

Bloomington HRA policy

exception to the Business Subsidy Law applies, a tax abatement will be considered a business subsidy.

- G. The proceeds of bonds secured with abatements may be used to (1) pay for public improvements that benefit the property, (2) acquire and convey land or other property as provided in Section 469.1814 of the Abatement Act, (3) to reimburse the property owner for the cost of improvements made to the property, or (4) to pay the cost of issuance of the bonds.

L. Business Subsidy Policy –

The following are Bloomington's guidelines for the granting of Business Subsidy to a business or developer. Meeting the criteria does not guarantee a project will be approved, nor does it create any contractual rights on the part of the business or developer requesting assistance. The granting or denial of a request for Business Subsidy is at the sole discretion of the Grantor.

Any Business Subsidy identified under Minnesota Statutes as "Business Subsidies" are covered under these policies.

A. Definitions –

Act means Minnesota Statutes, Sections 116J.993 to 116J.995, as hereinafter amended, also referred to as the Business Subsidy Act.

Business Subsidy means a City, Port Authority or HRA grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the Recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of governmental facilities given to a

business. Forms of Business Subsidy listed in Appendix B are not considered Business Subsidies for the purpose of Minnesota Statutes.

City means the City of Bloomington.

Criteria means those elements considered by the Grantors as a guide in the consideration of potential Recipients requesting a Business Subsidy. Meeting the Criteria does not presume that a project will automatically be approved nor does it create any contractual rights on the part of any applicant.

Development Agreement means a document between the Grantor and Recipient outlining the terms and conditions under which Business Subsidy will be provided.

Grantor means the City, HRA or Port as defined herein.

HRA means the Housing and Redevelopment Authority In and For the City of Bloomington.

Port means the Port Authority of the City of Bloomington.

Recipient means any for-profit business entity that receives a Business Subsidy or any nonprofit business entity meeting the requirements of Section 116J.993, subd. 6 of the Act.

Subsidy Agreement means an agreement between a Grantor and a Recipient that meets the requirements of Section 116J.994, subd. 3 of the Act. The Subsidy Agreement may be incorporated into a broader development agreement for a project. The terms listed under Appendix C are required under the Act for Subsidy Agreements.

B. Business Subsidy Criteria

The Criteria set forth in this section establish minimum requirements that a Recipient must meet in order to be eligible to receive a Business Subsidy. The Grantor reserves the right to approve a project that varies from the Criteria if a Grantor determines a valid public purpose will be served. Criteria may be amended subject to a public hearing, the notice of which shall be published ten days prior to the hearing.

A description of the Criteria is set forth below:

- The request for Business Subsidy must meet a “public purpose”.
Examples of public purposes are contained in Section H.
- The project is unlikely to go forward “But for” the Business Subsidy.
- Developments or businesses receiving Business Subsidy shall be in compliance with the requirements of state and local law, including conformance with the Comprehensive Plan and Zoning Ordinance of the City. A Grantor can conditionally approve a request for Business Subsidy, however, if changes in the Comprehensive Plan, the zoning ordinance or other local laws or policies are under active consideration by the City.
- The Recipient must demonstrate the ability to develop the type and size of project proposed. Upon request, the Recipient must provide market and financial feasibility studies, appraisals, soil borings, information provided to private lenders regarding the project, or other information or data that the Grantor, or its financial advisor, requests in order to independently

determine the need for Business Subsidy. A Grantor may also rely on data provided by an applicant to a financial institution.

- The project will not significantly and adversely increase the demands for public services or public facilities in the City unless plans to mitigate the project's impact are approved.
- The Recipient's request for Business Subsidy must be for the minimum amount of subsidy and duration of time required to make the project viable.
- The project will effectively utilize investments in existing public infrastructure and if applicable support public services such as transit.

The Recipient shall be required to meet the following, if the type of project being considered includes a "Business Subsidy":

- The Recipient must retain ownership of the project at least until the project is completed, its occupancy stabilized, project management established, and Business Subsidy repayment is initiated.
- The Recipient or successor must continue operations at the site where the Business Subsidy is used for at least five years from receipt of the benefit.
- The Recipient of a Business Subsidy will be required to meet wage and job goals determined by the Grantor as required by Minn. Stat. 116J.994, subd. 4, as amended. The setting of wage and job goals will take into account prevailing wage rates, local economic conditions, external economic forces over which neither the Grantor nor the Recipient has control, the financial resources of the Recipient, the competitive

environment in which the Recipient's business exists, and the public purpose for which the Grantor is providing the Business Subsidy.

- The wage and job goals may be set at zero if the Grantor determines that creation or retention of jobs is not an objective.

C. Agreements

Any Recipient receiving a Business Subsidy will be required by the Act to enter into a Subsidy Agreement with the Grantor outlining the terms and conditions under which Business Subsidy will be provided.

The Subsidy Agreement between the Grantor and the Recipient must meet the requirements set forth in Section J and all other requirements of Minn. Stat. 116J.993 – 116J.995, as amended and may be incorporated into the Development Agreement for the project.

For a Business Subsidy exceeding \$100,000, the Grantor must hold a public hearing with public notice in the official newspaper at least ten days before the public hearing. The notice must be sufficiently conspicuous in size and placement, make the information available in printed paper copies, and if possible, be placed on the Internet.

The Business Subsidy Agreement must be approved by the City Council and must also be approved by the Port Authority or HRA if either is the statutory organization within the City which initially processes and approves the Business Subsidy. The Business Subsidy Agreement must be executed by both the Grantor and the Recipient.

D. Exemptions

Under Minnesota Statutes Section 116J.993 a Recipient proposing activities contained in Section I is exempt from the requirements of the Business Subsidy Act. Requests exempt from the Act are still subject to review and approval of the Grantor. The granting of such assistance is at the sole discretion of the Grantor and may be subject to other regulatory requirements and/or policies.

E. Application Process

Business or developers seeking a Business Subsidy must complete the Application for assistance. The Grantor may request additional information from the business to determine whether the request for a business subsidy is consistent with the Grantor policies. Failure to provide requested information will result in denial of the request for a Business Subsidy.

F. Fees

All applicants will be responsible for legal, financial, consultant and other costs associated with the review of the application.

G. Reports

The Recipient and Grantor must comply with the reporting requirements set forth in Section 116J.994, subdivisions 7 and 8 of the Business Subsidy Act.

H. Example of Subsidy Public Purposes

Grantors may consider the following public purposes, among others, when considering the applicant's request:

- The project provides a service or meets a consumer need not currently addressed in the City.

- The project represents a significant investment in an area of the City that is economically depressed.
- The project will remove blighting influences or rehabilitate an area of the City in need of revitalization.
- The project will stimulate additional capital investment and act as a catalyst for future (re)development.
- The project will enhance the value of surrounding properties, stabilize the area or foster a “sense of community”.
- The project will anchor a needed commercial center in the City.
- The project will enhance the viability of other businesses in the City.
- The project will assist in the orderly growth of the City and generate significant economic spin off.
- The project will prevent the closure due to merger, physical expansion, change in market or economic factors, downsizing, and other factors of business needed in the community.
- The project will employ a classification of people in the community at large who are not fully employed.
- A business subsidy will permit the project to employ more people, pay higher wages, be of better quality, or in some way be of more value to the City.
- The project will provide a needed service in the City, including but not limited to health care or social services.
- The project will increase the City’s tax base.

NOTE: By state law, increasing the tax base may not be solely used as a public purpose, nor can job retention be used unless job loss is specific and demonstrable.

I. Exemptions from the Business Subsidy Act.

The Business Subsidy Act at Section 116J.993, subdivision 3, provides that the following forms of assistance are not a Business Subsidy within the meaning of the Act;

- A Business Subsidy of less than \$25,000;
- Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;
- Public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
- Redevelopment of property polluted by contaminants as defined in Section 116J.552, subdivision 3;
- Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code, and assistance provided for designated historic preservation districts including assistance for a tax increment financing hazardous substance subdistrict as defined under Section 469.174, subdivision 23, provided that the assistance is equal to or less than 50 percent of the total cost;

- Assistance provided to organizations whose primary mission is to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
- Assistance of housing;
- Assistance for pollution control or abatement;
- Assistance for energy conservation;
- Tax reductions resulting from conformity with federal tax law;
- Workers' compensation and unemployment compensation;
- Benefits derived from regulation;
- Indirect benefits derived from assistance to educational institutions;
- Funds from bonds allocated under Chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;
- Assistance for a collaboration between a Minnesota higher education institution and a business;
- Assistance for a tax increment financing soils condition district as defined under Section 469.174, subdivision 19;
- Redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value; and
- General changes in tax increment financing law and other general tax law changes of a principally technical nature;

- Federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;
- Funds from dock and wharf bonds issued by a seaway port authority;
- Business loans and loan guarantees of \$75,000 or less;
- Federal loan funds provided through the United States Department of Commerce, Economic Development Administration; and
- Such other exemptions as provided by amendments to Minn. Stat. Sec. 116J.993, subd.3.

Requests for subsidies exempt from the Business Subsidy Act are still subject to review and approval of the Grantor. Such approval is at the sole discretion of the Grantor.

J. Requirements for Subsidy Agreements

Section 116J.994, subdivision 3 of the Business Subsidy Act requires a Recipient must enter into a Subsidy Agreement with a Grantor that includes the following:

- A description of the subsidy, including the amount and type of subsidy and type of district if the subsidy is tax increment financing;
- A statement of the public purposes for the subsidy;
- Goals for the subsidy;
- A description of the financial obligation of the recipient if the goals are not met;
- A statement of why the subsidy is needed;
- A commitment to continue operations at the site where the subsidy is used for at least five years after the benefit date;

- The name and address of the parent corporation of the recipient, if any;
- A list of all Business Subsidy by all grantors for the project;
- Wage and job goals, as set out in 116J.994, subdivision 4; and
- Such other requirements as are set out in Section 116J.994, subdivision 3.

Business Subsidy Agreements are subject to the approval of the Grantor.

II. Capital Improvement Program Policy

- A. The City will develop a multi-year plan for capital improvements and update it annually. The two-year budget capital improvement will be approved and incorporated into the operating budgets. The following year's budget will be adopted with the year after that conceptually approved on a cycle consistent with the operating budgets.
- B. The City will identify the estimated cost and potential funding sources for each capital project proposal before it is submitted to the Council for approval and in that process will determine the most effective financing method for the proposed project. All construction projects shall include at least a ten percent contingency prior to receiving bids and at least five percent upon acceptance of the bid.
- C. The City will make all capital improvements in accordance with the adopted capital improvement program, or as it is amended by the Council. Capital purchases, not otherwise funded through an approved budget, shall require City Council approval.
- D. The City will enact each two-year capital improvement program based on a rolling multi-year capital improvement plan update.
- E. The City will coordinate development of the capital improvement budget with the development of the operating budget. Future operating costs associated with new capital improvements will be projected and included in operating budget forecasts.
- F. The City will use inter-governmental assistance to finance only those capital improvements that are consistent with the capital improvement plan and City priorities,