

Clay County, Minnesota Business Subsidy Policy

Amended 10/22 /13

I. Purpose

The purpose of this policy is to establish guidelines and criteria regarding the business subsidies, such as tax increment financing (TIF), tax abatement, and other business subsidies for private development projects within Clay County, but outside of other local municipality governance. This policy shall be in addition to the requirements and limitations set forth by the provisions of Minnesota State Statute 116J.993 (MN Business Subsidy Law), and by the County's policy and guidelines of the particular form of subsidy.

These guidelines shall be used in processing and reviewing applications requesting business subsidies assistance. A fundamental purpose of business subsidies in the County is to encourage desirable development or redevelopment that would not otherwise occur "but for" the assistance provided through business subsidies. They may also be used to provide an incentive to existing businesses seeking to expand or to new businesses seeking to locate within Clay County.

It is the intent of the County to provide business subsidies, as well as other incentives that the County may deem appropriate, at the shortest term required for the project to proceed. The County reserves the right to approve or reject projects on a case-by-case basis, considering established policies, specific project criteria, and demand on county services in relation to the potential benefits to be received from a proposed project. Meeting policy guidelines or other criteria does not guarantee the award of business subsidies. Furthermore, the approval or denial of one project is not intended to set precedent for approval or denial of another project. Whenever possible it is the County's intent to coordinate the use of business subsidies with other applicable taxing jurisdictions.

II. Definition of "Business Subsidy"

Business Subsidy is financial assistance having a value in excess of \$150,000 and defined in the Minnesota Statute 116J993 as:

"Business subsidy" or "subsidy" means a state or local government agency 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 government facilities given to a business.

Business Subsidies to be considered by Clay County include:

- Tax Increment Financing (TIF)
- Tax Abatement
- Clay County Revolving Loan Fund

III. Public Purpose Objectives of Business Subsidies

In accordance with the MN Business Subsidy Law, the County will consider using business subsidies to assist private development projects to achieve one or more of the following public purpose objectives:

- To retain local jobs and/or increase the number and diversity of jobs that offer stable employment and/or attractive wages and benefits. Applicant must prove that potential job loss is specific and demonstrable.
- To enhance and diversify Clay County's tax base.
- To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development.
- To achieve development on sites which would not be developed without business subsidy assistance.
- To remove blight and/or encourage development of commercial and industrial areas in the County that result in higher quality development or redevelopment and private investment.
- To offset increased costs of development of specific properties when the unique physical characteristics of the site may otherwise preclude private investment.

IV. General Policies for the Use of Business Subsidies

- A. Business subsidy assistance will be provided from the County, by a "pay-as-you-go" method, to the developer if the business subsidy is tax increment financing or tax abatement.
- B. A developer requesting business subsidy assistance must demonstrate, to the satisfaction of the County, sufficient cash equity investment in the project as required within the County's policy for the particular form of subsidy.
- C. Business subsidy will not be provided in circumstances where land and/or property price is demonstrated by the County Assessor to be in excess of fair market value. This would normally be where the acquisition price is more than 10% in excess of market value, but the County has the right to use discretion in determining value and the overall project impacts/benefits will be considered.
- D. A developer must be able to demonstrate to the County, or, if applicable, to the underwriting agency, a market-demand for a proposed project. Such market demand demonstration can consist of market studies supporting the development proposal, pre-leasing or leasing commitments for at least 50% of the proposed project, other forms of research/study that documents the need, or other evidence that may be acceptable to the County.
- E. Business subsidy will not be used in cases where the subsidy would create an unfair and significant competitive advantage over other similar projects in the area.

- F. Business subsidy will not be used for projects that would place extraordinary demands on public infrastructure and services.
- G. If requested by the County, the developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements, letters of credit, cash escrows, and personal guaranties.
- H. Each developer must be able to demonstrate to the County's satisfaction, an ability to construct, operate, and maintain the proposed project based on past experience, general reputation, and credit history.
- I. If requested by the County, or its consultants, the developer shall provide sufficient financial, environmental, or other data relative to the successful operation of the project.
- J. Projects receiving business subsidy approval from other affected taxing jurisdictions will be more favorably received by the County.

V. Guidelines for Commercial/Industrial Business Subsidies

- A. Business subsidies will not be used for on-site retail or service businesses unless it is a new project or a redevelopment project that demonstrates that it will result in a substantial increase in tax base and a significant improvement in quality development, a reduction of blight, and/or an increase in employment.
- B. The project must be consistent with the applicable Comprehensive Plan, Land Use Plan, and Zoning Ordinances within Clay County. If the project is not consistent, the applicant must first obtain approval from the County of any required zoning or comprehensive plan amendments, changes, variances, etc. If the developer is successful in gaining approvals, then the developer may be eligible to receive a business subsidy from the county.
- C. Business retention jobs will be considered on a one-for-one match to job creation only in cases where job loss is specific and demonstrable in accordance with the MN Business Subsidy Law.
- D. Specific wage and job goals will be determined by the County giving consideration to the particular form of the subsidy, nature of the development, the purpose of the subsidy, local economic conditions and similar factors. The recipient will have up to two years to meet the job and wage goals established by the County. The minimum wage for a job to be considered a new or retained job shall be 150% of the current Minnesota minimum wage rate. Deviations less than the wage floor will be considered on a case-by-case basis and in accordance with the requirements of the MN Business Subsidy Law.

- E. Business subsidies will not be used for commercial/industrial projects that have a history of inconsistent compliance with applicable environmental rules and regulations.

VI. Subsidy Agreement and Reporting Requirements

Each company receiving a business subsidy shall be subject to a business subsidy agreement with the County as well as the State of Minnesota and reporting provisions and requirements set forth by the MN Business Subsidy Law and summarized below:

A. Progress Reports

The recipient shall file a report annually for two years after receiving the subsidy or until all goals set forth in the subsidy agreement have been met, whichever is later. Reports shall be completed using the format drafted by the State of Minnesota and shall be filed with the County no later than March 1 of each year for the progress made the previous year.

B. Maintain Facility

The recipient agrees to maintain and operate its facility at the site where the subsidy is used for a period of five years after the date the subsidy is provided.

C. Failure to Comply

Businesses failing to comply with the subsidy agreement will be subject to fines and repayment requirements and will be deemed ineligible by the State to receive any loans or grants from public entities for a period of five years.

VII. Subsidy Application Process and Procedure

- A. Application for business subsidies shall be made on forms provided by the County. A fee of \$1,000 shall accompany any Tax Abatement or grant request to cover the County's legal, administrative, and planning costs. The fee for Tax Increment Financing subsidy shall be \$10,000. If additional amounts are required to reimburse the County for its costs, the applicant shall be responsible for those costs. If there is an unused portion of the fee, the County will reimburse the applicant for any unused costs at its discretion. The County reserves the right to amend its TIF fees annually as part of the official Fee Schedule.

Following a review and evaluation by appropriate County Staff and/or the County's consultant, the application shall be referred to the Clay County Commission or EDA for further action.

- B. The application for business subsidies shall request information required within the County's policies on the particular form of subsidy including but not limited to: a detailed description of the project; a preliminary site plan; the amount of business subsidy requested; the public purpose of the project; the number and types of jobs to be created; the wages and benefits to be paid new employees; and verifiable funding sources and uses.