

**Guidelines for the
WTC Business Recovery Grant Program**
(initially adopted January 17, 2002, amended as of January 22, 2002)

Program

The WTC Business Recovery Grant Program (the “Program”) is a program established by the New York State Urban Development Corporation d/b/a the Empire State Development Corporation (“ESDC”) to provide assistance to certain businesses that have been adversely impacted as a result of the events of September 11, 2001. The Program is described in the *New York State World Trade Center Disaster Action Plan for New York Business Recovery and Economic Revitalization* promulgated by ESDC.

Program Funding

Funding for the Program is being made available from a \$700 million appropriation to New York State by the United States Department of Housing and Urban Development (“HUD”). (See below regarding availability of funds.) From the \$700 million appropriation, \$495 million has been preliminarily allocated to small business assistance and \$375 million has been sub-allocated to fund the Program (including eligible grants made under the ESDC World Trade Center Retail Recovery Grant Program described below). ESDC may reallocate funds made available from the \$700 million appropriation.

ESDC has previously implemented a World Trade Center Disaster Retail Recovery Grant Program, funded in an amount not to exceed \$20 million. That program was administered pursuant to working guidelines initially promulgated by ESDC on November 5, 2001. Assistance provided to businesses under that program will be credited against available assistance under this Program. To the extent companies that received assistance under the World Trade Center Disaster Retail Recovery Grant Program are eligible for additional assistance, these Guidelines will apply to such additional assistance.

Eligible Businesses

A business shall be eligible for funding under the Program if it meets the following criteria:

- (i) it is a for profit business entity, or a not-for-profit organization established under Sections 501(c), 501(e), 501(f), 501(k), 501(n) or 521(a) of the Federal Tax Code and is not involved in religious or political activities; and
- (ii) it maintained a business establishment in the Eligible Area (hereinafter defined) as of September 11, 2001 and has continued its business operations thereat, or intends to resume its business operations within the City of New York; and

- (iii) it employs fewer than 500 Full-time Permanent Employees (hereinafter defined), and
- (iv) its revenues and/or expenses were derived from operations at the business premises located in the Eligible Area and it had one or more Full-time Permanent Employees on its payroll (or was a self-employed person) that worked at its business premises located in the Eligible Area.

Businesses that were located in the Restricted Zone (hereinafter defined) and employ 200 or more Full-time Permanent Employees may be eligible for alternative assistance being made available by ESDC from the HUD appropriation. ESDC may opt to direct such businesses to apply for assistance under such alternative program in lieu of this Program.

Full-time Permanent Employee

A Full-time Permanent Employee shall mean (i) a full-time, permanent employee on the Eligible Business' payroll, that has worked for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the Eligible Business to other employees with comparable rank and duties; or (ii) two part-time, permanent employees on the Eligible Business' payroll, who have worked for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by the Eligible Business to other employees with comparable rank and duties.

Grant Amounts

To the extent of available Program funds, an Eligible Business will be entitled to a grant that is predicated upon (i) lost revenues, or total expenses, if applicable, for a specified period of time and (ii) its location within the Eligible Area, as categorized below. For purposes of determining lost revenues or total expenses, the grant will be computed on the assumption that the Eligible Business operates 250 business days during the course of a year, regardless of how many days it actually operated. Annual gross revenues or total expenses will be determined by ESDC based on tax returns filed by the Eligible Business for its fiscal year ending prior to September 11, 2001. (If a new business, see below.)

- A. Eligible Businesses located in the 14 St. – Houston Area (hereinafter defined).
 - (i) if the Eligible Business is a for-profit business with revenues derived from its operations in the 14 St. – Houston Area, then the grant amount shall equal to the lesser of (a) 0.8% of annual gross revenues for its fiscal year ending prior to September 11, 2001, or (b) \$50,000.
 - (ii) if the Eligible Business is a not-for profit organization, or a for-profit entity that does not derive its revenues from operations in the 14 St. – Houston Area (i.e., back office space for a business with revenue producing locations outside the Eligible Area) then the grant amount shall be equal to the lesser of (a) 0.8% of its annual total expenses related to the business premises in the 14 St. – Houston Area for its fiscal year ending prior to September 11, 2001, or (b) \$50,000.

- B. Eligible Businesses located in the Houston - Canal Area (hereinafter defined)
- (i) if the Eligible Business is a for-profit business with revenues derived from its operations in the Houston - Canal Area, then the grant amount shall be equal to the lesser of (a) 1.2% of annual gross revenues for its fiscal year ending prior to September 11, 2001, or (b) \$100,000.
 - (ii) if the Eligible Business is a not-for profit organization, or a for-profit entity that does not derive its revenues from operations in the Houston - Canal Area (i.e., back office space for a business with revenue producing locations outside the Houston - Canal Area) then the grant amount shall be equal to the lesser of (a) 1.2% of its annual total expenses related to the business premises in the Houston - Canal Area for its fiscal year ending prior to September 11, 2001, or (b) \$100,000.
- C. Eligible Businesses located in the South of Canal Area (hereinafter defined)
- (i) if the Eligible Business is a for-profit business with revenues derived from its operations in the South of Canal Area, then the grant amount shall be equal to the lesser of (a) 2% of annual gross revenues for its fiscal year ending prior to September 11, 2001, or (b) \$150,000.
 - (ii) if the Eligible Business is a not-for profit organization, or a for-profit entity that does not derive its revenues from operations in the South of Canal Area (i.e., back office space for a business with revenue producing locations outside the South of Canal Area) then the grant amount shall be equal to the lesser of (a) 2% of its annual total expenses related to the business premises in the South of Canal Area for its fiscal year ending prior to September 11, 2001, or (b) \$150,000.
- D. Eligible Businesses located in the Restricted Zone (hereinafter defined)
- (i) if the Eligible Business is a for-profit business with revenues derived from its operations in the Restricted Zone, then the grant amount shall be equal to the lesser of (a) 4% of annual gross revenues for its fiscal year ending prior to September 11, 2001, or (b) \$300,000.
 - (ii) if the Eligible Business is a not-for profit organization, or a for-profit entity that does not derive its revenues from operations in the Restricted Zone (i.e. back office space for a business with revenue producing locations outside the Restricted Zone) then the grant amount shall be equal to the lesser of (a) 4% of its annual total expenses related to the business premises in the Restricted Zone for its fiscal year ending prior to September 11, 2001, or (b) \$300,000.

If an Eligible Business has multiple locations, some of which are located outside the Eligible Area, or in more than one area as described above, then revenues or expenses, as applicable, will be allocated to the designated area based on a certification from the Eligible Business' certified public accountant (if the grant amount will be \$10,000 or less, the accountant does not have to be a certified public accountant).

Eligible Area

To be eligible for assistance under the Program, an Eligible Business must have been located in the Borough of Manhattan in the area on or south of 14th Street, from the Hudson River to the East River. A map of the Eligible Area is attached hereto as Exhibit A.

14 St. – Houston Area

The 14 St. – Houston Area refers to that portion of the Eligible Area that is bounded on the north by 14th Street (including both sides of 14th Street), from the Hudson River to the East River, and excludes the Houston – Canal Area, the South of Canal Area and the Restricted Zone. The 14 St. – Houston Area is depicted in Exhibit A.

Houston – Canal Area

The Houston – Canal Area refers to that portion of the Eligible Area that is bounded on the north by the centerline of Clarkson Street, then east along the centerline of Clarkson Street to the centerline of Washington Street, then south along the centerline of Washington Street to the centerline of West Houston Street and then east along the centerline of West Houston Street and East Houston Street to the East River, and excludes the South of Canal Area and Restricted Zone. The Houston – Canal Area is depicted in Exhibit A.

South of Canal Area

The South of Canal Area refers to that portion of the Eligible Area that is bounded on the north by the centerline of Canal Street, from the Hudson River to Rutgers Street, then southeast along the centerline of Rutgers Street and continuing along the centerline of Rutgers Slip to the East River, and excludes the Restricted Zone. The South of Canal Area is depicted in Exhibit A.

Restricted Zone

The Restricted Zone refers to the area designated as such by New York City wherein pedestrian and vehicular traffic was restricted during the period September 19, 2001 through September 26, 2001. The Restricted Zone is located within the Eligible Area and is bounded by Chambers Street (including the south side of Chambers Street), Broadway (including the west side of Broadway), Rector Street (including the north side of Rector Street) as extended due west to the Hudson River. The Restricted Zone is depicted in Exhibit A.

Application

Eligible Businesses must file a completed application for Program assistance. A completed application includes (i) a completely filled out and signed application form, (ii) a photocopy of the business' federal tax return for the most recent fiscal year ending before September 11, 2001, and if the business had revenues from multiple locations, a copy of its New York City tax return for such fiscal year (iii) a copy of the lease, deed, or permit for the premises at which it engaged in its business within the Eligible Area as of September 11, 2001, (iv) a copy of its current lease in the event it relocated from its prior location to a new location within New York City, (v) a completed Form 8821, authorizing ESDC to access tax information from the Internal Revenue

Service (“IRS”), (vi) if the premises were leased, copies of both sides of rent checks, or receipts for cash payments of rent, from the landlord, for rent paid for July, August and September 2001, (vii) a copy of a utility bill for the premises from either July, August or September 2001 ESDC may require additional or alternative documentation in extenuating circumstances (e.g., documents were destroyed as a result of the September 11, 2001 event and can not be timely replicated) and (viii) a voided check imprinted with the name of the Eligible Business. (Grants will be wire transferred into the Eligible Business’ account.).

Application Submissions

Applications for the Program will be received through December 31, 2002 and processed in order of receipt of completed applications. Based on interest in the Program and the availability of Program funds, the deadline for submission of applications may be extended by ESDC. Applications should be presented, in person, to the WTC Business Recovery Center established by ESDC at 2 Rector Street (between Trinity Place and Greenwich Street), New York, N.Y. It is expected that the WTC Business Recovery Center will be open Mondays, Tuesdays, Thursdays and Fridays from 9 a.m. to 5:00 p.m. and on Wednesdays from 9 a.m. to 8 p.m.. The WTC Business Recovery Center will be closed on governmental holidays. In the event applicants are unable to personally submit applications, applications may be mailed to WTC Business Recovery Grant Program, c/o Empire State Development Corporation, P.O. Box 4438, Grand Central Station, New York, N.Y. 10017.

New Businesses

If an Eligible Business commenced operations after September 2000, the Applicant may submit a certified statement of gross revenues or total expenses, as applicable, from a certified public accountant (if the grant amount will be \$10,000 or less, the accountant does not have to be a certified public accountant). Based on such statement, ESDC, by extrapolation, will compute gross revenue, or total expenses, for a one year period to determine the amount of the grant as provided above.

Multiple Locations Within Eligible Area

Applicants are required to file separate applications for each distinct location of business within the Eligible Area. If the applicant filed a consolidated federal tax return incorporating revenues or expenses for multiple locations, it must provide ESDC with an allocation of revenue or expenses, as applicable, for each such location from the Eligible Business’ certified public accountant (if the grant amount will be \$10,000 or less, the accountant does not have to be a certified public accountant). Notwithstanding the foregoing, Program grants will be capped at \$500,000 for each Eligible Business.

Mobile Vendors

If a business is by its nature mobile (e.g., push carts) and has a license to operate at a specific location and that location is within the Eligible Area, then the business will be eligible for Program assistance. If the business has a license that is not site-specific, then it will be eligible for assistance if it can provide evidence that it was operating at a location within the Eligible

Area for not less than three months prior to September 11, 2001. (Acceptable documentation will include notarized affidavits from nearby permanent businesses attesting to the vendor's location.)

Processing

ESDC will use best efforts to evaluate and process all applications and to make grant payments to successful applicants within thirty business days of receipt of a complete application. All payments will be made by wire transfer or mail and shall be made payable to the business named in the application. Businesses deemed to be ineligible for assistance shall be notified within the thirty business day review period.

All grants disbursed by ESDC to recipients will be reported by ESDC to the IRS. ESDC shall mail to the grant recipient, at the address provided in the application, a Form 1099.

Appeal Process

If a business has submitted an application for assistance under the Program and believes that its application was unfairly denied, it may appeal such decision within twenty business days of receipt of notification that its application has been denied. Such appeal must be in writing made to ESDC and include such information as the applicant would like to be considered. A three member appeal committee, consisting of the Senior Vice President of Loans and Grants, the General Counsel and the Chief Financial Officer of the New York State Urban Development Corporation, or their designees, will consider all appeals. All decisions by the appeal committee shall be final. The appeal committee will be the sole arbiter in interpreting the intent and implementation of the Program and these Guidelines.

The goal of the Program is to assist businesses that operate in the Eligible Area that suffered substantial economic hardship as a result of the events of September 11, 2001. To the extent an application meets the technical requirements of the Program, as set forth in these Guidelines, but is inconsistent with the goals and the spirit of the Program, then the appeal committee shall have the discretion to reject such application.

Grant Recapture

ESDC may require the applicant to repay any grant funds received under this program in the following events:

- (i) if it temporarily ceased its business operations or relocated its business operations from New York City as a result of the events of September 11, 2001 and it has not resumed operating its business within New York City within one year of the receipt of grant funds; or
- (ii) if at any time within a three year period commencing on the date of its application, it has relocated a substantial portion of its business operations from New York City; or
- (iii) if its application, including any information provided therewith or thereafter, contains any material misrepresentations, or
- (iv) if the grant was made in error and the applicant is not entitled to assistance under these Guidelines.

In the event of any fraudulent misrepresentations by the applicant, ESDC may pursue other legal remedies and refer the matter to the appropriate governmental authorities.

Audit and Control

ESDC may audit applications on a random or specified basis for a period extending to three years after the making of the grant. ESDC reserves the right to contact other federal, state and local governmental agencies to confirm information included in the applications.

Disclosure of Information

Except as required under law, ESDC will endeavor to maintain the confidentiality of tax and rent information submitted as part of the application. Notwithstanding the foregoing, such information may be made available to ESDC staff and designated individuals that are processing the application and to federal, state or local officials and to auditors evaluating the Program. ESDC may use the company name, address and grant amount for promotional materials.

Availability of Funds

As of the date of these Guidelines, HUD has not formally authorized the Program nor allocated Program funds to the State of New York. ESDC may initiate the application process prior to such actions by HUD. However, the making of any Program grants hereunder is explicitly subject to the Program approval and the allocation of Program funds by HUD.

Amendments to Guidelines

ESDC may amend these guidelines from time to time.

Additional Information

The applicant can access the application form and instructions, these Guidelines, any amendments to these Guidelines and additional information about the Program at the ESDC web site at www.empire.state.ny.us. Information can also be obtained by calling 1-800-ILOVENY.

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Map of the Eligible Area

