

CITY OF MEQUON REVOLVING LOAN FUND PROGRAM
POLICIES AND PROCEDURES MANUAL

Date: March 1, 2004

SECTION 1: GENERAL PROVISIONS

1.1 PURPOSE

The purpose of the policies and procedures contained within this manual is to present the criteria which governs the economic development activities assisted with funds made available through the City of Mequon's Revolving Loan Fund (RLF) program.

1.2 OBJECTIVES

Economic development activities assisted with funds made available through the RLF program are intended to meet the following objectives:

- 1) To encourage the creation and retention of permanent jobs which provide a wage appropriate to the skills and experience of the local labor force and that is competitive. A minimum of 51 percent of the jobs created or retained must be made available to low- and moderate-income persons.
- 2) To encourage the leveraging of new private investment in the City in the form of fixed asset and working capital investments.
- 3) To perpetuate a positive and proactive business climate which encourages the retention and expansion of existing businesses and helps to attract desirable new businesses.
- 4) To maintain and promote a diverse mix of employment opportunities and to minimize seasonal or cyclical employment fluctuations.

1.3 AMENDMENTS

The City may from time to time amend the provisions imposed by the policies and procedures contained within this RLF manual and such amendments are subject to prior written approval by the Wisconsin Department of Commerce.

SECTION 2. ADMINISTRATION

2.1 LOAN REVIEW COMMITTEE

- 1) The City of Mequon has designated the City of Mequon Economic development Board (EDB) as the loan review committee for the RLF program. Funding decisions relative to RLF loans will be made by the City of Mequon Common Council upon a recommendation by the EDB.
- 2) The EDB will have the authority to make policy recommendations for the administration of the RLF program. Periodic activity reports will be provided to the Common Council.
- 3) The Director of Community Development, or his designee, (hereinafter "City staff") will be responsible for the day-to-day administration of the RLF program. City staff will explain the RLF program to prospective applicants, providing written information, assist applicants in completing applications, and process requests for financing. City staff, where necessary and appropriate, will counsel or guide loan applicants to other more appropriate technical and financial resources when the loan applicant has needs that cannot be met through the RLF program.
- 4) City staff will periodically review financial statements and loan amortization schedules for RLF loan recipients, review and approve documentation of business expenditures financed with RLF proceeds, maintain RLF accounting records that will be segregated from other City accounts, and report annually to the Department of Commerce regarding the use of the RLF funds. City staff will be responsible for the maintenance of all records for the local RLF.
- 5) The City Attorney will prepare all loan agreements, review all promissory notes and mortgage or lien instruments, record RLF security instruments, and counsel the City on default matters.

2.2 MEETINGS

Loan review meetings will be held by the EDB on an as-needed basis. Pursuant to Section 19.84, Wisconsin Statutes, all EDB members will be given prior notice of each meeting. A majority of the EDB in attendance at a meeting constituting a quorum will be required for official committee action.

2.3 RECORDS

Written records will be maintained in appropriate files located in a secure place with limited access by authorized personnel. The City Attorney will be consulted with regard to compliance with State and municipal open records laws.

2.4 ADMINISTRATION

On an annual basis, up to 15 percent of the RLF program income will be made available for personnel costs and other RLF administrative expenses incurred in the maintenance of the RLF program. In addition, the following fees will be assessed to all loan recipients:

- 1) Loan Application Fee: The City will require a loan application fee in an amount sufficient to reimburse the City for administrative expenses incurred in the processing of RLF loan applications, not to exceed \$800 per loan. All loan application fees will be identified as CDBG program income and deposited in the RLF account prior to being used to finance administrative costs associated with the program.

- 2) Loan Origination Fees: The City will require a loan origination fee of \$500 or 1.5 percent of the RLF loan amount, whichever is greater, but not to exceed \$1,500 per loan. In addition, the City will require the applicant to pay all legal fees incurred by the City for the RLF loan closing, not to exceed \$1,000 per loan. The fees may be added to the principal amount of the loan and paid with RLF funds. All loan origination fees, including attorney's fees, will be identified as CDBG program income and deposited in the RLF account. These funds will then be used to pay for administrative costs associated with the RLF program.

SECTION 3. ELIGIBILITY CONSIDERATIONS

3.1 ELIGIBLE AREA

The area served by the RLF program will be within the corporate limits of the City.

3.2 ELIGIBLE APPLICANTS

- 1) Applications may be submitted by the sole proprietor, general partner, or chief executive officer of any business wishing to establish a new operation or expand an existing operation in the City.
- 2) No member of the City of Mequon Common Council, the City of Mequon Economic Development Board, or any other official, employee, or agent of the City who exercises decision-making functions or responsibilities in connection with the implementation of the RLF program is eligible for financial assistance under this program. In addition, no RLF loans will be made which are in conflict with Section 946.13 of the Wisconsin Statutes (Private Interest in Public Contract Prohibited).
- 3) Applicants will not be disqualified based on age, race, religion, color, handicap, sex, physical condition, development disability as defined in s. 51.01(5), sexual orientation or national origin.

3.3 INELIGIBLE APPLICANTS

RLF loans will not be available for the following businesses: 1) speculative investment companies; 2) real estate investment companies; 3) lending institutions; 4) gambling operations; 5) non-public recreation facilities; and 6) other businesses not serving the interests of the City.

3.4 ELIGIBLE ACTIVITIES

RLF loans will be provided to eligible applicants for the following activities:

- 1) The acquisition of land, buildings, and fixed equipment.
- 2) Site preparation; the construction or reconstruction of buildings, the rehabilitation of buildings including leasehold improvements, and the installation of fixed equipment.
- 3) Clearance, demolition, or the removal of structures.
- 4) Working capital.
- 5) Buyouts by purchase of assets or stock.

3.5 INELIGIBLE ACTIVITIES

RLF loans will not be available for the following activities:

- 1) Refinancing or consolidating existing debt.
- 2) Reimbursement for expenditures prior to loan approval.
- 3) Specialized equipment that is not essential to the business operation.
- 4) Residential building construction or reconstruction (unless such reconstruction is intended to convert the building to a business operation).
- 5) Routine maintenance.
- 6) Professional services such as feasibility and marketing studies, accounting, management services, and other similar services.
- 7) Other activities that the EDB may identify as inappropriate for the RLF program.

3.6 MINIMUM REQUIREMENTS

To be eligible for funding, a proposed project must meet all of the following minimum requirements:

- 1) Private Funds Leveraged. One dollar of private sector investment must be provided for each dollar of RLF investment. Private sector investment is defined as financing from a private lending institution, public sector business loan programs other than the CDBG program, or new equity that is injected into the business as a part of the expansion project.
- 2) Cost Per Job. A minimum of one full-time equivalent (FTE) job must be created or retained for each \$20,000 of RLF funds requested.
- 3) Financial Feasibility and Business Viability. The applicant must demonstrate that the proposed project is viable and that the business will have the economic ability to repay the funds.
- 4) Low- and Moderate-Income (LMI) Benefit. At least 51 percent of the FTE jobs that will be created or retained must be filled or held by persons who reside in low- and moderate-income (LMI) households as defined in Attachment A.
- 5) Compliance with Applicable Laws. Applicants must comply with all applicable local, State, and Federal laws and codes.
- 6) Project Completion. All projects must be completed, all funds expended, and all jobs created within 24 months from the date of the RLF loan approval.

SECTION 4. TERMS AND CONDITIONS

4.1 TERMS AND CONDITIONS

Loan terms and conditions will be structured on the basis of need and ability to repay. Minimum standards will include the following:

- 1) Loan Amount. The loan amount will be negotiated on a case-by-case basis with the EDB.
- 2) Interest Rate. The rate of interest will range from 0 percent to 50 percent of the prime rate of interest – as published in the Midwest Edition of the Wall Street Journal. The interest rate will be fixed for the term of the RLF loan.
- 3) Loan Term. Standard terms for RLF loans will be as follows: a) machinery, equipment, and fixtures–5 to 10 years; b) buildings and land–5 to 12 years; and c) working capital–2 to 7 years. Amortization periods that exceed the loan term may be provided where appropriate.

The specific term and amortization period for an individual borrower will be based on the useful life of the asset, as well as the terms offered by the private sector financial institution participating in the project. The EDB retains the right to adjust individual loan terms in order to facilitate a successful RLF project.

- 4) Repayment. Deferral of principal and interest payments may be provided for the term of the loan if required to make the project feasible. Interest, if any, would accrue during the deferral period and paid in one lump sum at the end of the deferral period or added to the principal of the loan.
- 5) Prepayment. There are no prepayment penalties.
- 6) Collateral. Collateral requirements will be determined on an individual basis by the EDB and the Common Council and may include: mortgages on land and buildings, liens on machinery and equipment, liens on accounts receivable and inventory, and liens on the corporate assets of affiliated businesses, where appropriate. This collateral may be subordinated to private sector financial institutions participating in the RLF project, if required. Personal guarantees from the principals of the business will be required, along with junior mortgages on real estate holdings.
- 7) Insurance Requirements. Businesses receiving loans for fixed assets will be required to obtain property-casualty insurance for the appraised value of the property being financed, and businesses receiving construction loans will be required to have builder's risk insurance for the amount of the debt financing attendant to the project. The City of Mequon will be listed as an additional insured on all such insurance policies.
- 8) Equity Requirements. The RLF program may require an equity injection for each RLF loan, when appropriate. Consideration will be given for individuals that have made substantial equity commitments to the applicant business, as well as to individuals who do not have sufficient financial resources to contribute to the RLF project.

SECTION 5. APPLICATION PROCEDURES

5.1 INITIAL CONTACT

Prior to submitting an application, all RLF applicants must discuss the program with City staff, who will provide assistance, as is reasonably necessary, in completing an RLF application. All financial information will be kept in a secured place with limited access by authorized personnel only, subject to the State and municipal open records laws.

5.2 TIMING

Applications may be submitted at any time during the calendar year.

5.3 PRIORITY

Applications will be reviewed in the order received and based on readiness for the proposed project to proceed. In those instances where the number of requests for RLF funds exceeds available funding, RLF applications will be prioritized based upon the date of receipt of all requested application materials, the number of jobs to be created and/or retained, and the amount of private sector leverage that is included in the project. When feasible, the amount of RLF funds contributed to each project will be reduced in order to facilitate as many RLF loan requests as possible.

5.4 LOAN APPLICATION

Applicants must submit an application using forms available from City staff that includes the following:

- 1) A completed RLF application.
- 2) A written business plan that includes the following:
 - a) A brief history of the existing or proposed business, including when it started or is to start, type of operation, legal structure, management, markets, and products.
 - b) Marketing plan, including a list of key customers and clients.
 - c) A personal resume for each principal associated with the business, including: number of years of experience in the business; educational background; and role in the proposed or existing business.
 - d) Financial statements for the past three years and a current interim financial statement, including balance sheets and income statements that are compiled by an independent accountant in accordance with Generally Accepted Accounting Principles (GAAP), including all footnote disclosures.
 - e) Aging of accounts receivable and accounts payable corresponding with latest available financial statements.
- 3) A description of how the business plans to use the requested funds.

- 4) Letters of commitment from all financial institutions or other sources of funds for the debt financing that are included in the project. These commitments must be obtained prior to, or concurrently with, the approval of the RLF loan by the Common Council.
- 5) Financial projections for the first three years of the project, including balance sheets and profit and loss statements that are prepared by an independent accountant in accordance with GAAP and include a discussion of all significant assumptions. In addition, start-up businesses should provide quarterly financial projections for the first two years. The requirement to provide financial projections will be negotiated on a case-by-case basis with the EDB.
- 6) Personal financial statements for the principals of the business. The requirement to provide personal financial statements will be negotiated on a case-by-case basis with the EDB.
- 7) Cost estimates for all capital equipment purchases, land and building acquisition, and building construction or renovation.
- 8) A lease or pre-lease agreement for rental property or an offer to purchase for real estate that is included in the project.
- 9) Documentation that the project is in compliance with local and State building codes and zoning regulations and other applicable local and State ordinances.
- 10) Other documentation that may be required to support the RLF project.

5.5 REVIEW PROCESS

Specific steps in the review process include the following:

- 1) Preliminary Review. City staff will review the application for completeness and verify that the proposed project meets the minimum requirements provided in Section 3.6. If the application is not complete, City staff will inform the applicant of the deficiencies.
- 2) Formal Review. The EDB will meet to review an application within 30 days of the receipt of a completed application. Once the review is completed and the proposal is acceptable for funding, the EDB will forward the request to the Common Council for final approval.
- 3) Negotiation of Terms. Upon acceptance by the Common Council, City staff will contact the business to review and explain the terms of the loan
- 4) Notice of Award. If the application is approved a closing will be scheduled to execute the necessary loan documents.
- 5) Rejection of Award. If the application is not approved, City staff will notify the applicant in writing the reasons for rejection and offer to meet with the applicant to explore ways to strengthen the loan request or to identify alternative funding sources.

SECTION 6. DISTRIBUTION OF FUNDS

6.1 LOAN PROCEDURES

Prior to releasing funds, the following documentation must be in place or provided at the appropriate time during the term of the loan.

- 1) Notice of Award. The EDB and Common Council will review and approve a complete application for each eligible applicant.
- 2) Loan Agreement. The City Attorney will prepare a loan agreement which will be executed by the Mayor, City Clerk, and the sole proprietor, general partner, or chief executive officer of the business.
- 3) Promissory Note. A promissory note will be prepared by the City Attorney and signed by the chief executive officer at the time of loan closing. The note will be dated; it will reference the agreement between the City and the business; and, it will specify the amount and terms of the loan funds delivered.
- 4) Security. Mortgage or lien instruments or personal guarantees provided as security for all loans will be prepared by the City Attorney and executed at the time of the loan closing. The City Attorney will record all security instruments and place copies in the project file, as applicable, to include: a) mortgages and/or security agreement; b) UCC searches and filing; c) guarantee agreement; d) title insurance or letter report; e) assignment of life insurance; f) property-casualty insurance binder; g) personal guarantee; and h) other documentation as may be appropriate.
- 5) Amortization Schedule. An amortization schedule will be prepared by City staff and forwarded to the loan recipient after all loan proceeds are fully disbursed.
- 6) Evidence of Permits, etc. Documentation must be provided by the applicant that all necessary permits, licenses, and any other registration required have been obtained by the applicant prior to the release of RLF funds.
- 7) Evidence of Program Expenditures. Documentation must be provided by the business to evidence RLF program expenditures prior to the release of funds. Documentation will include bills and invoices or receipts for materials, final bills of sale or canceled checks. All documentation will be reviewed and approved by City staff. City staff will also verify the installation of all fixed equipment.
- 8) Other Documentation. As appropriate or necessary, the borrower may be asked to provide the following: a) a certificate of good standing from the Secretary of State; b) articles of incorporation and by-laws; c) a resolution or agreement to borrow funds; d) current financial statements; e) evidence of having secured other funds necessary for the project; and f) an environmental analysis for real estate loans, if justified.

SECTION 7. POST APPROVAL REQUIREMENTS

7.1 OBLIGATION OF LOAN RECIPIENT

In addition to the terms and conditions of the loan, all borrowers must agree to comply with the following:

- 1) The creation or retention of the agreed upon number of jobs within two years of the date of the execution of the loan agreement with the City. All jobs created and/or retained must be maintained for a minimum of two years.
- 2) Not to discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, development disability as defined in s. 51.01(5), sexual orientation, or national origin in any employment or construction activity related to the use of RLF monies.
- 3) To use RLF monies only to pay the cost of services and materials necessary to complete the RLF project or activity.
- 4) To permit inspections by persons authorized by the City of all projects and properties assisted with loan funds. Related project materials must also be open to inspections which include, but may not be limited to, contracts, materials, equipment, payrolls, and conditions of employment. Requests for inspection must be complied with by the borrower.
- 5) To maintain records on the project that are necessary for the City to determine if the performance of the business complies with the terms of the loan agreement. Files must be maintained as long as the loan is active or for at least three years after completion of the work for which the loan has been obtained, whichever is longer.
- 6) To submit quarterly financial statements and periodic progress reports during the outstanding term of the loan. The progress reports must include the number of jobs created or retained during the term of the loan agreement.
- 7) To maintain property-casualty insurance for the property financed with RLF monies for the term of the RLF loan. The City will be listed as an additional insured on the policy. In addition, key-person life insurance coverage naming the City as a beneficiary, with a declining balance equal to the outstanding loan balance may be used where appropriate.
- 8) To abide by all Federal laws, when applicable. These include, but may not be limited to: the Civil Rights Act of 1964; the Age Discrimination Act of 1975; the Davis-Bacon Act, as amended; the Contract Work Hours and Safety Standards Act; the Copeland "Anti-Kickback" Act; and, all regulations pursuant to these Acts.

SECTION 8. PERFORMANCE MONITORING

8.1 PRIVATE LEVERAGE COMMITMENTS

City staff will monitor the use of the funds and expenditure of private leverage commitments. Documentation may include invoices or receipts for materials and supplies, letters from lenders, final bills of sale, and canceled checks.

8.2 JOB CREATION AND RETENTION

City staff will monitor the borrower's progress in meeting agreed upon job creation or retention goals. Job creation will be documented using payroll records. Before- and after-project payroll records must be provided by the borrower to document job creation.

For each job that is not created or retained and for each LMI job that is not created and/or retained during the required time period, the following penalties shall apply: a) for each FTE job that is not created or retained for a minimum of 12 months, the loan recipient shall be assessed a penalty of \$1,000 per job; and b) for each LMI job that is not available to LMI persons, the loan recipient shall be assessed a penalty of \$1,000 per job. In no event will the loan recipient be assessed a penalty under both (a) and (b) above for the same job which it has failed to create or retain. Job penalties may be paid in one lump sum or added to the principal of the RLF loan and amortized over the remaining term of the loan.

8.3 DEFAULT

In the event the business is in default on any of the terms and conditions of the loan agreement, all sums due and owing, including penalties will, at the City's option, become immediately due and payable. To exercise this option, the City Attorney will prepare a written notice to the business. The notice will specify the following: a) the default; b) the action required to cure the default; c) a date, not less than 30 days from the date of the notice, by which the default must be cured to avoid foreclosure or other collective action; and d) any penalties incurred as a result of the default.

SECTION 9. USE OF LOAN REPAYMENTS AND REPORTING

9.1 RLF PROGRAM

Repaid RLF monies will be deposited in the RLF account and used in a manner consistent with the RLF manual. A separate record for each loan will be kept to account for all funds loaned. The RLF account will be audited on an annual basis and City staff will report at the end of each fiscal year to the Wisconsin Department of Commerce regarding the use of RLF program income. Reports will be submitted on forms prescribed by the Department.

SECTION 10. LOAN SERVICING

10.1 MONITORING

City staff will monitor each loan to ensure compliance with the loan terms and conditions and to monitor the financial health of the business to ensure continued repayment of the loan. The monitoring will also ensure that all recordkeeping requirements are met particularly with regard to job creation and the expenditure of matching funds.

10.2 RECORDKEEPING

A loan servicing file will be established and maintained for each loan recipient that includes the following:

- 1) Loan Application File. The loan application file will include a copy of the RLF application, business financial statements, personal financial statements, business plan documents, and other supporting loan information submitted to the City, including all applicable correspondence. In addition, the file will contain a copy of the loan application summary with recommended actions regarding the application, and a copy of the minutes for the public meetings held to take action on the loan request.
- 2) Loan Closing File. The loan closing file will include all loan closing documents, including the note and other security instruments; certificates of insurance for builder's risk, property-casualty, and life insurance, as applicable; and documentation for job creation and retention including LMI certifications forms. This file will be placed in a locked, fireproof vault. The City Attorney will be involved in helping create and complete this file to ensure complete loan documentation. Copies of the loan closing documents and an amortization schedule will be provided to the loan recipient, along with an invoice for loan application and origination fees.
- 3) Financial Management File. RLF financial management records will be maintained that include the following registers:
 - a) RLF Register: A record of all deposits and disbursements to and from the RLF, including funds used for RLF administration.
 - b) CDBG Loan Repayment Register: A record of all repayments made by each business that has received a loan from the CDBG program, as well as the balance of repayments from all CDBG loans.
 - c) RLF Loan Repayment Register: A record of all repayments made by each business that has received a loan from the RLF, as well as the balance of repayments from all RLF loans.
 - d) Collection Register: A register for each loan that contains the business name, loan date, loan amount, terms, and date repayment begins.

- 4) "Tickler File" System. A tickler file system will be established and maintained to ensure that loan repayments, financial information, the loan agreement, UCC updates, and other documentation requirements are tracked and obtained as required. The system will include the following monthly-coded index files:
 - a) Expiration dates for property-casualty and life insurance policies;
 - b) Due dates for all financial statements;
 - c) Expiration dates for UCC Financing Statements, the reminder to update being at least 45 days prior to the expiration of the UCC filing on hand;
 - d) Scheduled dates of annual loan performance and covenant reviews;
 - e) Dates for site visits;
 - f) Due dates for property tax payments and dates by which the community expects to hear from the borrower regarding confirmation of payment of taxes;
 - g) Review dates for job monitoring; and
 - h) Dates on which loan recipients will be notified of scheduled changes in the loan amortization scheduled per loan agreements.
- 5) Financial Statement File. The financial statement file will include the business' periodic financial statements as required by the loan covenants with a statement indicating that City staff reviewed the data.
- 6) Progress Report File. During the outstanding term of the RLF loan, loan recipients will be required to submit periodic progress reports, including quarterly financial statements that will be stored in this file (see Attachment B).
- 7) Field Visit File. City staff will make periodic field visits to verify information in the progress report and financial statements. A summary of each site visit will be placed in the permanent file, including any information that can assist in rating the overall condition/risk of the loan (see Attachment B).
- 8) Repayment Monitoring File. The repayment monitoring file will include the loan amortization schedule and status of payments on the RLF loan. Observations regarding concerns or problems will be reported to the EDB and notations placed in the tickler file to remind City staff of the need to provide continued monitoring.
- 9) Loan Review File. All loans will be reviewed on an annual basis, and at such other times as may be deemed necessary by the City. The review will follow receipt of the fiscal year-end financial statements, the year-end progress reports, and site visits. A report on the loan review shall be placed in the file and address the following: timeliness of monthly payments; condition of collateral securing the loan and status of security documents; overall financial condition of the business; the presence of material liens or lawsuits; and violations of loan covenants and suggested corrective actions (see Attachment B).

If the business is experiencing problems, City staff will work with the loan recipient to identify actions that are needed to correct the identified deficiencies, including possible restructuring of the loan to improve cash flow within the business. Restructuring can include deferring principal and interest payments, adjusting the rate of interest, or providing additional working capital. If appropriate, City staff will arrange for business assistance, including services available through the University of Wisconsin-Extension, Small Business Development Center (SBDC), the Service Corp of Retired Executives (SCORE), and other entities having an interest in serving the needs of businesses.

Attachment A

WISCONSIN COMMUNITY DEVELOPMENT BLOCK GRANT
2006 LOW- AND MODERATE-INCOME LIMITS

OZAUKEE COUNTY, WISCONSIN

Household Size	Household Income
1 Person	\$37,650
2 Persons	43,000
3 Persons	48,400
4 Persons	53,750
5 Persons	58,050
6 Persons	62,350
7 Persons	66,650
8 Persons or More	70,950

Source: U. S. Department of Housing and Urban
Development and SEWRPC (effective 5/04/06).

Attachment B
 City of Mequon
 Revolving Loan Fund Application

1. Business Name: _____
 Address: _____

 Contact: _____
 Telephone No.: _____

2. Brief Project Description: _____

3. Sources and Uses of Funds:

	Mequon RLF Financing	Bank Financing	Equity Financing	Total
a) Land Purchase				
b) Building Purchase				
c) Building Construction				
d) Building Renovation				
e) Capital Equipment				
f) Working Capital				
TOTAL PROJECT COSTS				

4. RLF Assistance Requested:

a) Loan Amount	
b) Interest Rate (percent)	
c) Loan Term (years)	
d) Deferral of P & I (months)	

5. Source of Private Debt Financing:

Name: _____

Address: _____

Contact: _____

Telephone No.: _____

6. Job Creation and Retention:

	New Jobs		Retained Jobs	
	Number	Pay Range	Number	Pay Range
Full-Time Jobs				
Part-Time Jobs				
TOTAL JOBS				

7. Date Project Will Begin: _____

I hereby certify that the information provided above and in the attached supporting documentation is to the best of my knowledge true and correct.

Applicant Signature

Date