



**DANE COUNTY**  
**ECONOMIC DEVELOPMENT REVOLVING LOAN FUND**  
**POLICIES AND PROCEDURES MANUAL**  
**REVISED, JULY 2004**

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## **FOREWORD**

The Wisconsin Community Development Block Grant (CDBG) Program, administered by the Wisconsin Department of Commerce, provides local government with funds to use for economic development, more specifically, for business start-ups and expansion. These funds, received from the U.S. Department of Housing and Urban Development, are used to provide grants to local units of government that use the funds to loan to a business. The business, in return for use of the public funds, provides private investment towards the assisted activity and most importantly creates job opportunities, principally for the benefit of low and moderate persons.

In August 1991, Dane County was awarded a grant from the Wisconsin Development Fund (WDF) to provide a loan to Leisure Concepts, Incorporated, for \$113,000, Contract No. 91-18E, to expand their operation in the Town of Madison. Principal and interest repaid by Leisure Concepts, Inc. was used to establish and capitalize the Dane County Economic Development Revolving Loan Fund Program. This fund provides a second source of financing for eligible businesses wishing to expand or locate in Dane County.

This manual contains the RLF policies and procedures that have been adopted by the County to govern the use of revolving loan funds. A revised manual was approved by the Dane County CDBG Commission at their July 7, 2004 meeting. For further information, please contact Mr. Steve Steinhoff, Dane County Planning & Development, at 608/266-4270.

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## **SECTION 1. GENERAL PROVISIONS**

### 1. PURPOSE

The purpose of the policies and procedures contained within this manual, hereafter referred to as the Economic Development Revolving Loan Fund Manual (RLF Manual), is to present the criteria which govern economic development activities to be assisted with funds made available through the County's Economic Development Revolving Loan Fund (hereafter referred to as the RLF Program).

### 1.2 OBJECTIVES

Economic development activities assisted with funds made available through this Program are intended to encourage the creation and retention of permanent jobs. A minimum of 51 percent of the jobs created shall be made available to low and moderate-income persons. Assistance shall be provided in a manner to maximize accomplishment of the following priorities:

1. Businesses in distressed communities, such as under-utilized commercial districts.
2. Disadvantaged businesses (e.g. MBE, WBE DBE).
3. Businesses with high value-added products or services, especially in the agricultural sector.
4. Expansion or modernization of existing or locally owned & managed enterprise.
5. Businesses that are environmentally sound in location and operations, and located consistent with approved land use.
6. Businesses that build upon local strengths (e.g. educational institutions).
7. To encourage dairy producers to undertake capital improvement projects that will result in a significant increase in milk production.
8. Nurture individual creativity, entrepreneurial activity and personal development opportunities.
9. Wages for new employees hired due to the use of these funds are at least equal to the hourly wage rate established by the Dane County Living Wage Ordinance (Dane County Ordinance Chapter 25.015), not including benefits.
10. The applicant provides an affordable health insurance plan.
11. The applicant will make a commitment to contract out 10% of the allocated funds spent on professional and/or construction-related services to DBE's.

### 1.3 AMENDMENTS

Dane County may from time to time amend the provisions imposed by the policies and procedures contained within the RLF Manual. Such amendments are subject to prior written approval by the Wisconsin Department of Commerce, administrator of the Community Development Block Grant (CDBG) Program that provides the funds used to capitalize the RLF.

## **SECTION 2. ADMINISTRATION**

### 2.1 LOAN REVIEW BOARD

1. Dane County shall establish a formal Loan Review Committee, which shall consist of individuals representative of broad Dane County interests, and having special expertise and knowledge of commercial lending and economic development processes. Expertise on the Committee optimally shall include representation from the Dane County Board of Supervisors, the CDBG Commission, a local development corporation, the local chamber of commerce, the local banking community, a business law attorney, and the RLF administrator appointed by Dane County.
2. The Loan Review Committee shall have the authority to review select and recommend loan applications to the governing body for final approval. The Committee shall also have the authority to make policy recommendations for the administration of the program. Periodic activity reports prepared by the RLF Administrator shall be provided to members of the Dane County Board of Supervisors.
3. The Dane County Community Development Office shall designate a CRLF Administrator who shall be responsible for day-to-day administration of the CRLF program. The CRLF Administrator shall explain the CLRF Program to prospective applicants, provide written information, assist applicants in completing applications, and process requests for financing. The CRLF Administrator, where necessary and appropriate, shall counsel or guide loan applicants to other more appropriate technical and financial resources when the loan applicant has needs beyond those available from the RLF program.
4. The RLF Administrator shall explain the RLF Program to prospective applicants, provide written information, assist applicants in completing applications, and process requests for financing. The Administrator, where necessary and appropriate, shall counsel or guide loan applicants to other more appropriate technical and financial resources when the loan applicant has needs beyond those available from the RLF program.
5. The Administrator shall periodically review all financial statements and loan amortization schedules of RLF loan recipients, review and approve documentation of business expenditures financed with RLF proceeds, record RLF security instruments, maintain the RLF accounting records, which shall be segregated from all other Dane County accounts, and report annually to DOC regarding use of the RLF funds.
6. The Dane County Corporation Counsel shall prepare or approve all loan agreements, review all promissory notes and mortgage or lien instruments, and counsel Dane County on default matters.
7. The RLF Administrator shall be responsible for the maintenance of all other records for the local RLF; particularly those related to the expenditures of the RLF monies for program administration purposes.

## 2.2 MEETINGS

Loan review meetings shall be held on an as-needed basis. Pursuant to Section 19.84, Wisconsin Statutes, all Committee members shall be given prior notice of each meeting. A majority of the Committee in attendance at a meeting constituting a quorum shall be required for official Committee action. Official actions must have the support of the majority of the total Committee. Vacant positions on the Committee shall be counted in determining the total number of Committee members.

## 2.3 RECORDS

Written records of all program activities, including program meetings, loan applications, and related documents, shall be maintained in appropriate files, as detailed in Section 10. Loan Servicing and Record Keeping. All files should be maintained in a secure place with limited access by authorized personnel. The Dane County's corporation counsel shall be consulted in regard to compliance with state and municipal open records laws.

1. Loan Application File: All application, business financial statements, personal financial statements, credit reports, business plan documents, and other supporting loan information submitted to the Dane County, including all applicable correspondence, shall be placed in a permanent file.
2. Loan Recommendation File: This file should contain a summary of the analysis, recommended actions for the application, and a copy of the minutes for the Loan Review Committee meeting summarizing the action taken on the loan request.
3. Loan Closing File: This file contains copies of all loan-closing documents. This file contains all the legal documents from the loan closing, including security instruments, the note and other applicable correspondence. The Dane County Corporation Counsel should be involved in helping create and complete this file to insure complete loan documentation. Copies of the loan closing documents and an amortization schedule will be provided to the loan recipient, along with an invoice, if applicable, for loan closing and servicing fees.

### Loan Monitoring Files:

4. "Tickler File" System: A tickler file system should be established and maintained to ensure that loan repayments, financial information, the loan agreement, UCC updates, and other time sensitive documentation requirements are tracked and obtained as required. The system should 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 Dane County 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:** This file should contain the business' periodic financial statements as required by the loan covenants with a statement indicating that the RLF administrator reviewed the data.
  6. **Progress Report File:** Loan recipients should be required to submit periodic progress reports during the outstanding term of the loan. The Dane County Loan Administrator should make periodic site visits to verify information in the progress report and financial statements. These site visits should be documented for the file.
  7. **Site Visit File.** Site visits should be conducted periodically to each loan recipient, the scheduling of which depends on the nature of the project. A summary of the site visits should be placed in the file, particularly highlighting any information that can help in rating the overall condition/risk of the loan.
  8. **Repayment Monitoring File:** This file should include the loan amortization schedule, status of payments, and the outstanding balance of the loan. Observations suggesting concerns or problems should be reported to the appropriate Dane County staff or officials, and notations shall be placed in the tickler file to remind the Administrator of the need to provide continued monitoring. Dane County will notify the loan recipient in writing of the deficiency and the action that will be taken should the payment not be made. Should there be a late payment, Dane County will contact the loan recipient to determine the reason for the delayed payment. Contact may need to be made with other participating lender(s) to determine if their loans are current and to alert the lender of a potential problem. All payments shall be applied first to accrued late payment penalties, then to interest accrued and then to principal.
  9. **Loan Review File:** All loans are to be reviewed on an annual basis, and at such other times as may be deemed necessary by the Dane County Loan Administrator. The review should 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 in the file and address the following: timeliness of monthly payments; condition of collateral securing the loan; status of security documents (i.e. mortgages, UCC filings); overall financial condition of the business; the presence of material liens or lawsuits; and violations of loan covenants and suggested corrective actions.

If the business is experiencing problems with any of the above criteria, the RLF Administrator is to work with the loan recipient to identify actions that are needed to correct the identified deficiencies, including possible restructuring of the loan to protect Dane County's interest and meet the needs of the business. If appropriate, the Administrator 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.

In the event the findings of the loan review suggest serious problems, particularly if the loan is at risk for default, the account should be turned over to the Dane County corporation counsel for legal action in order to initiate steps necessary to protect the loan and to insure the maximum repayment of the balance due. Again, corrective actions may be achieved through restructuring or if necessary, foreclosure actions.

#### 2.4 ADMINISTRATIVE COSTS

Reasonable administrative funds may be withdrawn from the RLF to cover personnel costs and other administrative expenses. Administrative expenses of fifteen (15) percent of program income may be used for direct loan administrative costs. In addition to paying costs for a RLF administrator, these funds may be used for the following:

- 1 Legal costs.
- 2 Consulting fees for credit analysis, business plan reviews and technical assistance.
- 3 Office supplies, copying, typing, mailing, and related.
- 4 Training costs. To generate additional revenue to cover administrative costs, Dane County may also establish loan origination fees, closing fees, servicing fees, and other fees to cover charges directly related to either processing an application or servicing a loan. All fees collected go to the RLF. The accounting of the fee revenue placed in the RLF should include separate line items to track administrative expenses recovered.

### **SECTION 3. ELIGIBILITY**

#### 3.1 ELIGIBLE AREA

Eligible activities shall take place within Dane County, excluding the CDBG Entitlement City of Madison.

#### 3.2 ELIGIBLE APPLICANTS

1. Applications may be submitted by the Chief Executive Officer of any business or industry wishing to establish a new operation or expand an existing operation in the Eligible Area.
2. No member of the Dane County Board or any other official, employee, or agent of the County who exercises decision-making functions or responsibilities in connection with the implementation of this program is eligible for financial assistance under this program.
3. No program loans will be made which are in conflict with Section 946.13 of the Wisconsin Statutes (Private Interest in Public Contract Prohibited).
4. Applicant shall not be discriminated against 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.

#### 3.3 ELIGIBLE ACTIVITIES

Program loans shall be available to eligible applicants for the following activities:

1. The acquisition of land, buildings, and fixed equipment.
2. The site preparation and construction, reconstruction or installation of buildings and fixed equipment.
3. The clearance, demolition, removal or rehabilitation of buildings and improvements.
4. The payment of assessments for sewer, water, street, and other public utilities if the provision of the facilities will directly create or retain jobs.
5. Working capital (inventory and direct labor costs only).
6. Capital investments for dairy producers that will result in significant long-term increases in capacity to produce milk.

#### 3.4 INELIGIBLE ACTIVITIES

Program loans shall not be available for the following activities:

1. Refinancing or reimbursement for expenditures made prior to loan approval.
2. Specialized equipment that is not essential to the business operation.

3. Residential building construction or reconstruction (unless such reconstruction is intended to convert the building to a business or industrial operation).
4. Professional services such as feasibility and marketing studies, accounting, management services, and other similar services. Legal services or other costs incurred in the closing of a CRLF loan are eligible.
5. Routine maintenance.
6. Other activities that the Loan Review Committee may identify during the administration of the program.

### 3.5 INELIGIBLE BUSINESSES

Program loans shall 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.
- (6) Other businesses not serving the interests of Dane County.

### 3.6 MINIMUM REQUIREMENTS

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

1. Private Funds Leveraged. The applicant must leverage a minimum of one (\$1.00) dollar of private funds for every one (\$1.00) dollar of loan funds requested. Higher leverage may be required at the discretion of the Loan Review Committee.  
  
Dairy project applicant must leverage near equity financing. (Near equity financing as the term is used here is defined as 'in theory full financing' of the cows, where by a lending institution or other third party lends a high percentage of the purchase price {70% to 80% }, with the RLF lending the remaining {20% to 30% } amount to purchase the cows, i.e. no equity required by borrower: See 4.1 (1) for maximum RLF Maximum \$).
2. Cost Per Job Created. At least one (1) full-time permanent position or full-time equivalent must be created for every \$20,000 of program funds requested. The Committee may require lower job cost where warranted, (i.e. taking into consideration type of jobs, hourly wage, etc.). Dairy project applicant must provide for increased dairy production in their operation.
3. Financial Feasibility and Business Viability. The applicant must demonstrate that the proposed project is viable and the business will have the economic ability to repay the funds.

Dairy project must demonstrate the management skills necessary to make the project successful.

4. Low and Moderate Income (LMI) Benefits. The project will provide increased permanent employment or will retain existing jobs, which would have been lost locally. Of the jobs created or retained by the project, at least 51% must be made available to low to moderate income persons (as defined by household incomes published by the U.S. Housing and Urban Development and available through the Wisconsin Department of Commerce).

Dairy project applicants, those increasing dairy production capacity are exempt from item (4) provided the funds are solely for dairy production increases. Dairy project applicants that are using funds under the RLF for other than dairy production enhancements will not be exempted from this section.

5. Compliance With Applicable Laws. Applicants shall comply with all applicable local, state, and federal laws and/or codes.
6. Project Completion. Projects shall be completed within 24 months from the date of the loan approval. Applicant shall provide to Dane County a schedule not exceeding 24 months for project completion and job creation, and maintain the positions created for 24 months.
7. Local Support. A letter of local support from the municipality signed by the chief elected official where project will take place must be included in the application packet.

#### **SECTION 4. TERMS AND CONDITIONS**

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

1. Loan Amount. Loan amounts are subject to the availability of program funds. There is no set minimum or maximum loan amount. Dairy projects are limited to no more than \$500 per each cow added to the operation and are limited to the cost of acquiring the cows.
2. Interest Rate. The interest rate will be two points above the prime rate, as published in the Wall Street Journal at the time the loan is approved. Exceptions to this rate may be considered and recommended by the Loan Committee, based on factors such as ability to repay, job creation, etc. Dairy projects shall have a fixed interest rate of 2%
3. Terms for Loans.
  - a. Working capital shall have a maximum term of seven years. Dairy project loans shall have a term of 7 years.
  - b. Machinery, equipment and fixtures shall have a maximum term of ten years.
  - c. Real estate shall have a maximum term of 25 years.
4. Period of Payment. The repayment schedule shall be set up for monthly payments. Terms may include longer amortization schedules with balloon payments. Payments may be made by electronic transfer of funds. Dairy project repayments will be deferred the first year, interest only payments the second year, followed by equal monthly payments years three (3) through seven (7) of principal and interest.
5. Repayment. Payment of interest and/or principal may be deferred for up to 12 months if justified in the loan application. Interest shall accrue during the deferment period and shall be added to the principal amount of the loan. Thereafter, interest and principal shall be collected for the remaining term of the loan to maturity.
6. Prepayment. No loan shall be subject to any penalty for prepayment prior to the term of the project.
7. Collateral. Dane County will seek to have the best possible collateral position possible to ensure that RLF loans are adequately secured.

## **SECTION 5. APPLICATION PROCEDURES**

### 4.1 DISCUSSION OF REQUIREMENTS

Prior to submitting an application, the applicant shall discuss the program with the Administrator. The Administrator shall assist the applicant, as is reasonably necessary, in completing the application. All financial information should be kept in a secured place with limited access by authorized personnel only.

### 4.2 TIMING

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

### 5.3 PRIORITY

Applications shall be reviewed in the order received. In the event that fund requests exceed available funds, the following criteria will be used to determine which business or businesses will be awarded the loan(s):

1. Eligibility of the applicants.
2. Eligibility of the project to be undertaken.
3. The extent to which private funds are to be leveraged.
4. The extent to which jobs are created.
5. The extent to which the loan can be secured.
6. Evidence of ability to repay the loan.
7. Size of the loan requested.
8. Timing of the proposed expenditures.
9. Completeness of application.
10. The priority objectives stated at Section 1.2.
11. Other factors as deemed appropriate.

### 5.4 LOAN APPLICATION

Applicants shall submit application using the form available from the RLF Program and that includes the following:

1. Business Description. A written description of the business, including 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, markets, and products.
  - b. Key customers and clients.
  - c. A brief personal resume of each principal associated with the business, including: number of years of experience; educational background; and personal involvement in the proposed or existing business.
  - d. Three years of financial history (if applicable) reviewed or audited in accordance with generally accepted accounting principles by an independent accountant and including balance sheets, profit/loss statements and accountant notes.
3. Project Description. A description of how the business plans to use the requested funds.
4. Commitments from Private Lenders. This consists of commitments from all private lenders making loans to the project. Lender commitment letters should include:
  - a. Description of the type of loan being made by the lender (first mortgage, permanent financing, construction financing, etc.).
  - b. The amount of the loan, interest rate, term, and security.

These commitments shall be obtained concurrently with the negotiation of the terms and conditions of the RLF Program loan to insure that Dane County's interest are secured.
4. Projections. Balance sheet, income statement and cash flow statements. These should cover a three-year period and should be based on the assumption that the business will receive the requested loan.
5. Job Creation or Retention. A listing of the total number of new jobs to be created (excluding jobs that are relocating from another location in Dane County), or existing jobs to be retained, by job title or category. For each job title or category, a listing of:
  - a. Number of permanent full-time equivalent positions.
  - b. Pay levels or ranges, and
  - c. Benefits available

Also to be included:

  - a. A projection of when new jobs to be created will be filled; and
  - b. If jobs are to be retained, a letter stating that without RLF assistance, the business would close.
6. Additional Information. Additional information may be required by Dane County.

## 5.5 REVIEW PROCESS

Specific steps in the review process include the following:

1. Preliminary Review. The Administrator 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, the Administrator will inform the applicant of the deficiencies.
2. Formal Review. The Loan Committee will meet to formally review the application within 30 days of receipt of a completed application or at some other predetermined schedule. The Committee will recommend loan approval, denial, or postponement of approval until certain specified requirements are met. The Loan Review Committee will forward approved loan requests to the Dane County Board of Supervisors (County Board) for approval.
3. Negotiation of Terms. Upon introduction of a resolution to approve the loan application by the County Board, the Administrator will contact the business in writing to review and explain the terms of the loan.
4. Notice of Award. If the County Board approves the application, arrangements will be made to execute the necessary loan documents.
5. Rejection of Award. If the application is not recommended for approval by the Loan Review Committee, or not approved by the County Board, the Administrator will send a letter to the applicant stating the reasons for rejections 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 Loan Committee must have reviewed and approved a complete application for an eligible applicant.
2. **Evidence of Permits, etc.** Documentation must be provided by the applicant that all necessary permits, licenses, and any other registrations required have been obtained by the applicant prior to the release of program funds.
3. **Evidence of Program Expenditures.** Documentation must be provided by the business to evidence program expenditures within 30 days of the release of funds. Documentation shall include invoices, receipts for materials, approved requests for payment, final bills of sale or canceled checks. All documentation shall be reviewed and approved by the Administrator.
4. **Fixed Equipment.** Fixed equipment financed with program funds must have been purchased, delivered, and installed within 30 days of the release of funds. The Administrator shall verify the installation of fixed equipment.
5. **Loan Agreement.** The Dane County Corporation Counsel shall prepare or approve a loan agreement, which shall be executed by the Dane County Executive, County Clerk and the Chief Executive Officer of the applicant.
6. **Promissory Note.** A promissory note shall be prepared or approved by the Dane County Corporation Counsel and signed by the Chief Elected Officer of the applicant at the time of loan closing. The note must be dated; it must reference the agreement between the Dane County and the applicant; and it must specify the amount and terms of the loan funds delivered.
7. **Repayment Schedule.** The Administrator shall prepare a loan repayment or amortization schedule after the loan proceeds are fully disbursed. The repayment schedule shall be dated and signed by both the CEO and the Chief Executive Officer of the business. At that time, the repayment schedule shall be attached to both parties' copies of the agreement.
8. **Security.** Mortgage or lien instruments provided as security for all loans must be prepared by the Dane County Corporation Counsel and executed at the time of the loan closing. The Dane County Corporation Counsel, or Administrator, shall record the instrument and place a copy in the project file to include:
  - a. Mortgage and/or security agreement.
  - b. UCC searches and filing.
  - c. Guarantee agreement.

- d. Title insurance or Abstract.
  - e. Assignment of Life Insurance.
  - f. Casualty Insurance binder.
  - g. Personal guarantee.
9. Other documentation. As appropriate or necessary, the borrower may be asked to provide the following:
- a. A certificate of status from the Secretary of State or Department of Financial Institutions.
  - b. The Articles of Incorporation and by-laws.
  - c. A Board resolution to borrow funds and Secretary's certificate.
  - d. Current financial statements.
  - e. Evidence of having secured other funds necessary for the project.
  - f. An Environmental Assessment for real estate loans, which may either a Phase I, II, or III analysis, depending on the environmental condition of the site.

With the above documentation in place, the Administrator will schedule a loan closing. All documents will be executed before funds are disbursed, and mortgages and UCC Statements shall be recorded with the Register of Deeds and the Secretary of State. The Appendix contains a model Loan Closing Documentation Checklist.

## **SECTION 7. POST APPROVAL REQUIREMENTS**

### 7.1 OBLIGATION OF LOAN RECIPIENT

In addition to the above-mentioned terms and conditions, all applicants shall agree to comply with the following:

1. The applicant is expected to create or retain the obligated number of jobs within 24 months of the date of the execution of the contract with Dane County.
2. The applicant shall not 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 industrial or business loan funds.
3. The applicant shall use the loan money only to pay the cost of services and materials necessary to complete the economic development activities for which the loan funds were awarded.
4. The applicant shall permit inspections by persons authorized by the County of all projects and properties assisted with loan funds. Related project materials shall also be open to inspections, which include, but may not be limited to, contracts, materials, equipment, payrolls and conditions of employment. The applicant shall comply with requests for inspection.
5. The applicant shall keep such and maintain records on the project as may be requested by Dane County for at least three (3) years after completion of the work for which the loan has been obtained.
6. The applicant shall submit progress reports quarterly to the Administrator in accordance with the schedule in the loan agreement. These reports shall report on project progress including, for CDBG funded loans, number of jobs created or retained during the loan agreement.
7. The applicant shall maintain fire and extended coverage insurance on the project property required during the term of the loan. Dane County shall be listed as Loss Payee, Mortgagee, or "additional" insured on the policy. Term life insurance may be required of the applicant to cover the loan balance through the life of the loan.
8. To abide by all federal laws, when applicable. For CDBG funded loans 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**

The Administrator shall 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 HIRING OF NEW EMPLOYEES**

The Administrator shall monitor the borrower's progress in meeting agreed upon job creation or retention goals. Job creation must be documented using payroll records. The borrower to document job creation should provide before-project and after-project payroll records. Failure of the business to provide the targeted number of LMI level jobs may be a condition for default, unless the business can show it made a good faith effort to create the targeted number of LMI jobs but did not succeed due to reasons beyond its control.

### **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, shall, at Dane County's option, become immediately due and payable. To exercise this option, the Dane County's Corporation Counsel shall prepare a written notice to the business. The notice shall specify the following:

1. The default.
2. The action required to cure the default.
3. A date, not less than thirty (30) days from the date of the notice, by which the default must be cured to avoid foreclosure or other collective action.
4. Any penalties incurred as a result of the default, jobs, etc.

## **SECTION 9. USE OF LOAN REPAYMENTS AND REPORTING**

### 9.1 RLF PROGRAM

Repaid loans shall be re-deposited into a Revolving Loan Fund account and used in a manner consistent with the policies and procedures manual. A separate accounting record for each loan shall be kept to account for all funds loaned. The RLF account shall be audited on an annual basis and the Administrator shall provide semi-annual reports to Commerce, June 30 and December 31, regarding the use of program income. Reports shall be submitted on forms prescribed by the Commerce.

### 9.2 LATE FEES

A late payment penalty in the amount of \$200 for any portion of the monthly payment which is more than 15 days due from the due date may be assessed and payable on the 16<sup>th</sup> day after the applicable monthly due date. The same process used to collect the monthly payment will be used to collect any late fees.

## **SECTION 10 LOAN SERVICING AND RECORD KEEPING**

### **10.1 MONITORING**

The RLF Administrator shall monitor each loan to ensure compliance with the loan terms and conditions and to monitor the financial health of the business to insure continued repayment of the loan. The monitoring will also ensure that all recordkeeping requirements are met particularly in regard to job creation and expenditures of matching funds.

A loan servicing file shall be established and maintained for each loan recipient that includes all written correspondence; a record of important telephone conversations; a list of applicable loan covenants; certificates of insurance for builder's risk, property casualty, and life insurance, as applicable; and documentation for job creation and retention including low and moderate income certifications forms.

### **10.2 RECORDKEEPING**

In addition to the above, the RLF financial management records must be comprehensive and designed to provide the following information:

A Revolving Loan Fund Register that records all deposits and disbursements to and from the RLF, including funds used for RLF administration.

A CDBG Loan Repayment Register that records repayments made by each business that has received a loan from the RLF. It also tracks the balance of repayments from all loans from the RLF.

A Collection Register for every loan made. Each register contains the business name, loan date, loan amount, terms, and date repayment begins. Payments are divided into principal and interest payments with a declining principal balance.

RLF Loan Repayment Registers that record repayments made by each business, which has received a loan from the RLF. It also tracks the balance of repayments from all loans from the RLF.