



**CITY OF BOWLING GREEN OHIO**

# **BUSINESS REVOLVING LOAN FUND**

## **Policy and Procedures Manual**

**DATE OF INITIAL ADOPTION: February 11, 2009**  
**DATE OF MOST RECENT REVISION: April 11, 2023**

<b>UPDATE MADE:</b>	<b>SUPPORT:</b>
4/11/2023 Interest Rate Change to 2/3 Prime	Market Interest Rates are higher
Committee Updated Roster	Various Updates to member information
Changes to Department/Division/Titles	City Restructure
Interest Rate Changes	Need to loan funds at attractive pricing
Procedural updates for city offices	Accurate reflection of task divisions

## **POLICY AND PROCEDURE MANUAL GENERAL STATEMENT OF PURPOSE**

The purpose of the policies and procedures contained within this manual is to present the criteria for governing the economic development activities assisted with funds made available through the City of Bowling Green’s Revolving Loan Fund (RLF) Program.

### **SPECIFIC PURPOSE OF THE FUND**

The Revolving Loan Fund has been established to offer “gap financing assistance” to for-profit businesses who desire to create and/or retain employment for low- and moderate-income persons within the city limits of Bowling Green. Business loans that benefit an LMI area may qualify under the Area Benefit category of the LMI benefit national objective if it meets the requirements found at 24 CFR § 570.208(1)(i) and 24 CFR § 570.209(1)(ii).

### **RLF PROGRAM OBJECTIVE**

Economic development activities assisted with funds made available through the RLF Program are intended 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. All of the jobs created shall be made available to low- and moderate-income persons.

## **ADMINISTRATION**

### **The Revolving Loan Fund Committee**

The Revolving Loan Fund Committee (RLC) shall oversee the Revolving Loan Fund. This committee seeks to derive economic development benefits by filling the gaps in existing loan financing markets. The Revolving Loan Fund will be targeted to the industrial and commercial sections within the corporate limits of the City of Bowling Green in an effort to retain and expand employment opportunities. Some start-up monies will be available for new enterprises.

### **The Revolving Loan Approval Board**

A five (5) member Revolving Loan Approval Board (LAB) shall administer the operation of the fund, review and approve applications for loan participation. The LAB shall be composed of

various community representatives, including those from financial, real estate and legal institutions in the City of Bowling Green, who are actively involved in economic development activity.

The members of the LAB are:

1. Wendy Headley  
A. A. Green Realty  
1045 North Main  
Bowling Green, OH 43402
2. John Eckel  
Premier Bank  
1226 West Wooster Street  
Bowling Green, Ohio 43402
3. Greg Bakies, Chair  
Maurer Newlove & Bakies  
224 East Wooster Street  
Bowling Green, OH 43402
4. Amanda Kress  
Kress & Company, LLC  
980 West Poe Road, Suite 2  
Bowling Green, OH 43402
5. Kati Thompson, Secretary  
Bowling Green Economic Development  
217 S. Church St.  
Bowling Green, Ohio 43402

Serving without compensation, members of the LAB serve a term of three (3) years and shall be appointed by the Mayor of the City of Bowling Green.

The LAB members will only approve loan applications for those activities that are compliant with Community Development Block Grant (CDBG) standards. The City's Community Development Administrator and Finance Director are available to the LAB for the purpose of providing guidance in this regard. As a result, at least one of the aforementioned individuals (or a City-appointed designee) must be in attendance when Board action is taken (public meetings). A majority of the Board may approve or disapprove loan applications, determine interest rates on loans as well as loan terms, and request the City Finance Director, in writing, to make disbursements. The LAB may also establish reasonable loan fees to be paid by the borrower at the time of closing and costs directly incurred in processing and closing of a loan, i.e., legal, and accounting services to be paid by the borrower.

The LAB may adopt policies and procedures to implement the objectives of the Fund so long as such actions are in accordance with the general and special terms and conditions of the grant agreement between the City of Bowling Green and the U.S. Department of Housing and Urban Development. City employees administering these funds will adhere to the CDBG Procurement Policies and Procedures as well as the formalized CDBG Drawdown Procedure.

### LAB Meetings

LAB meetings shall be held on an as-needed basis. Upon receipt of a completed application or as asked by LAB members or other City officials, staff from the Planning/Community Development Division will schedule a meeting. Pursuant to state law, all meetings are open to the public. All Committee members and the public shall be provided with prior notice of each meeting. The City's Planning/Community Development Division is responsible for sending meeting notices to the local newspapers as well as to any persons who have requested such notice. A majority of the Committee in attendance at a meeting constitutes a quorum, and shall be required for official Committee action. Vacant positions on the Committee shall be counted in determining the total number of Committee members. In accordance with requirements from the U.S. Department of Housing and Urban Development, written records of any meetings must be prepared and maintained. The City of Bowling Green Community Development staff will generate and distribute the meeting minutes. Copies of the minutes will be maintained on file at the City of Bowling Green Community Development Office.

### Other Administrative Duties

The City Community Development Administrator and the City Finance Director will help to coordinate various Fund activities. As requested by the LAB, the City Finance Director shall report upon the status of the Fund and any outstanding loans.

A special Fund will be established to receive payments on loans made by the Fund. It will be the responsibility of The City Finance Director to hold these funds and any other funds that may be deposited in the trust account and to administer, invest and account for all funds received in accordance with the written direction of the LAB. Uncommitted funds from loan payments may be invested in accordance with accepted City practices.

It shall be the duty of the LAB to review all complete applications. The City Community Development Administrator shall provide technical assistance to the Board upon request and/or updates from the U. S. Department of Housing and Urban Development. In the interest of ensuring timely spend down of Business Revolving Loan Funds, the LAB has the authority to enact special incentives (e.g. no interest loans) and even award grants versus loans (with all job creation requirements still intact) as deemed appropriate by majority vote.

The LAB has the ability to modify loan terms, suspend payments over a period of time, etc. in order to ensure the success of repayment, and to accommodate hardship instances of affected businesses.

## Records

Written records of all program activities, including program meetings, loan applications and related documents, shall be maintained in the appropriate files. All files shall be kept in a secure place with limited access by authorized personnel. As necessary, the City Attorney shall be consulted in regard to compliance with state and municipal open records laws.

The following items shall be established and maintained on file by the City of Bowling Green for each loan recipient:

1. **The Application:** This will be kept on file in the Planning/Community Development Division and includes the application, business financial statements (for existing businesses), personal financial statements, credit report(s), business plan documents (where required) and other supporting loan information submitted along with the application, including all applicable correspondence.

**Note:** At the discretion of the LAB, some application and underwriting documentation / requirements may be waived. Despite the fact that the HUD-published underwriting guidelines are not mandatory, the LAB is still expected to perform a due diligence assessment of any assistance it provides to a for-profit business as a means of ensuring that public funds are not wasted and that the assistance will meet CDBG requirements. No formal waivers are required, approval of a loan shall suffice as a waiver from the requirements.

2. **Loan Recommendation Documents:** This paperwork would be kept on file in the Planning/Community Development Division and would include a copy of the minutes of the LAB meeting summarizing action taken on the loan request as well as the letter of approval to the applicant.
3. **Loan Closing Paperwork:** The Planning/Community Development Division will keep copies of these documents including all loan-closing documents such as the legal documents from the loan closing, security instruments, the note and other applicable correspondence. Originals will be kept in a locked, fireproof safe in the Finance Department.
4. **Job Monitoring Documentation:** The Planning/Community Development Division will ensure that the annual job monitoring is conducted and documented within each loan recipient's file. No less than annually (until all job creation/retention requirements are fully met), the loan recipient will receive job monitoring paperwork to include Job Category definitions, Part 1 Employer Report, Part 2 Employer Report and Part 3 Employee Job Verification form. All forms contain the most recent low-income eligibility requirements from HUD.

### Income Definition

Income will be defined as outlined in 24 CFR Part 5.

### **ELIGIBILITY CONSIDERATIONS**

#### Eligible Area

The area served by the RLF Program shall be the corporation limits of the city of Bowling Green. All RLF loan recipients must be private, for-profit enterprises located in the city or planning to locate within the city's limits.

#### Eligible Applicants

1. Applications shall be submitted by the sole proprietor or Chief Executive Officer of any business wishing to establish a new operation or expand an existing operation in Bowling Green.
2. Applicants must be able to demonstrate that the Revolving Loan Funds will not be used to facilitate the relocation of a business from another community (outside of Bowling Green, Ohio) to Bowling Green, Ohio; wherein said relocation would adversely impact the economy of the originating community.
3. No member of the governing body, loan review board or any other official, employee or agent of the City of Bowling Green, who exercises decision-making functions or responsibilities in connection with the implementation of this program is eligible for financial assistance under the program.
4. No program loans will be made which are in conflict with R.C. 102.03(D) of Ohio law (private interest in public contracts prohibited) or 2 CFR 570.611.
5. Applicants shall not be disqualified based on age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, national origin or any other protected classes listed in the City of Bowling Green Code of Ordinances, Chapter 39.
6. Where funding is budgeted/available and business address qualification occurs, applicants may apply for a Low-Moderate Income Area (LMA) status (versus job creation requirements) loan from the Business RLF. The City of Bowling Green Community Development Administrator will provide the LAB with knowledge of when/if LMA funding is available. The Community Development Administrator will also determine LMA business assistance qualification. A business is only eligible once during a CDBG Five-year Consolidated Plan period to receive a LMA (business assistance) loan.

### Eligible Activities

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

1. Fixed asset loans to manufacturers, industry and commerce in Bowling Green, Ohio for acquisition of an existing business, inventory and equipment purchase and/or repair.
2. Working capital.

### Ineligible Activities

Program loans shall 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. Building construction or reconstruction.
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. Rolling stock not deemed essential to business operations.
8. To fund the relocation of business operations from outside of Bowling Green; wherein the relocation is likely to result in a significant loss of jobs in the labor market from which relocation occurs.
9. Other businesses not serving the interests of Bowling Green as determined by a majority of the LAB.
10. Projects, which involve any temporary or permanent displacement of persons or personal property as a direct result of funding used from this program.
11. Land or building acquisition.

### 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 Bowling Green as determined by a majority of the LAB.
7. Non-profit organizations.
8. Any business relocating from outside of Bowling Green wherein the relocation is likely to result in a significant loss of jobs in the labor market from which relocation occurs.

#### Minimum Requirements

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

1. Cost per Job Created: At least one (1) full-time permanent position or full-time equivalent (2,080 hours annually) must be created for every \$35,000 of program funds requested (e.g. \$1-\$35,000 requires the creation of one job; \$35,001-\$70,000 requires the creation of two jobs; \$70,001-\$105,000 requires the creation of at least three jobs, etc.)
2. Financial Feasibility and Business Vitality: The applicant must demonstrate that the proposed project is viable and the business will have the economic ability to repay the funds.
3. Lower--income (LMI) Benefits: The project shall provide increased permanent employment or will retain existing jobs, which would have been lost locally. Of the jobs created or retained, all must be made available to lower-income persons (as defined by the most recent HUD Area Median Family Income (HAMFI) incomes at or below 80 percent of the HAMFI as published by the U.S. Department of Housing and Development).
4. Compliance with Applicable Laws: Applicants shall comply with all applicable local, state, and federal laws and codes.



5. Project Completion: Job creation shall be completed within 36 months from the date of the loan approval.
6. The borrower(s) may not have any delinquent federal or state debts at the time the loan is issued. Debts may include VA-guaranteed mortgages, Title I loans, Federal Student Loans, Small Business Administration loans, and/or delinquent federal and/or state taxes.
7. Businesses located within a flood zone are ineligible to receive Business Revolving Loan Fund assistance.
8. Determination of existing lien(s) on all business assets: the City's Attorney will perform a title/public records search prior to the LAB's review of an application to determine if another entitle has first lien on all business assets. The LAB determines if lack of the City's ability to secure a first lien on all business assets is a deciding factor in the loan's issuance. Borrowers must sign an affidavit indicating lien position at the time the loan was made.

#### Micro Loan Provisions

Existing businesses seeking \$10,000 or less in RLF funding are eligible to apply for micro loans. With the exception of the dollar threshold related to cost per job created, all other eligibility considerations noted above are applicable. The LAB will utilize these criteria to approve micro loans and establish loan terms:

1. Applicant must be an existing business located in the corporate limits of the City of Bowling Green.
2. The amount of the loan shall not exceed \$10,000.
3. The terms will be for 3 years only and interest will be at prime as quoted in the *Wall Street Journal* on the day of the loan closing. This may be amended under the LAB's authority.
4. The loan may be used for working capital, equipment purchase/repair, or inventory.
5. Job creation, retention or LMA standards are required.
6. Applicant must have a good credit record, as deemed acceptable by the LAB.
7. Applicant shall provide the loan committee their business income tax returns and a current Profit/Loss statement. This may be amended under the LAB's authority.
8. Collateral will include a lien on all business assets and a personal guarantee from each of the business owners. This may be amended under the LAB's authority.

9. The LAB will have the discretion of delaying the first payment up to 3 months after closing. This may be amended under the LAB's authority.
10. Cost per Job Created: At least one (1) full-time permanent position or full-time equivalent (2,080 hours annually) for every micro loan granted. The exception for job creation is Low-Moderate Income Area benefit. Businesses receiving micro loans that are located in census tracts 217.01 and 217.02 may qualify for meeting CDBG National Objectives and *may* be granted waiver from creating jobs. Qualifications will be assessed and reviewed by the City Community Development Administrator, who will make recommendations to the Board at the time the RLF loan application is reviewed.
11. Determination of existing lien(s) on all business assets: The City's Attorney or his/her designee will perform a title/public records search prior to the LAB's review of an application to determine if another entity has first lien on all business assets. Borrowers must sign an affidavit indicating lien position at the time the loan was made.

### Financial Underwriting

The LAB will conduct, at a minimum, basic financial underwriting prior to providing financial assistance to a for-profit business. The LAB shall account for differences in the size and scope of a proposed project, and in the case of a micro enterprise or other small business, the capacity and level of sophistication due to its size.

Low-interest-loan the objectives of the financial underwriting process will include the following assurances:

- (a) the recipient can repay the proposed assistance
- (b) project costs are reasonable;
- (c) all sources of project financing are committed;
- (d) to the extent practicable, RLF funds are not substituted for non-Federal financial support;
- (e) the project is financially feasible;
- (f) to the extent practicable, the return on the owner's equity investment will not be unreasonably high;
- (g) to the extent practicable, RLF funds are disbursed on a pro rata basis with other finances provided to the project.

### TERMS AND CONDITIONS

Minimum standards for loan terms and conditions include the following:

1. Loan amounts are subject to the availability of program funds. This may be amended under the LAB's authority.
2. Standard amortization terms will be 3-5 years. This may be amended under the LAB's authority.

3. Interest rates will be fixed at 2/3 of prime interest as quoted by the Wall Street Journal on the day of closing for the duration of the loan. This may be amended under the LAB's authority. The use of a default interest rate may be set by the LAB. At its 12/14/2021 meeting, the board authorized an interest rate of 0%, with a default rate of 5% for loans that go beyond 30 days past due. **Effective 4/11/2023, the rate will be fixed at 2/3 of WSJ Prime.**
4. Special financing terms may allow interest only payments for up to the first six (6) months. Payments will be based on a schedule, at maturity of the note. This may be amended under the LAB's authority.
5. Collateral will be required to guarantee security for the loan. This may be amended under the LAB's authority.
6. Interest and profits earned will be used for:
  - a. Administrative costs
  - b. Loans
7. Loan origination fees shall be:
  - a. All applicants who are issued RLF loans must pay a fee covering the general administrative costs associated with the loan's processing and servicing. This fee is collected from the loan applicant at the time of the RLF loan closing. This may be amended under the LAB's authority.
  - b. Assumption of all other usual and customary fees associated with loan processing and servicing. This may be amended under the LAB's authority.
6. Loan payments will be made as an automatic withdrawal from a LAB-approved financial institution selected by the borrower.
7. The RLF loan closing must take place within 90 days of the loan approval date or the business owner must reapply for funding. The Board has the authority to amend this mandate, on a case-by-case basis.

## **LOAN SELECTION AND APPROVAL PROCESS:**

### **Program Marketing**

As funds are made available to the Revolving Loan Fund (RLF) program, the Revolving Loan Administration Board (LAB) will advertise the program via the following methods:

1. News articles and advertisements in local newspapers;
2. Informational items in the Chamber of Commerce Newsletter;
3. Visits with area business/industries;

4. Luncheon and speaking engagements sponsored by area organizations; and
5. Brochure distribution.

### Application Procedures

Applications may be submitted at any time during the calendar year. Prior to submitting an application, the applicant is encouraged to discuss the program with City of Bowling Green Planning/Community Development staff. The staff may assist the applicant, as is reasonably necessary, in completing the application. All financial information shall be kept in a secured place with limited access by authorized personnel only.

### Review and Approval Process

Applications shall be reviewed in the order received and based on readiness for the proposed project to proceed. In the event that loan funds requested exceed available funds, 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. The extent to which private funds are to be leveraged;
4. The extent to which the loan can be secured;
5. The extent to which jobs are to be created, the typed of jobs and wages;
6. Evidence of the ability to repay the loan;
7. Timing of the proposed expenditures;
8. Completeness of the application; and
9. Other relevant factors as deemed appropriate by a majority of the LAB.

### Review Process

1. Preliminary Review: City of Bowling Green Planning/Community Development Staff will review the application for completeness and verify the proposed project meets the minimum requirements provided for in this manual. If the application is not complete, the applicant will be informed of the deficiencies.
2. Credit Analysis Report: Prior to the Committee's review of the application, the City of Bowling Green will prepare a credit analysis report for each principal

owner or officer of the business currently with or proposing to have at least 20 percent ownership of the business.

3. Formal Review: The LAB will meet to review an application. The LAB has the ability to determine if a proposal is acceptable for funding or not.
4. Notice of Award/Terms: If the application is approved, the Environmental Review Record for the project is completed. Thereafter, a loan commitment letter will be sent by the City Community Development Administrator detailing the conditions that must be met for the loan. At that point, staff from the City of Bowling Green will schedule a closing to execute the necessary loan documents.

No assistance will be provided to a business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance and or default relating to previous CDBG assistance provided to the business. The City of Bowling Green Finance Department will advise if a loan is in arrears (more than 30 days past due). Any loan recipient in arrears is ineligible to receive further assistance until the loan is current. Any loan recipient defaulting on a loan is ineligible to receive future RLF loans. The City maintains a listing of those individuals. The Community Development Administrator will check this list at the time of the System of Award Management (SAM) record search to determine ineligibility. If the applicant is on the City's or SAM listing, the applicant is ineligible for assistance.

Rejection of Applicant: If the applicant(s) is not approved, the Planning/Community Development Division will send a letter to the applicant stating the reasons for rejection.

A blank copy of the RLF loan application form is included at the back of this manual.

### 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 LAB must have reviewed and approved a complete application for an eligible applicant.
2. Loan Agreement: A loan agreement shall be executed by a member of the LAB.
3. Cognitive Note: A cognitive note shall be signed by the principal owner(s) or officer(s) of the business. The note must be dated; it must reference the agreement between the City and the business; and it must specify the amount and terms of the loan funds delivered.

4. Security: Mortgage or lien instruments must be executed at the time of the loan closing. The City Attorney shall record the instrument and place the original in the project file (kept in the Finance Department).
5. Amortization Schedule: An amortization schedule shall be prepared by the Planning/Community Development Division. A copy is provided to the borrower. Copies are also retained on file with the Finance Department and the Grants Administration Division.
6. The loan recipient must sign an Affidavit to secure intended business assets and indicate their agreement with the lien position of the city. Loan documents will reflect all security and lien positions.
7. Other Documentation: As appropriate or necessary, the borrower may be asked to provide other types of documentation such as evidence of having secured other funds necessary for the project.
8. Fees: The City charges a \$100 loan processing fee and appropriate filing, release and outside fees—due at the time of loan closing to recover various costs associated with the loan’s processing.
9. Bank Routing: At time of loan closing, the loan recipient provides a voided check from the account where automatic withdrawal payments are made. The loan recipient also completes, signs and dates a form indicated the name of the financial institution, 9-digit routing number, account number and names on the checking account used for the automatic withdrawal.

The Planning/Community Development Division with the assistance of the City Attorney and other parties as needed will prepare all legal documents and schedule a loan closing. At the time of the loan closing, all documents will be executed, and mortgages shall thereafter be recorded by the City Attorney. UCC filings will be completed by the city.

Loan proceeds will be delivered by check to the borrower by either the Community Development Administrator or the Bowling Green Economic Development Director.

**Note:** At the discretion of the LAB, some application and underwriting documentation / requirements may be waived. Despite the fact that the HUD-published underwriting guidelines are not mandatory, the LAB is still expected to perform a due diligence assessment of any assistance it provides to a for-profit business as a means of ensuring that public funds are not wasted and that the assistance will meet CDBG requirements. No formal waivers are required, approval of a loan shall suffice as a waiver from the requirements.

**Loans for Franchised Businesses:** Business Revolving Loan Fund loan funds will be disbursed to approved applicants once franchise acquisition is completed with documentation of said completion having been provided to the City of Bowling Green.

## **POST-CLOSING AND MONITORING**

### **General Procedures**

1. When a loan closing is completed and the funds are disbursed, the City's Finance Department under the direction of the Finance Director, will establish a loan servicing file to contain:
  - a. All closing documents; and
  - b. A log of all conversations and correspondence relating to the loan.
2. The loan will be recorded in a master follow-up file to ensure loan monitoring functions are performed on a timely basis. The City of Bowling Green maintains the master file.
3. The financial institution or the City's agreement for collection, posting calculation of principal and interest, and monthly payment reports will be executed at the time of the loan closing and will be forwarded to the City's Finance Director when appropriate.

### **Monitoring Compliance with Loan Conditions**

The City will be responsible for collecting and maintaining evidence of ongoing compliance with loan requirements, including job creation and retention, financial reporting and special conditions including civil rights, environmental concerns, relocation/displacement, etc.

The City will monitor the number of jobs created or retained on an annual basis. Refusal to provide the information will constitute a loan in default.

## **POST-APPROVAL REQUIREMENTS 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 36 months of the date of the execution of the loan agreement with the City.
2. To not to discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, national origin, or any other protected classes listing in the City of Bowling Green Code of Ordinances Chapter 39 in any employment activity related to the use of the business loan.

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 the City 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, materials, equipment 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 the City. 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 job creation progress reports to the City of Bowling Green's Planning/Community Development Division as requested. 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. The City of Bowling Green 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. These include, but are not limited to: The Civil Rights Act of 1964; the Age Discrimination Act of 1975; and all regulations pursuant to these Acts.
9. The business must maintain an actual physical presence within the corporation limits of the city of Bowling Green.

#### Subordination of Business Revolving Loan

Requests to subordinate the position of a loan held by the City of Bowling Green will be considered based on the following criteria:

- The post-subordinated position of the City's loan shall not be lower than the third position.
- Collateral must be sufficient to cover the unpaid amount of the loan at the time of the request for subordination. "Sufficient" is defined as an amount of money equal or greater than the unpaid portion of the loan. Documentation of equity or valuation in real estate must be provided by the borrower to evidence this fact.

All requests and accompanying documentation will be forwarded to the Community Development Administrator for initial review. The Community Development Administrator will make a recommendation to the Municipal Administrator as to whether or not the request should



be approved or denied, based upon the criteria set forth above. The Municipal Administrator will make the final determination regarding the Subordination Request approval or denial.

If approved, the Municipal Administrator and Finance Director will sign the Subordination Agreement.

In the event that the Community Development Administrator is expected to be absent for more than a one-day period, members of the LAB with legal, banking and/or real estate expertise may be consulted to provide a recommendation as to whether or not the request for subordination should be granted. The Housing Specialist shall conduct these consultations, gather LAB members' recommendations and forward them to the Municipal Administrator for review and decision. If approved, the Municipal Administrator and Acting Finance Director will sign the Subordination Agreement.

## **PERFORMANCE MONITORING**

### **Private Leverage Commitments**

The City of Bowling Green reserves the right to monitor the use of funds and expenditure of private leverage commitment. Documentation may include invoices or receipts for materials and supplies, letters from lenders, final bills of sale, and canceled checks.

### **Hiring of New Employees**

The City of Bowling Green shall monitor the borrower's progress in meeting agreed-upon job creation or retention goals. 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.

### **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 the City of Bowling Green's option, become due and payable. Step one of collection attempts will be handled by the City's Finance Department. Written notice will be provided twice to the borrower. After two notices, if the loan is not current, the City Attorney 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 corrective action.
4. Any penalties incurred as a result of the default, inability to create jobs, etc.

The City of Bowling Green shall use its discretion in terms of when and how to collect and liquidate secured collateral.

### **USE OF LOAN REPAYMENTS AND REPORTING**

Repaid loans shall be re-deposited into the Revolving Loan Fund account and used in a manner consistent with this policies and procedures manual. All repayment activity will be undertaken by the City of Bowling Green Finance Department, where those records will be maintained. A separate accounting record for each loan shall be kept to account for all funds loaned. The City shall submit annual reports as prescribed by the U.S. Department of Housing and Urban Development.