

STATE OF WYOMING
BUSINESS READY COMMUNITY GRANT AND LOAN PROGRAM
RULES

Most recent amendments adopted March 23, 2010

WYOMING BUSINESS COUNCIL
214 West 15th Street
Cheyenne, Wyoming 82002

TABLE OF CONTENTS

CHAPTER 1
GENERAL PROVISIONS

<u>Section No.</u>	<u>Subject</u>	<u>Page No.</u>
1	Purpose	1-1
2	Authority.....	1-1
3	Definitions.	1-1
4	Eligible Applicants.....	1-4
5	Type of Projects	1-4
6	Eligible Project Activities.....	1-5
7	Ownership of Infrastructure	1-6
8	Revenue Generating Projects í í í í í í í í í í í í í ...	1-6
9	Local Public Hearing and Approval.....	1-6
10	Funding Cycles	1-7
11	Application Procedures	1-8
12	Application Evaluation	1-9
13	Grant Match Requirements.....	1-11
14	Fund Disbursement and Project Monitoring	1-12

CHAPTER 2
BUSINESS READY COMMUNITY GRANTS

1	Business Committed to Locate or Expand Project.....	2-1
2	Community Readiness Project.....	2-3
3	Community Enhancement Projectí í í í í í í í í í í .	2-5
4	Managed Data Center Cost Reduction Projectí .í í í .í ...	2-7

CHAPTER 3
BUSINESS READY COMMUNITY LOANS

1	General Policy.....	3-1
2	Application Submittal Requirements	3-1
3	Loan Amount	3-2
4	Interest Rate and Term	3-2
5	Security Interest	3-3
6	Attorney General Opinion	3-3
7	Evaluation	3-3
8	Council Consideration.....	3-4
9	Disbursement of Loan Proceeds	3-4

State of Wyoming
Business Ready Community Grant and Loan Program
Rules

Chapter 1
GENERAL PROVISIONS

Section 1. Purpose.

(a) The purpose of the program is to promote economic development at the city, town and county level in order to improve economic health and a stronger state economy. These rules are adopted in order to implement W.S. 9-12-601 through 9-12-603, which provide for the making of grants and loans to eligible applicants for economic or educational development infrastructure. The rules provide for a method of application, review and recommendation, the establishment of terms and conditions of awards, and a hearing process.

(b) Guiding Principles of the Business Ready Community Program:

(i) Support to Wyoming's communities which are diverse in size, resources, and economies.

(ii) Focus Business Ready Community resources on projects that are likely to produce benefits that endure beyond the funding of the program.

(iii) Support projects which will help people, families and communities thrive.

(iv) Increase the capacity of community and economic development partnerships and cooperative efforts between the private and public sectors recognizing that each has its own responsibilities.

(v) Support and encourage communities that develop innovative responses to their economic challenges through a flexible review and recommendation process.

Section 2. Authority. Rule-making for this program is the responsibility of the Wyoming Business Council as authorized by W.S. 9-12-104(a)(iv) and W.S. 9-12-601.

Section 3. Definitions.

(a) "Community Development Organization" means a group of private citizens organized as a business entity authorized to do business in this state for the purpose of providing financing for new, existing or expanding businesses and other economic or community development purposes throughout its community or county and

which may take equity positions and shall take security positions in its borrower's businesses and appropriate personal guarantees from the owners thereof.

(b) "Comprehensive Economic Development Strategy" or "CEDS" means a plan that emerges from a broad-based continuous planning process addressing the economic opportunities of a region.

(c) "Council" means the Wyoming Business Council Board of Directors.

(d) "Council staff" means the staff of the Wyoming Business Council assigned to administer the program.

(e) "Board" means the Wyoming State Loan and Investment Board.

(f) "Managed Data Center" means a center whose primary purpose is the centralized repository for storage, management, and dissemination of data and information for multiple businesses. This definition does not include spaces primarily for housing office computers, including individual workstations, servers associated with workstations, or small server rooms. For the purposes of these rules, the Council has adopted the Uptime Institute, Inc.'s four tiered classification approach to site power infrastructure.¹

(i) Tier IV data centers support companies with an international market presence delivering around the clock, year round services in a highly competitive market. Tier IV businesses are based on E-commerce, market transactions, or financial settlement processes. The businesses tend to be large, global companies spanning multiple time zones.

(ii) Tier III data centers support internal and external clients around the clock, year round such as service centers and help desks, but can schedule short periods when limited service is acceptable.

(iii) Tier II data centers are typically internet based companies without serious financial penalties for quality of service commitments, and small businesses whose information technology requirements are mostly limited to traditional normal business hours, allowing system shutdown during "off-hours".

(iv) Tier I data centers are small businesses where information technology primarily enhances internal business process and whose web-presence is as a passive marketing tool. For example, internet based startup companies without quality of service commitments.

¹ The Uptime Institute, Inc.'s "Tier Classifications Define Site Infrastructure Performance" by W. Pitt Turner IV, P.E., John H Seader, P.E., and Kenneth G. Brill can be accessed at http://www.uptime.com/TUIpages/downloads/TUI705DTierClassification_WP.pdf

(g) "Eligible project costs" means total project cost, less ineligible project costs.

(h) "Ineligible project costs" may include, but not be limited to: appliances, equipment, furnishings and other features of the facility which are not physically attached.

(i) "Match" means cash and/or in-kind contributions. Contributions must have value and must be applicable to the period to which the matching requirement applies and must be necessary for the project. Examples of in-kind contributions include: labor, materials, and real estate. In-kind contributions must be verifiable from the records of applicant. These records must show how the value placed on in-kind contributions was derived. Labor services will be reported using rates consistent with those ordinarily paid by the applicant or other employers for similar work in the same labor market. Donated materials will be valued at market value at the time of donation. The value of donated buildings or land will be established using a market value set by an independent appraiser.

(j) "Multi-year project" means a large scale, stand alone project which will either be constructed over separate calendar years and which cannot be separated into smaller, independently operational phases, or for which the Council determines the project presents a unique economic development or business recruitment opportunity for the applicant and the state.

(k) "Phased projects" mean a project in which parts ("phases") are completed and fully functional before the entire project is built-out. For example, a business park that will eventually have twenty lots may be phased such that infrastructure will open up five lots at a time over four different phases. The first five lots can be occupied immediately upon completion of the infrastructure, and do not require completion of remaining three phases.

(l) "Primary jobs" means jobs created or retained by a business(es) that provides goods and services that are primarily exported from the state, that gain market share from imports to the state, or that meet an unmet need in the market area and result in the creation of new wealth.

(m) "Revenue generating project" means real property developed with Business Ready Community funds owned either by the applicant or created in partnership with a private party which generates revenue from user fees, assessments paid by the beneficiaries of the facility, lease payments, or the proceeds from the sale of real property.

(n) "Self-sufficiency wages" means a measure of how much income is needed for a family of a certain composition in a given place to adequately meet their basic needs including: housing, child care, food, transportation, health care, and taxes.

(o) "State Development Organization" means a corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses, and to fulfill other economic or community development purposes throughout the state of Wyoming, and which may take equity positions and shall take security positions in its borrowers' businesses and appropriate personal guarantees from the owners thereof.

(p) "Child Care / Senior Care Projects" are defined as "Business Committed" child care and senior projects that show significant need, demonstrate quality, and meet economic development goals within a community.

(q) "Main Street / Downtown Projects" are defined as "Community Readiness" projects located in the downtown and/or in a Main Street district that meet community economic development goals.

(r) "Special Assistance Loan Fund" is a special assistance loan fund that allows applicants to borrow funds in excess to the maximum award and/or borrow all or a portion of the required match.

Section 4. Eligible Applicants.

(a) A county, an incorporated city or town and joint powers board may apply for projects outlined in Chapter 2 Sections 1, 2 and 3. A joint powers board may apply with the approval of all participating agencies to the joint powers agreement.

(b) The Council may enter into a contract/cooperative agreement with the Eastern Shoshone Tribe or the Northern Arapaho Tribe in order to promote the purpose of this program and fund infrastructure projects outlined in Chapter 2 Sections 1, 2, and 3.

(c) A county, an incorporated city or town and joint powers board may contract with a Community Development Organization or a State Development Organization to use grant funds from an approved application.

(d) A county, an incorporated city, or an incorporated town may apply for a project outlined in Chapter 2 Section 4.

Section 5. Type of Projects. A grant may be made for the following types of projects.

(a) **Business Committed Project:**

(i) An infrastructure project where an applicant has a business committed to start-up, expand, locate or retain jobs in the community. The applicant must demonstrate that new primary jobs will be created or retained by the business, and that

the new jobs will be created at or above a self sufficient wage and/or improve community and economic capacity.

(ii) In addition to assisting a particular business, a business committed project may also fulfill the purpose of a Community Readiness Project.

(b) Community Readiness Project: No specific business is committed to expand or locate in the community. The community wants to build infrastructure to ready itself for new business development under a specific strategy or plan of action; for example, development of a business or industrial park, or facilities for labor force or entrepreneurial training. The applicant must demonstrate that the potential exists for the creation of new primary jobs.

(c) Community Enhancement Project: A project in which an applicant wants to improve the community's aesthetic character or quality of life in order to make itself more attractive for business development under a specific strategy or plan of action; for example, landscaping, recreational or convention facilities. Landscaping and streetscaping enhancements must be located in commercial districts, sites of business activity, or in high visibility areas. Recreation, convention, or cultural centers must have a draw greater than the jurisdictional boundaries of the applicant.

(d) Managed Data Center Cost Reduction Project: This is a project in which an applicant wants to improve the development, recruitment, or expansion of data generation and information technology storage capabilities at a Tier II, Tier III or Tier IV level that are otherwise nonexistent or are in insufficient supply.

Section 6. Eligible Project Activities.

(a) For projects outlined in Chapter 2 Section 1, 2, and 3 the following are eligible project activities:

(i) Grant and loan funds may be used for an economic or educational development infrastructure project which may include, but not be limited to, water, sewer, streets and roads, telecommunications, airports, purchase of rights of way, purchase of land, buildings, facilities, industrial and business parks, industrial site or business district development, amenities within a business or industrial park, landscaping, recreational and convention facilities, and other physical projects.

(ii) Grant and loan funds may not be used for the rehabilitation or expansion of existing infrastructure unless the Council determines the rehabilitation or expansion is necessary to meet the purpose of the program.

(iii) Grant and loan funds may be used for the expansion of infrastructure previously funded under this program for phased projects.

(b) Grants for projects outlined in Chapter 2 Section 4 may be used for the reduction of the costs of electrical power, broadband, or both.

Section 7. Ownership of Infrastructure.

(a) The infrastructure funded by this program shall be owned by the applicant or an eligible Community Development Organization or State Development Organization as defined in Section 4 of this Chapter.

(b) The infrastructure or facility can be sold to a private entity without advertising the sale or calling for bids, provided that the applicant, makes a determination that the sale will benefit the economic development of the community, holds a public hearing, notice of which shall include the appraised value of all real properties involved and notice of proposed terms of any contract with a private entity and is published at least once each week for three (3) consecutive weeks in a newspaper of general circulation in the county in which the city or town is located. All sales must be done in accordance with all applicable statutes.

Section 8. Revenue Generating Projects. Revenue generated by the applicant or a private developer through publicly funded infrastructure projects must be recaptured by the applicant at a rate negotiated between the applicant and other partners and commensurate with the public investment.

Section 9. Local Public Hearing and Approval.

(a) An applicant is required to inform and educate the public and business community to the greatest extent possible about the proposed economic development project (including, but not limited to the economic development opportunity, possible funding sources and alternative solutions) utilizing a variety of techniques and media. The applicant must make readily available to the public access to the application and associated materials, exclusive of business plans or business financial information which are not subject to public information statutes. An applicant shall actively solicit citizen input which can be submitted via writing, electronically, or in person a public hearing. A minimum of one public hearing before submission of an application. For the purposes of this program seven (7) days is the minimum period for notification of a hearing date. Public notice shall be published in a newspaper of general circulation within the boundaries of the applicant or as approved by the council staff. If the project facility is to be located outside the boundaries of the applicant, the applicant shall hold an additional public hearing near the location of the proposed project facility. The notice shall contain a concise description of the proposed project and state that time will be set-aside at the public hearing to take testimony from citizens about the project.

(i) To inform the public and to gather information, any public hearing should at a minimum:

(A) Identify the economic development opportunity/ies

(B) Explore all possible funding sources and alternative solutions to the opportunity/ies

(C) Contain a comprehensive description of the proposed project

(D) Solicit testimony from citizens who may feel that the proposed use of the project might compete with an existing business.

(ii) For all Child Care Projects. In addition, child care project applicants must use their best efforts to notify all child care providers in the market area about the public hearing at least seven days in advance of the public hearing.

(b) An application must be accompanied by a description of the applicant's public engagement process, written comments received by the applicant, evidence of the public hearing notification, minutes from the public hearing, and a signed resolution passed by the applicant or participating agencies to a joint powers board after the public hearing is held and public comments are considered.

Section 10. **Funding Cycles.**

(a) A grant and/or loan request for a "Business Committed" project outlined in Chapter 2, Section 1 will be accepted at any time by the Council staff and scheduled for review by the Council at any meeting. Funds may be set-aside with the amount to be determined by the Council. The purpose of the set-aside is to create a rapid response fund in order to react to an immediate opportunity when an applicant has a business committed to expand or locate. Available funds will be allocated to each award period as determined by the Council. A request will be scheduled for review by the Council.

(i) A grant and/or loan request for a "Business Committed" Child Care or Senior Care project will be accepted and funds awarded once a fiscal year on a date to be determined by the Council staff.

(ii) Requests by an eligible applicant for a "Business Committed" project and "Managed Data Center Cost Reduction Grant" which involve the same business must be submitted simultaneously.

(b) A grant and/or loan request for a "Community Readiness" project outlined in Chapter 2, Section 2 will be accepted and funds awarded twice a fiscal year on a date to be determined by the Council staff. Available funds will be allocated to each award period as determined by the Council. A request will be scheduled for review by the Council.

(i) A grant and/or loan request for a "Community Readiness" Main Street/ Downtown project will be accepted and funds awarded once a fiscal year on a date to be determined by the Council staff.

(c) A grant and/or loan request for a "Community Enhancement" project outlined in Chapter 2, Section 3 will be accepted and funds awarded once a fiscal year on

a date to be determined by the Council staff. Available funds will be allocated to each award period as determined by the Council. A request will be scheduled for review by the Council.

(d) A grant and/or loan request for a "Managed Data Center Cost Reduction" project outlined in Chapter 2 Section 4 will be accepted at any time by the Council staff and scheduled for review by the Council at any meeting. Available funds will be allocated to each award period as determined by the Council. A request will be scheduled for review by the Council.

(e) An applicant may only submit one new grant or loan request per funding cycle for a "Community Readiness" or "Community Enhancement" project outlined in Chapter 2, Sections 2 or 3.

(f) An applicant may request, with a single application, grant or loan funds up to the annual maximum amount for a multi-year project for a period not to exceed three fiscal years. The applicant must demonstrate how the project meets the definition of a multi-year project.

Section 11. Application Procedures.

(a) The Wyoming Business Council Regional Director is available to assist applicants with the development of projects and preparation of applications. The Regional Director will use resources available such as the Department of Workforce Services and Wyoming's Community Colleges to define available workforce training programs which could be used in conjunction with educational development infrastructure and/or the labor market/workforce portion of the application.

(b) An application shall be reviewed by the Council staff to determine eligibility and completeness. An application that is determined by the Council staff to be incomplete shall be provided an explanation of the findings in writing within fifteen (15) working days of its receipt where practical.

(c) The Council staff may engage a disinterested third party to validate a data center's Tier Level, review a business plan, or examine other aspects of an application.

(d) An application that is complete shall be forwarded by the Council staff with a recommendation to the Council for their review.

(e) The Council staff shall publish statewide notice of Council and Board meetings at which Business Ready Grant and Loan Program applications will be discussed.

(f) The Council shall consider each application, allow for comments from the public, the applicant, and the Council staff, and refer to the Board the application with a recommendation.

(g) Under extraordinary circumstances the Council may recommend a waiver of rule requirements if the Council determines the waiver is consistent with the purpose of the Business Ready Community Program.

Section 12. **Application Evaluation.** Projects which will directly create jobs while adding capacity for future economic development will be given the highest priority. Lowest priority will be given to Community Enhancements and Child Care/Senior Care projects. In addition to the Guiding Principles for the Business Ready Community Program found in Section 1 of this Chapter, the Council may evaluate an application utilizing one or more of the following criteria and measures:

- (a) The extent to which the project will increase the number of primary jobs;
- (b) The extent to which the project will create jobs at or above self-sufficient wages or county mean or median wages;
- (c) If the project is for social services, the demand for those services must be outpacing the existing supply of services causing a detriment to the ability of the applicant to develop its economy;
- (d) The extent of private investment in capital equipment and/or facilities for a new or existing business. Preference will be given to projects leveraging private investment;
- (e) The extent to which the total revenue for an existing business is increased;
- (f) The extent to which the market share increases for an existing business as measured by units sold or some other measure that competitors in the market generally recognize as valid;
- (g) The extent to which the total revenue or profit is greater than the rate of inflation in a retail business located in the community;
- (h) The viability and thoroughness of a business plan which includes, at a minimum, a business description, management qualifications, market investigation, balance sheet, profit and loss for previous three years or tax returns for the previous three years, and cash flow projections for the next three years;
- (i) The extent to which the project helps an applicant attract investment by new businesses and/or expand and retain existing business(es);
- (j) The extent to which the project helps an applicant fulfill community development goals related to economic development;
- (k) The extent to which the project helps an applicant diversify its economy;

(l) The extent to which the project builds upon a community's unique assets and characteristics to develop momentum in market niches;

(m) The extent to which the project helps the applicant grow the local workforce or expand entrepreneurial training;

(n) The viability and thoroughness of the recapture plan for revenue generating projects which will anticipate revenue streams and prioritize economic development initiatives to be paid for with the revenue while allowing the community flexibility to respond to opportunities;

(o) The extent to which the project involves the use of a general Business Ready Community loan for the request;

(p) The extent to which the project leverages funding. Leverage may include cash match, Business Ready Community loaned funds, or endowments to ensure long-term financial viability of the project.

(q) Satisfactory performance under previous grants awarded through this program.

(r) The extent to which the project will provide for the growth or recruitment of Tier III or Tier IV managed data center. Preference will be given to Tier III or Tier IV managed data centers.

(s) The extent to which the project will provide for information technology services to the state or to the applicant at a price discounted from the fair market value of the services.

(t) The extent to which the project will provide for information technology services to a technology related businesses in the state, at a price discounted from the fair market value of the services.

(u) The extent to which the project will facilitate the expansion or retention of a business developed at the University of Wyoming Business Technology Center.

(v) In order to determine compliance with Article 16, Section 6 of the Wyoming Constitution, the Council staff will consult with the Attorney General when evaluating a request to fund a "Business Committed" project outlined in Chapter 2, Section 1, any project involving a private developer, or a "Managed Data Center Cost Reduction Grant" outlined in Chapter 2 Section 4. The application and the Council recommendation will be reviewed by the Attorney General using the following criteria:

(i) A public purpose must exist;

- (ii) Adequate consideration must be exchanged; and
- (iii) Statutory authority must exist.

(w) The extent to which the project is ready to begin construction. Projects have secured financing, permits and licenses, zoning classifications, annexation, appraisals, and purchase agreements, necessary to complete the project.

Section 13. **Grant Match Requirements.**

(a) A grant in an amount up to \$250,000 for a "Business Committed" or "Community Readiness" project outlined in Chapter 2, Sections 1 and 2 shall require a minimum match of 5 percent of eligible project activity costs.

(b) A grant in an amount over \$250,000 for a "Business Committed" project outlined in Chapter 2, Sections 1 and 2 shall require a minimum match of 10 percent of eligible project activity costs.

(i) A grant in an amount over \$250,000 for a "Business Committed" Child Care/ Senior Care project outlined in Chapter 2, Sections 1 and 2 shall require a minimum match of 15 percent of eligible project activity costs.

(c) A grant in an amount over \$250,000 for a "Community Readiness" project outlined in Chapter 2, Sections 1 and 2 shall require a minimum match of 15 percent of eligible project activity costs.

(i) A grant in an amount over \$250,000 for a "Community Readiness" Main Street Downtown project outlined in Chapter 2, Sections 1 and 2 shall require a minimum match of 15 percent of eligible project activity costs.

(d) A grant for a "Community Enhancement" project outlined in Chapter 2, Section 3 shall require a minimum match of 50 percent of eligible project activities.

(e) A grant for a "Managed Data Center Cost Reduction" project outlined in Chapter 2 Section 4 shall require a minimum private investment that is at least 125% percent greater than the "Data Center Cost Reduction" grant. No less than 50% of the match shall be calculated by the net wages of those employees earning 150% the county median wage for all occupations in all industries within the county in which the project will take place. No more than 50% of the match shall be calculated by private capital investments in taxable items.

(f) Applicants can use the special assistance loan fund to complete minimum match requirements. Terms and specifications related to special assistance loan funds are addressed in Chapter 3 of the Business Ready Communities Program Rules.

Section 14. Fund Disbursement and Project Monitoring

(a) Procurement Standards. All applicants must follow the state procurement regulations that exist in statute for cities and towns. If a non-municipal applicant has produced a procurement policy, staff or qualified consultants reserve the right to review that policy prior to fund disbursement.

(b) Fund Disbursement. Funds shall be disbursed to the applicant only as needed to discharge obligations incurred in accordance with the Board approved eligible project costs. Request for disbursement shall be made on a form supplied by Council staff and supported by adequate proof that such an obligation has been incurred for the project purpose and is due and owing.

(c) Fund reversion.

(i) If the Council staff determines that a business participating in a "Managed Data Center Cost Reduction" project outlined in Chapter 2 Section 4 is not operating within one year from the time the grant is approved, the grant will automatically expire. Based on information supplied by the grantee, Council staff may grant an extension of time in which the business must start operations.

(ii) If the Council staff determines that the project has not been completed within a reasonable time, Council staff shall notify the applicant in writing at least thirty (30) days prior to presenting the matter for Council review.

(iii) If the Council staff determines that the project is complete, but the full amount of the grant or loan has not been expended, the Council staff shall notify the grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant or loan shall revert to uncommitted status.

(iv) If the Council staff determines that five years has elapsed since the commencements of operations of a business participating in a "Managed Data Center Cost Reduction" project outlined in Chapter 2, Section 4 and the match requirement has not been met, then the full amount of grant funding paid to the applicant shall be reimbursed to the Council.

(v) For projects that have not started within one year: Council staff will notify a grantee/borrower of a pending expiration prior to the one year anniversary of the grant/loan approval. The grantee/borrower can submit a written request to continue the project. Council staff may request new and/or updated information and documentation. Council staff may recommend and the Council may grant an extension of time in which to start the project.

(vi) For projects with contingencies: Council staff will request monthly update on the status of the contingencies. If the contingency timeline lapses without the contingencies having been met, then the grant/loan award will expire. The

grantee/borrower has the option to submit a new application or can request an extension or modification of the contingency terms through the Council staff. Council staff may recommend and the Council may grant an extension of time or modification to the contingencies.

(d) Project Monitoring.

(i) Reports. Within 15 calendar days at the conclusion of each calendar quarter during the term of the grant or loan contract, the applicant shall supply council staff with a progress report. Each progress report shall set forth in narrative form the work accomplished under the grant or loan during the quarter and shall include a financial status report. At the end of the project, the applicant shall furnish Council staff with a comprehensive report of the project. The applicant shall likewise furnish Council staff with a cumulative financial statement, reflecting total expenditure pursuant to this grant agreement.

(ii) Audits and inspections. The Council staff may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

(iii) Record retention. Grantee agrees to retain all records related to the project for three (3) years following Council staff's date of notice to grantee of closeout of the grant.

(e) Project Evaluation.

(i) Reports. The grantee shall submit periodic narratives evaluating program outcomes against established measures. Council Staff shall stipulate the frequency and content of the report, tailored to the specific nature to each grant or loan, in agreements between the Council and the grantee.

(ii) Evaluation results. The Council shall use the evaluation report information to measure program outcomes, to promote learning from experience and to improve program performance. Evaluation results will be available to other grantees.

Chapter 2 BUSINESS READY COMMUNITY GRANTS

Section 1. Business Committed to Start-Up, Retain, Locate or Expand Project. This is an infrastructure project where an applicant has a business committed to start up, retain, expand or locate in the community, or a business that requires educational development infrastructure such as workforce training facilities. Funds may be set-aside for this type of project with the amount to be determined by the Council. The purpose of the set-aside is to create a rapid response fund in order to react to immediate opportunity when an applicant has a business committed to expand or locate.

(a) **Application Submittal Requirements.** An applicant shall submit four (4) copies of its completed application to the Council staff. It will include:

- (i) An application form provided by the Council staff.
- (ii) A copy of the certificate of incorporation of the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.
- (iii) A full description of the proposed project.
- (iv) A clear budget statement of the source and use of all funds needed to complete the project. An explanation of the level of commitment of other funds to complete the project. The budget must be supported by an engineer's or architect's estimate of project costs. Grants will be made only to applicants who demonstrate that upon receipt of the grant all project costs will be funded.
- (v) A detailed map of the site showing the location of the business and the infrastructure to be funded.
- (vi) The business(es) to benefit from the infrastructure must provide the following information which will be used to determine the viability of the benefiting business. The grant may not be approved if the business is determined not to be viable.
 - (A) A business plan for the expansion.
 - (B) Three years of financial statements, for an existing business, to include profit and loss and balance sheet.
 - (C) Financial projections for three years.
 - (D) Number, type and pay scale for the jobs to be created.

(E) A signed agreement/contract between the applicant and the business(es) agreeing that the expansion or relocation will occur and under what conditions.

(F) A workforce recruitment and/or training program.

(vii) A copy of the certificate of organization filed with the Secretary of State and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(viii) A copy of the signed resolution of support from the applicant or the member agencies if the applicant is a joint powers board.

(ix) Signed memorandum of understanding agreement that outlines future operations and maintenance schedules, funding, and responsible parties.

(x) A signed lease agreement or a memorandum of agreement with regard to the terms of a lease agreement, if applicable.

(xi) If the committed business provides social services, the applicant must also submit information required in Chapter 2, Section 2 (a).

(xii) An applicant and/or eligible Community Development Organization must develop a recapture plan for revenue generated as a result of a project, either through the sale or lease of real property. The plan must anticipate revenue streams and economic development expenditures or programming paid for with the anticipated revenue streams.

(xiii) The applicant must schedule a consultation with a WBC Regional Director to discuss the project. The Wyoming Business Council Regional Director will submit preliminary comments and concerns along with the application.

(xiv) Other applicable information as requested by the Council staff.

(b) Grant and/or loan amount. An annual maximum of \$1,500,000. Applicants can request additional funds from the Special Assistance Loan Fund.

(i) Child Care / Senior Care "Business Committed" requests. An annual maximum of \$1,000,000.

(ii) Applicants can request an additional \$1,500,000 funds under the loan component of the program.

(c) Previous applicant. An Applicant must show that satisfactory performance has been demonstrated under previous grants awarded through this program.

Section 2. **Community Readiness Project.** No specific business is committed to expand or locate in the applicant's community. The applicant wants to build facilities to ready itself for new business development and/or facilities for labor force or entrepreneurial training under a specific strategy or plan of action. For example, development of a business or industrial park, or training facilities.

(a) **Planning Requirements for a Community Readiness Project.** An applicant must demonstrate that appropriate planning has been conducted and capacity exists to accommodate new business development in order to insure success of the project. Information must be submitted along with the grant application or may be submitted independent of a grant application in order for the Council staff to determine an applicant's readiness for a project. This is demonstrated by having some or all of the following items in place as appropriate.

(i) A current Comprehensive Economic Development Strategy (CEDS) covering the area.

(ii) A recent labor force availability study, quantifying such things as unemployment, underemployment, wage distributions, commuting patterns, skill availability and educational levels.

(iii) A targeted marketing and recruitment strategy, if recruitment of outside companies is contemplated. This needs to include identification of the group(s) responsible for marketing the facility.

(iv) A recent housing availability study for the area.

(v) A priority listing of proposed infrastructure projects and sites related to economic development along with preliminary cost estimates for land acquisition, final engineering and construction.

(vi) Any special plans or studies related to specialized labor skills, raw material availability, local feedstock materials or other material which tend to support the overall development strategy for the area.

(vii) Other appropriate plans or studies, such as educational, workforce, or entrepreneurial development plans, studies or programs, which support the proposed project and indicate its chances of achieving success in creating or retaining new primary jobs.

(b) **Application Submittal Requirements for Readiness Project.** An Applicant shall submit four (4) copies of its completed application to the Council staff. Along with the planning information required in Section 2 (a) (i) thru (vii), the following project specific information must be submitted with an application:

(i) An application form provided by the Council staff.

- (ii) A full description of the proposed project.
- (iii) A clear budget statement of the sources and uses of all funds needed to complete the project. An explanation of the level of commitment of other funds to complete the project. The budget must be supported by an engineer's or architect's estimate of project costs. Grants will be made only to applicants that demonstrate that upon receipt of the grant all projected project costs will be funded.
- (iv) A detailed map of the site showing the location of the infrastructure to be funded.
- (v) A copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.
- (vi) A copy of the certificate of incorporation of the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.
- (vii) A copy of the signed resolution of support from the applicant or the member agencies if the applicant is a joint powers board.
- (viii) A signed memorandum of understanding or agreement that outlines future operations and maintenance schedules, funding, and responsible parties.
- (ix) If the project involves a private developer, the applicant must also submit information required in Chapter 2, Section 2 (a) and provide information about why it is necessary for public assistance in the private project and the consideration exchanged for the public assistance.
- (x) An applicant and/or eligible Community Development Organization must develop a recapture plan for revenue generated as a result of a project, either through the sale or lease of real property. The plan must anticipate revenue streams and economic development expenditures or programming paid for with the anticipated revenue streams.
- (xi) The applicant must schedule a consultation with a Wyoming Business Council Regional Director to discuss the project. The WBC Regional Director will submit preliminary comments and concerns along with the application.
- (xii) Other applicable information as requested by the Council staff.

(c) Grant and/or loan amount. An annual maximum of \$1,000,000.

(i) Main Street /Downtown Community Readiness requests. An annual maximum of \$1,000,000. Applicants can request an additional \$1,500,000 funds under the loan component of the program.

(ii) Applicants can request an additional \$1,500,000 from the Special Assistance Loan Fund.

(d) Previous applicant: An applicant must show that satisfactory performance has been demonstrated under previous grants awarded through this program.

Section 3. Community Enhancement Project. An applicant wants to improve the community's aesthetic character or quality of life through such activities as landscaping or recreational or convention facilities in order to make itself more attractive for business development under a specific strategy or plan of action. No specific business is committed to expand or locate in the applicant's community.

(a) Planning Requirements for a Community Enhancement Project. An applicant must demonstrate that appropriate planning has been conducted and need exists to enhance the community. This is demonstrated by having some or all of the following items in place as appropriate.

(i) A current comprehensive plan, Comprehensive Economic Development Strategy (CEDS), Community Assessment, Certified Tourism Community planning, or Main Street planning approach covering the area.

(ii) A priority listing of proposed community enhancement projects and sites related to economic development along with preliminary cost estimates.

(iii) Other appropriate plans or studies which support the proposed project and indicate its chances of achieving success in fulfilling economic development goals.

(b) Application Submittal Requirements for a Community Enhancement Project. An applicant shall submit three (3) copies of its completed application to the Council staff. Along with the planning information required in Section 3 (a) (i) thru (iii), the following project specific information must be submitted with an application:

(i) An application form provided by the Council staff.

(ii) A full description of the proposed project.

(iii) A clear budget statement of the sources and uses of all funds needed to complete the project. An explanation of the level of commitment of other funds to complete the project. The budget must be supported by an expert's estimate of

project costs. Grants will be made only to applicants that demonstrate that upon receipt of the grant all projected project costs will be funded.

(iv) A detailed map of the site showing the location of the improvements to be funded.

(v) A copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(vi) A copy of the certificate of incorporation of the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.

(vii) A copy of the signed resolution of support from the applicant or the member agencies if the applicant is a joint powers board.

(viii) A signed memorandum of understanding agreement that outlines future operations and maintenance schedules, funding, and responsible parties.

(ix) Proof that funding has been sought from other sources or that no other funding sources exist.

(x) An applicant and/or eligible Community Development Organization must develop a recapture plan for revenue generated as a result of a project, either through the sale or lease of real property. The plan must anticipated revenue streams and economic development expenditures or programming paid for with the anticipated revenue streams.

(xi) The applicant must schedule a consultation with a Wyoming Business Council Regional Director to discuss the project. The WBC Regional Director will submit preliminary comments and concerns along with the application.

(xii) Other applicable information as requested by the Council staff.

(c) Grant and/or Loan amount. An annual maximum of \$250,000. Applicants can request an additional \$1,500,000 from the Special Assistance Loan Fund

(d) Previous applicant: An applicant must show that satisfactory performance has been demonstrated under previous grants awarded through this program.

(e) Applicants with projects that enhance their Certified Tourism Community Program or Main Street Program will be given preference.

Section 4. **Managed Data Center Cost Reduction Program.** This is a project in which an applicant wants to improve the development, recruitment, or expansion of data generation and information technology storage capabilities at a Tier II, Tier III, or Tier IV level that are otherwise nonexistent or are in insufficient supply. Funds are set-aside for this program with the determined by the Legislature.

- (a) Grant amount. The maximum grant amount is \$2,250,000. The grant amount will be determined by the business match amount. The following table shows three possible grant amounts and the required match.

Total Grant Amount	Percent of Minimum Consideration	Minimum Required Match (Realized over 5 Years)	Minimum Percent of Required Consideration Comprised of Wages (100% of which are 150% the County Median)	Minimum Required Wages (100% of which are 150% above County Median)	Maximum Private Capital Investment in Taxable Items Allowable as Consideration
\$ 2,250,000	125%	\$ 2,812,500	50%	\$ 1,406,250	\$ 1,406,250
\$ 1,500,000	125%	\$ 1,875,000	50%	\$ 937,500	\$ 937,500
\$ 750,000	125%	\$ 937,500	50%	\$ 468,750	\$ 468,750

- b) Grant disbursements
- (i) Funds will only be disbursed for businesses that are in operation in the jurisdiction of the applicant
 - (ii) Funds will be disbursed over three years.
 - (iii) Annual grant disbursements may total no more than 1/3 the total amount, in addition to the unused balance available from previous grant years.
- (c) Application Submittal Requirements. An applicant shall submit four (4) copies of its completed application to the Council staff. It will include:
- (i) An application form provided by the Council staff.
 - (ii) A full description of the proposed project.
 - (iii) A clear budget statement of the source and use of all funds necessary for the commencement of business operations.
 - (iv) A detailed map of the site showing the location of the business.
 - (v) Evidence that there is or will be infrastructure, architecture, and services necessary for the support of a Tier II, Tier III or Tier IV data center.

(vi) The business to benefit from the cost reduction must provide a thorough business plan which shall include, at a minimum.

(A) A business description including an evaluation of the Tier classification.

(B) Management qualifications.

(C) Three years of financial statements

(D) Financial projections for three years.

(E) Number, type and pay scale for the jobs to be created.

(F) A workforce recruitment and/or training program, if necessary.

(vii) A copy of the signed resolution of support from the applicant.

(viii) A signed contingency agreement between the applicant and the business agreeing that the expansion or relocation will occur and under what conditions. At a minimum, the contingency agreement must include:

(A) An agreement that the business will repay all grant funds at a reasonable rate of return as negotiated with the applicant and approved by the Council if the business relocates from the political subdivision prior to the expiration of five (5) years from first receiving funds.

(B) An agreement that the business will repay all grant funds expended at a reasonable rate of return as negotiated with the applicant and approved by the Council if the business does not meet its match requirements within five (5) years from first receiving funds.

(C) An understanding of the required match and job creation requirements.

(D) The terms of the fund dispersions and a statement of which utility costs will be reduced using the grant funds and in what amount.

(E) An understanding of the timeline for the business to become operational.

(F) An offer by the business and an acceptance or declination by the applicant to provide a stated amount of information technology services to the applicant at a price discounted from the fair market value of the services.

(ix) The signed contingency may also include a commitment by the business to offer a stated amount of information technology services to the state or a Wyoming based technology related business at a price discounted from the fair market value of the services.

(x) The applicant must schedule a consultation with a WBC Regional Director to discuss the project. The Wyoming Business Council Regional Director will submit preliminary comments and concerns along with the application.

(xi) Other applicable information as requested by the Council staff.

Chapter 3
BUSINESS READY COMMUNITY LOANS

Section 1. **General Policy.** A loan may be made to fund a portion of any infrastructure revenue generating public facility that is an eligible activity. For example, a project that generates revenue from lease payments for a building or sale of lots in an industrial or commercial park. In no event shall a loan be made to pay off or refinance an existing loan.

(a) A general Business Ready Community Loan may be made to fund all of the funding request or fund in conjunction with a Business Ready Community Grant request.

(b) A Special Assistance Loan may be used to loan additional funding in excess to the maximum award amount and/or the full or partial funding of the required match.

Section 2. Application Submittal Requirements.

(a) Application Submittal Requirements. An applicant shall submit four (4) copies of its completed application to the Council staff. It will include:

(i) An application form provided by the Council staff.

(ii) A copy of the certificate of incorporation of the organization, if the project will be carried out by contract with a Community Development Organization or State Development Organization.

(iii) A full description of the proposed project.

(iv) A clear budget statement of the sources and uses of all funds needed to complete the project. An explanation of the level of commitment of other funds to complete the project. The budget must be supported by an engineer's or architect's estimate of project costs. A loan will be made only to an applicant that demonstrates that upon receipt of the loan all projected project costs will be funded.

(v) A detailed map of the site showing the location of the infrastructure to be funded.

(vi) A copy of the certificate of organization filed with the Secretary of State and a copy of an executed joint powers agreement approved by the Attorney General, if the applicant is a joint powers board.

(vii) A copy of the signed resolution of support from the applicant or the member agencies if the applicant is a joint powers board.

(viii) The source of repayment of the loan.

(ix) Proposed security for the loan.

(x) In order for the Council to determine the ability of the applicant to repay a loan and to aid the Attorney General in evaluating the legality of the proposed indebtedness, an applicant shall provide an annual budget for the preceding and current fiscal years and a completed financial statement provided on a "General Financial Information" form provided by the Council staff, that includes, but is not limited to the following information:

(A) Assessed valuation for the current and two preceding fiscal years;

(B) Total bonded and non-bonded indebtedness, including outstanding principal balance, interest rate, and remaining term;

(C) Total mills levied within the jurisdiction of the applicant for the current and two preceding years; and, a breakdown of the mill levy for the current fiscal year;

(D) Sales and use tax imposed within the jurisdiction of the applicant;

(E) A summary of the applicant's total investments and cash balances for the two preceding fiscal years;

(xi) The applicant must schedule a consultation with a WBC Regional Director to discuss the project. The Wyoming Business Council Regional Director will submit preliminary comments and concerns along with the application.

(xii) Other applicable information as requested by the Council staff.

Section 3. **Loan Amount.**

(a) The general Business Ready Community Loan maximum is \$1,500,000 per application.

(b) A Special Assistance Loan maximum is \$1,500,000 per project.

Section 4. **Interest Rate and Term.**

(a) A general Business Ready Community loan and a Special Assistance Loan shall be made at a no or low interest rate as recommended by the Council and established by the Board.

Section 5. Security Interest.

(a) A loan shall be adequately collateralized as recommended by the Council and determined by the Board. The Council may recommend and the Board may require a first position security interest in the revenue generating facility and the related user fees or assessments. Other security may be required as determined by the Council and approved by the Board.

(b) If a lien is required on the facilities, the applicant shall:

- (i) Maintain adequate insurance on the facility;
- (ii) Pay all applicable taxes and assessments when due;
- (iii) Maintain the facility in good condition.

Section 6. Attorney General Opinion. No loan shall be made without the written opinion of the Attorney General certifying the legality of the transaction and all loan documents. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the Attorney General determines such an election is otherwise required by law.

Section 7. Evaluation.

(a) **Criteria.** The Council staff shall evaluate an application and will formulate a recommendation to the Council utilizing the following criteria:

(i) Whether the user fees or assessments generated by the project will be sufficient so that the loan may be considered a reasonable and prudent investment of state funds.

(ii) Whether the applicant is current on all its repayment obligations to the Business Ready Community account or other state loan accounts.

(iii) The extent to which the applicant demonstrates an increase in the number of primary jobs created or retained by the project.

(iv) The extent to which the applicant meet the evaluation criteria stated in Chapter 1, Section 12.

(b) **Interagency Consultation.** The Council staff shall request that pertinent state agencies assist in the review of the applications and provide comments to the Council staff for Council and Board consideration.

Section 8. **Council Consideration.** The Council shall consider each application, allow for comments from the public, the applicant, and the Council staff and refer to the Board the application with a recommendation including the amount of the loan, the term of the loan, and the type of security required to secure the loan.

Section 9. **Disbursement of Loan Proceeds.** At closing, the loan proceeds shall be deposited in an interest-bearing escrow account to be disbursed solely for the approved loan purposes. The borrower shall pay the costs of the escrow account. Interest earned shall be credited to the borrower. Borrower shall submit all requests for payment on a form provided by the Council staff, with supporting documentation. The Council staff shall approve or disapprove pay requests in whole or in part within 5 working days and notify escrow bank of the amount to be disbursed to the borrower.