for the benefit of any other holders of the bonds.

*Auth: section 536.023, RSMo (1986).
Original rule filed Aug. 13, 1991, effective
Jan. 13, 1992.*

2 CSR 100-4.020 Definitions

PURPOSE: This rule describes terms used by the Agricultural and Small Business Development Authority in administering the small business development loan program.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters

of the agency and is available to any interested person at a cost established by state law.

(1) Terms not otherwise defined in this rule shall have the meanings given them in sections 348.005—348.180, RSMo (1986) or in participation and loan purchase agreements as described in these rules.

(A) Act means sections 348.005—348.180, RSMo (1986).

(B) Application means a completed instrument on a form approved by the authority which includes a description of the anticipated use of loan proceeds, the amount of the loan and certain certifications of the participating borrower and the participating lender.

(C) Application fee means the fee as set from time-to-time by the authority payable by a participating borrower to the authority.

(D) Authority means the Missouri Agricultural and Small Business Development Authority organized under the provisions of the Act.

(E) Authority fee means the fees as set from time-to-time by the authority payable prior to loan closing by a participating borrower to the authority.

(F) Closing documents means the participating borrowers' documents, the participating lenders' documents, the closing certificates of the participating borrower(s) and the participating lender(s), and any other certification or documents as the authority reasonably may require.

(G) Loan and security agreement means an agreement between a participating borrower and a participating lender and any amendments and supplements to it providing for a small business loan by a participating lender to a participating borrower and for its repayment by the participating borrower.

(H) Note means a promissory note to evidence the obligation of the participating borrower to make the repayments as defined in the loan and security agreement.

(I) Participating borrower means any individual, partnership, corporation, firm or other legal entity which meets the criteria as a small business.

(J) Participating lender means any state or national bank, federal land bank, production credit association, bank for cooperatives, federal or state-chartered savings and loan association, or building and loan association or small business investment company that is subject to credit examinations by an agency of the state or federal government, any governmental agency or any other lending institution approved by the insurer or guarantor of an agricultural development loan, beginning farmer loan or small business pollution control facility loan which undertakes to make or service that loan.

(K) Small business means any business which meets the criteria as interpreted and applied by the authority as a small business established for the Small Business Administration as set forth in Section 121.3-10 of Part 121 of Title 13 of the *Code of Federal Regulations*.

*Auth: section 348.075, RSMo (1986).
Original rule filed Aug. 13, 1991, effective
Jan. 13, 1992.*



MISSOURI AGRICULTURAL AND SMALL BUSINESS DEVELOPMENT AUTHORITY

Post Office Box 630

Jefferson City, Missouri 65102

SMALL BUSINESS LOAN PROGRAM

APPLICATION

(Please print or type all information on this form and complete all questions)

NOTE: APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE FINAL LOAN APPROVAL. The MASBDA does have a present intention to issue its Bond to fund the Small Business loan. However, the MASBDA may refuse to complete loan processing or reduce the permitted loan amount, if, prior to loan closing, it is discovered that the Project, in whole or in part, is ineligible for tax-exempt financing or if, due to changes in Federal or State law or regulations, the Project should become so ineligible. No loan "Finder's Fee" is required by the MASBDA.

FOR OFFICE USE ONLY

MASBDA Project No. _____

Application Rec'd. _____

\$200 Application Fee Rec'd. _____

NO "FINDERS FEE" IS REQUIRED BY THE MASBDA

PART A: to be completed by the Borrower

1. Name _____
2. Address _____

3. Telephone (_____) _____
4. If Borrower is an individual, please give age for statistical purposes _____ and Social Security No. for reporting purposes _____ and Employer I.D. No., if any, for reporting purposes _____
5. If Borrower is other than an individual, please give Employer I.D. No. for reporting purposes _____
6. Amount of Loan Request \$ _____
7. Loan Down Payment (if any) \$ _____
8. Description of anticipated use of loan proceeds ("Project") — (use additional sheets if necessary): _____

9. Location of Project: (include mailing address, city, zip code) _____

County(s) in which Project will be located: _____

10. Seller of Project (if known): _____
Seller's Address: _____
Relationship to Borrower, (if any): _____
11. Other principal users of the Project and their Social Security and/or Employer Identification numbers (principal user of a Project is any person or entity which will own or lease 10% or more of the Project, as measured against the total value of the Project, the total square footage of the Project or the total rent paid from the Project):

Name	Social Security No.	Employer I.D. No.
_____	_____	_____
_____	_____	_____
_____	_____	_____



PART B: to be completed by Lender

- 1. Current market value/sales price of project to be financed: \$ _____
- 2. Financial statements for Applicant received: Yes No
Annual Gross Revenues of Applicant during preceding fiscal year were: \$ _____
- 3. Number of full time equivalent positions within Applicant: _____
- 4. MASBDA Application fee (\$200.00) received and submitted herewith Yes No
- 5. Summary of proposed loan terms
(Note: These terms may be subject to your further negotiation; if no commitment has been made, state your present best estimate.):
 - a. Interest rate amount _____ % (if variable, state what rate would be today.)
 - b. Fixed _____, or Variable _____
 - c. If variable rate is based on _____ % of _____ (As example. "60% of _____'s prime rate".)
 - d. Length of loan: _____ years; _____ months.
 - e. Repayment: \$ _____ per _____ with final payment on or before _____.

PART C: Certifications of Borrower

In submitting this Application, I, the undersigned, as or on behalf of, the above described Borrower, have read the following statements and hereby certify and agree that:

- 1. The primary place of business of the Borrower is located with the State of Missouri True False
- 2. The Project will be located within the State of Missouri True False
- 3. Neither the Borrower nor any Related Person (as described below) has previously received tax-exempt financing from the Authority, or any other source, with regard to any project or facility, except for the following (describe project or write none) _____

- 4. None of the proceeds of the Loan shall be used for the refinancing or restructuring of any existing indebtedness in whole or in part, working capital, operating purposes or for inventory or supplies True False
- 5. (a) The Borrower will be able to operate successfully the business of which the Project comprises a part. True False
 - (b) The Borrower has sufficient capital in the business of which the Project comprises a part, so that with assistance from the Authority's Small Business Loan Program, the Borrower will be able to operate the business on a financially sound basis. True False
 - (c) The Borrower's past earnings record and future prospects indicate an ability to repay the Loan out of income from the business of which the Project comprises a part. True False
 - (d) The granting of the Loan to the Borrower will increase employment or have other favorable effects upon the economic life of the community where the Project is located. True False
Describe any other favorable effects expected from the granting of the Loan: _____

- (e) The Borrower does not intend to use the proceeds for the purchase of agricultural land. True False
- (f) The Borrower is not an affiliate or subsidiary of a business which is dominant in its field of operation and is of an inappropriate size as defined in the program summary. True False



6. The completion of the Project for which the Authority is requested to make the Loan will:
- (a) Create new jobs in the State of Missouri True False
 If true, approximately how many new jobs will be created? Permanent Jobs _____
 Temporary Jobs _____
 - (b) Increase revenues for the Borrower from a more modern or expanded facility. True False
 If true, how much are revenues expected to increase during the next fiscal year: \$ _____
7. The Borrower together with its affiliates does not have a net worth in excess of 6 million dollars True False
8. The Borrower together with its affiliates does not have an average income after Federal Income taxes for the preceding two years at an excess of 2 million dollars True False
9. (a) The number of employees of Borrower does not exceed the size standards relating to number employed as set forth by the Authority in accordance with applicable regulations. (Contact the Authority) True False
- (b) The number of employees permitted does not exceed the size standards relating to number employed as set forth by the Authority in accordance with applicable regulations. (Contact the Authority) True False
10. The Borrower agrees that the Loan may not be assumed by another person without the prior approval of the MASBDA. True False
11. The Borrower has prepared and delivered the Application for a Loan to be funded with the proceeds of the Authority's bond (if and when issued by the Authority) for the purpose of accomplishing the governmental purposes set forth in Chapter 348 of the Code of Missouri, 1981, as amended. All of the information the Borrower has provided in this Application is true and complete. True False
12. Neither the Borrower nor any Related Person (as described below) has commenced any acquisition or construction of any part of the Project to be financed with the proceeds of the Loan, and neither the Borrower nor any Related Person has entered into any contract or purchase agreement, installment or otherwise, in connection with the construction or acquisition of the Project or any part thereof, or commenced on-site work in connection with the construction of the Project or any part thereof or off-site fabrication or acquisition of any portion of the Project. "Related Person" as defined in Section 103(b)(6)(C) of the Internal Revenue Code includes, among others: a father, mother, brother, sister, grandparent, grandchild, or spouse of the Borrower; a closely related partnership or corporation in which the Applicant, together with any of the foregoing relatives, has more than 50% interest; or a closely related partnership or corporation which holds more than 50% interest in the Borrower. True False
13. The Borrower is not acquiring the Project directly or indirectly from a Related Person. True False
14. The actual useful life (**not the ACRS**) of the Project does not exceed the number of years listed below. The ACRS life of the Project is listed below also. (If the Project comprises more than one depreciable component, list each component separately):

Item	Cost	Actual Useful Life N/A	ACRS Life
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Dated _____ Signature of Borrower or Authorized Signature _____



PART D: Certification of Lender

The undersigned Lender has read the following statements and hereby certifies that:

1. The Borrower is a "Small Business" as defined in Chapter 348 of the Code of Missouri, 1981, as amended, and the Rules of the Authority.
2. The Borrower has presented evidence satisfactory to the Lender that:
 - (a) The Borrower will be able to operate successfully the business of which the Project comprises a part.
 - (b) The Borrower has sufficient capital in the business of which the Project comprises a part, so that with assistance from the Authority's Small Business Loan Program, the Borrower will be able to operate the business on a financially sound basis.
 - (c) The Borrower's past earnings record and future prospects indicate an ability to repay the Loan out of income from the business of which the Project comprises a part.
 - (d) The granting of the Loan to the Borrower will increase employment or have other favorable effects upon the economic life of the community where the Project is located.
3. The Borrower is not acquiring the Project directly or indirectly from a Related Person. "Related Person" as defined in Section 103(b)(6)(C) of the Internal Revenue Code includes among others: a father, mother, brother, sister, grandparent, grandchild or spouse of the Borrower; a closely related partnership or corporation in which the Borrower, together with any of the foregoing relatives, has more than a 50% interest; or a closely related partnership or corporation which holds more than 50% interest in the Borrower.
4. All of the proceeds of the Loan will be used for the acquisition, construction, reconstruction, equipping and installation of land, or property of a character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code.
5. The proceeds of the Loan will not be used to provide working capital or finance inventory, supplies or other operating expenses for the Borrower or any Related Person, and none of the proceeds of the Loan will be used to refinance any portion of existing indebtedness.
6. To the best of the Lender's knowledge, each of the certifications of the Borrower set forth in this Application is true and correct.
7. The Lender requests the Authority to issue and sell its bond to the Lender for the purpose of financing the Project to the extent thereof.
8. The Application has been received and is being processed in accordance with the governmental program established by the Authority and complies or will comply with the Project, finance or otherwise advance moneys to the Borrowers or any Related Person in connection with the Project.
9. The Lender has not on the date hereof, and shall not prior to the adoption by the Authority of a resolution of intention to issue the Bond for the purpose of financing the Project, finance or otherwise advance moneys to the Borrowers or any Related Person in connection with the Project.
10. The average maturity of the Loan will not exceed 120 percent of the average reasonably expected economic life of the Project.

Dated _____

Name of Participating Lender

By _____

Signature of Official of Lending Institution

Title: _____

Address: _____

Telephone: (_____) _____



2 CSR 100-4.030 Criteria Relating to Participating Borrowers, Participating Lenders and Small Business Loans

PURPOSE: This rule sets forth the fee structure and the requirements which the applicant must meet to be an eligible borrower for a loan under this program.

Editor's Note: The form mentioned in this rule follows 2 CSR 100-4.020.

(1) The authority's small business loan program is available for manufacturing, commercial and industrial companies qualifying as small businesses. Only manufacturing firms and first-time farmers qualify for tax-exempt financing. Commercial and industrial companies are eligible for taxable bond financing. (Refunding tax-exempt bonds may be issued for commercial and industrial companies if the original bonds were issued prior to August 1986.)

(2) Eligible projects for tax-exempt financing include:

(A) The acquisition, construction, improvement or rehabilitation of agricultural property (land, buildings, structures, improvements, equipment and breeding livestock) for first-time farmers; and

(B) The depreciable property to be used for manufacturing or processing facilities owned or to be acquired by a small business.

(3) Eligible projects for taxable financing include:

(A) The acquisition, construction, improvement or rehabilitation of agricultural property (buildings, structures, improvement, equipment and breeding livestock) for those farmers who do not qualify for treatment as a first-time farmer; and

(B) The acquisition, construction, improvement or rehabilitation of depreciable property, owned or to be acquired by a small business for commercial and industrial facilities.

(4) The *Internal Revenue Code* places a loan limit of ten (10) million dollars for tax-exempt financing to manufacturers and a two hundred thousand dollar (\$200,000) limit for tax-exempt financing to first-time farmers. There is no limit on loans placed on taxable financing. However both tax-exempt and taxable financing will be subject to borrowing limits set by the borrowers' participating lenders.

(5) The authority will purchase or take up to one hundred percent (100%) participation in each small business development loan.

(6) The authority will receive a nonrefundable two hundred dollar (\$200) application fee, submitted with the application.

(7) The participating lender or the placement agent will collect from the participating borrower(s) and pay over to the authority at the loan closing an authority fee to defray expenses incurred by the authority in processing and administering the small business development loan program an amount as determined by the authority not to exceed a sum equal to one and one-half percent (1 1/2%) with a minimum fee of five hundred dollars (\$500).

(8) At the time of the purchase of a small business loan by the authority, the participating lender and participating borrower(s) shall certify that the participating borrower(s) is (are) in compliance with the Act and with rules of the small business development loan program; that the participating borrower(s) cannot obtain a loan on equivalent terms from conventional credit markets or other sources without the purchase or participation of the authority; that the participating borrower(s) is (are) an individual(s) residing in this state; and that the project being financed is located within the state.

*Auth: section 348.075, RSMo (1986).
Original rule filed Aug. 13, 1991, effective Jan. 13, 1992.*

2 CSR 100-4.040 Procedure for the Purchase or Participation of Eligible Loans

PURPOSE: This rule sets forth the procedure for the approval of loans to be purchased under this program.

(1) A participating lender and participating borrower(s) will complete and forward the application to the authority.

(2) Upon receipt of the executed participating borrower documents, the authority shall determine whether the participating borrower(s) and the participating lender qualify under the Act, and whether the loan constitutes a small business loan under the Act. After that, the authority will deliver to the participating borrower(s) and the participating lender a conditional approval describing the terms of the small business loan proposed to be purchased by the authority, subject to the availability of bond proceeds.

(3) Following receipt of the conditional approval and in accordance with its terms, the participating lender shall deliver the executed participating lender documents to the authority.

(4) On the loan purchase date, the authority will sell the bond and direct the participating lender to fund the small business loan. In addition, on the loan purchase date, the authority will simultaneously assign and deliver the note, the loan and security agreement, and the guaranty to the participating lender as original purchaser of the bond.

*Auth: section 348.075, RSMo (1986).
Original rule filed Aug. 13, 1991, effective Jan. 13, 1992.*

2 CSR 100-4.050 Amendments

PURPOSE: This rule sets forth the conditions under which amendments to the program will be made.

(1) Subject to the provisions of the Act and the program, these guidelines may be amended from time-to-time in order to make them conform to the provisions of the Act or the program or to facilitate the purchase of small business loans.

(2) To the extent that the Act or the small business development program is amended so that, if applied, it would make the requirements in these guidelines less restrictive, the program guidelines shall be deemed to be amended to incorporate the amended provisions of the Act or the program.

*Auth: section 536.023, RSMo (1986).
Original rule filed Aug. 13, 1991, effective Jan. 13, 1992.*