

**Title 19**  
**CORPORATIONS AND BUSINESS**  
**Part VII. Economic Development Corporation**  
**Subpart 5. Contract Loans**

**Chapter 61. Contract Loan Program**

**§6101. Purpose**

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. This program will be a pilot program for a period of one year upon which the board of directors of the LEDC will consider extending the program. The corporation will consider sound loans so long as resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:672 (July 1995).

**§6103. Definitions**

*Contract*—a contract for goods and/or services to any federal, state, or local government entity.

*Disabled Person's Business Enterprise*—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans with Disabilities Act of 1990.

*Minority- or Woman-Owned Business Enterprise*—must be owned or controlled by a socially or economically disadvantaged person, which is defined by the SBA as a

person(s), regardless of sex or marital status, who is a member of groups whose disadvantage may arise from cultural, racial, chronic economic circumstances, or background as stated in R.S. 51:2347 et seq., and must be certified as a minority business enterprise or woman's business enterprise as defined in R.S. 51:2347(B)(1-6).

*Small Business Concerns*—as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: Promulgated in accordance with R. S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:672 (July 1995).

**§6105. Application Process**

A. Applicant is required to first contact a financial lending institution that is willing to entertain such a loan with the prospect of additional credit support provided by a LEDC guaranty/participation and complete the application process.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements, and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts, acquired in the course of duty, will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form, along with the information identified in Attachment A, must be submitted with a \$100 application fee. Applications will be processed with decisions confirmed promptly.

2. Minority- and women-owned businesses applying for assistance under that provision will have to

submit certification from the Minority and Women's Business Enterprise Office of the Department of Economic Development, along with the request for financial assistance.

3. Businesses applying for consideration under the "disabled persons" provision shall submit adequate information to support the disabled status.

4. LEDC staff will review the applications for completeness and submit only complete packages for analysis. Any applications not receiving approval in the initial analysis process shall be individually reviewed, and exceptions to underwriting criteria noted. The LEDC staff will report to the screening committee monthly those applications approved, and those not recommended for approval, with reasons.

5. Loans guaranteed/participated in by LEDC must qualify under LEDC pre-approved underwriting criteria using standardized LEDC documentation. The originating bank is responsible for all loan closing documentation. Closing will occur only after a site visit by a LEDC staff member or designated representative.

6. Only those applicants and/or their designated representatives asked to be present by the LEDC staff need to be present for the screening committee.

7. The board of directors will review the results of all applications processed and screened. Loans recommended for approval by the LEDC staff as exceptions to standard underwriting criteria will be presented to the screening committee of the board for approval. Loans for \$100,000 or less approved under standard underwriting procedures requiring a LEDC guarantee/participation shall be approved jointly by the LEDC executive director and deputy director. In the absence of one of those persons, the president of LEDC, or the secretary/treasurer, could additionally approve the loan. All completed applications recommended by staff on loans in excess of \$100,000 will be approved by the screening committee and the board.

8. The applicant will be notified promptly from date accepted for processing by mail of the outcome of the application.

9. A LEDC commitment letter and standard guaranty or participation agreement will be mailed to the

bank promptly after approval by the LEDC staff applying standardized evaluation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:672 (July 1995).

#### **§6107. Eligibility**

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small businesses whose owner(s) or principal stockholder(s) shall be a resident of Louisiana, and the business is domiciled in Louisiana with preference given to certified minority businesses, women-owned businesses, or businesses owned by disabled persons.

C. An assignable contract for goods or services with a federal, state, or local entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:673 (July 1995).

#### **§6109. General Loan Provisions**

A. Only one contract loan will be allowed for any one borrower at any one time. A borrower may apply for additional contract loans only after the full repayment of any previous contract loan is complete.

B. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans.

1. Funding requests will only be considered for supporting contracts for goods and services provided to federal, state, or local entities.

2. Proceeds of the loan shall not be used for any of the following purposes:

a. repayment of debt to or the cashing out of any stockholder or principal of the business;

b. repayment of any personal debt;

c. funding for the principal purpose of refinancing existing debt in excess of 10 percent of the total requested loan amount.

3. The corporation shall not knowingly approve any loan guaranty/participation if the applicant has presently pending, or outstanding, any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan guarantee/participation if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

4. The terms or conditions imposed and made part of any loan guaranty/participation authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

5. The corporation shall not subordinate its position.

C. Interest Rates. On all loan participations/guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed four percentage points above New York prime, as published in the *Wall Street Journal*, at either a fixed or variable rate.

#### D. Collateral

1. Collateral-to-loan ratio will be no less than one-to-one (1:1).

2. Collateral position shall be negotiated but will be no less than a sole second position.

3. Collateral value determination:

a. the appraiser must be certified by recognized organization in area of collateral;

b. the appraisal cannot be over 90 days old;

c. the percentage of value considered shall be consistent with the underwriting criteria established by the LEDC Board from time-to-time.

4. Acceptable collateral may include, but not be limited to the following:

a. fixed assets: real estate, buildings, fixtures;

b. equipment, machinery: used in support of the contract at cost supported by invoice or no more than 75 percent of cost for existing equipment or machinery;

c. inventory: used in support of the contract at cost supported by invoice or no more than 50 percent of cost for existing inventory;

d. personal guarantees are required; however, no value will be assessed towards collateral value. A signed and dated personal financial statement is also required;

e. 85 percent of accounts receivable considered collectable with supporting aging schedule;

f. contract with federal, state, or local entity shall be assigned to lender; however, no value will be assessed towards collateral value.

5. Unacceptable collateral may include, but not be limited to the following:

a. stock in applicant company and/or related companies;

b. personal items.

#### E. Equity

1. Will be no less than 10 percent of the loan amount for a start-up operation, an acquisition, or an expansion.

2. Equity is defined to be:

a. cash;

b. paid in capital;

c. paid in surplus and retained earnings;

d. partnership capital and retained earnings;

e. unfunded portion of inventory and receivables.

3. No research, development expense, nor intangibles or contributed assets, other than cash of any kind, will be considered equity.

#### F. Amount

1. For small businesses the corporation's participation shall be no greater than 50 percent of a loan, but in no case shall it exceed \$500,000.

2. For certified minority-owned, women-owned, or owned by disabled persons, the corporation's participation

shall be no greater than 60 percent of a loan, but in no case shall it exceed \$500,000.

3. For either a small business or a certified minority-owned, woman-owned, or disabled-owned business the corporation's guarantee shall be no greater than 50 percent of the lending institution's portion of the amount of the first draw of the contract. The first draw cannot exceed 50 percent of the total loan amount.

G. Terms. The term may be no longer than 180 days past the completion date of the contract but in no case any greater than one and one half years.

H. Use of Funds. To support a contract for goods and services for a federal, state, or local entity. All proceeds of the contract will be assigned and collected by the lending institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:673 (July 1995).

#### **§6111. General Agreement Provisions**

##### **A. Participation Agreement**

1. The lending institution is responsible for administration and monitoring of the loan.

2. The lead lender may not sell any additional participations in the loan.

3. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

4. The bank interest rate may not exceed 4 percentage points above New York prime, as published in the *Wall Street Journal*, at either a fixed or variable rate.

5. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

##### **B. Guaranty Agreement**

1. Lending institution is responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

3. The guarantee will commence upon the first draw on the line of credit and will end upon the advance of the second draw on the line of credit.

4. The guarantee will cover the unpaid principal amount owed only.

5. Delinquency will be defined according to the bank's normal lending policy, and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

C. Borrower Agreement. At the discretion of LEDC, the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:674 (July 1995).

#### **§6113. Confidentiality**

A. Confidential information in the files of the corporation and its accounts, acquired in the course of duty, is to be used solely for the corporation. The corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion Number 82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:674 (July 1995).

#### **§6115. Conflict of Interest**

A. No member of the corporation, employee thereof, employee of the Department of Economic Development, nor members of their immediate families, shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions

of this Section, the same shall be null and void, and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:674 (July 1995).

### §6117. Attachment A

A. Attachment A. The application for financial assistance should consist of a completed LEDC application form and a comprehensive business plan/loan proposal which contains, but is not limited to, the following guidelines:

1. a LEDC Contract Loan Application Form;
2. Executive Summary:
  - a. business description:
    - i. name;
    - ii. location and business facility description;
    - iii. product or service;
    - iv. market and competition;
    - v. management expertise;
  - b. business goals, including number of employee jobs to be saved or created as a result of this loan;
  - c. uses of loan proceeds;
  - d. copy of contract: provide name, address, and telephone number of awarding agency;
  - e. projected financial results demonstrating payback capability;
3. Operations
  - i. board of directors composition;
  - ii. officers: organization chart and responsibilities;

- iii. list of stockholders with more than 15 percent ownership;

- iv. résumés of key personnel;

- v. staffing plan/number of employees;

- vi. facilities plan/planned capital improvements;

- vii. operating plan/schedule of upcoming work for next one to two years;

- viii. list of work backlog, if any;

4. The originating bank may be asked by LEDC to share additional information on which they based a favorable decision;

5.a. For sole proprietorships:

- i. last three years personal, federal and state income tax returns complete with all schedules (as available based upon age of business);

- ii. interim business income statement for the current year;

- iii. complete personal financial statement.

b. For partnerships or corporations:

- i. last three years' business financial statements including balance sheets and income statements;

- ii. interim business financial statements;

- iii. last three years' business income tax returns complete with all schedules;

- iv. most recent personal income tax returns including all schedules with K1s for each owner, general partner, and/or guarantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21:674 (July 1995).