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NEW YORK STATE

LINKED DEPOSIT PROGRAM

QUESTIONS - and - ANSWERS

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Q. WHAT IS THE LINKED DEPOSIT PROGRAM?

A. The **Linked Deposit Program (LDP)** is an economic development initiative created to encourage and assist small businesses within the State to make investments and undertake eligible projects that will contribute to improving their productivity, performance and competitiveness by reducing the cost of capital through interest subsidies.

Under **LDP,** eligible businesses can obtain commercial loans from authorized commercial banks, savings banks, savings and loan associations, farm credit institutions or the New York Business Development Corporation at an interest rate that is 2 or 3 percentage points lower than the prevailing rate on such loans, thereby making borrowing less expensive. Lenders are compensated with a deposit of State funds at comparably reduced rates.

Q. WHY WAS THE LINKED DEPOSIT PROGRAM CREATED?

A. The economy of New York State, and the nation as a whole, is undergoing fundamental change. International competition has dramatically intensified with the adoption, on a global scale, of advanced technologies and modern production methods and is eroding the competitive position of NYS manufacturers and other businesses in the global economy and threatening their profitability, employment and future prospects. The end of the cold war and the consequent reduction in the nation's defense spending has made it imperative that defense industry manufacturers restructure themselves by diversifying production to take advantage of commercial markets. Economic change has had a particularly detrimental effect on minority and women-owned businesses, which are generally smaller, younger and less well-capitalized than other businesses. All this is occurring at a time when small businesses are facing a serious shortage of bank credit, impeding their ability to undertake projects to modernize their operations, improve their competitiveness, access new markets, and increase their export trade activities.

A vibrant business sector is essential to sustain economic growth, continue the State's economic health and ability to generate jobs. The competitiveness of New York's businesses and the health of New York's export trade will be enhanced by the creation of the **Linked Deposit Program**.

Q. WHAT BUSINESSES AND TYPES OF LOANS ARE ELIGIBLE FOR LDP?

A. See page two for a listing of the eligible applicants and eligible projects under this program.

ELIGIBLE FIRMS QUALIFIED FOR 2% INTEREST RATE SUBSIDY	ELIGIBLE PROJECTS
Manufacturing Firms o 500 or fewer full-time, NYS-based employees **Service Businesses** o independently owned and operated o 100 or fewer full-time, NYS-based employees o not dominant in its field o project that will result in the retention or creation of permanent private sector jobs within the state **Any Firm with 100 or fewer full-time, NYS-based employees undertaking a project designed to increase its export activities** **<u>Not Eligible:</u>** Businesses that provide a personal service (those that sell a service rendered personally by an individual for another individual (e.g., day cares, funeral homes) or professional services (e.g., health, legal, accounting, engineering, educational), or retail services (e.g., restaurants, entertainment, grocery stores, etc.) are not eligible UNLESS the business employs 100 or fewer in NYS <u>and</u> they fall in one of the qualifying 3% categories outlined below. Pre-Start-up businesses (those that have no sales and/or employment) and companies that are headquartered outside of NYS.	• Preparation of strategic plans for improving productivity and competitiveness; • Introduction of modern equipment and/or purchase or expansion of facilities as part of a modernization plan; • Introduction of advanced technologies to improve productivity and quality; • Improvements in production processes and operations; • Introduction of computerized information, reporting and control systems; • Reorganization or improvement of work place systems and the introduction of total quality and employee participation programs; • Development and introduction of new products; • Identification and development of new markets, including entry into foreign markets; • Buyouts of viable companies by employees or local owners residing in the State; or • Provision of working capital for other modernization activities that will improve the competitiveness and productivity of a firm and result in the creation or retention of jobs.

ELIGIBLE FIRMS QUALIFIED FOR 3% INTEREST RATE SUBSIDY	ELIGIBLE PROJECTS
New York State Empire Zones o Any Certified Business with 100 or fewer full-time, NYS-based employees	• Projects that will create or retain full-time permanent jobs within the Empire Zone. (Non-certified Zone businesses or businesses with more than 100 employees may qualify for a 2% reduction as manufacturers.)
Highly Distressed Areas, FEZ/EC/RC o Businesses with 100 or fewer full-time, NYS-based employees	• Projects that will create or retain full-time permanent jobs within a Highly Distressed Area, Federal Empowerment Zone or Enterprise or Renewal Community. (Retail Businesses must show preservation of existing jobs or an increase in the **overall** number of retail jobs in the area.)
Certified Minority or Women Owned Businesses	• Financing to carry out a procurement contract with a State or Federal agency, authority, or other entity. Non-certified MWBE and other LDP-eligible projects not related to a procurement contract would be eligible for the 2% reduction.
Defense Industry Manufacturers o 25% of gross revenues derived from defense contracts/subcontracts	• Reduce dependence on Department of Defense and other military contracts/subcontracts. • Change or diversify production in order to take advantage of other (non-military) markets.
Agricultural Firms (as defined in Subdivision two of section 301 in Agriculture & Markets Law) o 500 or fewer full-time, NYS-based employees	• Projects that will expand or improve agricultural operations and create or retain full-time permanent jobs within New York State.
Technology or Innovation businesses o Businesses with 100 or fewer full-time, NYS-based employees	• Qualifying businesses engaged in biotechnologies, information & communication technologies, advanced materials and processing technologies, electronic and photonic devices and components, energy efficiency, renewable energy and environmental technologies, or small scale systems integration and packaging.

Q. WHAT IS A HIGHLY DISTRESSED AREA?

A. A highly distressed area is an area which, based on the latest census data available, has:

- a poverty rate of at least 20% for the year of the census; or at least 20% of the households in the area are receiving public assistance; and
- an unemployment rate of at least 1.25% higher than the statewide rate; or
- a city, town, village or county with a population of one million or more for which the ratio of the full value property wealth and the ratio of the income per resident are each 55% or less of the statewide average for the year of the most recent census.

LDP participating lenders can call the LDP office to determine if a business is located in a highly distressed area. For the purposes of this program, a New York State Empire Zone is not considered a highly distressed area.

Q. WHAT IS A FEDERAL EMPOWERMENT ZONE, OR ENTERPRISE OR RENEWAL COMMUNITY?

A. A Federal Empowerment Zone or Enterprise or Renewal Community is an area within the State that has been designated by such term pursuant to Section 1391 of the Federal Internal Revenue Code (26 United States Code S 1391) under the Federal Community Renewal Tax Relief Act of 2000. A Renewal Community Business is a business that is designated as such term pursuant to Section 1400G of the Federal Internal Revenue Code (26 United States Code S 1400G) under the Federal Community Renewal Tax Relief Act of 2000.

Q. SINCE THE EMPIRE ZONES PROGRAM EXPIRED, IS MY COMPANY STILL ELIGIBLE FOR A 3% LDP SUBSIDY?

A. Possibly. The Empire Zones Program expired on 6/30/09, **t**herefore if you are a business that employs 100 or fewer and are currently eligible to apply for and receive zone credits at the project location and your company is in compliance with zone reporting requirements, then you could qualify for a 3% subsidy. However, if the investment being undertaken is not at the certified location, then the company must qualify based on one of the other economically disadvantaged criteria to be eligible for the 3% subsidy, or qualify for the 2% reduction. Please note that actual rate reductions are dependent upon current 4-year CD rates.

Q. HOW DOES AN APPLICANT APPLY FOR A LINKED DEPOSIT LOAN?

A. The applicant (borrower) must make application for the loan to a participating lender, and the lender will complete and send the LDP application to the Linked Deposit Program Office of Empire State Development (ESD). The application will be either approved or rejected within 28 days. **(The average LDP approval time is 5 business days.)**

Q. WHY DO SOME APPROVALS TAKE LONGER THAN OTHERS?

A. An incomplete application requires additional processing time. The most frequently encountered problems are: 1) insufficient/incomplete information; 2) no statement of how the project will improve the borrower's competitiveness; 3) an inadequate "impede" statement; or 4) the NYS-45 form is missing.

Q. WHAT IS AN "IMPEDE" STATEMENT?

A. It's a statement made by the borrower stating how the project would be impeded if the borrower does not receive LDP assistance (i.e. company would not be able to undertake the project, project delayed, project cancelled, etc.).

Q. WHAT IS THE NYS-45 FORM THAT MUST BE SUBMITTED WITH AN APPLICATION?

A. The NYS-45 is the Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return form that all companies must submit to the Department of Taxation and Finance on a quarterly basis. We request a copy of the company's latest filing in order to substantiate the number of jobs claimed on the application. If the company leases employees, a letter from the leasing company confirming the number of employees leased should be provided. Other tax forms (e.g., schedule C or F) are accepted to confirm there is an existing NYS business with current NYS employment.

Q. WHAT LENDERS (BANKS) CAN PARTICIPATE IN THE LDP?

A. Commercial banks, savings banks, savings and loan associations, and farm credit institutions that are, or are qualified to become, approved depositories for NYS linked deposit funds. The New York Business Development Corporation (NYBDC) is also an approved lender. LDP currently has 71 participating lenders and you can view the list on ESD's web-site.

Q. IF A LENDER IS NOT AN APPROVED DEPOSITORY FOR NYS LINKED DEPOSIT FUNDS, HOW CAN IT BECOME APPROVED?

A. Lenders must complete an Undertaking Agreement with both the Office of the State Comptroller and the NYS Department of Taxation and Finance. Contact people are: Gary Harper, OSC, 518-486-4642, and Casey Willis, T&F, 518-408-4070 or Mary Beth Horowitz, T&F, 518-474-1725. The lender must also complete a Linked Deposit Agreement form with ESD (contact the LDP program office at 518-292-5261 to request this form).

Q. WHO WILL MAKE THE CREDIT DECISION REGARDING THE LOAN AND LDP APPLICATION?

A. The lender will make the credit decision on the loan. ESD will make the decision on whether or not the **applicant** and **proposed project** are eligible under the terms of the program, and will authorize the linked deposit to be made. New York State **will neither make nor guarantee** the loan; the linked deposit is a compensating balance deposit. The loan will be made and serviced by the lender.

Q. WHAT IS THE BENEFIT OF THE PROGRAM TO THE BORROWER?

A. The borrower will receive a loan from the lender under terms and conditions agreed to by the borrower and the lender. The State of New York will make a linked deposit of State funds to induce the lender to charge the applicant a lower rate of interest on the loan for the first four years of the loan's term. The lender will pay the State a reduced interest rate on its 4-year deposit, which will be in the form of a certificate of deposit (C/D), and then the lender will reduce the rate of interest charged on the borrower's loan by a like amount.

EXAMPLE OF 3% REDUCTION:	**Without LDP**	**With LDP**
Loan Amount	$500,000	$500,000
State's Deposit	- 0 -	$500,000
Lender's Interest rate on such business loan	7%	4% } *with a 3%*
Lender's Interest rate on C/D	3%	0% } *reduction on each*
Estimated Savings to Borrower (4 yr. term)		$60,000

In essence, the Lender will pay less for the deposit it receives, and charge less for the loan it makes. The applicant will pay less interest on its loan, and the State will receive less interest on its deposit.

Q. WHAT WILL THE RATE DIFFERENTIAL BE?

A. The rate on linked deposit loans to the below listed eligible applicants will be up to **3 percentage points below the fixed interest rate** the lender would have charged for the loan in the absence of the linked deposit:

- Certified Businesses in an Empire Zone (with 100 or fewer NYS-based, full-time employees)
- Eligible Businesses in a highly distressed area, Federal Empowerment Zone, Enterprise Community or Renewal Community (with 100 or fewer NYS-based, full-time employees)
- NYS Certified Minority or Women Owned Business Enterprises (for procurement projects only)
- Defense Industry Manufacturers undertaking diversification projects
- Qualifying Technology or Innovation Businesses (with 100 or fewer NYS-based, full-time employees)
- Agricultural Firms (as defined in subdivision two of section 301 in Ag & Markets Law) that employ 500 or fewer and undertake projects that will expand or improve agricultural operations and create or retain full-time permanent jobs within New York State.

All other linked deposit loans to eligible applicants will bear interest at a rate of **2 percentage points below the fixed interest rate** the lender would have charged for the loan in the absence of the linked deposit.

The reduction rate is contingent on the bank's 4-year Certificate of Deposit rate. The bank's 4-year rate will determine the maximum reduction permitted regardless of the reduction the borrower is eligible for under LDP. In a low interest rate environment many borrowers may realize less than a 2% or 3% reduction because the actual rate reduction on the loan cannot exceed the rate reduction on the CD.

Q. WILL THE LOWER INTEREST RATE ON THE LINKED DEPOSIT BE GUARANTEED FOR THE LIFE OF THE LOAN?

A. NO. The lower rate will be guaranteed for a period of four years only. Loans of less than 48 months are not eligible. For loan terms longer than four years, the interest rate charged to the borrower for the balance of the loan term will be agreed upon by the bank and borrower. Some loans may qualify for a renewal or extension provided they meet specific criteria.

Q. CAN AN EXISTING DEPOSIT BE RENEWED (EXTENDED)?

A. YES. Upon full maturity of a four-year deposit, a borrower may request a four-year extension provided that they have lifetime eligibility remaining and have met the goals set in the original application and will create additional industrial modernization benefits or create additional export trade benefits or create additional jobs during the second four-year period. The lender's 4-year certificate of deposit rate in effect on the first day of the continuation of the linked deposit will determine the actual rate reduction for the second four-year period of the loan. In a low interest rate environment, the actual reduction for the second four-year period may be less than the borrower received during the first four years of the loan.

Q. MAY THE LENDER CHARGE A VARIABLE RATE OF INTEREST ON THE LOAN?

A. NO. A linkage must exist between the Lender's loan and the State's deposit. Since the deposit remains at a fixed rate, the loan must therefore also remain at a fixed rate. Thus, the normal "prime plus xx" or other variable provisions cannot be applied to this loan until <u>after</u> the LDP participation has been concluded.

Q. WHAT IS THE BENEFIT OF THE PROGRAM TO THE PARTICIPATING LENDER?

A. It is a service the Lender can offer to its business customers, making borrowing less expensive for its customers at little or no additional cost to the Lender. LDP is an effective marketing tool for Lenders seeking new products and customers.

Q. WHAT CRITERIA WILL ESD USE IN EVALUATING EACH APPLICATION SUBMITTED BY A LENDER?

A. ESD will consider:

- The significance of the eligible project for improving the competitive position and profitability of the applicant;
- The importance of a reduced cost of borrowing to the ability of the applicant to undertake the eligible project;
- The number of jobs to be created or retained or other substantial economic benefits created as a result of the loan.

Q. WHAT STATE FUNDS WILL BE USED FOR THE LINKED DEPOSIT PROGRAM?

A. $560 million. The New York State Comptroller has been authorized to make linked deposits totaling $460 million and the Commissioner of Taxation and Finance has been authorized to make linked deposits totaling $100 million, for a potential $560 million of capital available to lenders for LDP loans. The $560 million is a revolving pool of funds which is not tied to the State's Budget process or fiscal year. As projects reach their 4-year maturity, those funds are returned to the program and made available for new projects.

Q. WILL THE LINKED DEPOSIT BE CONSIDERED AS COLLATERAL FOR THE LOAN?

A. NO. The linked deposit is simply an interest subsidy inducement to the bank to make a loan **it has approved and is responsible for** at a lower rate of interest. The Lender makes the credit decision and services the loan.

Q. MUST THE LENDER SECURE THE LINKED DEPOSIT?

A. YES. All deposits will be made under the State's established deposit procedures and must be secured in accordance with those requirements. Lenders receiving linked deposits must satisfy all collateral and other requirements generally applied by the State to funds it invests.

Q. CAN THE LENDER REQUIRE COLLATERAL FROM THE BORROWER?

A. YES. The Lender and the borrower will negotiate all terms of the loan.

Q. CAN THE LENDER SELL A LINKED LOAN IN THE SECONDARY MARKET or CAN THE LINKED DEPOSIT BE TRANSFERRED TO ANOTHER BANK?

A. NO. If the LDP is sold, the Lender is required to return the entire State deposit balance to NYS. Also, if the borrower moves the loan to another bank, the deposit must be returned to the State. Linked deposits <u>are not</u> transferable.

Q. CAN LDP BE USED TO REFINANCE A LOAN, INCLUDING ONE THAT HAS A LINKED DEPOSIT REDUCTION APPLIED?

A. NO. However LDP can be used on a portion of a refinanced loan IF the proceeds are being used to modernize or reinvest in the business (examples: constructing an addition to or improving their facility, adding new equipment, etc.).

Q. WILL THE APPLICATION PROCESS BE CUMBERSOME?

A. NO. ESD provides a simplified application form to the lenders. The form reflects the program eligibility qualifications, and contains a certification by the applicant that **"inability to obtain the reduced interest rate would impede its ability to undertake the eligible project."**

Upon approval of the loan by the lender, the lender will send the completed linked deposit application form to ESD together with its certification that "the rate to be charged on the linked loan is 2 or 3 percentage points, as the case may be, below the interest rate the lender would have charged for the loan in the absence of a linked deposit."

Lenders who make linked loans will not be entitled to charge any discount, points, origination fees, handling fees, service charges, refinancing fees or penalties, or any charge **other than those normally charged** for loans of the type being made.

Q. IS THERE A MAXIMUM AMOUNT THAT MAY BE BORROWED UNDER THE PROGRAM?

A. YES. A borrower's lifetime maximum is now $2 million (including prior deposits). Each single deposit is limited to $1 million, and companies can have multiple deposits totaling up to $1.5 million outstanding at any time. There is no minimum loan amount.

Q. CAN LDP BE USED IN CONJUNCTION WITH OTHER PROGRAMS SUCH AS SBA504, JDA, NYBDC, IDA, ESD, MERF?

A. YES. The company can apply for assistance on the <u>bank's portion of the loan</u>. In the case of NYBDC participation, the company can apply for either the bank's portion of the loan **<u>or</u>** NYBDC's portion of the loan, but not both.

Q. CAN LDP BE COMBINED WITH OTHER INTEREST RATE SUBSIDY PROGRAMS SUCH AS NYSERDA, ENVIRONMENTAL FACILITIES CORP., MONROE GREAT RATE PROGRAM, OR OTHER SIMILAR INTEREST BUY-DOWN PROGRAM?

A. NO. LDP cannot participate on the SAME loan portion because the company would actually be receiving multiple interest rate reductions on the same loan.

Q. CAN AN ELIGIBLE BUSINESS APPLY MORE THAN ONCE FOR LINKED LOAN ASSISTANCE?

A. YES. Effective October 1999, an eligible business can apply more than once for LDP assistance. The maximum for each linked deposit is $500,000 and the lifetime limit for LDP assistance to any one company is now $2 million. If a company has not used its lifetime maximum of $2 million, they can apply for assistance on multiple loans. However, a company <u>cannot have more than three (3) linked deposits totaling $1,000,000 outstanding at one time</u>.

Q. WILL THE STATE OF NEW YORK HAVE ANY LIABILITY FOR LINKED LOANS?

A. NO. Linked deposits will impose no liability on the State for payment or delays in payment of the principal or interest of a linked loan. Any delay in payment or default on a linked loan will in no way affect the linked deposit agreement between the lender and the State. The linked deposit is a compensating balance deposit.

Q. WHAT IS THE BENEFIT OF THE PROGRAM TO THE STATE?

A. The benefits to the State will be improved business competitiveness, jobs retained and created, overall economic growth, and opportunity for disadvantaged businesses.

Q. WHO HAS RESPONSIBILITY FOR THE PROGRAM?

- The **Commissioner of Empire State Development (ESD)** administers the program and makes all decisions with respect to the application and use of the program for eligible projects. ESD also markets and promotes the program, and monitors and reports on the program as required by the LDP Legislation.
- The **Comptroller** and the **Commissioner of Taxation and Finance** are responsible for placing moneys on deposit with participating lenders at the request of ESD for the purposes of the program, and they are responsible for administering such deposits and entering into deposit agreements in accordance with their established procedures.
- The **Superintendent of Financial Services** is responsible for assisting Empire State Development in the marketing and promotion of the program.

Q. HOW LONG HAS THE PROGRAM BEEN IN EXISTENCE?

A. The program became effective February 11, 1994. On March 30, 2001, legislation was enacted to lift the sunset date and make the LDP a permanent program.

Q. WHERE CAN I GET INFORMATION ON THE LINKED DEPOSIT PROGRAM (participating list, application form, etc.)?

A. Call, email or write: **EMPIRE STATE DEVELOPMENT**
Linked Deposit Program Office
Albany, NY 12245
Telephone: (518) 292-5261
Email questions to: linkeddeposit@esd.ny.gov

Visit our web site: www.esd.ny.gov or www.nyfirst.ny.gov
Select: **Business Programs**
Scroll to bottom of page and click on Linked Deposit Program

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