

Title 19
CORPORATIONS AND BUSINESS
Part VII. Economic Development Corporation
Subpart 9. Micro Loan Program

Chapter 75. Loan Policies

§7501. 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. 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(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7503. Definitions

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.

Economically Disadvantaged Business—a Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

Micro Loans—those loans ranging in size from \$5,000 to \$50,000.

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(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:555 (May 1997).

§7505. 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 guarantee or a participation and complete the application process. An applicant may also apply to LEDC directly for loan consideration, provided it is based upon documented eligibility as established as follows. Only after rejection by at least two lending institutions for participation on the basis of either a loan participation or a loan guarantee shall an applicant be eligible to be considered for a direct loan by LEDC. Such applications may be forwarded directly to LEDC.

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 information identified by LEDC as appropriate must be submitted to LEDC. Applications will be processed, with decisions confirmed promptly.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development 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 or 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 an LEDC staff member or designated representative.

6. Direct loans by LEDC must qualify under LEDC pre-approved underwriting criteria, or be approved by the board of directors as an exception to such criteria. Such loans will be closed by LEDC or its designated agents using standardized LEDC documentation.

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

8. 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 approved under standard underwriting procedures requiring direct LEDC funding, LEDC guarantees or participation shall be approved by LEDC in accordance with established policies and procedures.

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

10. A LEDC commitment letter, 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(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7507. 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 economically disadvantaged businesses or businesses owned by disabled persons.

C. Funding request for all but the following may be considered:

1. restaurants, except for regional or national franchises;

2. bars;

3. any project established for the principal purpose of dispensing alcoholic beverages;

4. any establishment which has gaming or gambling as its principal business;

5. any establishment which has consumer or commercial financing as its business;

6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;

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

8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:556 (May 1997).

§7509. General Loan Provisions

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

1. The corporation shall not knowingly approve any loan guarantee, loan participation or loan 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 or guarantee 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.

2. The terms or conditions imposed and made part of any loan or loan guarantee 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.

3. The corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed 4 percentage points above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

2. On all participation loans the interest rate to LEDC shall be determined by utilizing the rate for a U.S. Government Treasury Security for the time period that coincides with the term of the participation and adding 1 percent.

3. On all direct loans by LEDC the interest rate to LEDC shall be negotiated at a rate commensurate with the loan risk for either variable or fixed rate loans.

C. Collateral

1. Collateral to loan ratio will be no less than 1:1, except for direct loans where the ratio will be 1.2:1.

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, inventory;

c. personal guaranties are open for negotiation, if used, there must be signed and dated personal financial statements;

d. accounts receivable with supporting aging schedule, except for direct loans where accounts receivable are ineligible.

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

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

b. personal items.

D. Equity

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

3. No research, development expense or intangibles will be considered equity.

E. Amount

1. For small businesses the corporation's guarantee shall be no greater than 80 percent of a loan.

2. For certified economically disadvantaged businesses or businesses owned by disabled persons, the guarantee shall be no greater than 90 percent of a loan.

3. The corporation's participation in loans shall be no greater than 50 percent, but in no case shall it exceed \$25,000.

F. Terms

1. Terms may be negotiated with the bank but in no case shall the terms exceed five years.

G. Fees

1. LEDC will charge a minimum guarantee fee of 1 percent of the guarantee amount.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 10 percent of total loan; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:557 (May 1997).

§7511. General Agreement Provisions

A. Guaranty Agreement

1. Originating bank or LEDC agent responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

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

4. There will be a reduction of the guarantee:

a. in proportion to the principal reduction of the amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

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

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guaranty 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 guaranty agreement.

B. Participation Agreement

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

2. The lead bank will hold no less participation in the loan than that equal to LEDC's but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

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

5. The bank is able to set its rate according to risk. A blend with the LEDC rate to yield a lower overall rate to project.

6. 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.

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(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:557 (May 1997).

§7513. 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. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:558 (May 1997).

§7515. Conflict of Interest

A. No member of the corporation, employee thereof, or employee of the Department of Economic Development, 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. 51:2312(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:558 (May 1997).