

Core Industries / Machinery and Equipment Loan Fund

Program Guidelines | February 2009

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Section I – General

A. Introduction

The Machinery and Equipment Loan Fund (MELF), which is administered by the Department of Community and Economic Development (the Department), is designed to stimulate the growth and assist in the retention of Pennsylvania businesses. The program provides low-interest loan financing for a portion of the cost of machinery and equipment purchases to eligible businesses that commit to creating or retaining jobs within the Commonwealth. MELF may be used in conjunction with other state financing programs or with programs operated by local or regional economic development providers.

In order to better serve the needs of manufacturers and others who must make substantial capital investments in order to remain competitive in the global marketplace, Act 12 of 2004 amended the MELF law to increase the maximum loan amount and to add new eligible businesses and eligible activities. Information technology companies, biotechnology companies and licensed hospitals are now eligible to receive MELF funding. The Governor's stimulus package includes additional funding for the MELF program to assist with these larger projects.

B. Eligibility

1. Eligible Applicants

- a. Applicants must be for-profit business enterprises or medical facilities whose project is or will be located within the Commonwealth of Pennsylvania. If the business applying for MELF is a subsidiary, its parent company must also be a for-profit business enterprise.

A medical facility is an entity licensed as a hospital under the Public Welfare Code or the Health Care Facilities Act.

- b. In addition, an applicant must engage in one or more of the following activities at the project site: manufacturing, industrial processes, mining, production agriculture, information technology, biotechnology, services as a medical facility, or other industrial or technology sectors as defined by the Secretary.

Agricultural production is defined as an enterprise involved in the management and use of a normal agricultural operation for the production of a farm commodity. A farm commodity is defined as any Pennsylvania-grown agricultural, horticultural, aquacultural, vegetable, fruit and floricultural product of the soil, livestock and meats, wools, hides, furs, poultry, eggs, dairy products, nuts, mushrooms, honey products and forest products. The enterprise may not be less than 10 contiguous acres in area unless it has an anticipated yearly gross income of at least \$10,000.

Industrial processes do not include mercantile, commercial, or retail business. Examples may include warehouse and terminal facilities, office buildings utilized as national or regional headquarters, and computer or clerical operations centers.

Information technology may include an enterprise engaged in the development of computer software; business to business computer related consulting solutions, including but not limited to network development or e-business applications or development of custom programs for businesses. Computer training providers are not eligible under this category.

2. Eligible Activities

- a. MELF financing is available to eligible applicants that are acquiring and installing new or used machinery and equipment that is directly related to the business process. This includes environmentally essential equipment without which the process could not proceed. The purchase of mobile equipment is eligible only if the equipment will not be titled or registered for highway use.
- b. Financing is also available to eligible businesses to upgrade existing machinery and equipment that is directly related to the business process.
- c. A medical facility may only use MELF funds for the acquisition and installation of equipment and technology necessary to comply with FDA requirements regarding pharmaceutical management.
- d. The applicant or an affiliate must plan to own the machinery and equipment that is being purchased or upgraded through an outright purchase, or through a lease/purchase agreement, or installment sale agreement under which the applicant is treated as the owner of the machinery and equipment for accounting and tax purposes. The purchase for fair market value of machinery and equipment currently in possession of an applicant, pursuant to the exercise of a purchase option under a lease or similar instrument, may also be eligible.

3. Eligible Costs

- a. Machinery and equipment costs may include, but are not limited to, costs of acquisition, delivery and installation.
- b. The following limitations apply to eligible costs:
 - Eligible costs of machinery and equipment are limited to out-of-pocket costs, including the costs of closing, incurred by an applicant. Unrealized appreciation in value may NOT be considered in determining eligible costs. Maintenance or overhaul of existing machinery and equipment is also not an eligible cost.
 - Fees charged to an applicant by brokers, finders, and financing consultants are not eligible project costs. Fees payable to economic development agencies that assist in the preparation of the MELF application and fees payable to the Department may be included as part of the eligible project cost.
 - Costs of an applicants own employees are treated as working capital expenditures and are not an eligible cost, even if such costs are incurred in connection with the acquisition and installation of the machinery and equipment.

4. Restrictions

- a. **No Delinquencies.** The applicant and its principals may not be delinquent or in default of any existing private or public loan relating to the applicant, unless they have entered into a workout agreement satisfactory to the respective creditor(s) and are fully in compliance with the terms of that agreement. For purposes of the program, a principal of an applicant is any record or beneficial owner of 20% or more of an ownership interest in the applicant.
- b. **Taxes Current.** The applicant and its principals must be current in payment of all applicable state and local taxes unless they have entered into a workout agreement satisfactory to the respective taxing authority and are fully in compliance with the terms of that agreement.
- c. **Conflicts of Interest.** The applicant and its principals and managerial officers must disclose any potential conflicts of interest with any officials or employees of the Department.

C. Ineligible Applicants and Activities

1. Computer training providers, businesses engaged in service, mercantile, commercial or retail operations, and personal and professional service entities, except for medical facilities as defined under 'eligible applicants', are not eligible for funding under the MELF program.
2. Projects relating to any of the following activities are not eligible:
 - a. Refinancing any portion of the total project cost.
 - b. Projects that have commenced before receiving approval of the MELF loan, unless the applicant has received non-prejudicial approval from the Department to commence. See the section on General Program Requirements for further details on the rules relating to commencement.

D. General Program Requirements

1. **Loan Size**
The maximum loan amount is \$5,000,000 or 50% of the total eligible project costs, whichever is less.
2. **Other Required Investment**
 - a. Loans are made in conjunction with another source or sources of financing for the eligible costs incurred, such as another lender or equity from the owners or investors.
 - b. Funds from other sources must equal at least 50% of eligible project costs.
3. **Interest Rate** – The interest rate for the loan will be fixed at the time of approval of the loan and remain fixed for the duration of the repayment term. Interest rates are subject to change based on market conditions. Contact DCED for the current interest rate.
4. **Terms**
 - a. Up to ten (10) years or the life of the machinery or equipment, whichever is less.
 - b. The MELF loan may not exceed the term of any matching sources with a lien prior to or shared with the MELF loan.
5. **Collateral**
 - a. All loans must be secured with not less than a second lien position on the machinery or equipment that is being financed.
 - b. If necessary, the Department may require the company guarantee, personal guarantees and other collateral.
6. **Fees**
 - a. The Department charges a non-refundable loan commitment fee of 1% of the approved loan amount, not to exceed \$10,000.
 - b. A check in the required amount must be made payable to the Machinery and Equipment Loan Fund and returned to MELF with the signed and executed MELF commitment letter.
 - c. This loan fee may be included as part of the MELF project cost.
7. **Job Creation or Retention**
Except loans to agricultural producers and to medical facilities, for each \$25,000 of loan proceeds, at least one full-time job must be created or retained at the project site within three years after the MELF loan has closed.

8. **Commencement**

- a. The Department recognizes the long lead times involved in ordering certain machinery and equipment. Therefore, the applicant may place orders for, make security deposits on, and accept delivery of such machinery and equipment prior to approval of the MELF loan. However, the applicant is proceeding at its own risk.
- b. The machinery or equipment may not be installed or used prior to approval of the MELF loan.
- c. However, an applicant may request, in writing, a non-prejudicial letter from the Department receiving permission for the applicant to install and operate equipment prior to approval of the MELF loan.

9. **Aggregate Limits on MELF Financing**

A borrower may not be approved for more than \$5,000,000 in financing under the MELF program in any 36-month period.

Section II – The MELF Application Process

A. Single Application

- 1. To apply for funding, the applicant must submit the electronic on-line DCED Single Application for Assistance located at www.esa.dced.state.pa.us. Please send the signature page via US mail to the address shown at Section II, A.4. following here along with the following required supplemental information. Please reference the Web ID number on any documents sent with the signature page or via e-mail.
- 2. Required supplemental information:
 - a. Complete (all statements and notes) fiscal year end financial statements (prepared by an independent certified public accountant) for the prior three years; interim and one year projections may also be required. Parent companies of applicants must also submit financial information.
 - b. Start-up businesses must submit a complete set of projections (3 years prepared by an independent certified public accountant) with all assumptions listed. Balance sheet, Profit & Loss statement, and Cash Flow statements must be included.
 - c. A signed and dated personal financial statement (PFS) for any principal. A principal is any individual having ownership of 20% or more in the business. Do not include a joint PFS if only one spouse has an ownership interest in the business.
 - d. The ownership breakdown of the business; list names and the respective percentage of ownership, social security number or FEIN.
 - e. If the project contemplates bank financing and the bank is requiring a first or participating first lien, the application **must** include a firm bank commitment letter or the application will not be accepted.

- f. List of the equipment or machinery that is part of the project reflecting the cost for each piece of equipment, as well the cost for installation, shipping, or other necessary work involved in the project. (Appraisals may be required when MELF is used for the purchase of used equipment). Remember, equipment or machinery financed by MELF must be directly related to the manufacturing or industrial process.
 - g. Brief profile of the company: date founded, state and date of incorporation; product description; three major customers and percentage of total sales to each; total number of customers; resumes of the principals/management, and % of sales that is from export outside the U.S.A.
 - h. If the business or an affiliate received a previous MELF loan, include the loan number, date of approval, amount, and status.
 - i. Include a statement reflecting the number of full time jobs to be retained and or created within 3 years at the project site, and describe the anticipated productivity increase as a result of the financing.
 - j. If applicable include a letter from the Department permitting the company to install & operate the equipment prior to MELF approval.
 - k. A completed W-9 form.
 - l. A completed Wage Rate Survey/Fringe Benefit Analysis form.
 - m. Planning Dates: date M & E will be ordered; expected delivery date; date installation will be completed; expected date for completion of upgrades.
 - n. Average salary of jobs created/retained, and percent of employee benefits based on that salary. Example: \$20,000 + 20 %.
3. If this is a First Industries Agriculture/MELF application, please attach a description of the project which discusses one or more of the following (if applicable): (a) the impact on prime farmland; (b) the readiness of the project to proceed; (c) how the project will positively impact economic conditions in an economically distressed area of the Commonwealth; (d) how the project will leverage significant local matching funds; (e) how the project demonstrates partnerships between private sector corporations and public sector and/or non-profit organizations; (f) the adherence of the project to sound land use principles; (g) why the project requires public financial assistance to move forward or to be competitive with similar projects in the region; and/or (h) if the project is working in conjunction with other programs promoting urban and rural supermarket development, including, but not limited to, the Fresh Food Financing Initiative.
4. Send the signature page and required supplemental information to:

Pennsylvania Department of Community and Economic Development
Customer Service Center
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, Pennsylvania 17120-0225

5. Electronic Single Application for Assistance questions should be directed to:

Pennsylvania Department of Community and Economic Development
Customer Service Center
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, Pennsylvania 17120-0225
Phone: (800) 379-7448 or (717) 787-3405

6. MELF Program inquiries should be directed to:

Pennsylvania Department of Community and Economic Development
Machinery and Equipment Loan Fund
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, Pennsylvania 17120-0225
Phone: (717) 787-6245 or
Fax: (717) 772-2890

B. DCED Review

1. The Department reviews each complete application within thirty (30) working days of receipt to ensure compliance with the requirements of the program and determines if the project is competitive for funding given the available appropriation.
2. The Department considers the following criteria when evaluating an application:
 - a. job creation and retention;
 - b. job quality;
 - c. geographic impact of the project;
 - d. impact on state competitiveness;
 - e. investment leveraging;
 - f. and increase in productivity.
3. Following its review of the application, the Department notifies the business of its determination in writing.

If approved, a commitment letter is mailed to the business outlining the terms and conditions of the loan, and the name of the attorney in the Departments legal office who will coordinate and schedule a loan closing.
4. The commitment letter must be executed and returned within 30 days of receipt accompanied by a non-refundable commitment fee (equal to 1% of the MELF loan amount not to exceed \$10,000). A commitment letter is valid for one year but may be extended upon the approval of the Department.
5. Any material changes in the application, collateral or terms must be reviewed and approved by MELF.

C. Procedures for Accessing Funds

1. MELF reviews an affidavit of costs prior to disbursement at closing.
 - a. MELF funds are disbursed based on a percentage of participation by all sources of funds comprising total project cost.
 - b. There shall be no more than two (2) disbursements on the MELF loan.
2. Interest is charged to the applicant from the date of the MELF check.
3. Full loan amortization begins as specified in the closing documents.

D. Limitations and Penalties

1. Three years after the closing date of the MELF loan, MELF will initiate a job survey to determine if the job projections have been met. Failure to meet the job projections may result in an increase in the interest rate to a rate not exceeding two percent (2%) above the current prime interest rate on the outstanding principal for the remainder of the loan unless the Department determines that failure was due to circumstances beyond the control of the business.
2. Any material misrepresentation in any application or misuse of loan funds for ineligible activities may be cause for rejection of an application or calling a MELF loan in default. In addition, the matter may be referred to the appropriate authorities for criminal investigation.
3. Borrowers may prepay a MELF loan at any time without financial penalty.
4. Upon reasonable request of MELF, the borrower shall permit duly authorized employees of the Commonwealth to inspect the facility, books and records of the borrower.
5. MELF must receive on an annual basis evidence of Casualty & Comprehensive insurance for the life of the loan. Failure to do so may result in calling the MELF loan in default.

Section III – First Industries Program

Agriculture and Tourism – two of Pennsylvania's largest industries – are longtime contributors to the Commonwealth's economic health. Through the First Industries Program, low-interest loans are being made available to assist agriculture and tourism related enterprises. Funds available under this section shall be administered in accordance with Sections I – II of these guidelines. Those instances where the First Industries Program requirements differ from the Machinery and Equipment Loan Fund Program requirements are identified below.

A. Eligible Enterprises

To be eligible for First Industries funds, a for-profit business enterprise must be engaged in one of the following activities:

1. Production agriculture, which is the production of farm commodities or farming. Farm commodities include: agricultural, horticultural, aquacultural, vegetable, fruit and floricultural products; livestock and meats; wools; hides; furs; poultry and eggs; dairy products; nuts; mushrooms; honey products; and forest products.

2. Agribusiness (for example, food processing).
3. The sale of farm commodities at wholesale.
4. The sale of farm commodities at retail by urban and rural supermarkets located in underserved areas. Supermarkets are retail stores operated on a self-service basis, primarily selling groceries, produce, meat, baked goods and dairy products. Convenience stores do not qualify as supermarkets. Underserved area is defined as a low or moderate income census tract, an area of below average supermarket density or an area having a supermarket customer base with more than 50% living in a low income census tract or other area demonstrated to have significant access limitations due to travel distance as determined by the CFA.
5. Farmers' markets.
6. Energy-related activities impacting production agriculture or agribusiness.
7. Activities which implement best management practices related to agricultural waste, waste products and byproducts, or fertilizer.
8. Destination sites located in Pennsylvania, including but not limited to historic, heritage, cultural, sporting, amusement, nature, outdoor recreational, or retail venues.
9. Hospitality establishments, including lodging and restaurants, retail establishments, and outdoor activity-based businesses in close geographic proximity to a Pennsylvania destination site or part of the marketing effort that targets a Pennsylvania destination site.
10. Businesses that develop and market travel packages for the purpose of bringing out of state visitors into Pennsylvania to enjoy attractions and stay in overnight, paid accommodations.
11. Public/private partnerships formed to enhance or optimize the use of Commonwealth owned resources such as state-owned parks and state game lands.
12. Tourism related activities or events that promote overnight visits in Pennsylvania.

B. Application Evaluation

In addition to DCED's standard evaluation of the historical and financial performance to assess the ability of a business enterprise to repay the MELF loan, the application will receive priority consideration if it demonstrates one or more of the following:

For tourism projects –

1. The project will demonstrate a significant economic impact to the Commonwealth or the host municipality in which it will be located, and it will enhance the tourism industry within the Commonwealth.
2. The project will result in cost-effective and efficient marketing of regional assets related to tourism.
3. The project will promote a public/private partnership for the utilization of a Commonwealth-owned resource.
4. The project will generate significant room night demand for overnight accommodations and will draw tourists from outside a 100-mile radius of the proposed site.
5. The project will define or interpret the heritage of neighborhoods, communities, or regions of the Commonwealth.

6. The project will capture the location character.
7. The project is ready to proceed.
8. The project will positively impact economic conditions in an economically distressed area of the Commonwealth.
9. The project will leverage significant local matching funds.
10. The project adheres to sound land use principles.
11. The project requires public financial assistance to move forward or to be competitive with similar projects in the region.

For agriculture projects –

1. The project will demonstrate a significant economic impact to the Commonwealth or the host municipality in which it will be located, and it will enhance the agricultural industry within the Commonwealth.
2. The impact of the project, if any, on prime farmland.
3. The project is ready to proceed.
4. The project will positively impact economic conditions in an economically distressed area of the Commonwealth.
5. The project will leverage significant local matching funds.
6. The project demonstrates partnerships between private sector corporations and public sector and/or non-profit organizations.
7. The project adheres to sound land use principles.
8. The project requires public financial assistance to move forward or to be competitive with similar projects in the region.
9. The project is working in conjunction with other programs promoting urban and rural supermarket development, including, but not limited to, the Fresh Food Financing Initiative.

C. Interest Rate

The current interest rate for First Industries projects is 3%. A project involving a farmer or business whose land is enrolled in a farmland preservation program or an Agricultural Security Area (ASA) or a project involving urban or rural supermarkets may receive a 1% reduction in the interest rate normally assessed for MELF loans, but the interest rate to be applied may not be less than 2%.

D. Application Process

Please refer to Section II - The MELF Application Process.