

**CITY OF EL PASO, TEXAS  
REQUEST FOR COUNCIL ACTION (RCA)**

**DEPARTMENT:** Community and Human Development  
**AGENDA DATE:** September 22, 2009  
**CONTACT PERSON/PHONE:** William Lilly, Director (541-4643)  
**DISTRICT(S) AFFECTED:** 1, 3, 6, 7, and 8

**SUBJECT:**

Discussion and action on a resolution approving the Empowerment Zone Grant Revolving Loan Fund Program Lending Guidelines as Exhibit "A".

**BACKGROUND / DISCUSSION:**

The Empowerment Zone Revolving Loan Fund, as delineated in the 2008 Empowerment Zone Strategic Plan, was authorized in May 2009 by the U.S. Department of Housing and Urban Development (HUD) to begin implementation.

The EZ Revolving Loan Fund Lending Guidelines (Exhibit "A") are designed to promote efficiency, consistency, and expediency in the administration and approval of funding requests. The procedures are intended to provide the borrower adequate notice of the application points that will be reviewed in the underwriting process of an application.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

The El Paso Empowerment Zone Program will be funded by the El Paso Empowerment Zone Planning and Implementation Grant and administered by the Community and Human Development Department. The \$1.9 million (as of August 12, 2009) EZ RLF program income and \$400,000 EZ grant funds for the Revolving Loan Fund issuance of new loans are budgeted in accounts 71150075-11002-71000-G71EZ BOF and 71150075-11002-71000-G71EZECEPEZ respectively.

**BOARD / COMMISSION ACTION:**

On August 11, 2009, the Empowerment Zone Advisory Board unanimously recommended approval of the Empowerment Zone Grant Revolving Loan Fund Lending Guidelines.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_

cc: Deborah G. Hamlyn, Deputy City Manager, Quality of Life

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**RESOLUTION**

**WHEREAS**, as part of City administration of Empowerment Zone Planning and Implementation Grant No. EZ-99-TX-0013 through the United States Department of Housing and Urban Development ("HUD"), the Empowerment Zone Division, Community and Human Development Department, in conjunction with the Economic Development Department, recommends that the City Council establish an economic development program related to use of Empowerment Zone funds under the City FY10 Empowerment Zone Program to provide small business loans and micro-business loans to qualified business owners for businesses located in the Empowerment Zone and its developable site boundaries through the Empowerment Zone Revolving Loan Fund (RLF).

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the Empowerment Zone Grant Revolving Loan Fund Program Lending Guidelines attached as Exhibit "A", are hereby approved.

**APPROVED this** \_\_\_\_\_ **day of** \_\_\_\_\_ **2009.**

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook,  
Mayor

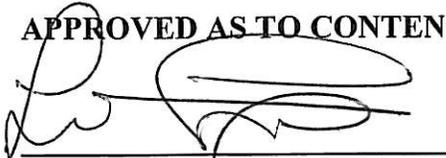
**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Marie A. Taylor  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
William L. Lilly, Director  
Community and Human Development



City of El Paso

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**Empowerment Zone Grant  
Revolving Loan Fund  
Lending Guidelines**

August 2009

Prepared by:  
Community and Human Development Department



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# El Paso Empowerment Zone Grant Revolving Loan Fund Lending Guidelines

## I. PURPOSE OF MANUAL

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This manual outlines the lending guidelines with respect to Empowerment Zone Grant loan activities of the City of El Paso (the "**City**"). This manual will include lending guidelines for the issuance of all Empowerment Zone (**EZ**) Grant loans processed by the City of El Paso.

The Empowerment Zone Grant loans are to be funded by the Empowerment Zone Grant funds and program income derived from the same loans; and, program income derived from the loans transferred to the City of El Paso from the Empowerment Zone Corporation in June 2007.

The collection policies and procedures are set forth in the "City of El Paso Empowerment Zone Grant Loan Collection Manual" prepared by the Financial Services Department with assistance from the Community and Human Development Department.

This manual focuses on the most common situations encountered while going through the loan process.

## II. BACKGROUND

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City Council has approved an EZ Strategic Plan that will govern the activities of the City staff. Under the Small Business Technical Assistance Section of the EZ Strategic Plan as outlined below, there are two types of Revolving Loan Fund (**RLF**) activities as follows:

- A) Small Business Loans
- B) Micro Business Forgivable Loans

Loans under this program will be made in accordance with this manual and the 2008 Strategic Plan. An electronic copy of the complete 2008 Strategic Plan may be accessed at [http://www.ci.el-paso.tx.us/elpasoez/ez\\_strategic\\_plan.asp](http://www.ci.el-paso.tx.us/elpasoez/ez_strategic_plan.asp).

### **III. ORGANIZATIONAL STRUCTURE AND RESPONSIBILITY**

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The City of El Paso Empowerment Zone Grant will be administered by the Community and Human Development Department. The Empowerment Zone Coordinator, CHDD, will provide administrative support and coordinate activities of Empowerment Zone staff within the Community and Human Development Department (**CHDD**), Economic Development Department (**EDD**) and Financial Services. As part of a multi-departmental project, EZ staff members will work together to achieve the EZ vision while working within the regulations, policies and procedures their respective city departments are mandated to follow. The governance plan regarding the overall Empowerment Zone grant is included in the 2008 Strategic Plan ([http://www.ci.el-paso.tx.us/elpasoez/ez\\_strategic\\_plan.asp](http://www.ci.el-paso.tx.us/elpasoez/ez_strategic_plan.asp)).

The Economic Development Department's Grants and Loan Manager will be responsible for the day-to-day management and loan underwriting activities of the Empowerment Zone loan program.

Before loan approval, all loan assistance packages will be reviewed and evaluated by the EZ Grants and Loan Manager for program compliance.

Applications will be reviewed by the CHDD Director, EZ Coordinator, and EZ Grants and Loan Manager to determine staff recommendation. Recommendations for loan approval will be presented to the City Council or, if established by Council, the designated loan review committee to approve and authorize loan disbursement.

The EZ Grants and Loan Manager will make quarterly reports to the EZ Advisory Board on the status of the loan portfolio or other reports and documentation as necessary to comply with HUD requirements.

Financial Services' EZ Sr. Accountant will disburse the loan proceeds, upon receipt of required documentation, and conduct loan servicing as set forth in the "City of El Paso Empowerment Zone Grant Loan Collection Manual".

The EZ Project Compliance Specialist, CHDD, will monitor the program for compliance with all applicable local, state, and federal laws and regulations.

### **IV. FUNDING CRITERIA**

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The following guidelines have been developed to ensure fair and equitable management of the disbursement of funds for these economic revitalization activities.

#### **A. Equal Opportunity**

Each application will be considered upon its merits without regard to age (provided the applicant is of age prescribed by law), race, creed, marital status, national origin, or sex.

## **B. Eligible Projects**

1. Classification of a small business will be made in accordance with the Small Business Administration's (SBA) size standards by industry as noted at <http://www.sba.gov/contractingopportunities/officials/size/index.html>.
2. Eligible projects are economic development activities for businesses located in the El Paso Empowerment Zone, including developable sites.

Specific addresses will be verified by the El Paso Empowerment Zone staff to determine eligibility. Applicants are able to utilize the U.S. Department of Housing and Urban Development's Address Locator available on the web at <http://egis.hud.gov/egis/cpd/rcezec/welcome.htm>.

3. Eligible applicants for the Micro-Business Forgivable Loan program must be EZ resident-owned microenterprises.
4. Eligible projects include business and microenterprise start-up activities.
5. Eligible projects will be required to meet the EZ Resident Benefit standard, as delineated in 24 CFR 598.610. (Appendix A)
6. The City will limit one active business loan per business across City loan programs.
7. The Revolving Loan Fund will not offer assistance in the areas of loan guarantee financing prior to full disbursement of grant funds.
8. Businesses cannot be engaged in illegal activities, loan packaging, speculation, multi-sales distribution, gambling, investment or lending.

## **C. Other Funding Criteria**

To qualify for a loan the project must also meet the following applicable criteria:

1. Capacity
  - a. Applicants must demonstrate the fiscal capacity to repay the loan.
  - b. As part of the application process, the El Paso EZ will require information that demonstrates the applicant is prepared to proceed with the project and there is sufficient information to determine the quality of the project. The information required is part of the loan application form and business plan.
  - c. The project must be deemed to be financially feasible. This shall include a determination that the project will generate sufficient revenues to meet scheduled loan repayment. In addition to financial feasibility of the project, the underwriting shall consider the credibility of the applicant and the quality of the funding commitments.

## 2. Compliance:

- a. All applicants will be required to have commercial general liability insurance, providing protection against claims of bodily injury or property damage for which your business may be liable. The City of El Paso should be a certificate holder and listed as additional insured.
- b. All applicants will be required to be current on taxes for property site of subject project. City taxes and utilities on property must be paid in full and current.
- c. Applicants must comply with Ordinance 9779 (Non-Discrimination Against Persons with Disabilities). In accordance with City of El Paso Ordinance No. 9779 (Non-Discrimination Against Persons with Disabilities) all facilities and programs receiving funding from the City must be accessible for use by persons with disabilities in terms of employment and service. This means that buildings where the federal funded services or projects are located must be accessible to the person with disabilities, or have an approved transition plan, before the funding can be approved. Every application, in order to be accepted for consideration, must contain the signed Letter of Assurance and the fully completed form entitled "Guidelines Self Evaluation for Community Development and City of El Paso Sub-recipients" for all sites planned for EZ funded projects.
- d. Preference is given to projects that enhance the formation and expansion of minority and women-owned businesses as well as HUB's (Historically-Underutilized Businesses).
- e. All projects must have an environmental clearance before Empowerment Zone funds can be released.

## 3. Construction:

- a. Applications for rehabilitation or new construction must be accompanied by a signed estimate and be designed by an architect or engineer legally-registered in the State of Texas.
- b. Construction expenditures over \$25,000 will be required to comply with the City's procurement procedures.

4. Impact:

a. The El Paso EZ will also consider the extent of the economic impact of the project as it relates to the amount of private funds leveraged with public dollars and the number and type of permanent, full-time (or equivalent) jobs to be created or retained through implementation of the project. Those projects creating a higher leveraging of private investment and/or produce a greater number of jobs will be given priority consideration.

b. The EZ loan program considers a cost per job ratio of:

i. \$20,000 loan amount for every one job created and

ii. \$10,000 for every one job retained.

5. Relocation: Any project requiring displacement of tenants who are permanently or temporarily displaced as a result of an Empowerment Zone funded program/project must be provided with financial and advisory benefit.

**D. Borrower's Equity**

At a minimum, loan applicants must provide a 10% equity contribution to the project. Evidence of this must be presented in the form of a certificate of deposit or equivalent security, equity or a combination of both. All borrowers with 20% or more ownership in the business must personally guarantee the loan.

**V. LOAN DESIGN**

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**A. Loan Limits**

Small Business Loans: The minimum amount is \$10,000 with \$500,000 as the maximum.

Micro-Business Forgivable Loans: The maximum amount is \$5,000.

**B. Interest Rate**

The interest rate for the EZ loan program is three (3) percent.

**C. Interest Method**

Interest is calculated daily on a 365-day year (Daily-365 Simple Interest Method)

#### **D. Terms of the Loan**

The period of repayment needs to match the useful life of the asset being financed. No loan term shall be longer than ten (10) years.

Construction financing will only be considered if a firm commitment for permanent financing is in place at the time of approval.

Small Business Loans: A rebate feature exists at 20 percent of the original principal amount. The borrower would pay back the full loan principal along with interest. With timely scheduled payments and loan agreement compliance, a rebate in the amount of 20 percent of the original principal amount will be returned to the borrower. The rebate amount has a cap of \$20,000. Any late payment would cancel the rebate feature.

Micro-Business Forgivable Loans: A forgivable feature exists at 50 percent of the original principal amount. The borrower would pay back the full loan along with interest. With timely scheduled payments and loan agreement compliance, a rebate in the amount of 50 percent of the original principal amount will be returned to the borrower. Any late payment would cancel the forgivable feature.

#### **E. Security**

All RLF loans will be secured with various types of collateral. No unsecured loans will be made. The value of the collateral must be commensurate with the amount of the loan, with future value being taken into consideration.

The forms of collateral can differ from loan to loan depending on the assets of the business. The level of financing granted by the City can also determine the extent of the collateral required. The City will seek a first or second lien position for the collateral depending on how the entire project is structured.

Some examples of the preferred forms of collateral are: real estate, machinery and equipment, various types of motor vehicles or personal assets to secure personal guarantees. These items are to be solely owned by the business, free and clear of any liens, as well as be in good working order.

Collateral for working capital loans will include first position in inventory, accounts receivable and fixed assets. Depending on whether a working capital loan is part of a larger, well secured loan or totally for working capitals, some flexibility can be utilized as to whether subordinated positions on assets are reasonable.

Personal guarantees are required from shareholders with 20 percent or more ownership in the applicant business.

Preference is given to projects that can leverage a minimum of two private sector dollars to one EZ Revolving Loan Fund dollar. Private sector funding includes capital invested by the borrower and financing from private financial institutions.

## **F. Application Submission**

Application submittal is on-going pending RLF fund availability. Applications will be reviewed on a first-come basis. There are no application deadlines. Applications will be reviewed as received.

## **G. Late Fees**

A late fee of 5 percent (5%) of any unpaid monthly payment will be assessed. The fee is assessed if a full monthly payment is not received within a 10-day grace period following the payment due date.

## **H. NSF Fees**

A \$30.00 fee will be assessed for any returned check or returned ACH transaction.

## **VI. PROJECT APPLICATION PROCESS**

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A project application will follow one of two routes: loan applications submitted by borrower; or, loan applications submitted by participating lender.

Participating lenders will be submitting loan applications for applicants requiring gap financing.

- A.** The Grants and Loan Manager will meet with the applicant/participating lender for a consultation on general information and requirements of the loan program. For applicant direct submissions, the applicant will be provided a loan application with an Authorization to Release Information and Certification of Application.
- B.** The applicant/participating lender will then submit a completed loan application and business plan to the Grants and Loan Manager. The business plan will include the following information:
  - 1. History of the business – type, starting date, amount of initial investment/loan
  - 2. History of all owners and operators – resumes, other businesses owned or have interests in, bankruptcies
  - 3. Operation and location of current business operations – nature of business, types of products and services, number of employees, selling methods, and office or building space description.
  - 4. Financial data for life of business – current income statement, statement of cash flows with explanations, balance sheet, complete federal and state tax returns, and personal financial statement for all owners.
  - 5. Professional assistance available – accountant, attorney, banker, insurance representative

6. Number and type of new jobs created and jobs retained – estimated number and type of jobs created in first three years, number of current jobs held by zone residents.
7. Detailed pro forma projections for revenues and expenses and cash flow analysis (at minimum, for next 12 months)

If a business plan does not exist or is deemed incomplete by the Grants and Loan Manager, the applicant will be provided a list of resources and encouraged to contact applicable resources to obtain assistance with the preparation of their business plan. They will be advised of the opportunity to return to the loan program when the business plan has been developed.

**C. Once a business plan is submitted and deemed complete, the Grants and Loan Manager will compile the following:**

1. Standard Loan Application documents – In addition to a business plan, all loan applicants, or their representative participating lender, must supply the following list of documentation in order for the loan review process to begin.
  - a. Fully completed loan application
  - b. For principals or owners with 20% or more ownership,
    - i. Personal Financial Statement (part of loan application forms)
    - ii. Copies of last three (3) years' income tax returns (if not filed, provide explanation)
  - c. For existing businesses,
    - i. Copies of up to last three (3) years' business tax returns
    - ii. Copies of up to last three (3) year's business financial statements with balance sheet and profit and loss statement
2. Listing and description of any real property, machinery and equipment that will be used for collateral
3. Credit Reports - A credit report will be required on each business and on any of the principals that are providing a personal guarantee for the repayment of the RLF loan.
4. Appraisal Reports - Current appraisal reports will be sought on any real property, machinery and equipment that will be used as collateral to secure the RLF loan. These reports are crucial to the loan decision process.

5. Environmental Reviews – The Grants and Loan Manager will initiate the environmental review process.
  6. Loan Write-Up - The loan write-up that summarizes the key aspects of the loan will differ for each loan project/business. The loan write-up will be prepared by the Grants and Loan Manager to document the underwriting of the application. It will discuss the following points:
    - a. A summary of the business' history
    - b. Project eligibility in accordance with EZ Resident Benefit
    - c. Management practices, principles, strategies and structure
    - d. Product(s) or service(s)
    - e. Production capabilities
    - f. Existing and projected market conditions
    - g. Financing structure and continuity
    - h. Collateral specifications
    - i. Assessment of repayment ability
    - j. The mitigated or soon to be mitigated environmental concerns
    - k. The projected increase of business as result of the loan and the number of new employees that will result.
    - l. Letter from Bank stating need for RLF participation (for gap financing)
- D. Incomplete applications will be cancelled after 90 days of initial submission.
  - E. The Grants and Loan Manager will submit the application for review by the CHDD Director and Empowerment Zone Coordinator.
  - F. The EZ Coordinator will submit the application along with staff recommendation to City Council or, if designated by Council, the loan review committee within 30 days of receipt of the completed loan application. Potential decisions: Application approval, Request additional information, or Application denial.
  - G. Notice will be given in writing to the applicant of the action taken within five days of decision.
  - H. Immediately following the final decision on a loan application, each applicant will be notified by telephone and by mail detailing the next step in the loan process or reasons for denial. If approved, terms and conditions are set for borrower's acceptance.
  - I. If borrower accepts the terms, the loan will be processed for closing.

## **VII. LOAN CLOSING AND DISBURSEMENT PROCEDURES**

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### **A. General Closing Requirements**

1. All normal and customary legal fees are payable by the applicant.
2. Borrower will be responsible for financial statement reporting as agreed upon and annual employment reporting.
3. Prior to any loan being closed, the borrower will be responsible for providing confirmation of the needed equity injection and proof of any private lender financing.
  - a. Confirmation of the Needed Equity Injection. The borrower must provide a certified letter or other evidence from the business's financial institution indicating that the business has the required amount of equity dollars for the project. When the business's equity is leveraged collateral, the business must provide current letter(s) of appraisal or other acceptable documentation qualifying the real property and/or machinery and equipment.
  - b. Confirmation of Private Lender Financing. In order to confirm the private lender financing needed to make the project possible, the Bank will forward its approved credit memorandum for bank loan. The credit memorandum will include stated loan terms agreement, any collateral utilized in the loan process and adequate justification as to why RLF participation is needed.

### **B. Loan Closing Documentation Requirements**

For all loans made, the following documentation will be required prior to the loan closing:

1. Proof of ownership,
2. Confirmation of applicant's equity,
3. Confirmation of private lender financing,
4. Current appraisal(s) or other acceptable documentation of value of any real property real or personal property used as collateral, and,
5. Current Uniform Commercial Code (UCC) filing on any personal property used as collateral, and

If any of the above mentioned documentation items are not supplied, the loan closing will not occur. Only after the borrower has a complete loan closing package as specified above, will the loan closing continue.

The EZ Grants and Loan Manager will forward the documents to the Financial

Services Department, copying the Community and Human Development EZ programmatic staff. All items listed will be included in the loan file to be stored by the EZ Sr. Accountant in an easily accessible manner either in numerical or alphabetical form:

6. Truth and Lending Agreement (or Loan Agreement),
7. Builders and Mechanics Lien (if mortgage loan),
8. Promissory Note,
9. Security Agreement (with applicable lien, mortgage, UCC-1, etc. filled with the appropriate county clerk or secretary of state),
10. Guaranty,
11. Loan Application,
12. Business Plan,
13. Proof of Income (personal/business income tax for 3 years),
14. Proof of Citizenship and/or residency,
15. Verification of Social Security Number, and,
16. Environmental review clearance.

No loan will be processed by the Financial Services Department without the above forms being submitted to staff. Imperative in these documents is the participant's social security number or Tax ID number. Without this number, the loan will not be processed.

### **C. Loan Disbursement Requirements**

Depending on the type of loan requested, the borrower must provide proof that the loan proceeds will be used for the intended purposes prior to disbursement. For example, if the borrower has secured the RLF loan for the purchase of machinery and equipment, the borrower must show proof, e.g., an invoice, that the equipment has been ordered.

# Appendix A

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## § 598.610 Resident benefit standards.

The project or activity described in an implementation plan submitted for HUD approval by an EZ to describe the planned use of HUD EZ Grant Funds **must meet one of the following three standards of resident benefit for determining the amount of HUD EZ Grant Funds that may be used to fund a particular project or activity:**

(a) *Principal benefit standard*—

(1) *Benefits other than jobs.* If a majority (51 percent) of the direct beneficiaries of the project or activity described in the implementation plan resides within the EZ, the project or activity may be fully assisted with HUD EZ Grant Funds.

(2) *Jobs benefit.* In any case where the direct benefits to be provided by a project or activity described in an implementation plan will be in the form of jobs, the project may be fully assisted with HUD EZ Grant Funds if at least 35 percent of the jobs are taken by, or made available to, EZ residents. A job satisfies this 35 percent requirement if the EZ resident is employed by the employer for at least 90 days during the year. For purposes of this 35 percent requirement, an employer may rely on a certification by the employee that provides to the employer the address of the employee's principal residence, and requires the employee to notify the employer of a change of the employee's principal residence.

(3) *Presumed benefit.* Certain commercial revitalization activities that are located and undertaken in an EZ and that provide services to both EZ residents and non-residents (e.g., supermarkets, drug stores) will presume to meet the 51 percent principal benefit standard in paragraph (a)(1) of this section, provided that the EZ maintains written documentation that briefly describes the activity, its service area, and the rationale for presuming that the activity meets the 51 percent principal benefit standard.

(b) *Proportional benefit standard.* If a project or activity described in an implementation plan cannot meet the principal benefit standard of paragraph (a) of this section, the percent of the cost of the project or activity that may be assisted with HUD EZ Grant Funds may not be greater than the percent of all persons benefiting directly from the project or activity who reside within the EZ.

(c) *Exception criterion.* In any case where a proposed project or activity, including activities outside of the designated area, would not meet the standards of paragraph (a) or paragraph (b) of this section, HUD EZ Grant Funds may be used where HUD determines that an implementation plan, accompanied by the facts that the EZ requests HUD to review and consider as justifying the exception, demonstrates substantial benefits to the EZ that would result from the project or other compelling reasons justifying the appropriateness of the implementation plan to the EZ's strategic plan. A request by an EZ, for an exception under paragraph (c) of this section will receive a response by HUD no later than 60 days from the date of the EZ's request with all relevant information is considered complete no later than 45 days from the date of the EZ's request.

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