

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY  
RECAPTURE POLICY  
Adopted July 19, 2016

The County of Monroe Industrial Development Agency (the “IDA”) reserves the right to annually review project performance and determine if a project meets the obligations required and stated in the IDA approval and project agreements. The terms and conditions of the project documents (the “Material Factors”) will serve as the benchmark for determining project compliance.

Material Factors should be explicit and measurable and may include items such as investment, job creation, retention or other factors as determined by the board. Material Factors may vary by project type or specific application.

**Non-Compliance Process:**

If a company is found to be non-compliant with the Material Factors outlined during the course of the benefit period, the IDA shall undertake the following:

1. The IDA shall notify the company in writing that, in the IDA’s determination; it has violated a Material Factor.
2. The company shall be given an opportunity to remedy the violation.
3. If it is unable to remedy the violation, the IDA shall seek additional information/explanation from the company as to why a Material Factor was not achieved. These may include economic or natural factors that led to the default. These factors should be discussed and predetermined to the extent possible by the Board and may include items such as, natural disaster, industry dynamics, unfair competition or economic events that were outside the control of the company.
4. The company shall be provided the opportunity to present to the IDA any information as outlined above regarding why the Material Factor was **not** achieved.

**Board Actions:**

Decisions to keep benefits in place, reduce, terminate, or recapture financial assistance will be made by the IDA Board. The following options are recommended when considering Material Factor compliance.

1. Upon a review of the facts regarding a non-compliant determination, the IDA Board may determine that the cause of the non-compliance was a valid reason for not meeting the Material Factor and may consider the matter closed without further action, or set a specific time period for the company to achieve compliance. This may also be accompanied by a period of increased reporting or such other conditions as the IDA Board may reasonably impose. (i.e., Review violated Material Factor(s) quarterly until remedied.)

2. If a company is unable to meet the Material Factors within the time allowed, the IDA Board will determine if the violation will result in the reduction, suspension, termination or recapture of financial assistance.

Reduction of Financial Assistance: At the sole discretion of the IDA Board, it may consider a reduction in assistance as an appropriate action to take in the event of non-compliance with a Material Factor.

Termination of Financial Assistance: In addition to the typical reasons why an IDA may act to terminate financial assistance such as, closure, change of use, change of ownership etc., the IDA Board may elect to terminate any ongoing financial assistance to a company. Reasons for termination should be explicit and may include continued violation of the Material Factors, failure to comply with ongoing reporting or compliance requirements of the IDA.

Recapture of Financial Assistance: An IDA Board may take action to recapture a portion or all of the financial assistance provided to a company. Actions to recapture shall be made by decision of the IDA Board. An event leading to recapture may include: an applicant knowingly providing false information on an application or a compliance/monitoring report; the IDA Board finding that the company did not make a good faith effort or have any intention of meeting a Material Factor; the company ceases operations and/or relocates prior to fulfilling the length of term for a Material Factor; or the company demonstrates a wanton disregard for state and/or local laws or regulations.

In the event an IDA is successful in recapturing financial assistance, such funds shall be returned to the appropriate affected taxing jurisdictions on a pro rata basis unless otherwise agreed upon by the local taxing jurisdiction.