

# GUIDELINES

## *Louisiana Business Recovery Grant and Loan Program – Phase II*

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### **Description**

The Business Recovery Grant and Loan Program – Phase II (“BRGL P2”) is a continuation of the Louisiana Business Recovery Grant and Loan Program.

This program is funded through a grant from the U.S. Department of Housing and Urban Development as eligible under Sections 105(a)15, 105(a)17 and 105(a)22(b) of the Housing and Community Development Act of 1974. The activities will meet the national objective of benefiting persons of low to moderate income or urgent need or elimination of slums and blight.

### **Program Size**

The total amount of CDBG funds available for the BRGL P2 is approximately \$80M.

### **General Eligibility**<sup>1</sup>

To be eligible for the benefits under the BRGL P2, a business must meet the following requirements:

1. **In business prior to the storms** (Katrina and/or Rita) and currently open
2. **1 to 100 employees** (FTEs = Full-Time Equivalents = 35 hours per week)
3. **Minimum \$25,000 annual gross revenue** (pre-storm)
4. At least *one* of the following:
  - i. **Business experienced a ≥20% decline in gross revenue** pre-storm (2004 annual) versus post-storm (2006 annual)  
*or*
  - ii. **Business experienced a storm-related tangible loss of ≥\$20,000**
5. **Located in one of the following parishes:** Calcasieu, Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Vermilion, Acadia, Allen, Beauregard, Iberia, Jefferson Davis, Lafourche, St. Charles, St. John the Baptist, St. Mary, Tangipahoa, Terrebonne, and Washington

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<sup>1</sup> See BRGL Phase II Documentation Guide for acceptable proof of eligibility requirements

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### **Miscellaneous Eligibility**

1. There is no tangible goods requirement for single-employee or self-employed businesses in BRGL P2
2. Businesses qualify based on their pre-storm location of doing business and other conditions, including employment (but must still be in eligible parish post-storm)
3. Non-profits are eligible based on the earned-income portion of their operation
4. Religious organizations are eligible based on the secular component of their business (e.g., a church that runs a restaurant)
5. Bars are eligible to receive awards
6. Common ownership of different businesses/companies: If two or more companies or businesses with common ownership have an owner with greater than 50% ownership in each, only one may qualify for an award. Owners with a ≥50% share in two or more businesses may only qualify for one award each (a husband/wife team with 50%/50% ownership in two legally distinct companies may qualify for one business each)
7. Owners who have received a grant and/or loan and own a minority share in another business, do not disqualify that business by their ownership
8. Eligibility issues that arise during the course of program implementation will be decided by LED and OCD/LRA via the Policy Clarification / Change Form process

### **Award**

1. Awards will be 20% grant / 80% loan packages
2. Total awards will range from \$20,000 to \$100,000<sup>2</sup>
3. Phase I Awardee issues:
  - Businesses that received a grant in Phase I are not eligible for a grant in Phase II
  - Businesses that received a loan in Phase I are eligible for a supplemental loan in Phase II. Total amount for combined loans from Phase I and Phase II may not exceed \$250,000
  - Businesses that received a grant in Phase I are eligible for a loan-only in Phase II (20% grant portion of award will not be given)

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<sup>2</sup> On a case-by-case basis as approved by LED/OCD/LRA, award amounts may be increased to Action Plan limit of \$250,000. Regardless, grants will never exceed \$20,000

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### **Loan Terms**

1. Interest rate is 0% for first two years, 4% thereafter<sup>3</sup>
2. No principal repayment for first six months
3. Term fully amortized over three to seven years, as determined appropriate by intermediary to ensure viability of repayment
4. Personal guarantee required for all >20% owners
5. Default covenants are required for selling business, selling or diluting majority ownership, or selling assets purchased with CDBG funds, as per OCD
6. No closing fees
7. Subject to any necessary action plan amendments, LED may hereafter amend its agreements with the intermediaries or enter into independent agreements with the intermediaries providing for the establishment of revolving loan funds use of repaid loan funds by intermediaries in their communities. The agreements establishing revolving loan funds shall require compliance with applicable CDBG requirements and shall be subject to approval by OCD for such regulatory compliance
8. If permissible under the laws and regulations governing the operations of the intermediaries, loans may be counted as assets on the books of the intermediaries. However, nothing in this provision shall diminish or release any obligation or liability the intermediary may have to LED, OCD, and/or HUD

### **Award Underwriting**

1. **Basic Standard Underwriting** – all award applicants must fulfill the following minimum standard underwriting criteria<sup>4</sup>:
  - Determination that meets General Eligibility and Miscellaneous Criteria (above)
  - Beacon credit score  $\geq 550$
  - Projected debt coverage ratio of  $1.1x^5$
  - Personal guarantee, where applicable
2. **Determination of Satisfaction of the Criteria of 24 CFR 570.209<sup>6</sup>:**
  - (1) That project costs are reasonable;
  - (2) That all other sources of project financing are committed;

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<sup>3</sup> OCD/LED/LRA reserve the right to change this rate

<sup>4</sup> Unless mitigating circumstances are present and noted in the file

<sup>5</sup> Debt coverage ratio defined as EBITDA / (interest payments + current maturities)

<sup>6</sup> Note: there are no objective or absolute measures of satisfaction of these criteria

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- (3) Documentation of need and that CDBG funds are not substituted for non-Federal financial funding or support;
- (4) That the project is financially feasible;
- (5) That to the extent practicable, the return on the applicant's equity investment will not be unreasonably high; and
- (6) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

A template/guide will be provided by OCD as to how underwriting should be conducted for these and any other required CDBG criteria.

3. **Scoring** – all award applicants that fulfill the underwriting criteria will then be ranked according to the US Department of Commerce Bureau of Economic Analysis Regional Economic Multipliers, according to their industry code (NAICS). This scoring will occur automatically in the Sage database, and will be employed to rank awardees in the event of oversubscription.

#### **Use of Funds**

1. Grant and loan proceeds may be used for operating expenses (rent, insurance, utilities, etc.), inventory, equipment and to refinance more expensive storm-related business debt
2. Ineligible uses of proceeds include:
  1. Acquisition of buildings
  2. Construction
  4. Refinancing of State Bridge Loans
  5. Payment of any tax arrearages, governmental fines or penalties
  6. Purchase of real property
  7. Political or religious activities
  8. Buying out any stockholder or equity holder in a business
  9. Buying out or reimbursing any family member
  10. Investment in instruments or investments for the sole purpose of a return on investment.
  11. Use for a loss or expense for which insurance benefits has been or is paid or financial assistance has been or is provided from federal, state, or other sources.

#### **CDBG Requirements**

- A. This program is funded as an eligible activity under the Community Development Block Grant Program. All requirements of the CDBG program that relate to the economic development activities are applicable to SFGRL program including:

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1. Benefit to Low and Moderate Income persons -- 24 CFR 570.483 (b)(4) as job creation or retention or 570.483 (b)(1) area wide benefit
2. Activities which aid in the prevention or elimination of slums or blight 24 CFR 570.483 (c ) or designed to meet community development needs having a particular urgency 24 CFR 570.483(d)
3. Guidelines for evaluating and selecting economic development projects 24 CFR 570.209
- 4 Other program requirements -- 24 CFR 570.601 (Sub part K)
5. Financial Records -- 24 CFR 570.502 and 24CFR 84.21
6. 24 CFR 570.603 Labor standards
7. 24 CFR 570.604 Environmental Standards

B. Providers reporting job creation or retention or micro-enterprise development for national objective purposes (24 CFR 570.483(b)(4)) can find individual applicant forms at: <http://www.doa.louisiana.gov/cdbq/dred.htm> and click on the link for Low Moderate Income Certification. The instructions will explain the calculation for family income. The current income tables for 2008 are found on the spreadsheet link for each parish or metropolitan area, and are also attached to this document (“Income Tables”).

### A. Multiple verification of business eligibility

As part of their application to the BRGL, businesses are required to submit the following in order to establish eligibility:

<u>Item</u>	<u>Examples</u>
<input type="checkbox"/> Proof of business organization or incorporation	<ul style="list-style-type: none"><li>▪ Articles of Incorporation/Organization</li><li>▪ Business license</li><li>▪ Federal tax form (incl. 1040 Schd. C)</li></ul>
<input type="checkbox"/> Proof of address	<ul style="list-style-type: none"><li>▪ Utility bill</li><li>▪ Lease agreement</li><li>▪ Tax returns</li></ul>
<input type="checkbox"/> Proof of number of employees	<ul style="list-style-type: none"><li>▪ Payroll statement</li><li>▪ State unemployment tax statement</li><li>▪ Federal form 941</li></ul>
<input type="checkbox"/> Proof of physical loss (if required)	<ul style="list-style-type: none"><li>▪ Estimates for repair</li><li>▪ Photos</li><li>▪ Insurance claims</li></ul>
<input type="checkbox"/> Financial records	<ul style="list-style-type: none"><li>▪ Federal tax statements/returns</li><li>▪ Company financial statements</li><li>▪ Bank statements</li></ul>

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- Owner information
- Sales receipts
- Government-issued ID

#### B. Statement of Understanding, including signed attestation of truth on grant and loan applications

In order for an application to be complete, business owners are required to sign an attestation that includes:

\_\_\_\_\_ - SBA Duplication of Benefits. The Small Business Administration will review all award recipients for “Duplication of Benefit.” If it is found that you received an SBA loan for your business, for the purpose of repairing or replacing physical damage (i.e., equipment, inventory) due to Katrina and/or Rita, and that you are now receiving an award for the same purpose, you may be required to use some or your entire award to repay your SBA loan. This repayment will be made up-front by the Louisiana Department of Economic Development (“LED”) and you will then receive the net proceeds, along with information about your Duplication of Benefit.

\_\_\_\_\_ - Louisiana Department of Revenue. The undersigned understands that the Business Recovery Grant and Loan Program (“BRGL”) and its intermediaries have the authority to confirm with the Louisiana Department of Revenue that the award recipient is in good standing with Louisiana Department of Revenue. Award recipient must be in good standing in order to receive award funds. If the Louisiana Department of Revenue cannot verify that the award recipient is in good standing they will notify BRGL, and a letter will be issued to the award recipient informing them that they should contact the Department of Revenue to discuss their account.

\_\_\_\_\_ - Income Tax Reporting. The undersigned understands that an IRS 1099G will be issued to award recipients. Award recipient understands that all or a portion of the grant funds may be treated as taxable income for U.S. or state income tax purposes.

\_\_\_\_\_ - Public Announcements. If the award recipient wishes to issue a public announcement concerning this award, the text of the proposed announcement must be submitted to the BRGL for review and approval prior to the release date. The Louisiana Department of Economic Development (“LED”) and the Office of Community Development (“OCD”) must be mentioned in any public announcements. Approval shall not be unreasonably withheld.

\_\_\_\_\_ - No Right of Assignment or Delegation. The award recipient may not assign or otherwise transfer its rights or delegate any of its obligations under this letter unless expressly approved by LED and OCD.

\_\_\_\_\_ - Revocation. BRGL reserves the right to revoke this award if the funds are not used for the stated purpose. The award recipient understands and agrees that revocation of this award will require the return of all funds disbursed.

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The business will be obligated to repay any funds received under this program in the event (a) its application including any information provided therewith or thereafter, contains any material misrepresentations; or (b) the award was made in error and the applicant is not entitled to assistance under the Program Guidelines.

           - Monitoring and Records

- a. This award may be used only for the purposes stated herein. Documents providing evidence of the use of the funds from this award shall be retained by award recipient for five years from the date of disbursement of the initial installment of the award.
- b. BRGL and its intermediaries reserve the right to monitor usage of award funds. Such monitoring will include review that the entire amount of the award was used only for the expenses as specified above in accordance with your proposal.
- c. LED and/or its intermediaries may, during regular business hours and on reasonable notice to award recipient inspect, audit, or copy records pertaining to this award. It is further agreed that the Louisiana Department of Economic Development, Legislative Auditor of the State of Louisiana, the Office of Community Development, Division of Administration, and/or the U.S. Department of Housing and Urban Development auditors or auditors contracted by them shall have the option of auditing all records and accounts of award recipient that relate to this grant at any time during normal business hours, as often as deemed reasonably necessary, to audit, examine, and make excerpts or transcripts of all relevant data.
- d. Awardee's failure to cooperate in such review will result in forfeiture of the award Amount and awardee will be responsible for repaying the full amount of funds disbursed.

           - Information Access Authorization: For determination of eligibility, the applicant should submit information requested in the Application Checklist.

In the event that additional information not included with the initial application checklist is required to obtain an approval on the credit request, the undersigned agrees to provide that information in a timely manner to the loan officer processing the request.

The undersigned gives permission to BRGL to confidentially discuss any application information with all intermediaries involved with this Program. The applicant also gives permission to BRGL and its intermediaries to use its name in its Annual Report and in its marketing materials. No financial details will be released.

The undersigned authorizes BRGL and its intermediaries to obtain personal credit reports and business credit reports, and also acknowledges that all information relative to the loan request, including the application and related documentation, becomes the property of BRGL and will not be returned to the applicant.

           - Affirmation of Information Provided in Application. By the applicant's signature below, the applicant represents and warrants that he/she has read this application and Statement of Understanding and attests that all information and

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documentation furnished in connection with the application is true, accurate and complete to the best of his/her knowledge and that any regulations relative to the BRGL program will be complied with.

#### E. Consolidated entry of loan applications into a universal electronic database

Entry of all applications into a single database, Sage CRM, will allow for screening for and elimination of duplicate applications, as all awardees will be cross referenced by business name, owner name and Federal Employee Identification Number (EIN). Only one grant or loan is allowed for each majority owner or distinct business. Consolidation of all data into a single database also allows for generation of tabular and graphic reports, which facilitate data review.

#### F. Review of applications in database by State program staff

Applications in the Sage CRM database are reviewed by Louisiana Economic Development and Office of Community Development staff to check for accuracy and compliance. Any issues are immediately addressed in consultation with the responsible intermediary. Final disbursement of funds will occur only after written authorization by the LED program manager on consolidated invoices.

#### G. Checking of awardees against Secretary of State lists and Department of Revenue tax records

The Secretary of State website may be used to provide an additional verification of the incorporation information supplied in applications, and the Department of Revenue will be checking for tax compliance. Corporations not legally registered will not receive their funds. Businesses not in compliance with State taxes, following April filings, will not receive the second half of their funds until in compliance (or under an approved Department of Revenue repayment plan) and may be required to repay funds received.

#### H. If applicable, review for environmental impact

Loan awardees who use desire to use their funds for construction will first have to pass a CDBG environmental review, conducted by LED and OCD, before they receive their funding

#### I. Audit of awards

5% of all loan awards will be subject to detailed audit by the state, including verification of official documents against state records, review of all application materials, and physical site visits to verify appropriate use of funds. Auditing will be increased if warranted. See "BRGL Audit Guidelines" for detail

#### J. On-going monitoring of awardees and intermediaries

Beyond the audit period, two levels of monitoring will occur:



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1. Awardees
  - a. Grant and loan awardees: will be tracked longitudinal by LED in order to determine survival rate and growth rate (jobs and revenue).  
This will be conducted via phone survey
2. Intermediaries

The intermediaries will be monitored on an ongoing basis to ensure they are properly tracking grant disbursements and loan repayments, as well as keeping CDBG-required documentation (e.g., labor rates for construction loans)