

CREEK INDIAN ENTERPRISES LOAN POLICY
Revised October 2011

The Board of Directors of Creek Indian Enterprises Development Authority (CIEDA) recognizes that the lending of money to Poarch Creek Indian Tribal Members (Tribal Member or Members) to start-up or expand business is a responsibility which involves a degree of business risk. The Board is willing to undertake such risks in order to help meet the business credit needs of Tribal Members, while utilizing standard credit procedures and prudent judgment.

It is the Board's objective to maintain proper credit standards (limited loan loss, proper documentation, personnel adhering to CIEDA Loan Policy. etc.), to protect CIEDA assets by avoiding the taking of unnecessary risks, to place emphasis on loan quality and liquidity, and to properly evaluate loan requests.

CIEDA grants loans without discrimination to any Tribal Member.

Acceptable risks in lending are changeable as economic conditions change. For this reason, we should recognized current economic conditions and anticipate future fluctuations when pricing loans and predicting our customers' ability to repay them.

CIEDA has the right to reserve the type of loans it will target (business start-up, business expansion, etc.).

This Loan Policy is intended solely as a reference for business lending by CIEDA. The information contained herein is for CIEDA's exclusive use. Any other use, without the prior written consent of CIEDA is strictly prohibited.

PURPOSE

The purpose of the Loan Policy is to establish a written policy to ensure that present and future loan decisions are made consistently and in compliance with guidelines as herein established by the CIEDA Board. Through the adherence to and consistent use of the policies set forth in the Loan Policy, CIEDA lending personnel can properly evaluate loan requests, determine acceptable risk, and serve the Members while protecting the assets of CIEDA.

The material in this manual generally represents sound basic information and guidelines, not absolutes. Nevertheless, whenever authorized personnel are underwriting a credit contrary to the guidelines included in this policy, they should ensure that there are conditions which justify variance from the guidelines.

The Loan Policy has been formulated by the CIEDA Board. It is a living document; subject at all times to be amended because of changes in CIEDA goals, CIEDA lending philosophy and general economic conditions. The CIEDA President will periodically review and make recommendations for changes to the CIEDA Board of Directors.

POLICY ADMINISTRATION

LOAN POLICY ADMINISTRATION

Administration of the Loan Policy ultimately rests with the CIEDA Board of Directors who fulfills this obligation through periodic reviews of actions taken by the CIEDA President and authorized CIEDA personnel.

CIEDA's role as a lender to Members does not mean that CIEDA will take inordinate risks in the extension of credit, but means that CIEDA will thoroughly review the credit, perform due diligence, and make an effort to grant the request without undue risk to either the Member or CIEDA.

BASIC CREDIT CRITERIA

A CHARACTER

Character is the personal impression given by the Member to indicate that they are sufficiently trustworthy to repay the loan or generate a return on CIEDA funds invested in their business. This should be the primary requirement to be satisfied when considering an extension of credit. If the Member has questionable character, the remaining "C's" of credit cannot be made strong enough to offset this requirement. On the other hand, good character cannot always make up for the deficiencies in the other "C's" of credit, and a loan should not be approved based strictly on seemingly good character.

B CAPACITY

Every Member has a limit, and it is the CIEDA President's/Authorized Agent's responsibility to determine if the Member has the capacity to repay the loan being requested, as part of the Member's overall debt obligations at the time.

C CONDITIONS

Different conditions and circumstances surround each loan application; thus, each application must be evaluated on its own merits. In this respect, the CIEDA President/Authorized Agent must evaluate the Member's credit paying habits, income stability; the value, condition, and validity of any collateral offered for

security; and investigate and satisfy CIEDA as to any and all other factors relative to the application.

D CASH FLOW

It is the CIEDA President/Authorized Agent's responsibility to document and understand a Member's cash flow, as this generally represents the primary source of repayment on loans. The CIEDA President/Authorized Agent should evaluate cash flow of businesses on direct (traditional) and indirect (accrual) basis.

E COLLATERAL

All collateral taken to secure Member's debt should be appraised, at the expense of the Member, with a certified statement from the appraiser, that documents its true value and condition, and, if possible, inspected by the CIEDA President/Authorized Agent prior to the extension of credit. On all pieces of collateral (i.e. equipment, tractors, vehicles etc.), only 75% of the appraised value will be applicable for use towards the total collateral amount.

All loans will be secured with the Member's per capita payments. A "Security Agreement" and a UCC financing statement shall be required as part of all loans in order to perfect CIEDA's interest in the following collateral: "Any and all future per capita payments (otherwise known as "Birthday Checks") issued by the Poarch Band of Creek Indians to the Borrower until the Loan and any other amounts owing under these Loan Documents are paid in full. "

F FINANCIAL STATEMENTS

The Member's ability to repay the loan should be revealed in the application or in the financial information, i.e. annual reports, income statements, etc. (in the case of business loans).

FINANCIAL STATEMENTS

There are three types of financial statements prepared by accountants, as follows:

1 Compilation – Prepared from the records without any review or verification. It is more than a self-prepared statement, but usually arranged in a more logical manner. Caution should be taken by the CIEDA President/Authorized Agent to assure quality of content, such as the value of personal effects, interests in partnerships, closely-held businesses and real estate, without supporting documentation. The CIEDA President/Authorized Agent should judge the validity

of all asset values presented and potentially discount them to arrive at the tangible net worth.

2 Review – Where the preparing accountant reviews certain portions of the borrower’s accounting procedures to determine if they comply with normal accounting practices. A small amount of auditing and verification may be done, i.e.; the accountant may verify a percentage of receivables, inventory valuations, depreciation schedules, etc. as a “spot” check of procedures and values.

3 Audited – Where the accountant does a full-scope audit and examination of the business. Procedures are audited, verifications are done on receivables, payables, etc. and various entries are traced to determine that they are properly recorded. The accountants generally prepare an opinion letter outlining their unqualified or qualified findings. Any “qualified” findings should be investigated and discussed with the borrower.

LENDING GUIDELINES

Both secured and unsecured loans may be granted to Tribal Members for the purpose of business start-ups or business expansion. The CIEDA President/Authorized Agent is authorized to approve loans according to the outlined guidelines.

A LENDING LIMIT

The CIEDA President may extend up to \$50,000.00 in aggregate to any Tribal Member of which up to \$10,000.00, per business, may be secured only by the Tribal Member or Member’s per capita payment. All loans exceeding these limits must be approved by the CIEDA Board. Lending Limits for CIEDA president and/or CEIDA Board of Directors are as followed:

- \$50,000 and below @ 2% interest with Amortization term up to 5 years.
- \$50,000 - \$75,000 @ 2.5% interest with Amortization term up to 7 years.
- \$75,000 - \$100,000 @ 3% interest with Amortization term up to 10 years.

CIEDA Board will review all loans for the first six months after the Loan Program is initiated.

No loan from the CIEDA Small Business Loan Program shall exceed \$100,000.

B GENERAL LENDING REQUIREMENTS

- **Age**

All Members must be at least 18 years of age to enter into a legally binding contract.

- **Residence**

Members should generally have established a one-year period of residency at the current address to qualify for a loan. This period of residency indicates the stability of the Member. There may be exceptions if the Member lived at his/her previous address for three years or more. CIEDA Board approval required for all exceptions.

- **Employment**

As a general rule, a Member should have the same job or worked in the area of business in which the loan is being requested for at least one year in order to meet basic requirements. If the Member has recently changed jobs, previous employment should exceed the one year period.

- **Credit Standards**

In order to qualify for a loan, the Member should have an established credit history.

When reviewing credit history, the Member should be current on all payments; any previous slow payment history is a red flag and should be thoroughly investigated before approving a new loan.

Any claims or judgments listed on a Member's credit report should be closely reviewed. Any unpaid collections should be fully understood before considering an application – judgments sometimes show lack of responsibility on the Member's part to meet all financial obligations.

C LOAN REQUEST GUIDELINES

When a Member requests a loan, it is the CIEDA President's/Authorized Agent's responsibility to evaluate the request, and determine if a loan meets the requirements of the CIEDA Loan Program. The CIEDA President/Authorized Agent should have a basic knowledge of the type of business for which the loan is being requested.

D PROHIBITED LOANS

The following loans are prohibited, there are no exceptions:

1. Loans for illegal purposes.
2. Loans to fund political campaign expenses.

E CONFLICTS OF INTEREST

1. Loans to CIEDA staff, Directors and Tribal Council Members, regardless of the amount, shall be approved by the CIEDA Board.
2. CIEDA lending practices should adhere to the PCI Ethics Code.

F MATURITIES

Generally, CIEDA is a short-term lender. Because of this fact, loan maturities should follow these guidelines.

Amortized Loans – It is in CIEDA’s best practice to have a maximum maturity date of 60 months on loans. Any amortized debt longer than 60 months must be treated as an “exception” and approved as such through the standard approval guidelines by the CIEDA Board.

Lines of Credit – One Year – Working capital lines of credit should have a maturity date of no longer than one year. Any exception to the above requires the approval of the CIEDA Board. Generally, these lines of credit are paid down annually. These lines are renewed annually and must be treated as a new loan each renewal. If the Member has not paid the note down or off according to the original loan agreement, the Member may request to renew the loan. CIEDA will consider the annual renewal, but if the line is not utilized as agreed during the second year, the CIEDA President should discuss the need to restructure to better serve CIEDA without adversely affecting the Member’s cash flow.

CREEK INDIAN ENTERPRISES DEVELOPMENT AUTHORITY **LOAN OPERATIONS**

Proper operation of the CIEDA business loan program is the total responsibility of the CIEDA Board. This responsibility is accomplished by the establishing written operational procedures and review of actions taken by the CIEDA President and Authorized Agent to ensure their compliance to the established procedures.

LOAN OPERATIONAL PROCEDURES

1. LOANS SECURED ONLY BY PER CAPITA PAYMENTS

Loans secured only by per capita payments should only be made to Members with the financial strength to repay. These loans are substantially riskier than loans secured by other collateral because CIEDA only has the Member’s per capita payment to fall back on for repayment in the event of a loan default.

A Member Loan Request Requirements:

Existing Business

(Has been in operation for three years or more)

- 1 A signed and fully completed CIEDA Loan Package (Loan application, justification, personal financial statement, statement of collateral, balance sheet, cash flow and income statement.)
- 2 Proof of income/revenue (company financial statements and tax returns for the last three years).
- 3 A Completed Business Plan
- 4 Last two years Income Tax Returns of owner/owners.
- 5 CIEDA may request additional documents.

Start-up Business

(A proposed business or a business that has existed for less than three years)

- 1 A signed and fully completed CIEDA Loan Package (Loan application, justification, personal financial statement, statement of collateral, balance sheet, cash flow and income statement.)
- 2 A Completed Business Plan
- 3 Last two years Income Tax Returns of owner/owners.
- 4 CIEDA may request additional documents.

LOANS SECURED BY OTHER COLLATERAL (SECURED LOANS)

Secured loans are loans in which assets such as equipment, buildings, accounts receivable, and in some cases, inventory are held as collateral. Most loans should have two identifiable sources of repayment. The first source is ordinarily cash flow generated from profitable operations of the business. The second source is usually collateral pledged to secure the loan. In order for a loan to be fully secured, properly margined collateral must equal or exceed the loan amount.

Member Loan Request Requirements:

Existing Business

(Has been in operation for three years or more)

- 1 A signed and fully completed CIEDA Loan Package (Loan application, justification, personal financial statement, statement of collateral, balance sheet, cash flow and income statement.)
- 2 Proof of income/revenue (company financial statements and tax returns for the last three years).
- 3 A Completed Business Plan
- 4 Last two years Income Tax Returns of owner/owners.
- 5 CIEDA may request additional documents.

Start-up Business

(A proposed business or a business that has existed for less than three years)

- 1 A signed and fully completed CIEDA Loan Package (Loan application, justification, personal financial statement, statement of collateral, balance sheet, cash flow and income statement.)
- 2 A Completed Business Plan
- 3 Last two years Income Tax Returns of owner/owners.
- 4 CIEDA may request additional documents.

B. All loan documents must be signed by the loan applicant and their spouse and any persons having an ownership interest in the business (a) in which the loan proceeds will be invested, or (b) which will benefit by use of the loan proceeds.

C. CIEDA Loan Review Process:

- 1 All applicants must be a "Certified Tribal Member Owned Business Enterprise" or meet all requirements listed in Section 33-2-3 of the Tribal Code. (This section is listed at the end of this policy)
- 2 Review application and supporting documents for

accuracy and loan justification.

3 Obtain a credit bureau report for loan applicant. Credit score should be “650” or better. Review report to determine credit history. Credit history/behavior provides a good tool for determining the type of borrower requesting a loan.

4 Analyze all documents to determine if the loan request should be approved. If necessary request more information to support the loan decision. A loan decision should be forwarded to the Member within thirty days of receiving supporting documents.

5 If the loan request is approved, create a promissory note, security agreement, settlement statement, and any other necessary loan documents. Discuss loan terms and loan documents with the Member, and obtain proper signatures. Obtain a Limited Power of Attorney to execute any and all forms or documents relative to securing and perfect CIEDA’s lien, including, but not limited to, title documentation. Loan funds should be disbursed to appropriate entities by CIEDA check with authorized signatures.

6 If the loan request is denied, a letter explaining the reason for denial should be forwarded to the Member within thirty days of receiving completed loan request.

7 The loan should be entered into CIEDA’s loan processing system. The input of the loan should be made by an authorized employee. This employee should be trained to verify and detect any discrepancies with the actual note or loan policies and procedures of CIEDA. Should any errors be detected, that can not be explained or corrected by the CIEDA President, the employee should notify the CFO of CIEDA within 24 hours.

8 Payments will be processed according to the fiscal policies/procedures of CIEDA.

DOCUMENTS

Only approved CIEDA loan documents will be used. These documents must be maintained in a secure location. All executed loan documents should be maintained in the loan files for each Member loan. These files should be kept in a fire-proof area.

All loans should be reviewed annually by CIEDA's external auditors for compliance to CIEDA policy and procedures.

PENALTY OF DEFAULT

Upon the occurrence of a default, CIEDA may refuse to make any further advances. CIEDA shall have the right to declare immediately due and payable the outstanding principal balance of the Note, all accrued and unpaid interest thereon and all other sums due in connection therewith, and CIEDA may exercise any right, power or remedy permitted by law or as set forth in any of the loan documents, including the right to withhold payment of all per capita payments until the amounts in default are paid in full.

CONFIDENTIALITY POLICY

CIEDA and its subsidiaries are committed to protecting the confidentiality of our Tribal Members, enterprises, clientele, vendors, and employees. Measures are taken to assure that all employees hold information of any nature in the strictest of confidence. Issues of a confidential nature shall be discussed with the appropriate management level personnel. Access to computer systems, machinery, diverse documentation, and proprietary data, including but not limited to vendors, contractors, research, statistics, and employee information shall be controlled and monitored. Employees are strictly prohibited from discussing information, such as salaries, pay raises, and other personal matters. All employees are responsible for immediately reporting any apparent violations of this confidentiality policy to appropriate management level personnel. The consequences of violating this policy may result in disciplinary action, up to and including termination. Depending upon the severity, the employee may also suffer civil or criminal liability.

TERO Ordinance

For a Tribal Member owned business to qualify for a CIEDA loan, they must meet the requirements listed in the portions of the “Section” listed below that apply to the “Tribal Member” owned Enterprises.

Section 33-2-3 Certification of Business Enterprises

(a) General Requirements: An applicant seeking to qualify for preference in contracting and/or subcontracting as a 100% Tribal Business Enterprise, Tribal Business Enterprise, or Indian Business Enterprise shall submit proof of the applicant’s Indian or Indian family ownership and control to the TERO Office. The TERO Office shall certify applicant businesses who meet the minimum ownership and control requirements for the applicable preference category. The ownership and control requirements applicable to each preference category are as follows:

- (1) 100% Tribal Business Enterprise:
 - a. *Ownership*: Tribal Members must own 100% of the firm.
Control: Tribal Members must exercise 100% management and supervisory control of the day-to-day operations of the business.
- (2) Tribal Business Enterprise:
 - a. *Ownership*: Tribal Members must own at least 51% of the firm.
 - b. *Control*: Tribal Members must exercise majority control of the business and be substantially involved in the day-to-day management and operations of the business.
- (3) Indian Business Enterprise:
 - a. *Ownership*: Indians must own at least 51% of the firm.
 - b. *Control*: Indians must exercise majority control of the business and be substantially involved in the day-to-day management and operations of the business.
- (4) Joint Ventures:
 - a. *Ownership*: The Tribal or Indian Business Enterprise must constitute at least 51% of the joint venture.
 - b. *Control*: The Tribal or Indian Business Enterprise must successfully demonstrate that it has the capability to manage a similar project on its own and has entered into the joint venture because the non-Indian firm provides assistance such as bonding, specialized expertise, or capital.

(b) Ownership Requirements: The following factors will be applied in determining whether the business meets the minimum ownership requirements for the applicable certification category:

- (1) *Value*: The Tribal Member or Indian owner(s) must establish that they provided real value for their stated ownership interest by providing capital, equipment, real property, or similar assets commensurate with the value of their

ownership share. "Real value" can be demonstrated if a convincing showing can be made that the Indian owner(s) brought such special skills, marketing connections, or similar benefits to the business that there is a good reason to believe that arrangement would be entered into even there were not an Indian preference program in existence.

(2) *Profits*: The Tribal Member or Indian owner(s) will receive the percentage of all profits equal to their ownership interest. If there is any provision that gives the non-Indian owner a greater share of the profits, in whatever form and under whatever name, such as through management fees, equipment rental fees, or bonuses tied to profits, certification will be denied.

(c) Control Requirements:

Certification for categories (1)-(3) above requires that the business establish that Tribal Members and/or Indians exercise majority control over the business and management decisions. One or more of the Tribal Member or Indian owners must be substantially involved, as a senior level official, in the management and operation of the firm. The individuals establishing the requisite majority control must have substantial occupational ties or experience to the area of business in which the business is engaged or substantial professional experience in another type of business such that he or she is qualified to serve in the senior level position and is sufficiently knowledgeable about the business' activities to be accountable to the Tribe for the business' activities. The individuals must have the demonstrable ability to make independent basic decisions pertaining to the day-to-day operations of the business.

(2) In evaluating an applicant under this criterion the TERO will consider the factors set out below. The TERO shall exercise broad discretion in applying these criteria in order to preserve the integrity of the Indian preference program and in questionable cases shall deny certification:

(A) *Employees*: Whether key non-Indian employees of the applicant are former employees of a non-Indian business with which the Indian business is or has been affiliated, through a joint venture or other arrangement, such that there is reason to believe the non-Indian business is controlling the applicant. Whether non-Indians are employed in all or most of the positions for which qualified Indians are available. A high percentage of non-Indian employees in such positions will provide reason to believe the business was established primarily as a benefit to non-Indians.

(B) *Relative Experience and Resources*: Whether the individuals establishing the requisite majority control have relevant education, background and/or experience in the particular the area of business. Whether the experience, expertise, resources, etc. of any non-Indian

partner(s) is so much greater than that of the Indian(s) that there is little sound business reason for the non-Indian to accept a junior role in the firm or venture other than to be able to take advantage of the Indian preference program.

(d) Additional Requirements:

- (1) A business seeking a contracting or a subcontracting preference under this Ordinance shall submit evidence sufficient to demonstrate to the satisfaction of the Tribal Government, Tribal Entity, or Contractor, as appropriate, that the business can meet all bidding requirements, including, but not limited to: the technical, administrative, and financial capability and/or the necessary license(s) and bondability; and the ability to perform contract work of the size and type involved, within the time provided, under the proposed contract or subcontract.
- (2) The Tribal Government, Tribal Entity, or Contractor may state in its solicitation that bidders or persons and entities submitting proposals must submit evidence of certification under this Ordinance, within a specified time period before a scheduled bid opening.
- (3) No business shall qualify for preference if Indian ownership in, or control of, the business is less than the required minimum percent at any time during the bidding stage, the proposal stage, or the performance of the contract.
- (4) No Indian business shall represent that it is exercising management control of a project in order to qualify for Indian preference in the award of said contract or subcontract when in fact such management control is exercised by a non-Indian entity such that the Indian entity is acting as a front or brokering out services.

www.annualcreditreport.com

Date: _____

On the above referenced date I received a complete copy of the **CIE LOAN GUIDELINES, LOAN REVIEW PROCESS, and GENERAL LENDING REQUIREMENTS, and DUE DELIGENCE REQUIREMENTS.** It has been presented and explained to me by a CIE Authorized Agent. I understand that should I have any questions concerning the information contained therein, that I may at any time contact representative of the Economic Development Department for additional assistance.

Tribal Member

CIE Authorized Agent