



THE IMPROVEMENT AUTHORITY OF ATLANTIC COUNTY

SECTION 108 LOAN PROGRAM

LOAN PROGRAM CRITERIA

**A Program Financed Under the U.S. Department of Housing & Urban
Development's Section 108 Loan Program**

*Administered by the:
The Atlantic County Improvement Authority (ACIA)*

This program is being carried out under Section 108 of Title 1 of the Housing and Community Development Act of 1974, as amended.

The 108 loans are intended to support and stimulate business development and investment by the private sector. The Program Criteria applies to all sources of 108 loans funding from the U.S. Department of Housing and Urban Development (HUD).

Section 108 Loan Program for Atlantic City
(As Administered by the Atlantic County Improvement Authority)

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I. MISSION STATEMENT AND PROGRAM OBJECTIVES

The Mission of the Atlantic County Improvement Authority – HUD Section 108 Program is to enable existing for-profit businesses to implement business ventures that will create jobs, revitalize communities, increase the tax base of the County and enhance the overall quality of life for all County residents. It is designed to leverage 108 Funds with SBA 504 Funds and funds from Federal Home Loan Bank members, private sector and other governmental lenders.

The objectives of the Program are to:

- * Provide subordinated financing to eligible Borrowers to fill a financing gap beyond the amount of private participation and equity investment that can be raised.
- * Provide long-term, fixed or variable rate financing at interest rates lower than conventional financing.
- * Provide a means for revitalizing disadvantaged areas.
- * Create sources of new jobs.
- * Assist family-owned businesses in Atlantic County.
- * To leverage 108 Funds with funds from the U.S. Small Business Administration's 504 Program and funds of the Federal Home Loan Bank through its member institutions and other conventional and bank lenders.

II. PROGRAM REQUIREMENTS

A) Guidelines

The Atlantic County Improvement Authority – HUD Section 108 Program will follow the HUD and the Small Business Administration (SBA) Guidelines for eligibility and underwriting criteria.

B) National Objectives

Each activity assisted with a Section 108 Loan must meet the following CDBG Program National Objectives.

C) Loan Review Committee

A Loan Review Committee (LRC), comprised of two (2) representatives from the Atlantic County Improvement Authority's Board of Directors and one (1) representative from the County's Treasurer's Office will review all of the Section 108 Loan Applications presented by the Loan Administrator for all areas of Atlantic County, except for Atlantic City, and make the recommendation to approve or disapprove the loan application. For loans originating in Atlantic City, the LRC shall consist of two (2) representatives from the Atlantic County Improvement Authority, and one (1) representative of the City's Treasurer's Office. The following criteria are in full alignment with federal guidelines and will be the benchmark for approval or denial of loans. A quorum must be present to review and act upon any application.

The LRC will review each application with the required financial information to determine:

- * Number of jobs to be created.
- * Amount of Section 108 Loan Fund participation necessary.
- * Amount of Federal Home Loan Bank, SBA and other governmental or conventional lenders loan match.
- * Ability of loan applicant(s) to repay the loan.
- * Collateral or security available.

No loan shall be made without the favorable recommendation of the LRC.

D) Board of County Commissioners / Atlantic City Council

The Board of County Commissioners/Atlantic City Council is the only authority that can waive or approve an exception to any of the Atlantic County Improvement Authority's Section 108 Loan Program Criteria.

When a project requires a special consideration because of the potential benefit it might bring to the area or local economy, the Atlantic County Improvement Authority will request that the Board of County Commissioners/Atlantic City Council make an exception to the Section 108 Loan Program Criteria.

When the project requires more than \$400,000 of Section 108 Loan match, the Board of County Commissioners/Atlantic City Council is the only authority that can provide the ultimate approval. The Atlantic County Improvement Authority will request the approval of the LRC and the approval of the Board of County Commissioners before submitting a formal request to HUD.

III. PROGRAM DETAILS

A) Eligibility

1. **Area** – The boundaries of Atlantic County and the City of Atlantic City.
2. **Eligible Applicants** – Private, for-profit businesses that have been engaged in industrial, retail or distribution activities for at least two (2) years and are able to demonstrate sufficient profitability. An applicant must be a sole proprietorship, an incorporated business, a partnership or any other legally-organized business registered with the State of New Jersey. The business shall meet the size standards of the U.S. Small Business Administration and be a closely held entity.

B) Loan Amount and Required Owner's Equity

The maximum loan amount for any given project is forty (40%) percent of the total project cost, or up to \$400,000; which is lower. The maximum job-cost ratio for the project is \$35,000 per full-time equivalent job to be created.

Projects that require under \$400,000 of 108 financing will require the LRC approval and HUD approval.

Projects that require over \$400,000 of financing will require the approval of the LRC, the approval of the Board of County Commissioners, or Atlantic City Council for City Loans, and the formal approval by HUD.

The maximum loan amount and term for working capital will be evaluated on an individual basis. Factors to be considered may include, but are not limited to, the project size, nature of the project, and public benefits.

The applicant must commit a minimum of ten (10%) percent of the total project cost. The applicant will be required to provide proof of equity availability. Equity shall be as defined within the Regulations of the SBA 504 SOP.

Applicants will be encouraged and required whenever possible to leverage 108 Funds with the SBA 504 Program, and programs of the Federal Home Loan Bank and other governmental or conventional lenders.

C) Rate

The Atlantic County Improvement Authority rate will be 100 basis points (1.0%) above the rate that HUD uses during the interim or permanent financing periods. During the interim financing, HUD uses the Thirteen-Week Treasury Rate, adjusted monthly (as published in the Money Rates Section of the Wall Street Journal, the New York Times, or a comparable publication), plus 35 basis points (0.35), or any other basis points amount HUD chooses to apply. During the permanent financing period, HUD uses the yields on U.S. Treasury obligations of similar maturity to the principal amount to set the rate and, depending on the maturity, it adds a small amount of additional basis point to the spread.

Borrowers are given the opportunity, once each year, or at other times at the choosing of HUD, to fix the rate or continue at a floating rate.

D) Terms

- * Working Capital – Up to a maximum of ten (10) years.
- * Machinery and Equipment – Up to a maximum of the economic life of the machinery and equipment, or ten (10) years, whichever is less.
- * Renovation – Up to a maximum of twenty (20) years.
- * Acquisition of land, buildings, or new construction – Up to twenty (20) years.

E) Eligible Uses

- * Working capital for labor and moving costs associated with the expansion or relocation of a project, inventory financing, and receivable financing, training, and marketing financing. Working capital expenses will only be considered in conjunction with the total project and it will not be financed independently.
- * Renovation and new construction of commercial/industrial buildings.
- * Acquisition of commercial/industrial land and buildings.
- * Acquisition and installation of machinery and equipment.
- * Refinancing of existing debt to an independent institutional lender (as part of a new project creating new job opportunities).

- * Funds cannot be used to reimburse for costs incurred prior to the Atlantic County Improvement Authority completing a HUD Environmental Review, except for planning costs of the project.

F) Job Creation

- * Only those applicants proposing to create new jobs will be considered for funding under the Section 108 Loan Program.
- * The job creation period begins with the issuance of a certificate of occupancy, or when all funds are disbursed, whichever is first.
- * The timeframe to create the new jobs will be from one (1) to five (5) years. If the Atlantic County Improvement Authority considers that additional time is necessary, it will request approval from the Board of County Commissioners/Atlantic City Council.
- * Where required, Borrowers shall enter into a “First Source Agreement” with the local workforce organization for the hiring of employees, for the purpose of assuring that a best-faith effort will be made to hire fifty-one (51%) percent of the new hires from the low and moderate-income labor pool.

G) Underwriting

In considering an application for a Section 108 Loan, the following procedure is used for all applicants:

1. Financial Analysis

Site Visitation – A site meeting with the applicant at its location will occur early in the process to gain insight into the business, answer the applicant’s questions, and request any needed information. The meeting should take place prior to submission of an application for the purpose of helping the applicant meet Section 108 Guidelines, or to discourage applicants who cannot meet such guidelines.

History and Business – An evaluation will be made on how long the applicant has been in business and the type of goods or services provided by the applicant. It is critical to analyze the request in respect to the specific type of industry. Not all industries have the same financing needs and payment terms to suppliers, and from customers. The balance sheet and operating ratios vary considerably from industry-to-industry.

Project Description – The applicant is required to provide a detailed description of the proposed project including:

- * Benefits to be derived by the applicant.
- * The impact the project will have in creating new jobs within HUD guidelines.
- * A detailed breakdown of the use of the requested loan proceeds.
- * Management and control.

Resume – Resumes will be analyzed. The resume(s) will provide insight into the background and qualifications of the principals and key management personnel. For

example, someone who has been successful in running a delicatessen may not have the abilities to operate a totally unrelated business such as a manufacturing concern.

Financial Statements – Historical financial statements, when available, and Federal Income Tax Returns are required. If the most recent annual statement is more than two (2) months old, an interim statement of less than sixty (60) days is also required. Statement analysis should include:

- * Trend analysis
- * Ability to repay debt – both short and long term
- * If deemed necessary, comparison to peer group companies as provided by the Robert Morris Association (RMA) studies or other similar companies within the County’s existing loan portfolio. Any significant variation from the industry comparison is discussed with the applicant to ascertain the reasons for the variance(s).
- * Adequacy of working capital.

Projected Financial Statements – At the discretion of the Loan Officer, three (3)-year projections may be required, unless the existing cash flow is insufficient to carry debt in which they will be mandatory and such projections shall include balance sheets, and a Profit and Loss Statement. The projections must include the impact of the proposed financing and the underlying assumptions used to create the projections:

- * Examine the probability of achievement, given the underlying assumptions.
- * Determine if the projected cash flow will service proposed debt.

Personal Financial Statements – Personal Financial Statements are required from everyone having twenty (20%) percent or more ownership of the business, along with personal Federal Income Tax Returns. Personal guarantees are generally required from principals of the applicant. If no member of the company has an interest of more than 20%, the analyst shall determine from which stockholders and members of management Personal Financial Statements will be required. All Personal Financial Statements shall be on SBA Form 413.

2. Financial Ratios

Loan-to-Value Ratio:

Land and Building:	100%
Used Machinery and Equipment:	90%
New Machinery and Equipment:	80%
Receivables:	70%
Inventory:	50%

Debt Service Coverage Ratio: 1.20 : 1.00

3. Appraisal

Appraisal reports will be required for projects involving acquisition and construction. The Atlantic County Improvement Authority will request from the applicant a copy of the appraisal ordered by the participating lender

(bank, SBA, or independent institutional lender). If there is not participation of another lender, the Atlantic County Improvement Authority will provide the applicant a list of County-approved appraisers. The applicant will order the appraisal and provide a copy to the Atlantic County Improvement Authority.

4. Credit History

Independent credit investigations are conducted on the applicant and the principals. This includes real estate searches, Uniform Commercial Code (UCC) searches with the Secretary of State, and personal credit reports on the principals. This credit investigation is used, in part, to verify the accuracy of the information provided by the applicant and the principals, and to find out if there are any undisclosed judgments, liens, etc.

PLEASE NOTE: An applicant is to submit a copy of their credit report and score to the Atlantic County Improvement Authority at the time they submit their completed Section 108 Business Loan Application. An applicant may obtain a free copy of their credit report and score by going to the following web-site:

<https://www.annualcreditreport.com/index.action>

H) Collateral Evaluation

<u>Collateral Type:</u>	<u>Advance Rates:</u>	<u>Value Determined By:</u>
<u>Real Estate</u>		
1. Commercial Owner Occupied	Up to 100%	Appraisal
2. Income Producing Non-Owner Occupied	Up to 100%	Appraisal
3. Raw Land	Up to 100%	Appraisal
<u>Equipment</u> (includes vehicles)	Up to 80% of Liquidation Appraisal on used and up to 80% of invoice on new equipment. If liquidation appraisal is not available, use 80% of book value.	Appraiser, Balance Sheet, Machinery/Equipment Quotes
<u>Stock Securities</u>		
1. Highly Marketable	Up to 100% of good grade listed in the NYSE, American, or NASDAQ Exchanges.	NY Times or Wall Street Journal

2. Less Marketable	Up to 50% of thinly traded under \$10.00 value listed on an exchange.	NY Times or Wall Street Journal
<u>U.S. Government or Municipal Securities</u>	Up to 100% of listed and traded bonds.	NY Times or Wall Street Journal
<u>All Other Bonds</u>	Up to 80% of listed and traded bonds.	NY Times or Wall Street Journal
<u>Accounts Receivable</u>	Up to 80% of eligible accounts receivable. Advance rates on accounts are a function of dilution of rate, turnover, quality of customer sold, industry characteristics, warranty liabilities, and any unusual contractual obligations.	Accounting methods

I) Environmental Assessment

All proposed projects are subject to an environmental review. The environmental submission will be the same as required by the first lender or in compliance with the SBA criteria. For projects that do not require the participation of another lender, the Atlantic County Improvement Authority will request from the Borrower an Environmental I Assessment and, if needed, an Environmental II Assessment. The Borrower will pay for the environmental assessment(s) and the Atlantic County Improvement Authority will reimburse the Borrower the cost of such assessment(s) with the loan proceeds at closing.

- * Projects that require funding for land and building pursuant to HUD guidelines will be required to have a Phase I Environmental Assessment and, if applicable, a Phase II Environmental Assessment.
- * Projects that require funding for machinery/equipment and working capital pursuant to HUD guidelines are exempt from the Phase I and Phase II Environmental Assessments.

J) Procurement

In accordance with HUD regulations, Section 108 financed projects for private, for-profit businesses are exempt from HUD procurement policies.

K) Other Program Information

All Section 108-funded projects are required to comply with federal, state and local statutes, regulations and requirements, including, but not limited to, the Davis-Bacon Act, Workers Compensation, Section 3 of the Housing and Community Development Act, and insurance requirements.

Section 108-funded activities that result in the displacement of persons or businesses will trigger the Uniform Relocation Act compliance requirements.

IV. PROGRAM ADMINISTRATION

A) Choosing a Project

Initial Meeting and Site Visitation

The Atlantic County Improvement Authority Staff will meet with the applicant(s) to discuss the project and make a visit to the business and/or site location as necessary. Staff will explain the program and provide the applicants with a checklist of required information. The visit should provide an opportunity for staff to explain to the applicant if assistance might be available or to discourage applicants who cannot meet Section 108 guidelines.

B) Preliminary Analysis

Preliminary Review of Information

The Atlantic County Improvement Authority Staff and Consultant, if applicable, will perform a preliminary analysis of the interim financial statements, tax reports, payroll information, debt schedule, business plan, copies of agreements, and any other required documentation. This preliminary review will reveal if (a) the project meets the HUD guidelines and at least one of the national objectives; (b) the applicant has the capacity of paying the debts to all the lenders; and (c) the applicant has the capacity of fulfilling all of the requirements of the Section 108 Loan Program. If the preliminary review is positive, the applicant will be allowed to fill out a Loan Application Form.

C) Seeking Lenders' Participation

After determining that the project and the applicant qualify for the Section 108 Loan Program, the Atlantic County Improvement Authority Staff and the County's Consultant will prepare a Section 108 Loan Package that will include all supportive documentation for underwriting and collateral, and a Project Summary and Analysis. The Atlantic County Improvement Authority and the County's Consultant will see the participation of other lenders in the project. The Atlantic County Improvement Authority will also work with SBA-approved Certified Development Corporations to inject SBA 504 funds into the project.

D) Obtaining Loan Review Committee (LRC) Approval

After determining that the project and the applicant qualify for the Section 108 Loan Program and have a firm Letter of Commitment from the other participating lenders for the project, the Atlantic County Improvement Authority and the County's Consultant will prepare a Section 108 Loan Package for the LRC with all of the supportive documentation. The LRC shall either approve or disapprove the loan application. If approved, the loan package shall be filed for HUD review.

E) Obtaining Atlantic County Improvement Authority, Board of County Commissioners or Atlantic City Council and HUD Approval

After the LRC approves a loan application, the Atlantic County Improvement Authority will seek approval from the Board of County Commissioners or Atlantic City Council and HUD as follows:

- * When the project requires more than \$400,000 of Section 108 loan funds, the Board of County Commissioners/Atlantic City Council is the only authority that can provide ultimate approval. The Atlantic County Improvement Authority will request the approval of the LRC and the approval of the Board of County Commissioners/Atlantic City Council before submitting a formal request to HUD.
- * When the project requires less than or up to \$400,000 of Section 108 funds, meets all of the program criteria and does not require an exception to any of the criteria of the Section 108 Loan Program, the Atlantic County Improvement Authority will request approval from the LRC and the approval of the County Executive or his designee or the Mayor of his designee and submit a formal request directly to the HUD Field Office for programmatic review and to the HUD Central Office for the Note. As HUD has previously approved the overall underwriting guidelines, it is not necessary to have HUD underwrite the projects.

F) Loan Acceptance

- * Upon receipt of HUD approval, evidenced by a Fixed Rate/Variable Note to the Atlantic County Improvement Authority, the Atlantic County Improvement Authority will submit the Loan Commitment Letter to the Borrower.
- * The Borrower will review the terms and conditions of the Atlantic County Improvement Authority's Loan Commitment Letter and, if accepted, will sign the letter and return it to the Atlantic County Improvement Authority by the date indicated.

G) Closing

Atlantic County's/Atlantic City's Legal Department, or outside council chosen by the Legal Department, shall close all loans in coordination with HUD's Counsel and the Borrower's Counsel. The Atlantic County Improvement Authority Staff and closing Counsel will be responsible for supervising compliance with the loan closing documents. It is the Borrower's responsibility to engage their own attorney to interact with Atlantic County's/Atlantic City's counsel.

H) Servicing

The Atlantic County Improvement Authority and the Finance Department of Atlantic County/Atlantic City will carry out loan servicing regarding payments and submission of reports and financial statements.

I) Supervision and Reporting

The Atlantic County Improvement Authority Staff shall review, on a yearly basis, all financial statements of the Borrower and will review compliance reports for compliance with Davis Bacon, Section 3, and the National Objectives of the program. The Atlantic County Improvement Authority will make a field visit to the Borrower's location at least once-a-year.

Borrowers who are problematic or cannot be brought into compliance shall be referred to the County/City Attorney's Office for corrective action, including foreclosure, if necessary.

J) *Fees and Costs:

- a. Application Processing Fee – A one time, nonrefundable fee of \$250 is payable at the time an application is submitted.
- b. Commitment Fee – A one time, nonrefundable fee of \$1,500 is payable at the time an application is submitted.
- c. Section 108 Loan Fee – The applicant will pay three (3%) percent of the total Section108 Loan amount due at the time of closing.
- d. Other Fees – The applicant will be responsible for all other fees, including bank, SBA, and institutional lender fees, appraisal and environmental fees, legal fees from outside firms and the Atlantic County Improvement Authority's Attorney's Office, and any other fees. Applicants will receive a Good Faith Estimate of the ACIA's projected fees, which may or may not be adjusted at closing.

** Please make checks /money orders payable to “**ACIA**” – Thank you.*

CONTACT INFORMATION:

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ATLANTIC COUNTY IMPROVEMENT AUTHORITY
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<https://www.acianj.org/small-business-loans.html>



 **APPLICANT/BORROWER - FEES & COSTS** 

Section 108 Business Loan (From \$35,000 up to \$400,000)

1. **Application Processing Fee** - A one-time, nonrefundable fee of **\$250** is payable to the **ACIA** from the Applicant/Borrower at the time an application is submitted.
2. **Commitment Fee** – A one-time, nonrefundable fee of **\$1,500** is payable to the **ACIA** at the time the Commitment Letter is signed by the Applicant/Borrower.
3. **Section 108 Loan Fee** - The Applicant/Borrower will pay 3% of the total Section 108 Loan amount to the ACIA, which is due at the time of closing.
4. **Other Fees** - The Applicant/Borrower will be responsible for all other fees, including bank, SBA, and institutional lender fees, appraisal and environmental fees, legal fees from outside firms and the Atlantic County Improvement Authority's (ACIA) Attorney's Office, and any other fees. Applicant/Borrower will receive a Good Faith Estimate of the ACIA's projected fees, which may or may not be adjusted at closing.

ITEMS NEEDED FOR VARIOUS USES OF LOAN PROCEEDS:

1. *** Loan Request Form**
2. **Real Estate Purchase**
 - a) Copy of Purchase Agreement
3. **Real Estate Refinance**
 - a) Copy of Mortgage & Note to be refinanced, and 12-month payment history.
 - b) Copy of Deed
 - c) Copy of the most recent payment stub with the current balance and monthly payment listed.
4. **Business Purchase**
 - a) Complete Business Federal Tax Returns, including all schedules for the past three (3) years (signed and dated by the Seller).
 - b) Business Financial Statements, including balance sheets and income statements for the past three (3) years (signed and dated by the Seller).
 - c) Interim Financial Statement, including balance sheet and income statement, dated within the past sixty (60) days and signed and dated by the seller.
 - d) Copy of Buy/Sell Agreement (Purchase Agreement).
5. **Franchise Agreement** - If the business is a franchise.
6. **Construction Estimate**
 - a) Copy of a contractor's estimate, or an architect or engineer's estimate.
7. **Machinery and Equipment Purchase**
 - a) Detailed list of machinery and equipment to be purchased on a vendor's letterhead or from an online price list. Set up expenses should be included on the vendor's letterhead or indicated on the web-site's home page.
8. **Working Capital**
 - a) If you are requesting working capital in conjunction with a fixed asset loan, provide a list of the uses for the working capital proceeds.
 - b) *** Management Resume**
 - c) *** History of the Business**

This checklist, along with the Section 108 Business Loan Application Forms, may be found on the ACIA's web-site: <https://www.acianj.org/small-business-loans.html>