

mississippi development authority

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ENERGY EFFICIENCY REVOLVING LOAN FUND



GUIDELINES

ENERGY EFFICIENCY REVOLVING LOAN FUND

The Mississippi Energy Efficiency Revolving Loan Fund, administered by the Mississippi Development Authority ("**MDA**") is designed for making loans to qualified borrowers to promote development and demonstration of efficient, environmentally acceptable and commercially feasible technologies, techniques and processes while effectively utilizing the state's existing alternative and conventional energy resources to foster economic and social growth. Funding for the loans to the Borrower is derived from the appropriated funds, which were a part of the Petroleum Violation Escrow Fund, M.D.L. 378 Oil Overcharge funds. The Energy Efficiency Revolving Loan Fund was enacted pursuant to Section 57-39-43, Miss. Code of 1972, as amended, and In Re: The Department of Energy Stripper Well Exemption Litigation, United States District Court, Kansas, M.D.L. No. 378, 1986 (jointly the "Act").

ELIGIBILITY

QUALIFIED BORROWERS

In order to obtain assistance under the Energy Efficiency Revolving Loan Fund, the applicant must be declared financially sound and capable of repaying the loan and must meet one of the following criteria:

- Corporation
- Partnership
- Sole Proprietors
- Hospitals (*Public and Private "non-profit"*)
- Institutions of Higher Learning
- Community Colleges
- Public School Districts
- Local Government Entities

ELIGIBLE PROJECTS

Eligible projects include retrofits and energy design process developments. The improvement must promote the development and demonstration of efficient, environmentally acceptable and commercially feasible technology and processes, and must also utilize Mississippi's existing energy resources, public utilities and/or developing resources to foster economic growth.

In order for a project to be eligible to receive such assistance, the project must qualify pursuant to the two (2) phase eligibility requirements provided below:

1. PHASE 1 – STRUCTURAL ELIGIBILITY

The structure, which is to be the target for the installation of energy efficiency measures will be financed with the proceeds of a loan, shall be considered eligible only if it is an existing structure that is at least one (1) year old, owned, occupied and used by the Borrower and, **is not**:

- Classified as condemned or scheduled for demolition; or,
- Leased or rented by the applicant from another party unless the landlord has given the tenant written permission to proceed with the installation; or,
- Encumbered by a real estate transaction or purchase option; or,
- Included on the National Register of Historic Landmarks and Sites maintained by the U.S. Secretary of the interior or , if included, has received approval of the Mississippi Department of History and Archives to perform the work; or,
- Encumbered by subordinated mortgages, mechanics, or materialmen's, and/or any other types of liens that would prevent MDA from obtaining a security interest.

2. PHASE 2 – ELIGIBLE MEASURES

Loans will be made available only for the purchase and installation of energy conservation measures that have been identified and recommended by an Energy Analysis. The combined simple payback of all the energy conservation measures being installed cannot exceed ten (10) years. The Energy Analysis can be performed by MDA, Utility Companies, or a qualified engineer. Only projects recommended by the Energy Analysis will be considered for funding. An energy conservation measure is one that is primarily intended to reduce energy consumption or allow the use of an alternative energy source.

Loans cannot be used to finance projects that were completed prior to, or in the process of being installed, at the time of an application. Neither may a loan be used to finance “cosmetic” or rehabilitative improvements unless energy savings are justifiable.

Two categories of Energy Efficiency Projects are eligible for funding. The categories are defined as Retrofit Projects and Energy Efficient Processes.

RETROFIT PROJECTS

Eligible energy conservation measures include, but are not limited to, the following:

- Insulation;
- Storm windows and doors, multi-glazed and other specially treated windows and door systems;
- Automatic energy control systems/energy management systems;
- Equipment to operate variable steam, hydraulic, and ventilating systems;
- Solar heating and cooling systems, and electric generating systems;
- Renewable Energy Systems;
- Furnace or utility plant and distribution system modifications to include burners, furnaces, boilers, and ignition systems;
- Caulking and weather-stripping;
- Lighting fixtures and lamps;
- Energy recovering systems;
- Heating and cooling systems;
- Cogeneration systems; and/or
- Other measures that can be shown to save energy or reduce energy demand.

ENERGY EFFICIENT PROCESSES

This category includes the implementation of equipment that enhances the efficiency of any industrial process by reducing energy consumption or allowing for the use of alternative energy sources.

Examples of such projects include:

- Kilns;
- Boilers – natural gas or wood;
- Billet Ovens;
- Optimizing saws;
- Refrigeration Systems;
- Variable steam and hydraulic equipment

LOANS

GENERAL LOAN TERMS

The maximum amount, which may be loaned from the Energy Efficiency Revolving Loan Fund to finance any one **(1)** project, is **Five Hundred Thousand Dollars (\$500,000)**. The fixed rate of interest which shall be set at the time the application is approved will be **two percent (2.0%)** below the Wall Street Journal's Prime Rate with a term not to exceed ten **(10)** years. The term and the repayment schedule will be established by MDA.

LIENS

LIENS AND COLLATERAL

The loan will be secured by a lien of such type that provides adequate security for MDA to recover its investment in case of default on the loan. Liens may be in the form of personal guarantees, liens on the equipment, measures installed, security interest in other assets or a combination of the afore-mentioned. Personal guarantees of all principles owning 20% or more of the business is required. It should be noted MDA will require a one percent **(1%)** good faith deposit on projects involving real estate pledged as collateral. MDA requires a first lien position on the collateral used for the purposes of securing a loan.

In the case of projects for local government entities and public schools, MDA will require a pledge and assignment of tax revenues collected by such entity.

APPLICATION

The application to be submitted by a borrower must include:

- The purpose of the proposed loan including a list of eligible items and the cost of each;
- Detailed project description, including pictures;
- The estimated cost of the total project with a detailed breakdown of all public and private sources of funding;
- The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
- Submit company balance sheets, income statements and statements of cash flow for the previous three (3) fiscal years and current statements dated within ninety (90) days of application.
- **For local government entities and public schools:**
 - (i) Certified proof of publication of the Resolution of Intention of the government entity to apply for an Energy Efficiency Revolving Loan Fund. The Resolution must be published once a week for at least four (4) consecutive weeks in a newspaper having general circulation in the county. (Exhibit A);
 - (ii) Upon receiving the results of the publication of the Resolution of Intention, the government entity will need to provide MDA with an execution Resolution of No Protest. (Exhibit B);
 - (iii) Opinion of counsel from the public schools and/or local government entity addressing the authority to borrow under the Energy Efficiency Revolving Loan Fund and to pledge a tax base as collateral for such loan, and
 - (iv) Most recent audited financial statements.

Two (2) copies of the application must be submitted to MDA. As part of the application process, an Energy Analysis must be performed. An Energy Analysis evaluates the ability of the borrower to conserve energy or to improve the efficiency of a process through the installation of energy saving measures or the use of an alternative energy source. The Energy Analysis must clearly explain the measures to be undertaken and detail the energy savings and other revenue benefits attributable to the project. MDA will evaluate the application to determine if the project meets the program criteria and what terms and conditions the loan shall bear.

CONDITIONS FOR DISBURSEMENT OF FUNDS

LOAN CLOSING

Based upon the terms and conditions established by MDA, MDA will prepare all security and loan documents, including but not limited to, the Loan Agreement and Promissory Note, (collectively "Loan Documents"). Prior to disbursement of any funds, all Loan Documents must be fully executed.

FEES

At the time of the closing, the borrower will be responsible for providing to MDA a one percent **(1%)** closing/servicing fee and the cost of the Energy Analysis. The cost of the Energy Analysis for the borrower will be capped at \$3,500. Additional cost, if applicable, will be the responsibility of MDA. The Borrower will also be responsible for paying for all costs associated with the closing of the loan, including searches and filing fees.

REIMBURSEMENT PROCESS

The MDA will release loan funds on a reimbursement or services rendered basis for approved eligible costs of the project as incurred. The borrower shall certify to MDA that the expenses were incurred and were in accordance with the project as approved by MDA. Funds will be released periodically upon receipt of supporting documentations from the borrower based upon a schedule established by MDA.

AUDIT

Loans made under the Energy Efficiency Revolving Loan Fund are subject to audit by the Mississippi Office of the State Auditor.

WAIVER

These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

ADDITIONAL INFORMATION

Program inquiries and application should be directed to:

Mailing Address:

Mississippi Development Authority
Energy and Natural Resources Division
P. O. Box 849
Jackson, Mississippi 39205-0849
Telephone: (601) 359-6600
Fax: (601) 359-6642
www.mississippi.org

Delivery Address:

E. T. Woolfolk State Office Building,
MDA – Energy and Natural Resources Division, 6th Floor
501 North West Street
Jackson, Mississippi 39201

EXHIBIT A

SAMPLE RESOLUTION OF INTENTION FOR PUBLIC SCHOOLS AND/OR GOVERNMENT ENTITIES

The (name of Governing Body), acting for and on behalf of _____, Mississippi ("the "Government Entity"). Took up for consideration the matter of authorizing and approving a loan on behalf of the Government Entity from the Mississippi Development Authority ("MDA") for the purpose of purchasing and installing energy conversion measures to promote energy efficiency and economic growth.

There upon _____ offered and moved the adoption of the following resolution:

RESOLUTION DECLARING THE INTENTION OF (THE NAME OF GOVERNING BODY) OF _____, MISSISSIPPI, TO AUTHORIZE AND APPROVE A LOAN ON BEHALF OF THE GOVERNMENT ENTITY FROM THE MISSISSIPPI DEVELOPMENT AUTHORITY IN A MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED _____ DOLLARS (\$_____) FOR THE PURPOSE OF PURCHASING AND INSTALLING ENERGY CONVERSION MEASURES TO PROMOTE ENERGY EFFICIENCY AND ECONOMIC GROWTH

WHEREAS, THE (NAME OF governing Body) of _____, Mississippi (the "Governing Body"), does hereby find, determine, adjudicate and declare as follows:

1. The Mississippi Oil Overcharge Fund, constituting Section 57-39-43, Mississippi Code of 1972, as amended, was enacted for the purpose of providing financial assistance to entities interested in making energy efficiency capital improvements or in designing and installing new processes to improve energy efficiency and productivity in the state of Mississippi (the "State").

2. Pursuant to Section 57-39-43, MDA is authorized to make interest-bearing loans to public schools and/or local government entities, for the purpose of purchasing and installing energy conversion measures to promote energy efficiency and economic growth.

3. The Government Entity will agree to make energy efficiency capital improvements or design and install new processes to improve energy efficiency and productivity and will request MDA to finance such costs associated with the development of these improvements (the "Project").

4. Pursuant to the Section 57-39-43 and guidelines adopted by MDA, the Government Entity will file an application with MDA for a loan to be used for the

development of the Project in the amount of _____ Dollars (\$_____) (the "Loan").

5. The Government Entity and MDA will enter into a Loan Agreement (the "Agreement") wherein the Government Entity agrees to borrow the proceeds of the Loan subject to and upon the terms and conditions of the Agreement.

6. In order to secure the Loan, the Government Entity will execute and deliver to MDA a Promissory Note (the "Note") and will enter into any and all other documents necessary to secure the Loan. Failure of the Government Entity to meet its repayment obligations shall result in the forfeiture of:

Description of Pledge of Revenue Securing the Debt

In an amount sufficient to repay obligations due pursuant to Section 57-39-43.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE GOVERNMENT ENTITY, AS FOLLOWS:

Section 1. The Governing Body of the Government Entity does hereby declare its intention to authorize and approve a Loan from MDA in the principal amount not to exceed _____ Dollars (\$_____) for the purpose of purchasing and installing energy conversion measures to promote energy efficiency and economic growth.

Section 2. The Loan will be secured by a Note and all other documents necessary to secure the loan executed and delivered by the Government Entity to MDA. Pursuant to Section 57-39-43, failure of the Government Entity to meet its repayment obligations shall result in the forfeiture of:

Description of Pledge of Revenue Securing the Debt

In an amount sufficient to repay obligations due pursuant to Section 57-39-43 of the Act.

Section 3. The Governing Body proposes to authorize and approve the loan from MDA in the amount and for the aforesaid purposes at a meeting of the Governing Body to be held at its regular meeting place at _____ in _____, Mississippi at ____ 1.m. on the _____ day of _____, 20__, or at some meeting held subsequent thereto. If ten percent (10%) or twenty percent (20%) whichever is applicable

to the Government Entity or fifteen hundred (1,500), whichever is less, of the qualified electors in the Government Entity shall file a written protest with the Clerk of the Government Entity against the authorization and approval for the Loan on or before the aforesaid date and hour, then the Loan shall not be entered into unless authorized at an election on the question or authorizing and approving the Loan. Such election shall be called and held as provided by law.

If no protest is filed, then the Loan may be entered into without an election on the question of authorizing and approving the Loan at any time within a period of two (2) years after the date above specified.

Section 4. This Resolution shall be published once a week for at least four (4) consecutive weeks in the _____. A newspaper published in _____ County, Mississippi, and having a general circulation in the County and qualified under the provisions of Section 13-3-31, Mississippi Code of 1972, as amended. The first publication of this Resolution shall be made not less than twenty-one (21) days prior to _____, 20__, and the last publication shall be made not more than seven (7) days prior to such date, said Resolution to be published on _____, __, __, and __, 20__.

Section 5. The Clerk of the Government Entity shall be and is hereby directed to procure from the publisher of the aforesaid newspaper the customary proof of said publication of this Resolution and have the same before the Governing Body on the date and hour specified in Section 3 hereof.

_____ seconded the motion to adopt the foregoing Resolution, and the vote thereupon was as follows:

- _____ voted
- _____ voted
- _____ voted
- _____ voted
- _____ voted

The motion having received the foregoing vote of the Governing Body, the _____ declared the motion carried and the Resolution adopted, on this the ____ day of _____, 20__.

Title: _____

_____, **MISSISSIPPI**

(SEAL)

CLERK

Publish on _____, _____, _____, and _____, 20__ in the _____

EXHIBIT B

SAMPLE NO PROTEST RESOLUTION FOR PUBLIC SCHOOLS AND/OR GOVERNMENT ENTITIES

The Clerk reported that pursuant to a resolution declaring the intention of the (name of Governing Body) of _____, Mississippi (the "Government Entity"), to authorize and approve a loan (the "Loan") on behalf of the Government Entity from the Mississippi Development Authority ("MDA") in a maximum principal amount not to exceed _____ Dollars (\$_____) for the purpose of purchasing and installing energy conversion measures to promote energy efficiency and economic growth, he did cause notice of intention to enter into such Loan to be published in the _____, a newspaper having a general circulation in the County on _____, ____, ____, and ____, 20____, as evidenced by proof of publication on file in the office of the Clerk. The Clerk further reported that no written protest of any kind or character against the authorization and approval of such Loan had been filed in the Clerk's office. Thereupon, _____ offered and moved the adoption of the following resolution:

**A RESOLUTION DECLARING THE ABSENCE OF ANY
PROTEST AGAINST AUTHORIZING AND APPROVING A
LOAN ON BEHALF OF (NAME OF GOVERNING BODY) OF
_____, MISSISSIPPI, FROM THE MISSISSIPPI
DEVELOPMENT AUTHORITY IN THE PRINCIPAL AMOUNT
NOT TO EXCEED _____ DOLLARS (\$_____)**

WHEREAS, under the power and authority granted by the Laws of the State of Mississippi and particularly under Sections 57-39-43 of the Mississippi Code of 1972, as amended, the (name of Governing Body), on _____, ____, 20____, did adopt a certain resolution entitled:

**RESOLUTION DECLARING THE INTENTION OF (NAME OF
GOVERNING BODY) OF _____, MISSISSIPPI,
TO AUTHORIZE AND APPROVE A LOAN ON BEHALF OF THE
GOVERNMENT ENTITY FROM THE MISSISSIPPI
DEVELOPMENT AUTHORITY IN A MAXIMUM PRINCIPAL
AMOUNT NOT TO EXCEED _____
DOLLARS (\$_____) FOR THE PURPOSE OF PURCHASING
AND INSTALLING ENERGY CONVERSION MEASURES TO
PROMOTE ENERGY EFFICIENCY AND ECONOMIC GROWTH**

WHEREAS, as directed by the aforesaid resolution and as required by law, the entire text of the said resolution was published once a week for at least four (4) consecutive weeks in the _____ having a general circulation within the County, and was so published in said newspaper on _____, ____, ____, and ____, 20____, as evidenced by the publisher's proof of publication of the same heretofore presented to the Governing Body and filed with the Clerk, the first publication of which was

made no less than twenty-one (21) days prior to _____, 20__, and the last publication having been made not more than seven (7) days prior thereto, said date being the date fixed in said resolution on or prior to which a written protest by qualified electors against authorizing and approving a Loan from MDA might be filed and on which the Governing Body would take further action to provide for the request of the Loan, and

WHEREAS, at or prior to the hour of ___ a.m. on _____, 20__, no written protest of any kind or character was filed or presented by qualified electors against authorizing and approving a Loan from MDA.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE GOVERNMENT ENTITY, AS FOLLOWS:

Section 1. That all of the findings of fact made and set forth in the preamble to this resolution shall be and the same are hereby found, declared and adjudicated to be true and correct.

Section 2. That the (name of the Governing Body) of _____, Mississippi, is now fully authorized and empowered under the provisions of Section 57-39-43 of the Mississippi Code of 1972, as amended, to proceed with the execution of the Loan from MDA without an election on the question of authorizing and approving such Loan.

Section 3. That the Loan being an obligation of _____, Mississippi, in the principal amount of _____ Dollars (\$____) shall be and the same is hereby authorized to be executed for the purpose of purchasing and installing energy conversion measures to promote energy efficiency and economic growth and the _____ and Clerk of the Governing Body are hereby authorized and directed to execute any and all documents and certificates as may be necessary in order to consummate the transaction contemplated by the resolution and upon execution, each of the documents and certificates shall be legal, valid and binding obligations of the Government Entity enforceable in accordance to the terms of each.

Section 4. That the Loan shall be an obligation of the Government Entity secured by:

Description of Pledge of Revenue Securing the Debt

In an amount sufficient to repay obligations due pursuant to Section 57-39-43.

_____ seconded the motion to adopt the foregoing resolution and after the same had been read and considered section by section and put to a roll call vote, the result was as follows:

- _____ voted
- _____ voted
- _____ voted
- _____ voted
- _____ voted

The motion having received the foregoing vote of the Governing Body, the _____ declared the motion carried and the Resolution adopted, on this the ____ day of _____, 20____

Title: _____
_____, **MISSISSIPPI**

(SEAL)

CLERK

mississippi development authority

MISSISSIPPI

A graphic consisting of three interlocking loops, resembling a stylized 'M' or a decorative flourish, positioned below the word 'MISSISSIPPI'.

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