



WHEDA

Infrastructure Access Loan (Act 14) Award Plan for Developers



**INFRASTRUCTURE
ACCESS**

Revised 03/27/24

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

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Defined Terms

The “**Act**” - Wis. Stats. §234.66, created by the enactment of 2023 Act 14.

AMI - the area median income as published by the U.S. Department of Housing and Urban Development for the county where the Eligible Project is located. When calculating the maximum rents family size is determined using the federal imputed income limitation, as defined in 26 USC 42 (g) (2) (C). For determining income restrictions, the actual family size of the tenant is used.

Completed Project - Residential Housing developed in connection with an Eligible Project that was financed, in part, with the Program.

Eligible Governmental Unit - a city, village, town, or county or federally recognized American Indian tribe or band in this state having jurisdiction of an Eligible Project if all of the following apply:

1. On or after January 1, 2023, the eligible governmental unit has reduced the cost of Residential Housing in connection with the Eligible Project by voluntarily revising zoning ordinances, subdivision regulations, or other land development regulations to increase development density, expedite approvals, reduce impact, water connection, and inspection fees, or reduce parking, building, or other development costs with respect to the development of Residential Housing supported by the Eligible Project;
2. The eligible governmental unit is in compliance with the requirements under Wis. Stats. § 66.1001, 66.10013, and 66.10014, to the extent those requirements apply to the governmental unit; and
3. The eligible governmental unit has updated the housing element of its comprehensive plan under Wis. Stats. § 66.1001 (2) (b) within the 5 years immediately preceding the date of the loan application.

Eligible Project - a project for Housing Infrastructure where the infrastructure serves Workforce Housing or Senior Housing. The housing served must meet all of the requirements outlined in the residential housing definition.

Housing Infrastructure - that portion of the installation, replacement, upgrade, or improvement of Public Infrastructure, or private infrastructure in rural areas if transferred to public use, as determined by WHEDA, that relates to an Eligible Project.

General Set-Aside - award set aside for Eligible Projects that do not qualify for the Small Community Set-Aside or Senior Set-Aside.

LURA - Land Use Restriction Agreement between WHEDA and the developer of an Eligible Project and/or owner of a Completed Project, documenting the tenant income restriction requirements as required by Wis. Stats. §234.66.

The “**Program**” - the revolving loan fund and loan program established by the Act.

Public Infrastructure – any of the following that is or will be owned maintained, or provided to or by a Governmental Unit:

1. A water distribution system;
2. A water treatment plant;
3. A wastewater treatment plant;
4. A sanitary sewer system;
5. A storm sewer system;
6. A stormwater sewer system;
7. A stormwater retention pond;
8. A lift or pump station;
9. A street, road, alley, or bridge;
10. A curb, gutter, or sidewalk;
11. A traffic device;
12. A street light;
13. An electric or gas distribution line.

Regional Set-Asides – The state will be divided into regions based on existing regional planning commissions constituted under Wis. Stat §66.0309. No one region shall receive more than 12.5% of the total amount to be awarded by this Program. All counties not served by one of these regional planning commissions will be considered a single region.

Residential Housing – single-family or multifamily housing for rent or sale that meets the following requirements:

1. The project is on land subject to taxation under Wis. Stats. Ch. 70;
2. Has not been the subject of a claim for a state or federal historic rehabilitation tax credit, as determined by WHEDA; and
3. Has not received financial assistance from tax increments generated by an active tax incremental district.

Senior Housing – as defined in Section Wis. Stats. § 234.662(h), housing that is intended and operated primarily for occupancy by at least one person 55 years of age or older per dwelling unit, as determined by WHEDA) and meets the requirements of Wis. Stats. §234.662(i)1-4.

Senior Set-Aside – award set aside for Eligible Projects comprised of residential housing that satisfies the definition of Senior Housing.

Small Community Set-Aside – award set aside for Eligible Projects located in cities, villages, and towns with populations of less than 10,000 people.

Workforce Housing – Residential Housing that satisfies all the following, as determined by WHEDA:

1. for housing intended to be rented, the estimated annual housing costs, as defined under Wis. Stats. §16.301 (3), do not exceed, or are not expected to exceed, 30 percent of 100 percent of AMI, with family size determined using the federal imputed income limitation, as defined in 26 USC 42 (g) (2) (C) and the utility-related costs if not included in the rent equal the utility allowance determined by the U.S. Department of Housing and Urban Development; and
2. for housing intended to be rented, the housing is for occupancy by individuals whose annual household income does not exceed 100 percent of AMI.
3. for housing intended to be occupied by the owner, the estimated annual housing costs, as defined under Wis. Stats. §16.301 (3), do not exceed, or are not expected to exceed, 30 percent of 140 percent of AMI; and
4. for housing intended to be occupied by the owner, the housing is for purchase by individuals whose annual household income is not more than 140 percent of AMI.

Introduction

Thank you for your interest in the Infrastructure Access Loan program.

This loan program is designed to increase the supply of affordable housing for working families and seniors. This program allows a residential housing developer to apply for a loan to cover the costs of installing, replacing, upgrading, or improving public infrastructure related to affordable housing development. Funding will be provided by WHEDA through a low-interest rate loan that is subordinate to other funding sources. Review the Coordination Between Governmental Units and Developers on Infrastructure Access Loans section for additional information.

Program Details

The total amount to be awarded by this Program is \$275 million total including Developer and Governmental Loans. \$82.5 million will be for the Small Community Set-Aside and \$68.75 million will be for the Senior Set-Aside total including Developer and Governmental Loans.

WHEDA shall divide the state into regions based on existing regional planning commissions constituted under §66.0309, where all counties not served by an existing regional planning commission constitute a single region. No one region shall receive more than 12.5% of the total amount to be awarded by this Program. The regional set-aside requirement is subject to change.

WHEDA will allocate the funds on a semiannual cycle.

For the initial award cycle, WHEDA intends to allocate a maximum of \$34.375 million total including Developer and Governmental Loans. The maximum allocation noted in the initial award cycle allows cities, villages, towns, or counties to come into compliance with requirements of the Act that are prerequisites for projects within their jurisdiction to qualify for funds. WHEDA reserves the right to modify the amount of funding to be allocated in future funding cycles based on actual or projected demand.

Timeline for Applications and Awards

| | 2024 - 1 | 2024 - 2 | 2025 - 1 |
|---|------------|--------------|------------|
| Application Deadline | April 2024 | October 2024 | April 2025 |
| WHEDA Publication of Preliminary Awards | June 2024 | | |

Application Deadline

WHEDA will prepare and make an application available to all interested applicants via its electronic application system known as ProCorem. The application will include a prescribed form and a list of required additional documentation. All initial and subsequent applications must be submitted via ProCorem. WHEDA will accept applications according to the calendar noted above. All applications must be submitted electronically by 11:59 PM (Central time) of the last day of the application deadline.

Coordination Between Governmental Units and Developers on Infrastructure Access Loans

Governmental Units and Developers will need to coordinate closely on Infrastructure Access Loan applications to ensure project success.

Application Process Overview

1. The Governmental Unit and Developer identify infrastructure need(s) for the affordable housing project, and work together to complete the Cost Reduction Analysis in the Certificate to be included with the application(s).
2. The Developer completes and submits an application adhering to the Infrastructure Access Loan Term Sheet – Developers.
3. (Optional) The Governmental Unit completes an application adhering to the Infrastructure Access Loan Term Sheet – Governmental Units. The Governmental Unit can submit an application concurrently with their developer partner’s application or in a subsequent application round. WHEDA will only consider funding requests from Governmental Entities if a Developer application has been received for the same project. Funding of a loan to a Government Entity is contingent upon the Developer being awarded a loan.

Governmental Units should refer to the Infrastructure Access Loan – Governmental Units award plan for more specific instructions which pertain to their application process.

Application Review

WHEDA will review all applications for completeness and meeting the minimum threshold to comply with the Act, including, but not limited to, the following:

1. the application is complete with all required additional documentation and threshold items;
2. the application is for an Eligible Project;
3. WHEDA will not subordinate loans made through the Program to the following types of financing:
 - a. Lease-to-Own/Land Contracts;
 - b. Loans that WHEDA determines to be out of market or unreasonable;
 - c. Mortgages with cash flow dependent repayment – WHEDA will only subordinate to must pay and other subordinate loans;
 - d. Floating rate / adjustable rate mortgages will be analyzed on a case by case basis with the goal of maintaining 1.0 debt service coverage ratio; and
 - e. Subordination agreements that would impact WHEDA’s ability to enforce its LURA’s affordability requirements.
4. WHEDA will record a LURA against the property at closing. In the event of a foreclosure of the first-lien mortgage, the LURA will be released.
5. the developer has secured all applicable federal, state, and local government permits or other approvals for the Eligible Project;
6. the developer has secured and provided proof of the necessary financial resources for the total cost of the Eligible Project not to be covered by a loan from WHEDA under this Program;
7. the Eligible Project is located within an Eligible Governmental Unit;

8. the Eligible Governmental Unit, in cooperation with the developer, shall submit to WHEDA a cost reduction analysis in a form prescribed by WHEDA and signed by the developer and the head of the Governmental Unit's governing body that shows the cost reduction measures, including time saving measures, undertaken by the governmental unit on or after January 1, 2023, that have reduced the cost of Residential Housing in connection with the Eligible Project. The signed analysis shall clearly show for each time saving or cost reduction measure the estimated time or dollar amount saved by the developer and the estimated percentage reduction in housing costs;
9. Environmental Assessments have been provided in accordance with the term sheet;
10. All units must meet Workforce Housing or Senior Housing requirements. For rental units, affordability requirements must be maintained from initial occupancy or closing of the loan, whichever comes later, and continue thereafter for the greater of 10 years or full repayment of the loan. For housing intended to be owner-occupied the 10-year affordability period commencing immediately after the developer closes on the sale of the housing to the initial owner-occupier.
11. These funds are not eligible for use along with claimed state or federal historic rehab tax credits or assistance due to active Tax Incremental District (TID).
12. Any applicable sewer or water service area plan has been amended if necessary;

Financial Feasibility Threshold

1. The total loan to value must meet the requirements outlined in the term sheet.
2. The Eligible Project must meet the debt service coverage ratio as outlined in the term sheet.
3. WHEDA will rely upon senior lender's underwriting, review and approval as it relates to determination of creditworthiness of the developers. If WHEDA is the primary lender, standard underwriting standards for a similar loan product will be followed in determining creditworthiness.
4. WHEDA will require guarantees as outlined in the term sheet.

Cure Period for Threshold Items

There is no cure period for any material item. Applicants are encouraged to apply for the next cycle in six months.

Prioritization If Limited Resources

1. Credit risk, collateral, and the need for a loan guarantee.
 - a. Credit Risk to be determined by analysis of credit reports, personal financial statements, and corporate financial statements that are pulled by the Eligible Project's senior lender.
 - b. Collateral to be analyzed by the loan-to-value ratio including WHEDA financing.
 - c. Need for one or more unlimited personal guarantees is dictated by the Act; Eligible

Projects that do not require a guarantee will have a higher priority.

2. Estimated reduction in housing costs.
 - a. Eligible Projects resulting in a higher reduction of housing costs will be prioritized. Housing cost reductions will be determined by analysis of the Cost Reduction Analysis submitted with the application.
3. Need for Workforce Housing or Senior Housing in the area.
 - a. Need for Workforce Housing or Senior Housing to be demonstrated in a market

Award Process

1. WHEDA will publish a list of awarded applications at the conclusion of each award allocation round. The list will include the set-aside category and the amount of each loan awarded to an Eligible Project.
2. Commitment letters outlining the awarded amount and loan terms will be sent to developers.
3. Upon execution of commitment letters, WHEDA staff and developers will engage in the loan closing process.

Closing Process

1. Following receipt of a fully executed commitment letter and upon notice from the developer that the Eligible Project is ready to proceed to closing, WHEDA will generate a closing checklist for the developer.
2. WHEDA will generate and distribute loan documents for the developer's review.
3. Developer will be required to deliver all diligence items outlined on the closing checklist to WHEDA for review and approval prior to closing.
4. Once all items required under the loan closing checklist are complete, and the loan documents are in final form, the transaction will be ready to close.
5. The developer will work with WHEDA to generate a sources & uses statement in WHEDA's form at closing along with a title company settlement statement. Any expenses to be paid at closing must be supported by invoices and any requests for reimbursement to developer must be supported by invoices and check copies evidencing prior payment.
6. Once the developer's original signatures to the loan documents have been received by WHEDA, WHEDA will then deliver its executed recordable loan documents to the title company at closing, and WHEDA will wire any funds to title to be disbursed on the day of closing.

Draw Process

WHEDA will develop a Draw Process utilizing a construction escrow agent, or title company.

Compliance Monitoring Process

WHEDA will monitor all Completed Projects to determine whether they are complying with the requirements of the Program.

Compliance Monitoring for Rental Units

All Completed Projects that create **rental units** are required to comply with the following regulations:

1. The compliance period will run from initial occupancy or the closing of the loan, whichever comes later, through the longer of: a) a minimum 10-year affordability period, or b) the full repayment of the loan, all as outlined in the LURA.
2. The owner of a Completed Project must keep records, including prescribed unit and tenant data, for each year in the compliance period. They must also annually submit to WHEDA a certification of continuing compliance. In addition, WHEDA has the right to perform physical inspections of any Completed Project and associated files through the end of the compliance period.
3. Annual monitoring fees will not be charged to the Owner for this Program; however, late charges will be assessed for documentation not received by the due date. WHEDA will only accept payment via ACH agreement. All Completed Projects must complete and keep current an ACH agreement with WHEDA.
4. For additional detail regarding WHEDA's compliance procedures and requirements, please visit the Program's Rental Units Compliance Guide.

Compliance Monitoring for Owner-Occupied Housing

All Completed Projects that create owner-occupied housing are required to comply with the following regulations:

1. There will be a 10-year compliance period. For each house, the compliance period will commence immediately after the Developer closes on the initial sale of the house to the initial Owner-Occupier.
2. The Owner-Occupier must agree to adhere to the following Use Restrictions throughout the compliance period:
 - a. the housing must remain owner-occupied;
 - b. the housing may only be sold to an owner-occupant (not for rental);
 - c. the housing may not be sold for a price that exceeds the price charged by the developer to the initial owner-occupier, adjusted annually by the average compounded annual percentage increase in the sale price of all residential housing in the county in which the housing is located, as determined by WHEDA.
 - d. WHEDA must be notified in advance of any potential sales within the compliance period

3. All Use Restrictions shall be contained in the deed restrictions and recorded against the housing with the applicable register of deeds and shall run with the land.
4. Developer must keep records, including prescribed unit and owner-occupier data, for each year until the loan is paid off. They must also annually submit to WHEDA a certification of continuing compliance. In addition, WHEDA has the right to perform physical inspections of any Completed Project and associated files through payoff.
5. Annual monitoring fees will not be charged to the Developer for this Program; however, late charges will be assessed for documentation not received by the due date. WHEDA will only accept payment via ACH agreement. All Completed Projects must complete and keep current an ACH agreement with WHEDA.

Administration of and Modification of the Plan

This initial Award Plan has been approved by WHEDA's Product Development Committee, Internal Loan Committee, and Members Loan Committee.

WHEDA's Director of Commercial Lending shall oversee the implementation, administration and interpretation of this Plan by WHEDA staff, including: the preparation of forms of all applications, certifications, scoring sheets and other documents; and the implementation of fair and reasonable processes for consideration of objections that may be raised by applicants to decisions made by staff who administer the Program.

WHEDA's Members Loan Committee may amend this Plan from time to time to implement policy or program changes that the Committee deems to be in the best interests of the citizens of the State of Wisconsin.

The Director of Commercial Lending may amend this Plan to implement administrative changes, and technical corrections.

Noncompliance

WHEDA will have all rights and remedies typical under a commercial loan. Additionally, WHEDA will have the right of specific performance resulting from noncompliance with the LURA's requirements.

Statement of Policy

WHEDA is given the discretion to determine the appropriate amount of a loan made to Eligible Projects selected under the Program, so long as such amount does not exceed the lesser of a) the cost of the Housing Infrastructure, or b) 20 percent of the total project costs, including any land purchase, whichever is less.

WHEDA is responsible for allocating only the amount of funding to a given Eligible Project required to make that Eligible Project economically feasible. This decision shall be made solely at the discretion of WHEDA, but in no way represents or warrants to any person that the Eligible Project is, in fact, feasible or viable.

The Program must:

1. set criteria used to determine that the occupants meet AMI; and
2. when awarding a loan to a developer under the Program, prioritize the following in descending order:
 - a. credit risk, collateral, and the need for a loan guarantee from the developer;
 - b. the estimated reduction in housing costs, and
 - c. the need for Workforce Housing in the area.

The Program may also include other criteria WHEDA deems appropriate and, except for the inclusion of the specified preference items, WHEDA has discretion with respect to the relative weight of these criteria as determined by WHEDA.

WHEDA will implement a procedure to monitor for noncompliance of the occupants' income limits, notify the owner of the Completed Project of noncompliance and monitor for noncompliance through an annual review.



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