

Oneida County Wisconsin

Revolving Loan Fund Manual

December 2012

TABLE OF CONTENTS

| | |
|---|-----|
| FOREWORD | iii |
| SECTION 1. GENERAL PROVISIONS..... | 1 |
| 1.1 PURPOSE..... | 1 |
| 1.2 OBJECTIVES..... | 1 |
| 1.3 AMENDMENTS and MODIFICATIONS | 1 |
| SECTION 2. ADMINISTRATION | 2 |
| 2.1 LOAN REVIEW COMMITTEE | 2 |
| 2.2 MEETINGS | 3 |
| 2.3 RECORDS | 6 |
| 2.4 ADMINISTRATION COSTS..... | 6 |
| SECTION 3. ELIGIBILITY CONSIDERATIONS | 6 |
| 3.1 ELIGIBLE AREA | 6 |
| 3.2 ELIGIBLE APPLICANTS..... | 7 |
| 3.3 ELIGIBLE ACTIVITIES | 7 |
| 3.4 INELIGIBLE ACTIVITIES | 7 |
| 3.5 INELIGIBLE BUSINESS..... | 8 |
| 3.6 MINIMUM REQUIREMENTS..... | 8 |
| SECTION 4. TERMS AND CONDITIONS | 10 |
| 4.1 CONDITIONS & DEFINITIONS..... | 10 |
| SECTION 5. APPLICATION PROCEDURES..... | 11 |
| 5.1 DISCUSSION OF REQUIREMENTS | 11 |
| 5.2 TIMING | 11 |
| 5.3 PRIORITY | 11 |
| 5.4 LOAN APPLICATION..... | 12 |
| 5.5 REVIEW PROCESS..... | 14 |
| SECTION 6. DISTRIBUTION OF FUNDS | 15 |
| 6.1 LOAN PROCEDURES | 15 |
| SECTION 7. POST APPROVAL REQUIREMENTS | 17 |
| 7.1 OBLIGATION OF LOAN RECIPIENT..... | 17 |
| SECTION 8. PERFORMANCE MONITORING..... | 18 |
| 8.1 PRIVATE LEVERAGE COMMITMENTS..... | 18 |
| 8.2 HIRING OF NEW EMPLOYEES | 18 |
| 8.3 DEFAULTS | 18 |

| | | |
|---|----------------------|----|
| 8.4 | PENALTIES | 18 |
| SECTION 9. USE OF LOAN REPAYMENTS and REPORTING | | 19 |
| 9.1 | RLF PROGRAM | 19 |
| SECTION 10. LOAN SERVICING..... | | 19 |
| 10.1 | ADMINISTRATION | 19 |
| 10.2 | MONITORING | 19 |
| 10.3 | RECORDKEEPING | 19 |

FOREWORD

The Wisconsin Community Development Block Grant (CDBG) Program, administered by the Wisconsin Economic Development Corporation, 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, such as Oneida County. Oneida County then uses the funds to loan to businesses within the county. The business, in return for use of the public funds, provides private investment towards an assisted activity and creates job opportunities throughout Oneida County.

When a business repays the loan (principal and interest payments), the funds are used to capitalize the local Oneida County Revolving Loan Fund (RLF). With the RLF, Oneida County can make additional loans to qualified businesses wishing to expand or locate in Oneida County. When successfully administered, Oneida County can expand the funds in its RLF to an amount in excess of the original grant. In administering a RLF, Oneida County becomes a "bank" and accepts the responsibilities of a commercial lender when it makes a loan to a business.

The Oneida County Revolving Loan Fund has been established to provide a means for existing businesses and new businesses locating in Oneida County to obtain financing, which in turn will provide quality jobs, increase incomes, and expand the local tax base. The Wisconsin Economic Development Corporation awarded CDBG grants to Oneida County to fund two local businesses, Aqualand Manufacturing in Woodruff and Fishing Hot Spots in Rhinelander. Repayment of the original loans was used to establish the Oneida County Revolving Loan Fund.

SECTION 1. GENERAL PROVISIONS

1.1 PURPOSE

The purpose of the policies and procedures contained within this manual, hereafter referred to as the Oneida County Revolving Loan Fund Manual, is to present the criteria which governs the economic development activities assisted with funds made available through the Oneida County Revolving Loan Fund (RLF) program.

1.2 OBJECTIVES

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

- (1) To maintain and promote a diverse mix of employment opportunities and to minimize seasonal or cyclical employment fluctuations; *See section 3.(4) for requirements and definitions.*
- (2) To encourage the leveraging of new private investment in Oneida County;
- (3) To perpetuate a positive and proactive business climate, which encourages the retention and expansion of existing businesses and industry and helps to attract desirable new businesses to Oneida County.
- (4) To implement Oneida County's economic development goals and objectives;
- (5) 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 shall be made available to low and moderate income persons; and
- (6) To encourage the development and use of modern technology, as well as safe and healthy work environments.

1.3 AMENDMENTS and MODIFICATIONS

Oneida County may from time to time amend the provisions imposed by the policies and procedures contained within the RLF manual. Amendments are subject to prior written approval by the Wisconsin Economic Development Corporation (WEDC), administrator of the Wisconsin Community Development Block Grant Program (CDBG) and the Oneida County Board. Amendments should also be reviewed and recommendations should be made to the County Board by the RLF Committee and Finance Committee.

SECTION 2. ADMINISTRATION

2.1 LOAN REVIEW COMMITTEE

- (1) The Oneida County Board shall establish a formal Revolving Loan Fund Committee which shall consist of individual's representative of broad Community interests, and having special expertise and knowledge of commercial lending and economic development processes. The RLF Committee shall consist of two members from the OCEDC Board, recommended for appointment by the OCEDC Board of Directors, two members from Oneida County financial institutions, recommended for appointment by the OCEDC Board of Directors, and one member from the Oneida County Finance Committee, appointed by the Oneida County Board. An alternate member shall be recommended for appointment by the OCEDC Board of Directors to serve on the RLF Committee, as an alternate, in cases where there may be a conflict of interest on any specific loan application. All members are approved by the full County Board, upon recommendations from the OCEDC Board. Members of the RLF Committee serve two year staggered terms.
- (2) The Revolving Loan Fund Committee shall have the authority to review, select and recommend loan applications to the County Finance Committee for final approval. The RLF Committee shall also make policy recommendations for the administration of the program to the County Board. Periodic activity reports prepared by the RLF Administrator shall be provided to members of the RLF Committee and Finance Committee.
- (3) 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 RLF Administrator, where necessary and appropriate, shall assist 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 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 other county accounts, and report annually to the Economic Development Corporation regarding the use of the RLF funds.
- (5) Corporation Counsel or a designated representative shall prepare all loan agreements, review all promissory notes and mortgage or lien instruments, and counsel the RLF Administrator and Oneida County on default matters.
- (6) The RLF Administrator shall be responsible for the maintenance of all other records for Oneida County's RLF program, particularly records 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. All files should be maintained as confidential records in a secure place with limited access by authorized personnel. Corporation Counsel shall be consulted in regard to compliance with open records laws.

The following files shall be established and maintained by the RLF Administrator for each loan recipient:

- (1) Loan Application File: All applications, business financial statements, personal financial statements, credit reports, business plan documents, and other supporting loan information submitted to the RLF Administrator, 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 RLF 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 and shall be placed in a locked, fireproof safe. Corporation Counsel or a designated representative 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.
- (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 RLF Administrator 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 RLF Administrator should make periodic site visits to verify information in the progress report and financial statements.
- (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 RLF Committee and notations shall be placed in the tickler file to remind the administrator of the need to provide continued monitoring. Payments will be made to the Oneida County Treasurer's Office.

A copy of file receipts for payment should be in the file and a system will be established to insure timely notification of payments to the RLF Administrator.

The RLF Administrator will notify the loan recipient in writing of any deficiency and the action that will be taken should the payment not be made. Should there be a late payment; the RLF Administrator 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 Oneida County or the RLF 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 and 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 Oneida County's interest and meet the needs of the business. If appropriate, the RLF Administrator may 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 of default, the account should be turned over to 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.

2.4 ADMINISTRATION COSTS

Reasonable administrative funds may be withdrawn from the RLF program to cover personnel costs and other administrative expenses. Local funds may be used in situations when loan repayments are insufficient to cover administrative costs. Administrative expenses of up to 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:

- (a) Legal costs;
- (b) Consulting fees for credit analysis, business plan reviews and technical assistance;
- (c) Office supplies, copying, typing, mailing, and related; and
- (d) Training costs.

To generate additional revenue to cover administrative costs, if necessary, the Community 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 program. The accounting of the fee revenue placed in the RLF should include separate line items to track administrative expenses recovered.

SECTION 3. ELIGIBILITY CONSIDERATIONS

3.1 ELIGIBLE AREA

Eligible activities served by the RLF program shall take place within the corporate limits of Oneida County.

3.2 ELIGIBLE APPLICANTS

- (1) Applications may be submitted by the Chief Executive Officer or a designee of any business wishing to establish a new operation or expand an existing operation in Oneida County.
- (2) No member of the governing body, loan review board, or any other official, employee, or agent of Oneida 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) Applicants shall 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 ELIGIBLE ACTIVITIES

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

- (1) The acquisition of land, buildings, and fixed equipment;
- (2) Site preparation and the construction or reconstruction of buildings or the installation of fixed equipment;
- (3) Clearance, demolition, or the removal of structures or the rehabilitation of buildings and other such 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).

3.4 INELIGIBLE ACTIVITIES

Program loans shall not be available for the following activities:

- (1) Refinancing or consolidating of existing debt;
- (2) Reimbursement for expenditures made 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 or industrial operation);
- (5) Routine maintenance;
- (6) Professional services such as feasibility and marketing studies, accounting, management services, and other similar services. Legal services incurred in the closing of a RLF loan are eligible.

- (7) Other activities that the RLF 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 and
- (6) Other businesses not serving the interests of Oneida County.

3.6 MINIMUM REQUIREMENTS

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

- (1) Private Funds Leveraged. The applicant must leverage a minimum of one dollar (\$1.00) of private equity for every one dollar (\$1.00) of loan funds requested. Higher leverage may be required at the discretion of the RLF Committee.
- (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 costs where warranted, (i.e. taking into consideration type of jobs, hourly wage, etc.)*
- (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.
- (4) Low and Moderate Income (LMI) Benefits. Each project must demonstrate that it meets the CDBG-ED national objective of benefiting low to moderate persons as described by CDBG regulations.

The project shall create jobs; at least 51% of the jobs will be held by or will be made available to LMI Persons.

LMI Persons” means persons with household income less than eighty (80) percent of the median household income by family size in the County where the Project is located.

“Made Available to LMI Persons” means the Borrower will document that at least 51% LMI Persons were hired or Received First Consideration by interviewing at least 51% LMI Persons for created positions that do not require special skills or education beyond high school.

“Received First Consideration” means the Borrower must document and use a hiring practice that results in at least 51% LMI Persons interviewed for created positions and demonstrate that under usual circumstances this hiring practice will result in at least 51% LMI persons being hired. Part of the Borrower’s hiring practice must include the posting of available positions with the local Job Service Office or Workforce Development Boards.

The following documentation evidencing compliance must be collected:
A listing of all job titles which were planned to be held by or made available to low to moderate income persons, a commitment to hire or make at least 51% of jobs available to low to moderate income persons, a written plan for how such persons were given first consideration for jobs including what hiring process was used, a list of the low to moderate income persons interviewed for particular positions, including the size and annual income of the person’s family prior to interviewing for the position.

- (5) Compliance With Applicable Laws. Applicants shall comply with all applicable local, state, and federal laws and codes.
- (6) Project Completion. Projects shall be completed within 24 months from the date of the loan approval by the Finance Committee. Applicants shall provide the RLF Administrator with a project implementation schedule not exceeding 24 months for project completion and job creation, and maintain the positions created for 24 months.
- (7) Federal Anti-Piracy. The borrower must certify that it does not have immediate plans to relocate jobs in violation of CDBG Anti-Piracy regulations. The following language will be included in all agreements with the borrower. “The Borrower certifies it is and will maintain compliance with CDBG Anti-Piracy regulations as stated in 24 CFR 570.482(h). Violation of this regulation will constitute an Event of Default.”

SECTION 4. TERMS AND CONDITIONS

4.1 CONDITIONS AND DEFINITIONS

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 RLF program funds. An applicant is eligible for loan amounts based upon each new full time job or full time equivalent that is created or retained in the following amounts: (for guidance only)

\$16.00+ = \$20,000 per job generated
\$14.00 to 15.99 = \$15,000 per job generated
\$12.00 to 13.99 = \$10,000 per job generated
\$10.00 to 11.99 = \$5,000 per job generated
Under \$10.00 per hour will not be considered

The maximum amount for a specific company shall not exceed \$250,000. (For guidance only)

- (2) Interest Rate. The interest rate shall be fixed at 4 percent. The RLF Committee shall set terms of the loan.
- (3) Terms for Loans. The RLF Committee has the authority to establish loan limits less than the recommended guidelines. The following are general guidelines for loan periods:
- (a) Working capital loans shall have a maximum term of seven years;
 - (b) Loans for machinery, equipment and fixtures shall have a maximum term of ten years;
 - (c) Real estate loans shall have a maximum term of 12 years which can be amortized on a 20-year basis with the option of refinancing for an additional 8 years; and
 - (d) In any case, the loan shall not have a term longer than the terms of the other private financing in the project.
- (4) Period of Payment. Terms may include longer amortization schedules with balloon payments. Amortization schedules shall be set up for equal monthly payments of

principle and interest.

- (5) Repayment. Payment of interest and/or principal may be deferred during the implementation period of the assisted activity if merited in the loan application. Interest shall accrue during the deferment period and may be paid in full or added to the principal amount of the loan. Following the deferral period, interest and principal shall be paid for the remaining term of the loan.
- (6) Prepayment. There shall be no prepayment penalties.
- (7) Collateral. Oneida County will seek to have the best possible collateral position to ensure that RLF loans are adequately secured. Reasonable security will be required for one hundred percent (100%) of the loan. Collateral may consist of: (1) a first or second lien on all assets to be purchased with loan proceeds, (2) a lien on all other assets owned by and used in the business, (3) personal assets and guarantees, and to the extent possible (4) Loan Guarantees by the Wisconsin Housing and Economic Development Authority (WHEDA) with the determination on usage to be made by the Oneida County Revolving Loan Fund Board.

SECTION 5. APPLICATION PROCEDURES

5.1 DISCUSSION OF REQUIREMENTS

Prior to submitting an application, the applicant shall discuss the program with the RLF Administrator. An application form shall be provided to the applicant. The RLF 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.

5.2 TIMING

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

5.3 PRIORITY

Applications shall be reviewed in the order received and based on readiness for the proposed project to proceed. The following criteria will be used to determine which business (es) will be awarded the loan(s):

- (1) Eligibility of the applicants;

- (2) Eligibility of the project to be undertaken;
- (3) Extent to which private funds are to be leveraged;
- (4) Extent to which jobs are to be created/retained, and the type/quality of the jobs created or retained;
- (5) 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 benefit to or impact on Oneida County;
- (11) Business/industrial loans as opposed to commercial/retail loans; and
- (12) Other factors as deemed appropriate.

5.4 LOAN APPLICATION

Applicants shall submit a loan application package using the form available from the RLF Administrator and that includes the following:

- (1) Application. A completed application form as provided by the RLF Administrator. All loan applications shall be submitted to:

Oneida County Economic Development Corporation
P.O. Box 682
Rhineland, WI 54501
715-369-9110
info@ocedc.org

- (2) 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, etc.;

- (b) Key customers and clients;
 - (c) A personal resume of 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; and
 - (d) Three years of financial history (if applicable) preferably reviewed or audited in accordance with generally accepted accounting principles including balance sheets, profit/loss statements, cash flow 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.); and
 - (b) The amount of the loan, interest rate, term, and security, availability, and repayment schedule and amounts.

These commitments shall be obtained concurrently with the negotiation of the terms and conditions of the RLF Program loan to insure the interest of Oneida County is secured.

- (5) Projections. Provide proformas (a balance sheet, income statement and cash flow statement). These should cover a three-year period and should be based on the assumption that the business will receive the requested loan.
- (6) Additional Information. Additional information as may be required by the RLF Administrator, the RLF Committee or the Finance Committee.

5.5 REVIEW PROCESS

Specific steps in the review process include the following:

- (1) Preliminary Review. The RLF 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 RLF Administrator will inform the applicant of any deficiencies.
- (2) Formal Review. The RLF Committee will meet to formally review the application within 30 days of the receipt of a completed application or at some other predetermined time. Once the review is completed, the RLF Committee will forward a recommendation to approve, reject or request additional information to the Oneida County Finance Committee for final action.
- (3) Negotiation of Terms. Upon the tentative acceptance by the Finance Committee, the RLF Administrator will contact the business in writing to review and explain the terms of the loan.
- (4) Notice of Award. If the application is approved by the Finance Committee, a closing will be scheduled to execute the necessary loan documents.
- (5) Rejection of Award. If the application is not approved, the RLF Administrator will send a letter to the applicant stating 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 Finance Committee must have reviewed and approved a complete application for an eligible applicant.
- (2) Loan Agreement. Corporation Counsel or a designated representative shall prepare a loan agreement which shall be executed by the *Chairman of the Oneida County Board, County Clerk and an Officer of the business.*
- (3) Promissory Note. A promissory note shall be prepared by Corporation Counsel or a designated representative and signed by an Officer of the business at the time of loan closing. The note must be dated; it must reference the agreement between Oneida County and the business; and, it must 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 shall be prepared by Corporation Counsel or a designated representative and executed at the time of the loan closing. Corporation Counsel or the RLF 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; and
 - (h) Other documentation as may be appropriate.
- (5) Repayment Schedule. A loan repayment or amortization schedule shall be prepared by the RLF Administrator after the loan proceeds are fully disbursed. The repayment schedule shall be dated and signed by an Officer of the business. At that time, the repayment schedule shall be attached to both parties copies of the agreement.

- (6) 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.
- (7) Evidence of Program Expenditures. Documentation must be provided by the business to evidence program expenditures prior to the release of funds. Documentation shall include bills and invoices or receipts for materials, final bills of sale or canceled checks. All documentation shall be reviewed and approved by the RLF Administrator.
- (8) Fixed Equipment. Fixed equipment financed with program funds must have been purchased, delivered, and installed. The RLF Administrator shall verify the installation of fixed equipment. The RLF Committee has the option to approve other arrangements as it sees necessary.
- (9) Other Documentation. As appropriate or necessary, the borrower may be asked to provide the following:
 - (a) A certificate of status from Secretary of State;
 - (b) The 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 Assessment for real estate loans which may either be a Phase I, II, or III analysis, depending on the environmental condition of the site.

With the above documentation in place, the RLF 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 terms and conditions of the loan, all borrowers shall agree to comply with the following:

- (1) The creation or retention of the agreed upon number of jobs within 24 months of the date of the execution of the loan agreement with Oneida County;
- (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 the business loan funds;
- (3) To use the loan money only to pay the cost of services and materials necessary to complete the project or activity for which the loan funds were awarded;
- (4) To permit inspections by persons authorized by Oneida 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. Requests for inspection shall be complied with by the borrower;
- (5) To maintain records on the project as may be requested by Oneida County. These files shall be maintained as long as the loan is active or for at least three (3) years after completion of the work for which the loan has been obtained, whichever is longer;
- (6) To submit periodic progress reports to the RLF administrator in accordance with the schedule in the loan agreement. These reports shall report on project progress including number of jobs created or retained during the loan agreement;
- (7) To maintain fire and extended coverage insurance on the project property required during the term of the loan. Oneida County shall be listed as Loss Payee, Lender Loss Payee, Mortgagee, Lender Loss 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; and
- (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.
- (9) To collect the attached self-certification forms from every applicant for each job created by CDBG funds.

SECTION 8. PERFORMANCE MONITORING

8.1 PRIVATE LEVERAGE COMMITMENTS

The RLF 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 RLF Administrator shall monitor the borrower's progress in meeting agreed upon job creation or retention goals. Job creation must be documented using payroll records. Before-project and after-project payroll records should be provided by the borrower to document job creation. 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 DEFAULTS

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 Oneida County's option, become immediately due and payable. To exercise this option, Corporation Counsel or a designated representative shall prepare a written notice to the business. The notice shall specify the following:

- (a) The default;
- (b) The action required to cure the default;
- (c) 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; and
- (d) Any penalties incurred as a result of the default, jobs, etc.

8.4 PENALTIES

If, after two years, conditions of the loan are not met, the loan is considered to be in default, at which time the loan and loan interest will become immediately due and payable at a rate of 8% above the originally agreed upon rate of interest back to the original date of the loan.

SECTION 9. USE OF LOAN REPAYMENTS AND REPORTING

9.1 RLF PROGRAM

Repaid loans shall be re-deposited into the Oneida County Revolving Loan Fund account and used in a manner consistent with the policies and procedures outlined in this 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 RLF Administrator shall report at the end of each fiscal year of the program to the WEDC regarding the use of program income. Reports shall be submitted on forms prescribed by the WEDC.

SECTION 10. LOAN SERVICING

10.1 ADMINISTRATION

Oneida County has designated Oneida County Economic Development Corporation (OCEDC) as the RLF Administrator responsible for day-to-day administration of the RLF portfolio, including establishment and maintenance of recordkeeping and tickler file systems, preparing and submitting progress reports, collecting and analyzing financial statements, conducting field visits, monitoring repayments on RLF loans and working with problem loans.

10.2 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 ensure 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.

10.3 RECORDKEEPING

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

- (a) A Revolving Loan Fund Register that records all deposits and disbursements

to and from the RLF, including funds used for RLF administration;

- (b) A CDBG Loan Repayment Register that records 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;
- (c) 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; and
- (d) 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.