LOUISIANA DEPARTMENT OF ECONOMIC DEVELOPMENT BUSINESS RECOVERY GRANT AND LOAN PROGRAM - FIRST ROUND GRANT AWARDS

PERFORMANCE AUDIT

ISSUED OCTOBER 24, 2007

LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397

FOR QUESTIONS RELATED TO THIS PERFORMANCE AUDIT, CONTACT PATRICK GOLDSMITH, PERFORMANCE AUDIT MANAGER, AT 225-339-3800.

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STEVE J. THERIOT, CPA
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (225) 339-3800
FACSIMILE: (225) 339-3870

October 24, 2007

Michael J. Olivier, Secretary
Louisiana Economic Development Department
Post Office Box 94185
Baton Rouge, Louisiana 70804

Dear Mr. Olivier:

This report provides the results of our performance audit on the Business Recovery Grant and Loan Program. The audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

The report contains our conclusions and recommendations. Appendix E contains your response to our recommendations and Appendix F contains the response from the Office of Community Development, Division of Administration. I hope this report will benefit you in your decision making regarding the Business Recovery Grant and Loan Program.

Sincerely,

Steve J. Theriot, CPA
Legislative Auditor

SJT/dl

BRGLP07

Office of Legislative Auditor

Steve J. Theriot, CPA, Legislative Auditor

Business Recovery Grant and Loan Program - First Round Grant Awards

October 2007

Audit Control # 07901741

Objectives and Overall Results

In February 2007, we initiated a performance audit of the Business Recovery Grant and Loan Program (BRGLP) being administered by the Louisiana Department of Economic Development (LED). During our preliminary audit work, we determined that LED did not implement specific controls to monitor and oversee the entities responsible for accepting and approving applications for the program. These preliminary findings were discussed with LED and the Office of Community Development (OCD) to alert them to potential program deficiencies. This report provides the results of our initial findings. The results of our work are summarized as follows:

Objective 1: When the program was initially implemented, had LED established sufficient guidelines and controls over the program?

> **Results:** LED fast-tracked the implementation of the program and did not implement formal, comprehensive program guidelines and procedures before the program began. The agency continuously changed and clarified the program's guidelines and procedures before and after the program began. These changes caused confusion among some of the intermediaries and applicants. In addition, LED did not monitor intermediaries to ensure they were approving only grant applications that met all program eligibility criteria.

Objective 2: Were grant recipients who received initial grant disbursements eligible to receive a grant award?

> **Results:** Of 3,438 approved grant applications, we reviewed 68 application files and found the following:

- **A large percentage of the reviewed files did not contain required documentation.** We could not locate required documentation in 53 (78%) of the files we reviewed. The missing documents ranged from government-issued IDs to financial records. Because of the missing documentation, we could not determine whether many of these applications were truly eligible for a grant.

- **Documentation in some files showed the applicant was ineligible.** The documentation in seven (10%) of the files we reviewed showed that the intermediary should have rejected the grant application.

Objective 3: What has been done to address program deficiencies?

Results: The Office of Community Development (OCD) also conducted a file review of approved grant application files and found similar deficiencies. Both offices presented the results of our individual reviews to LED. As a result, LED temporarily stopped payments to grant recipients while the agency and OCD created a plan to review the remaining approved grant applications when the applicants request the second-half of their grant award.

Scope and Methodology

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We followed generally accepted government auditing standards as promulgated by the Comptroller General of the United States.

We performed the following work to determine if grant recipients were eligible to receive a grant award:

- Interviewed OCD, LED, and intermediary management and staff
- Obtained and reviewed program policies and procedures
- Conducted a random file review of approved and rejected first round grant applications on April 5, 2007, through April 10, 2007
- Obtained and reviewed a copy of LED's database of first round grant applications
- Compared grant application data located in LED's database against the grant application files located at the intermediaries' offices

Appendix E contains a copy of LED's and OCD's responses to this report.

Background

Overview of the Business Recovery Grant and Loan Program

Purpose - The BRGLP is one of several disaster recovery economic development programs funded through Supplemental Community Development Block Grant (CDBG) funds. The BRGLP was established by the Louisiana Recovery Authority (LRA). The purpose of the program is to assist small business owners in stabilizing and growing their businesses by providing grants, interest-free loans, and technical assistance.

When the LRA first created the program in August of 2006, an applicant could receive either a loan or a grant and loan combination. At this time, the program was named the Small

Firm Recovery Loan and Grant Program (SFLGP). At the request of the Governor's office, LRA and LED changed the program to allow applicants to receive a grant with or without a loan. The LRA also increased the program's funding from $38 million to $143 million, and the program's name was changed to the Business Recovery Grant and Loan Program.

LED signed an agreement with OCD to manage the BRGLP and oversee the Community Based Lending Organizations who act as intermediaries to directly provide the grants, loans, and technical assistance to qualified small businesses. To qualify for the program and receive up to a $20,000 grant, businesses must meet various eligibility requirements. The following is a list of the program's general eligibility requirements that were in effect at the time of our file review:

- Own 51% or more in an existing business
- In business six months before storms
- Reopened or demonstrated potential to reopen
- Employ up to 50 employees
- Experience a 30% revenue decline from the 2nd quarter of 2006 versus the 2nd quarter of 2005 or some other representative time period
- Located in areas that either experienced flooding as a result of hurricanes Katrina or Rita or were affected by the hurricanes

LED, LRA, and OCD participated in the selection process of the intermediaries. The seven intermediaries chosen signed an agreement with LED. The intermediaries administer the grant and loan portions of the BRGLP. Besides receiving up to $75,000 for administrative expenses, the intermediaries receive $750 for each approved grant processed and $150 for each rejected grant processed. See Exhibit 1 for the amount each intermediary received for grants it processed. The names of the seven intermediaries chosen to administer the grants and the geographic areas they serve are as follows:

- Acadiana Regional Development District (ARDD) (Southwest and South Central Parishes)[1]
- ASI Federal Credit Union (ASI) (Southeastern Parishes)
- Jefferson Parish Economic Development Commission (JEDCO) (Southeastern Parishes)
- NewCorp, Inc. (NewCorp) (Southeastern Parishes)
- New Orleans Regional Business Development Loan Corporation (RLC) (Southeastern Parishes)

[1] ARDD hired CDW and Associates Professional Services, Inc., to help with application intake and review for Cameron and Calcasieu parishes.

- Seedco Financial Services, Inc. (Seedco) (Southeastern Parishes)
- South Central Planning and Development Commission (SCPDC) (South Central Parishes)

Exhibit 1
Grants Processed by Intermediaries and Grant Processing Fees

	Approved		Rejected		Grant Application Totals		Percent of Total	
	Grants Processed	Processing Fees	Grants Processed	Processing Fees	Grants Processed	Processing Fees	Grants Processed	Processing Fees
ARDD	521	$390,750	191	$28,650	712	$419,400	13%	14%
ASI	463	$347,250	140	$21,000	603	$368,250	11%	13%
JEDCO	532	$399,000	555	$83,250	1,087	$482,250	19%	17%
NewCorp	455	$341,250	589	$88,350	1,044	$429,600	18%	15%
RLC	385	$288,750	232	$34,800	617	$323,550	11%	11%
Seedco	881	$660,750	333	$49,950	1,214	$710,700	22%	24%
SCPDC	207	$155,250	136	$20,400	343	$175,650	6%	6%
Total	**3,444**	**$2,583,000**	**2,176**	**$326,400**	**5,620**	**$2,909,400**	**100%**	**100%**

Source: Prepared by legislative auditor's staff using information LED provided on May 7, 2007.

Exhibit 2 lists the total amount of grant awards LED and the intermediaries disbursed to grant recipients as of August 24, 2007.

Exhibit 2
BRGLP Total Award Disbursements*
(by Intermediary)

Intermediary	Amount Disbursed*
Acadiana Regional Development District	$5,326,109
ASI Federal Credit Union	$5,621,907
Jefferson Parish Economic Development Commission	$7,185,321
NewCorp, Inc.	$5,109,082
New Orleans Regional Business Development Loan Corporation	$5,784,687
Seedco Financial Services, Inc.	$8,609,432
South Central Planning and Development Commission	$1,961,802
****Total Amount Disbursed**	**$39,598,340**

* As of August 24, 2007
** This amount does not include $232,610 sent to the Small Business Administration (SBA) because of duplication of benefits for recipients that previously received SBA funding and $1,743,058 in awards LED disbursed to recipients using the agency's own funds.
Source: Prepared by legislative auditor's staff using unaudited data provided by OCD.

Exhibit 3 summarizes the roles that LED, LRA, OCD, and the Community Based Lending Organizations (intermediaries) play in planning, implementing, managing, and overseeing the BRGLP.

Exhibit 3 Organizations' Roles in Administering BRGLP	
Entity	**Role(s)**
LED	• Lead Intermediary Selection Process • Plan and Manage the Implementation of Program • Receive Funds from OCD then Disburse them to Intermediaries • Oversee and Monitor Intermediaries
LRA	• Participate in Intermediary Selection Process • Work with LED to Plan Program including developing HUD Action Plans for the Program
OCD-Disaster Recovery Unit	• Oversight of Program as Fiscal Agent • Monitor Performance of Program • Approve and Disburse CDBG Funds to LED
Community Based Lending Organizations (Intermediaries)	• Host Grant/Loan Application Intake Centers and Workshops • Review Applications; Determine Applicant Eligibility • Receive Funds from LED then Disburse them to Grant/Loan Recipients • Retain Application Files
Source: Prepared by legislative auditor's staff from documents provided by and interviews with LED, LRA, OCD, and intermediary staffs.	

Program Funding - The original funding for the BRGLP (originally called the Small Firm Grant and Loan Program) was $38 million using CDBG disaster recovery funds. On February 9, 2007, the Department of Housing and Urban Development (HUD) approved reallocating up to another $105 million in disaster recovery funds from the Bridge Loan and the Long Term Recovery Loan Guarantee programs to the BRGLP for a total of $143 million in funding. Of the $143 million, $38 million was allocated for loans and $100 million was allocated for grants.

On September 13, 2007, the legislature approved the LRA's plan to reallocate up to an additional $68 million to the program for a total of $211 million. The LRA will also need approval from HUD to reallocate these funds. These additional funds, and program funds not spent during round one of the program, will be allocated for future rounds of the BRGLP.

Program Staffing - Three full-time and two part-time LED staff members oversaw the BRGLP including a director, two program managers (one is part-time), one part-time accountant, and one administrative assistant. According to LED, other LED staff members not formally assigned to the BRGLP work on the program in varying amounts. At the time this report was written, LED was in the process of hiring additional program staff.

Grant Application Process - The BRGLP began on January 23, 2007. The application intake period for the first round of the grant program ended on February 16, 2007.[2] Appendix A contains a flowchart that summarizes the grant application intake, review, selection, and award disbursement processes.

[2] LED intends to conduct a second round of the grant program.

Objective 1: When the program was initially implemented, had LED established sufficient guidelines and controls over the program?

LED quickly launched the BRGLP without implementing formal, comprehensive program guidelines and procedures. Once the program began, LED continued to change and clarify some of the program's guidelines and procedures. In addition, LED did not monitor the seven intermediaries to ensure that they were approving only grant applications that met all eligibility requirements.

LED Fast-Tracked Implementation of Program

LED staff charged with administering the BRGLP did not allow adequate time to properly plan and organize the program before its launch. When the program began, the agency staff had not signed a contract with any of the intermediaries and had not formalized many of the review and grant disbursement processes. In addition, the agency staff did not take into consideration the effects the increase in funding would have on the program's implementation. Exhibit 4 outlines a timeline of the program's implementation.

Exhibit 4
Timeline of BRGLP Implementation

Program Event	Date
LED and LRA create Action Plan Amendment #2 which provides funding and outlines general program guidelines for the program which was then called the Small Firm Recovery Loan and Grant Program.	08/2006
Original program guidelines created by LED, LRA, and OCD are published; selection process for intermediaries begins with the publishing of the intermediary RFP.	10/2006
The Governor's office and the LRA request that LED significantly revise the program so more funds can be allocated to grants. The program's funding increases and the program is renamed the Business Recovery Grant and Loan Program.	12/2006
LED and LRA create Action Plan Amendment #8 which increases program funding and changes certain eligibility and use of funds requirements.	01/2007
*Program Launch - Grant applications are accepted by intermediaries and LED.	*01/23/2007
LED signs agreements with intermediaries. (Agreements contain revised program guidelines.)	01/25/2007 - 01/30/2007
HUD approves Action Plan Amendment #8.	02/09/2007
Grant application period ends.	02/16/2007
Deadline for intermediaries to review and enter application data into LED database.	03/09/2007
LED and LRA revise and clarify program guidelines and procedures.	03/30/2007
LED and the intermediaries send out Award/Denial letters--includes Terms and Conditions Letter.	03/30/2007
Intermediary disburses first 50% of grant award (after recipient returns signed Terms and Conditions letter).	03/30/2007 - 10/31/2007
LED, LRA, and OCD revise and clarify program guidelines	07/05/2007
Intermediary disburses second 50% of grant award (after recipient shows proof of proper use of first 50% of grant award).	03/30/2007 - 10/31/2007

***** On January 15, 2007, LED informed intermediaries that it would begin accepting applications on February 1, 2007, then on January 19, 2007, agency staff informed the intermediaries that they would begin accepting applications on January 23, 2007.
Source: Prepared by legislative auditor's staff using information provided by LED, LRA, OCD, and intermediaries.

LED management told us that the BRGLP was an emergency program and that it needed to get grants out to the small business community. However, if the agency had given itself adequate time to collect and review the first round grant applications, it could have better ensured that only eligible applicants received a grant. Staff from one intermediary told us that they felt they did not know what was expected of them and that additional training and formal complete guidelines would have helped them better understand the program.

Recommendation 1: LED should allow its staff enough time to organize future grant rounds, including time to:

(1) create formal program eligibility requirements;

(2) create formal policies and procedures for implementing the grant round;

(3) provide formal training to intermediaries on grant application intake, review, and selection policies and procedures; and

(4) monitor intermediaries' activities.

Summary of Management's Response: LED agrees with this recommendation. The agency states that it is now in the process of refining the policies and procedures from the first round of the program. LED further states that for the second round, expected to kick-off in the first quarter of 2008, it will have the following:

- A comprehensive set of formal eligibility requirements and other policies
- A full training schedule
- A full monitoring plan

Program Lacked Formal, Consistent Guidelines and Procedures

The agreements between LED and OCD and between LED and the seven intermediaries contain formal guidelines for the BRGLP. However, these agreements were not signed until after the implementation of the program. LED continued to change the guidelines and procedures after these agreements were signed. Staff from three intermediaries told us that the frequent changes to the program guidelines and procedures confused them and the applicants.

Recommendation 2: Before any additional grant rounds begin, LED should develop a comprehensive set of program guidelines and procedures covering all criteria and requirements for the grant application, review and selection processes. OCD should agree and formally sign-off on these guidelines and procedures. The policies should address, at a minimum, the following:

- Intermediary capacity requirements
- Grant recipient eligibility requirements
- Determination of grant award amount
- Use of grant award funds
- Application review and selection process
- Documentation required from applicants
- Award disbursement process
- Intermediary fees
- LED monitoring of intermediaries' services
- Coordination between LED and the intermediaries
- CDBG requirements

Summary of Management's Response: LED and OCD agree with this recommendation. LED states that the lessons it learned from the first round of the program will facilitate developing comprehensive policies before the start of the next round of the program. LED further states that OCD formally accepting and signing-off on the program guidelines will help ensure a smooth program implementation. OCD states that it will take the necessary action to ensure that future funding rounds comply with this recommendation.

Recommendation 3: For future grant rounds, LED should adhere to the program guidelines and procedures it establishes. If LED decides that any of the guidelines or procedures must be revised, the agency should follow a formal policy change process that includes formal notification of changes to the intermediaries, as well as OCD. LED should then revise the formal program guidelines and procedures document(s).

Summary of Management's Response: LED agrees with this recommendation. The agency states that it will establish a formal policy change process, while recognizing that consistent guidelines and procedures will remain dependent on other agencies not mandating changes midway through the program.

Recommendation 4: For future grant rounds, LED should provide formal training to intermediary staff on the program policies and procedures, including eligibility requirements and CDBG requirements.

Summary of Management's Response: LED agrees with this recommendation. The agency states now that additional staff have been approved, it will be able to go beyond the train-the-trainer methodology relied upon in round one. LED further states that training sessions have already begun, at both the general and targeted (intermediary-specific) level.

LED Did Not Monitor Intermediaries as Required by Its Agreement With OCD

The agreement between OCD and LED lists the monitoring requirements LED must undertake while administering the BRGLP. Examples of the monitoring requirements for LED contained in the agreement include the following:

- Schedule and conduct on-site monitoring visits of the intermediaries (sub-recipients) to review the progress and completion of the intermediaries' services
- Determine whether the intermediaries are carrying out their individual activities as described in the agreements between LED and each of the seven intermediaries
- Ensure that grant and loan documentation is complete, and adequate grant and loan underwriting and review functions have been performed
- Provide written documentation of the agency's monitoring activities

According to program management staff, once the program's budget grew from $38 million to $143 million, they still did not monitor the program. Staff from the intermediaries confirmed that LED had not conducted any review of the grant application files. If LED had monitored the intermediaries, the agency could have found the problems we discovered during our file review, but they could have found these problems before any grant funds were released.

Recommendation 5: During future grant rounds, LED should comply with the monitoring plan laid out in its contract with OCD. To comply with the terms of the contract, LED should conduct formal and informal monitoring activities to determine whether the intermediaries are adhering to program policies and procedures and to assess the intermediaries' continuing capacity to administer the grants. LED's monitoring activities should take place during the application intake and review process and should include on-site visits to conduct sample reviews of grant application files.

Summary of Management's Response: LED agrees with this recommendation. The agency states that with the addition of monitoring resources, it will proceed with the recommendation. A monitoring plan has been developed and is under review with OCD.

Objective 2: Were grant recipients who received initial grant disbursements eligible to receive a grant award?

Overall, we found that a large number of files were missing required documentation. We also found that some applicants were ineligible and should not have received approval for a grant.

We conducted a file review of 68 approved grant application files to determine whether the documentation in the files indicated that the applicant(s) met the program's eligibility criteria,[3] and whether each file contained a completed grant application. We began the review after we learned that LED had not conducted formal monitoring of the intermediaries during the application intake, review and selection processes.

Most Files Lacked Documents Required to Prove Eligibility

We found that 53 of the 68 files (78%) were missing the necessary documentation providing proof of eligibility for at least one of the program's eligibility requirements. As a result, we could not determine whether some of these applicants were truly eligible. LED and the intermediaries awarded $979,319 in grants to these applicants. The following is a list of specific documentation issues found during our review[4]:

- The file documentation for 30 of the 68 approved application files did not show that the business experienced a 30% revenue decline for the 2nd quarter of 2006 versus the 2nd quarter of 2005, or some other representative time period.
    - Thirteen of these applications did not meet the criterion because they were missing 2006 financial documents.
    - Twenty-two of these files did not contain documentation that supported the post-storm revenue decline listed on the grant application.
- Twenty-six applicants used another time period for the revenue decline comparison without submitting the required documentation that proved another time period was more representative because of the seasonality of their business.
- Twenty-four files did not contain required documentation showing that the applicant(s) had 51% or more ownership in the business.
- Eleven files did not contain a complete grant application form. Of the 11 files, one file did not contain any grant application, and another file contained a partial application. The grant application forms in the other nine files were missing information.
- Thirteen application files for businesses that had not reopened yet did not contain required documentation proving the business' potential to reopen.
- Fifteen application files did not contain required documentation showing that the business employed 50 or fewer employees.
- Five files did not contain required copies of government IDs for the business owner(s).

[3] We used the criteria listed in the approved HUD Action Plan governing the program and the formal program guidelines included in the agreements between LED and the intermediaries.
[4] Many of the application files reviewed contained multiple documentation problems.

Documentation in Some Files Showed Applicants Were Ineligible

Documentation in seven of the 68 files (10%) showed that the applicants were ineligible, but the intermediary had approved the grant application. LED and the intermediaries awarded these applicants a total of $126,838 in grants. The documentation in these files proved that they were ineligible for the following reasons:

- Four of the applicants did not experience a 30% (gross) revenue decline for the 2nd quarter of 2006 versus the 2nd quarter of 2005 or some other representative time period. The documentation in two of these files indicated the intermediary purposely did not follow program guidelines when qualifying the two applicants.
- Two applicants had not been legally established in the affected areas six months before the storm.
- One applicant was a single-employee business with no contract employees and did not sell tangible goods.

Some Grant Award Amounts Incorrect

During our file review, we found that LED and the intermediaries awarded 11 grant recipients incorrect grant amounts. Six of the 11 applicants' awards totaled $21,221 more than they should have been. Five of the 11 applicants' awards totaled $36,124 less than they should have been.

See Appendix B for a summary of the file review results for the approved grant files and a breakdown of the file review results by intermediary.

Recommendation 6: For the first grant round, LED should ensure that only grant applicants who met the program's eligibility requirements receive a grant award by doing the following:

- LED should review the application files to determine whether the intermediaries collected all necessary documentation and whether the applications met all of the program's eligibility requirements, according to the program guidelines located in LED's contract agreements with the intermediaries.
- If LED determines an intermediary approved an application that did not meet program eligibility requirements and the applicant has received the grant award already, LED should seek to recover the disbursed grant funds from the recipient(s). In addition, LED should consider legal recourse to recover payments to the intermediaries for each approved grant application deemed ineligible.

Summary of Management's Response: LED agrees with this recommendation. The agency states that it is proceeding as recommended, reviewing application files with its newly expanded staff. As detailed in its funding recouping process, LED is also seeking to recover required funds from the first round via the contractual responsibility of the intermediaries to have properly administered the grants up-front, under the "Remedy in Event of Breach" clause in the contract.

Objective 3: What has been done to address program deficiencies?

Based on an agreement between OCD and LED, LED temporarily stopped payments to grant recipients while the agency and OCD created a plan to review the remaining approved grant applications when the applicants request the second-half of their grant award.

Current Efforts by LED to Address File Deficiencies

On May 18, 2007, we presented the preliminary results of our file review to LED staff. Staff from OCD's Disaster Recovery Unit also conducted a file review of approved grant applications and found similar deficiencies. When we met with LED and OCD to discuss the findings of the two reviews on June 21, 2007, LED had already disbursed approximately $36 million in grant awards to the selected recipients. Exhibit 5 summarizes where the applications were in the award disbursement process.

Exhibit 5
BRGLP Award Disbursements
As of June 21, 2007

Grant Award Disposition	Number of Grants
Applicant(s) received first and second award disbursements (entire grant award).	556
Applicant(s) received first-half of grant award and had requested second-half of grant award.	652
Applicant(s) received first-half of grant award and had not requested second-half of award yet.	2,217

Source: Prepared by legislative auditor's staff using unaudited data provided by OCD.

As a result of the findings from the two reviews, the following occurred:

- Beginning in July 2007, LED temporarily stopped payments to grant recipients while the agency and OCD began a file review of the 652 application files that had requested but had not received the second-half of their grant award. If the applications were complete and met all eligibility requirements, OCD released the funds to LED and the intermediaries who then sent the recipient(s) the second disbursement check.

- LED, OCD, and DOA met on August 16, 2007, and agreed on a plan to review and process the remaining applications when the applicants request the second-half of their grant award. The plan was based on the above OCD/LED file review findings. Appendix D contains a copy of this monitoring and processing plan. It does not specify whether the agencies will review the 556 applications that had already received their entire grant award or any applications that do not request the second-half of their grant award by the October 31, 2007, deadline.

- LED has begun hiring compliance monitoring staff including a compliance manager and three assistants. In cooperation with OCD, LED has begun monthly training for the intermediaries.

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APPENDIX A: SUMMARY FLOWCHART OF GRANT APPLICATION AND AWARD PROCESSES

Intake	**Intermediary/LED** Business owner(s) submitted application materials in person to one of the intermediaries at their intake center. At LED intake centers, applicants could drop off applications and LED distributed them to the intermediaries to review and process.	**Application Process**
Review	**Intermediary** Intermediary staff reviewed application to determine completeness and contacted the business owner for missing information or documentation.	
Selection	**Intermediary** Based on application information, intermediary staff either approved or rejected grant application.	
Data Input	**Intermediary** Intermediary entered application information and qualification status into LED's web-based database system (SAGE). LRA and OCD also had access to application data in the database.	
Review	**LED** LED staff reviewed application data in SAGE for duplication errors and missing data fields.	
Award or Rejection Letter	**LED/Intermediary** LED and the intermediary sent letter informing applicants of their approval or rejection.	**Award Process**
Disbursement*	**Intermediary** After grant recipient(s) submitted signed Terms and Conditions form included in letter of approval, intermediary sent the first 50% of grant award.	
Disbursement*	**Intermediary** After grant recipient(s) submitted documentation of appropriate use of first 50% disbursement to intermediary, the intermediary sent the second 50% of grant award.	

* The intermediaries request award funds from LED who in turn requests the funds from OCD. OCD then disburses the funds to LED so LED can then disburse the funds to the intermediaries.

Source: Prepared by legislative auditor's staff using information from interviews with LED and intermediary staff and documentation collected from LED and the intermediaries.

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APPENDIX B: FILE REVIEW RESULTS BY INTERMEDIARY

Summary of File Review Results for All Approved Grant Applications					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	44	24	0	0	68
The business owner(s) provided a government ID?	63	5	0	0	68
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	36	31	1	0	68
The applicant signed a letter of explanation stating why some other time period was used to determine revenue decline?	3	26	39	0	68
If a Zone B business, the business experienced more than a $10,000 tangible loss?	2	1	65	0	68
If the business has relocated, it located to an affected area?	2	1	61	4	68
The business was legally in business (in an affected area) six months before the storm?	66	2	0	0	68
The business employed 50 or fewer employees (pre-storm)?	52	15	1	0	68
If the business is a single-employee firm, it sells tangible goods?	20	1	42	5	68

Note: Results do not add up because some files had multiple problems.
Source: Prepared by legislative auditor's staff using information from the application files located at the seven intermediaries' offices.

Sample Totals for Approved Grant Applications for Acadiana Regional Development District					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	9	2	0	0	11
The business owner(s) provided a government ID?	11	0	0	0	11
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	5	6	0	0	11
The applicant signed a letter of explanation stating why some other time period was used in determining revenue decline?	1	7	3	0	11
If a Zone B business, the business experienced more than a $10,000 tangible loss?	2	1	8	0	11
If the business has relocated, it located to an affected area?	0	0	11	0	11
The business was legally in business (in an affected area) six months before the storm?	11	0	0	0	11
The business employed 50 or fewer employees (pre-storm)?	8	3	0	0	11
If the business is a single-employee firm, it sells tangible goods?	6	0	5	0	11
Source: Prepared by legislative auditor's staff using information from the application files located at ARDD's offices.					

Sample Totals for Approved Grant Applications for ASI					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	7	4	0	0	11
The business owner(s) provided a government ID?	9	2	0	0	11
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	4	7	0	0	11
The applicant signed a letter of explanation stating why some other time period was used in determining revenue decline?	0	3	8	0	11
If a Zone B business, the business experienced more than a $10,000 tangible loss?	0	0	11	0	11
If the business has relocated, it located to an affected area?	2	0	8	1	11
The business was legally in business (in an affected area) six months before the storm?	11	0	0	0	11
The business employed 50 or fewer employees (pre-storm)?	9	2	0	0	11
If the business is a single-employee firm, it sells tangible goods?	1	1	9	0	11
Source: Prepared by legislative auditor's staff using information from the application files located at ASI's offices.					

Sample Totals for Approved Grant Applications for JEDCO					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	2	8	0	0	10
The business owner(s) provided a government ID?	9	1	0	0	10
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	4	6	0	0	10
The applicant signed a letter of explanation stating why some other time period was used in determining revenue decline?	0	2	8	0	10
If a Zone B business, the business experienced more than a $10,000 tangible loss?	0	0	10	0	10
If the business has relocated, it located to an affected area?	0	0	9	1	10
The business was legally in business (in an affected area) six months before the storm?	9	1	0	0	10
The business employed 50 or fewer employees (pre-storm)?	6	4	0	0	10
If the business is a single-employee firm, it sells tangible goods?	2	0	8	0	10
Source: Prepared by legislative auditor's staff using information from the application files located at JEDCO's offices.					

Sample Totals for Approved Grant Applications for NewCorp					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	7	2	0	0	9
The business owner(s) provided a government ID?	9	0	0	0	9
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	5	4	0	0	9
The applicant signed a letter of explanation stating why some other time period was used in determining revenue decline?	1	0	8	0	9
If a Zone B business, the business experienced more than a $10,000 tangible loss?	0	0	9	0	9
If the business has relocated, it located to an affected area?	0	0	8	1	9
The business was legally in business (in an affected area) six months before the storm?	9	0	0	0	9
The business employed 50 or fewer employees (pre-storm)?	3	6	0	0	9
If the business is a single-employee firm, it sells tangible goods?	0	0	4	5	9
Source: Prepared by legislative auditor’s staff using information from the application files located at NewCorp's offices.					

Sample Totals for Approved Grant Applications for Regional Loan Corporation					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	4	6	0	0	10
The business owner(s) provided a government ID?	9	1	0	0	10
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	8	1	1	0	10
The applicant signed a letter of explanation stating why some other time period was used in determining revenue decline?	0	2	8	0	10
If a Zone B business, the business experienced more than a $10,000 tangible loss?	0	0	10	0	10
If the business has relocated, it located to an affected area?	0	1	9	0	10
The business was legally in business (in an affected area) six months before the storm?	9	1	0	0	10
The business employed 50 or fewer employees (pre-storm)?	9	0	1	0	10
If the business is a single-employee firm, it sells tangible goods?	0	0	10	0	10
Source: Prepared by legislative auditor’s staff using information from the application files located at RLC's offices.					

Sample Totals for Approved Grant Applications for Seedco					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	7	1	0	0	8
The business owner(s) provided a government ID?	8	0	0	0	8
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	6	2	0	0	8
The applicant signed a letter of explanation stating why some other time period was used in determining revenue decline?	1	5	2	0	8
If a Zone B business, the business experienced more than a $10,000 tangible loss?	0	0	8	0	8
If the business has relocated, it located to an affected area?	0	0	8	0	8
The business was legally in business (in an affected area) six months before the storm?	8	0	0	0	8
The business employed 50 or fewer employees (pre-storm)?	8	0	0	0	8
If the business is a single-employee firm, it sells tangible goods?	7	0	1	0	8
Source: Prepared by legislative auditor's staff using information from the application files located at Seedco's offices.					

Summary of File Review Results for SCPDC					
To Prove Eligibility, Did the File Documentation Contain Evidence That:	**Yes**	**No**	**N/A**	**Cannot Determine**	**Total Number Reviewed**
The applicant(s) had 51% or more ownership in business?	8	1	0	0	9
The business owner(s) provided a government ID?	8	1	0	0	9
The business experienced a 30% decline in (gross) revenue for Q2 '06 vs. Q2 '05 or some other representative time period?	4	5	0	0	9
The applicant signed a letter of explanation stating why some other time period was used in determining revenue decline?	0	7	2	0	9
If a Zone B business, the business experienced more than a $10,000 tangible loss?	0	0	9	0	9
If the business has relocated, it located to an affected area?	0	0	8	1	9
The business was legally in business (in an affected area) six months before the storm?	9	0	0	0	9
The business employed 50 or fewer employees (pre-storm)?	9	0	0	0	9
If the business is a single-employee firm, it sells tangible goods?	4	0	5	0	9
Source: Prepared by legislative auditor's staff using information from the application files located at SCPDC's offices.					

APPENDIX C: SUMMARY OF MAJOR GRANT PROGRAM CHANGES AND CLARIFICATIONS

	Original Program Guidelines (SFLGP)	Program Changes and Clarifications (BRGLP)	
Guidelines	**August 2006 thru November 2006**	**December 2006 thru January 2007**	**February 2007 thru August 2007**
Eligibility Requirements - Business Characteristics	• Grant could only be received with a loan. • Own 51% or more in existing business • Viable for-profit or nonprofit business • Nonprofits eligible only under certain circumstances • Business maintained in affected area for not less than six months before hurricane(s) • Temporarily relocated outside of affected area and will resume operations in the affected area within 90 days of closing of grant and/or loan. • Firm must provide a copy of the business' federal tax returns for the most recent fiscal year ending before the closing of the grant and/or loan. • Employs between 2 and 25 employees • Contract employees are considered employees.	• Grant could be received with or without a loan. • Reopened or demonstrated potential to reopen • Employ up to 50 employees • Single-employee businesses eligible only if they sell tangible goods • Bar owners are ineligible to receive a grant. • Business experienced a 30% revenue decline from 2nd quarter 2006 versus 2nd quarter 2005 • Applicant can attest that 2nd quarter is not representative, due to seasonality, by providing signed statement of explanation. • Applicant can attest that all financial records were destroyed by storm(s) by providing signed statement of explanation. • Businesses located in "Zone B" must also have experienced more than $10,000 in tangible losses.	• Owners with a 50% or greater share in two or more businesses may only qualify for one grant. • Owners who received a grant, and own a minority share in another business, do not disqualify that business by their ownership. • Clarified that business may only employ up to 50 <u>FTE</u> employees • Applicant can attest that 2nd quarter is not representative, due to seasonality, by providing signed statement of explanation **or** an explanation on the signed application. • In absence of documentation for other criteria besides revenue decline, applicant can attest by signing statement of explanation. • Bar owners are eligible to receive a grant.
Eligibility Requirements - Business Location	• Business located in southwest and southeast parishes	• Located in "most impacted areas - Zone A" or "impacted areas - Zone B" [1]	Same as previous

[1] Zone A includes the parishes of Cameron, Orleans, Plaquemines, and St. Bernard or any other areas inundated by flooding as indicated by FEMA flood maps. Zone B includes the parishes of 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.

	Original Program Guidelines (SFLGP)	Program Changes and Clarifications (BRGLP)	
Guidelines	**August 2006 thru November 2006**	**December 2006 thru January 2007**	**February 2007 thru August 2007**
Grant Size	• Maximum grant amount - $25,000; minimum grant amount - $2,500	• Maximum grant size - $20,000 • Grant not to exceed two months' revenue	• Grant size based on annual revenue of business: o >$40,000 = $20,000 o $20,000 to $39,999 = 50% of annual revenue o <$20,000 = $10,000
Use of Grant Funds	• Only for reimbursement of tangible losses as result of hurricane(s) and related flooding	• Tangible losses, as well as business operating costs and new equipment, utilities or inventory • May also be used to refinance more expensive debt	Same as previous
Grant Disbursement Process	• Individual intermediaries proposed how they would disburse grant funds.	• 50% paid up-front; 50% paid *after three months* upon business' demonstration of proper use of first 50% of funds	50% paid up-front; 50% upon business' demonstration of proper use of first 50% of funds
Source: Prepared by legislative auditor's staff from documents provided by LED and OCD staffs.			

APPENDIX D: BRGLP PROCESSING PLAN

To:	Jean Vandal, DOA Suzie Elkins, OCD Mike Taylor, OCD Fran Gladden, LED
From:	William Hall, OCD Michael Hecht, LED
Date:	August 17, 2007
Re:	**Louisiana Business Recovery Grant and Loan Processing Plan**

The following summarizes the plan for processing and monitoring developed at our August 16, 2007 meeting.

Note: all intermediaries will be given a template to assist in their file review, and each intermediary will be given specific advice as to issues of particular importance. With this in mind, the below plan is based on the assumption that intermediaries now have a clearer understanding what adjustments have to be made; what additional documentation is required; and, what types of business pose particular problems and will make the appropriate corrections before submission.

Group 1) Intermediaries: ASI, JEDCO, RLC, Seedco

- Invoices will be processed and paid for grants as submitted
- Intermediaries will have responsibility to certify that all files submitted are complete and accurate
- LED/OCD will conduct an initial audit of 20% of submitted files in order to verify compliance

Group 2) Intermediary: NewCorp

- Intermediary will have responsibility to certify that all files submitted are complete and accurate
- LED/OCD will conduct an audit of 50% of submitted files in order to verify compliance
- Following satisfactory audit results (>95%), invoices will be processed and paid for grants as submitted
- If audit results are not satisfactory, audit percentage will move to 100%

Group 3) Intermediaries: ARDD, SCPD

- Intermediaries will have responsibility to certify that all files submitted are complete and accurate
- LED/OCD will conduct an audit of 100% submitted files in order to verify compliance
- Invoices will be processed and paid for grants as cleared by the audit

Original Invoice #13, $5.1M

- OCD will reimburse LED for this invoice at the following rates:
  - RLC 99%
  - JEDCO 96%
  - ASI 93%
  - Seedco 80%
- The balance on the above percentages will be paid upon an audit of the files that results in a >95% confidence rate
- OCD will reimburse LED for ARDD, NewCorp and SCPD following a 100% review of the files, net of amounts for ineligible files and award adjustments

Loans

- Loans will be reviewed by OCD/LED for:
  - Eligibility
  - Viability
  - Adherence to intermediaries' individual underwriting guidelines (to be provided)
- Loans will initially be reviewed according to DOA survey tables, percentage may be decreased as compliance is demonstrated

General Notes

- Intermediaries will receive specific instructions and assistance to address any problems determined in the first audit, including consulting before submission
- Seedco will indicate which files need to be adjusted in Sage to account for seasonality
- Based on performance in audits, at the discretion of OCD and LED, an intermediary's status may be changed from requiring he audit pre- versus post-invoice payment
- Attestations bearing on eligibility issues must be specific to the issue and in writing from the applicant. Statements of explanation must have a "because" clause stating the reason or facts for the attestation
- When OCD/LED is conducting the review, files will be looked at once and their status will be determined on that one review

APPENDIX E: MANAGEMENT'S RESPONSES

DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF COMMUNITY DEVELOPMENT

LOUISIANA
ECONOMIC
DEVELOPMENT

October 17, 2007

Mr. David K. Greer, CPA
Office of Legislative Auditor
State of Louisiana
Baton Rouge, LA 70804-9397

Dear Mr. Greer:

Enclosed is our response to your October 5, 2007 performance audit report on the Business Recovery Grant and Loan (BRGL) program.

We appreciate the work from you and your team, and are aggressively implementing your recommendations so that the BRGL can continue to improve, and serve more Louisiana small businesses as we move forward.

If you have any questions or require additional information, please contact Fran Gladden, Deputy Secretary, at 342.5437, or Michael Hecht, Director of Business Assistance, at 504.864.3040.

Sincerely,

Michael J. Olivier, CEcD
Secretary

Introduction

16 months after the storms, Louisiana's small businesses, the backbone of the economy, were in deep crisis. Over 80,000 had been impacted by Katrina and Rita, and thousands were on the verge of shutting down to the slow return of markets and the lack of other support (e.g., SBA loans). Because this was seen as an emergency, Louisiana Economic Development (LED) was asked to quick-launch a pilot program in a period of weeks. LED was not afforded the months typically allowed to plan and organize a program of this magnitude. Nevertheless, LED is proud of the critical and substantive assistance that the BRGL has delivered to thousands of worthy businesses across Louisiana.

LED appreciates the work of the Office of Legislative Auditor (LLA), and feels that through our joint efforts, we are building an even better program for the future. Although LED may have some differences of interpretation, it does agree with the future-oriented recommendations of the LLA, and has implemented them. LED looks forward to continuing to work with the LLA, as well as the Office of Community Development (OCD) on the next round of the BRGL, so we can continue to serve the needs of the small business community of our State as it recovers from the devastating effects of the storms.

Summary of Management Responses to Recommendations

Recommendation 1

Now with the benefit of additional time and resources, LED is in the process of refining policies and procedures from the first round of the BRGL. For the second round, expected to kick-off in the first quarter of 2008, LED will have:

- A comprehensive set of formal eligibility requirements, implementation procedures, and other relevant policies – as well as a formal change mechanism in the event of any necessity of change
- A full training schedule, for not only intermediary leadership, but staff, as well. Note that training sessions are currently underway
- A full monitoring plan, including Performance, Financial, Capacity and general CDBG monitoring. Note that performance monitoring (i.e., grant and loan file review) and capacity discussions are currently underway

Recommendation 2

The learnings from the pilot, first round of the BRGL will facilitate the development of the policies recommended by the LLA in comprehensive form before the start of the next round. These policies will cover:

- Intermediary capacity requirements

- Grant eligibility requirements
- Use of grant proceeds
- Application review process
- Award disbursement process
- Intermediary fees and responsibilities
- LED monitoring plan, including CDBG requirements
- Organizational roles and responsibilities

Note that some of these policies have been developed and are currently under review.

The requirement that OCD formally accept and sign-off on program guidelines and procedures is important, and will help ensure a smooth program implementation.

Recommendation 3

Going forward, LED will establish a formal policy change process, while recognizing that consistent guidelines and procedures will remain dependent on OCD, DOA, LRA and others not mandating changes midway through the program.

Recommendation 4

Now that additional staff have been approved, LED will be able to go beyond the train-the-trainer methodology relied upon in Round 1. Training sessions have already begun, at both the general and targeted (intermediary-specific) level.

Recommendation 5

Now that LED has had monitoring resources approved, it will proceed as recommended. A monitoring plan has been developed and is under review with OCD, including:

- Performance Monitoring
- Financial Monitoring
- Capacity Monitoring
- Additional CDBG Monitoring

Recommendation 6

LED is proceeding as recommended, reviewing application files with its newly expanded staff. As detailed in its Funding Recouping Process, LED is also seeking to recover required funds from the first round via the contractual responsibility of the intermediaries to have properly administered the grants up-front, under the “Remedy in Event of Breach” clause of the contract.

Full Text of Management Response

Objective 1: When the program was initially implemented, had LED established sufficient guidelines and controls over the program?

The Business Recovery Services division of Louisiana Economic Development was established in the fall of 2006 to manage a $<u>38M</u> loan program “Small Firm Loan and Grant” (SFLG) and a $<u>9.5M</u> technical assistance program. The loan program would have served perhaps <u>400</u> businesses. With a staff of five (2-3 dedicated to the SFLG) Business Recovery Services would have had adequate resources to develop, implement and monitor these two programs.

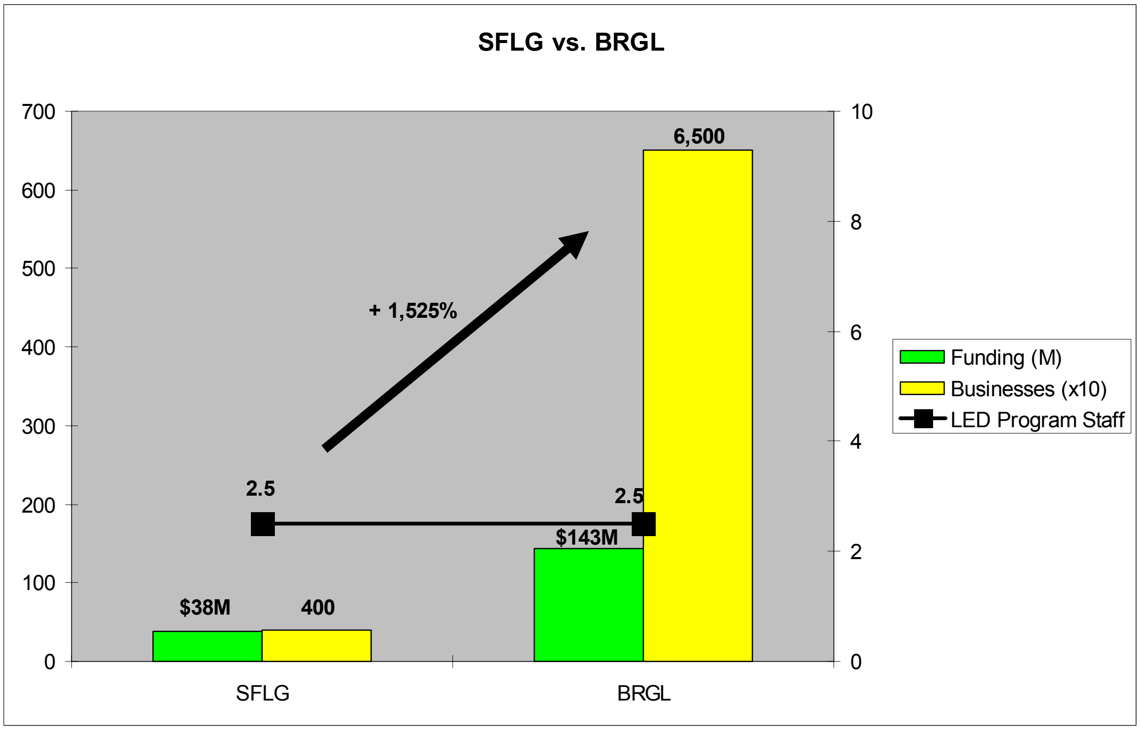
In December 2006, after hearing first-hand of the need, Governor Blanco determined to transform the SFLG into a majority grant program, the “Louisiana Business Recovery Grant and Loan Program.” Business Recovery Services was suddenly asked to manage a program that would now be $<u>143M</u> in size, and would directly involve approximately <u>6,500</u> businesses – <u>**over a 15 times explosion in size.**</u>

Original Program (SFLG)		New Program (BRGL)	Change
$38M		$143M	**3.5x growth**
~400 awards	→	~6,500 awards	**16x growth**

[It should be noted that the intermediaries responded to the original RFP for the SFLG (predominantly) <u>loan</u> program, not the BRGL (predominantly) <u>grant</u> program. Given the massively increased demands of the BRGL, 4 four of the 11 chosen intermediaries actually dropped out of the program; the remaining seven made significant efforts to staff-up and redeploy resources in order to successfully deliver for their constituents and the state of Louisiana.]

Until September, 2007 the total number of individuals in Business Recovery Services remained at five, with <u>2.5 FTEs working on the BRGL on a daily basis</u> (0.5 Director + 1 Program Manager + 3x0.5 support staff). None of the additional $105M allocated to LED was approved for additional program management resources.

Original SFLG versus Expanded BRGL Program Size



Concerned about insufficient resources, LED made formal (see below) and informal (in weekly LED/OCD/LRA meetings) requests for additional staffing since the beginning of the program in the first quarter of 2007.

For example:

4/4/07 from Michael Olivier (LED) Email to Jerry Luke LeBlanc (DOA)

"Jerry,
We need more staff for this program. When we brought Michael Hecht on board, it was to manage a $47.5 million CDBG loan ($38 million) and technical assistance ($9.5 million) programs. Now, he will be managing $220 million in loans, technical assistance and GRANTS. Rather than initially planning to deal with about 500 businesses, we are anticipating dealing with 16,000 businesses. The Legislative Auditor is now conducting a continuous audit of this program and has made it clear that our current staffing is unacceptable. Please see attached justification and facts regarding this critical issue."

LED performed as much monitoring as possible with a single program manager. Also, because of limited resources, LED relied on a "train-the-trainer" methodology, whereby program leads from each intermediary were trained, and then asked to train their staff.

Round 1 program materials, developed by LED and reviewed and accepted by OCD, included:

- BRGL Application Process Overview

- BRGL Funding Process Overview
- BRGL Application Checklist
- BRGL Eligibility Checklist
- BRGL Grant Application
- BRGL Loan Underwriting Checklist
- BRGL Program FAQs
- BRGL Workshop and Intake Center Schedule

Additional funds to hire monitoring resources were approved by OCD the week of September 17, 2007 and LED is in the process of hiring compliance staff (3 of 5 positions filled to-date).

The difference in original versus September 2007 approved staffing is four-fold:

Original Staffing

#	Title	Allocation to BRGL	Allocation to TASF*
1	Director	.5	.5
2	BRGL Manager	1	--
3	TA Manager	--	1
4	Accountant	.5	.5
5	Admin Assist	.5	.5
		2.5 FTE	

September 2007 Approved Staffing

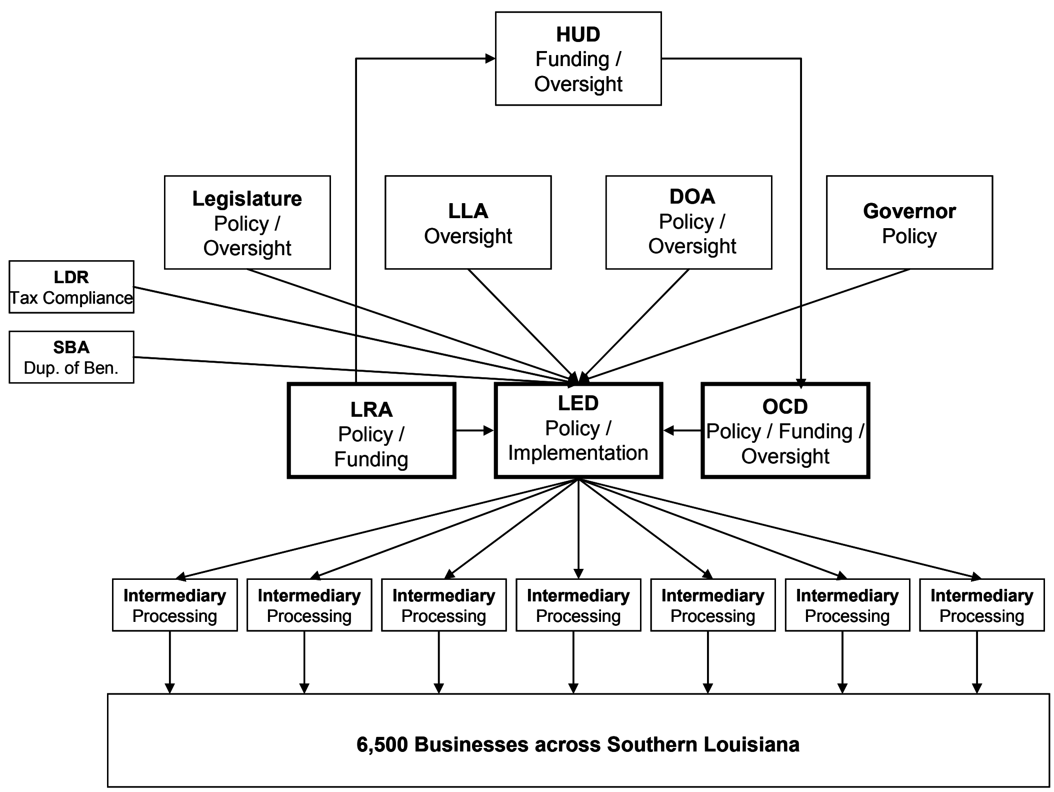
#	Title	Allocation to BRGL	Allocation to TASF*
1	Director	.5	.5
2	BRGL Manager	1	1
3	TA Manager	--	--
4	Accountant	.5	.5
5	Admin Assist	.5	.5
6	Compliance Manager	1	--
7	Compliance Assistant	1	--
8	Compliance Assistant	1	--
9	Compliance Assistant	1	--
10	Compliance Assistant	1	--
11	Database Manager	.5	.5
12	Constituent Services	1	--
13	Accountant	1	--
		10 FTE	

* TASF = Technical Assistance for Small Firms program

It should also be noted here that LED had not signed a contract with any of the intermediaries when the program began because of delays with OCD processing. An approved CEA was not provided to LED until February, despite the draft being given to OCD two months earlier, in December.

“Changes” to the guidelines and procedures came from LED, LRA, OCD, DOA and the Governor’s office. The fact is, most of these changes were clarifications (e.g., that a husband/wife team can apply on behalf of two separate businesses). A few were necessary improvements to the program based on real-time learning that was only possible with information gleaned once the program was started – this was an unprecedented, pilot program. Little data (e.g., average size of affected businesses) was available at the outset, upon which to structure the program.

As can be seen from the chart below, management of the BRGL program is a challenge due to the myriad of agencies with influence and control – and sometimes conflicting directives. This complicated organizational chart makes consistent direction and clear accountability an on-going issue. However, LED feels that roles and responsibilities have now been clarified, and expects good interagency coordination going forward.



Objective 2: Were Grant Recipients Eligible to Receive a Grant Award?

It should be recognized that documentation was an inevitable challenge for a program attempting to serve businesses whose documents, computers, safes, etc. had literally been washed away in a sea of brackish water and mud.

With the above in mind, the spirit of the program, as conceived by the LRA, was to direct funds to a set of worthy, viable businesses, by employing a set of substantive – but flexible and inclusive – documentation requirements.

Ultimately, many of the documentation issues come down to interpretation of the guidelines. To address some of the particular documentation issues noted:

- The issue with file documentation for the 30% decline was not necessarily one of missing documentation, but clarity. That is, it may have been difficult to understand how the calculation was made – but the underlying documentation was indeed present (This has been addressed with the Grant File Review Sheet) [31 files]
- It was always the intention of both OCD and LED that the application, itself, could be used as a statement of explanation, and a separate sheet of paper was not necessary. The LLA seemed to have a different, much more literal interpretation. If one considers the application as attestation, as was intended, the 26 number "without" attestation would be greatly reduced [26 files]
- It was not required in the Guidelines for the grant to prove 51% ownership (while acknowledging it was in the original action plan) [24 files]
- There is no specifically required documentation for businesses that had not yet reopened to prove their potential to re-open [13 files]
- For many businesses, it is clear and obvious that they do not employ over 50 people (e.g., fishermen) [15 files]

Importantly, the documentation issues that have been found have been and/or are being rectified by the intermediaries according to LED's plan. This ensures that all files are ultimately complete and accurate.

Documentation issues notwithstanding, over 94% of total program applicants have been found to be eligible in the expanded OCD audit (98% for five Southeastern intermediaries) [OCD findings 08/13/07].

It should also be noted that the vast majority of that small set of businesses deemed ineligible are still worthy, legitimate businesses that simply did not fit with the program's stringent guidelines (e.g., a fisherman who sustained tens of thousands in losses, but still managed to work in 2006).

As with the documentation issues, some of the ineligible and award adjustment files are due to difference of opinion/interpretation:

- One ineligible file had:
    - A Q1-to-Q1 revenue decline of 38%
    - A Q2-to-Q2 revenue decline of 29%
    - An average revenue decline of 34% [qualifying threshold is 30%]
    - An formal letter saying that Q1 was more representative

  but was deemed ineligible because the letter does not adequately prove seasonality
- One award adjustment file is due to <u>a $7 discrepancy</u>
- Two award adjustment files are due to lack of consideration of the fact that a 2005 tax return does not accurately reflect business size (due to hurricane-shortened year); these awards are, in fact, correct

Objective 3: What has been done to address program?

LED is aggressively implementing agreed-upon actions with OCD to remediate any documentation and other issues from the first round of the program. Based upon results of the LLA and OCD audits, LED is reviewing between 20% and 100% of each intermediary's program files, in order to ensure that files are complete and accurate.

These actions are summarized in the below plan, from August 17, 2007:

* * * * *

Note: all intermediaries will be given a template to assist in their file review, and each intermediary will be given specific advice as to issues of particular importance. With this in mind, the below plan is based on the assumption that intermediaries now have a clearer understanding what adjustments have to be made; what additional documentation is required; and, what types of business pose particular problems and will make the appropriate corrections before submission.

<u>Group 1) Intermediaries: ASI, JEDCO, RLC, Seedco</u>
- Invoices will be processed and paid for grants as submitted
- Intermediaries will have responsibility to certify that all files submitted are complete and accurate
- LED/OCD will conduct an initial audit of <u>20%</u> of submitted files in order to verify compliance

<u>Group 2) Intermediary: NewCorp</u>
- Intermediary will have responsibility to certify that all files submitted are complete and accurate
- LED/OCD will conduct an audit of 50% of submitted files in order to verify compliance

- Following satisfactory audit results (>95%), invoices will be processed and paid for grants as submitted
- If audit results are not satisfactory, audit percentage will move to 100%

<u>Group 3) Intermediaries: ARDD, SCPD</u>

- Intermediaries will have responsibility to certify that all files submitted are complete and accurate
- LED/OCD will conduct an audit of 100% submitted files in order to verify compliance
- Invoices will be processed and paid for grants as cleared by the audit

<u>Original Invoice #13, $5.1M</u>

- OCD will reimburse LED for this invoice at the following rates:
  - RLC 99%
  - JEDCO 96%
  - ASI 93%
  - Seedco 80%
- The balance on the above percentages will be paid upon an audit of the files that results in a >95% confidence rate
- OCD will reimburse LED for ARDD, NewCorp and SCPD following a 100% review of the files, net of amounts for ineligible files and award adjustments

<u>Loans</u>

- Loans will be reviewed by OCD/LED for:
  - Eligibility
  - Viability
  - Adherence to intermediaries' individual underwriting guidelines (to be provided)
- Loans will initially be reviewed according to DOA survey tables, percentage may be decreased as compliance is demonstrated

<u>General Notes</u>

- Intermediaries will receive specific instructions and assistance to address any problems determined in the first audit, including consulting before submission
- Seedco will indicate which files need to be adjusted in Sage to account for seasonality
- Based on performance in audits, at the discretion of OCD and LED, an intermediary's status may be changed from requiring he audit pre- versus post-invoice payment
- Attestations bearing on eligibility issues must be specific to the issue and in writing from the applicant. Statements of explanation must have a "because" clause stating the reason or facts for the attestation
- When OCD/LED is conducting the review, files will be looked at once and their status will be determined on that one review

* * * * *

Further, LED is currently reviewing with OCD a 40-page, comprehensive, forward-looking monitoring plan, which includes:

- Performance Monitoring: Is the intermediary following program guidelines and procedures?
- Financial Monitoring: Does the intermediary have proper financial processes and controls in place?
- Capacity Monitoring: Does the intermediary have sufficient capacity to perform the above, and can it benefit from additional technical assistance?
- Additional CDBG Monitoring: Are all HUD CDBG regulations (e.g., procurement) being followed?

This plan will be implemented by the new LED compliance monitoring staff of five, in partnership with other regulatory agencies. It includes checklists recently provided by OCD to ensure CDBG compliance. Overall, LED is confident that the plans now in place will ensure that issues raised by the performance audit are being addressed.

* * * * *

Going forward LED looks forward to continuing to implement the recommendations of the Office of Legislative Auditors, to ensure that the next round of the Business Recovery Grant and Loan program is both efficient and compliant. LED is confident that it will have the full partnership of other state agencies in this endeavor, which will provide critical support to the small business community of Louisiana as it continues to recover from the destruction of Katrina and Rita.

Louisiana Legislative Auditor
Performance Audit Division

Office of the Legislative Auditor – Performance Audit Division
Recommendations Checklist

Instructions to Audited Agency: Please check the appropriate box below for each recommendation. A summary of your response for each of the following recommendations will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

RECOMMENDATIONS - LED	AGREE	PARTIALLY AGREE	DISAGREE
Recommendation 1: LED should allow its staff enough time to organize future grant rounds, including time to: • Create formal program eligibility requirements • Create formal policies and procedures for implementing the grant round • Provide formal training to intermediaries on grant application intake, review and selection policies and procedures • Monitor intermediaries' activities	√		
Recommendation 2: Before any additional grant rounds begin, LED should develop a comprehensive set of program guidelines and procedures covering all criteria and requirements for the grant application, review and selection processes. OCD should formally accept and sign-off on these guidelines and procedures. The policies should address, at a minimum, the following: • Intermediary capacity requirements	√		

RECOMMENDATIONS - LED	AGREE	PARTIALLY AGREE	DISAGREE
• Grant recipient eligibility requirements • Determination of grant award amount • Use of grant award funds • Application review and selection process • Award disbursement process • Intermediary fees • LED monitoring of Intermediaries' services • Coordination between LED and the intermediaries • CDBG requirements			
Recommendation 3: For future grant rounds, LED should adhere to the program guidelines and procedures it establishes. If LED decides that any of the guidelines or procedures must be revised, the agency should follow a formal policy change process that includes formal notification of changes to the intermediaries, as well as OCD. LED should then revise the formal program guidelines and procedures document(s).	✓		
Recommendation 4: For future grant rounds, LED should provide formal training to intermediary staff on the program's policies and procedures, including eligibility requirements and CDBG requirements.	✓		
Recommendation 5: During future grant rounds, LED should comply with the monitoring plan laid out in its contract with OCD. In order to comply with the terms of the contract, LED should conduct formal and informal monitoring activities to determine whether	✓		

RECOMMENDATIONS - LED	AGREE	PARTIALLY AGREE	DISAGREE
the intermediaries are adhering to program policies and procedures, and to assess the intermediaries' continuing capacity to administer the grants. LED's monitoring activities should take place during the application intake and review process and should include on-site visits to conduct sample reviews of grant application files.			
Recommendation 6: For the first grant round, LED should ensure that only grant applicants who met the program's eligibility requirements receive a grant award by doing the following: • LED should review the application files to determine whether the intermediaries collected all necessary documentation, and whether the applications met all of the program's eligibility requirements, per the program guidelines located in LED's contract agreements with the intermediaries. • If LED determines an intermediary approved an application that did not meet program eligibility requirements and the applicant has received the grant award already, LED should seek to recover the disbursed grant funds from the recipient(s). In addition, LED should consider legal recourse to recover payments to the intermediaries for each approved grant application deemed ineligible.	✓		

State of Louisiana
DIVISION OF ADMINISTRATION

OFFICE OF COMMUNITY DEVELOPMENT
DISASTER RECOVERY UNIT

KATHLEEN BABINEAUX BLANCO
GOVERNOR

JERRY LUKE LEBLANC
COMMISSIONER OF ADMINISTRATION

October 18, 2007

Mr. Steve J. Theriot, CPA
Office of Louisiana Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, LA 70804-9397

RE: OCD/DRU Response to the Business Recovery Grant and Loan Program Performance Audit, September 2007

Dear Mr. Theriot:

The Office of Community Development [OCD], Division of Administration appreciates the opportunity to respond to the audit conducted by your Office identified above.

This audit of the Business Recovery Grant and Loan Program [BRGL] as administered by the Louisiana Department of Economic Development [LED], was funded by the Disaster Recovery Community Development Block Grant funds awarded to the State by Congress. While the report contained six (6) recommendations, only the second one was addressed to OCD. This recommendation advised OCD to formally sign–off on procedures and guidelines developed by the LED for additional rounds of funding for the Business Recovery Grant and Loan Program.

OCD concurs with this recommendation and will take the necessary action to ensure that future funding rounds comply with this recommendation.

OCD also agrees with the other recommendations cited in the report by the Legislative Auditor. It should be noted that the observations and recommendations by the Legislative Auditor to LED are similar to those contained in a monitoring letter dated June 29, 2007 from OCD to Secretary Michael J. Olivier and LED concerning our review and findings on the implementation of this program. This letter is attached as part of our response.

The monitoring letter cited the very issues and the risks identified in the LLA performance audit. These include:

- Missing documentation to assess the financial viability of applicants for the BRGL.

- Incorrect calculations of grant amounts
- Changing rules and policy determinations
- Grant awards to ineligible applicants
- Awards to firms unable to document compliance with grant conditions

Communications between OCD and LED has been a problem in the past. Both OCD and LED are aware that communication has not been optimal, and have taken steps to improve this situation. OCD senior management has met with LED and advised LED of their monitoring responsibilities as well as the need and importance of a complete accounting of all Federal funds expended. OCD has offered on numerous occasions to provide technical assistance to LED and their administering agencies to insure that all regulatory and program requirements were addressed.

Exhibit A of the Interagency Agreement between OCD and LED spells out in great detail the CDBG program requirements. Exhibit D of the Interagency Agreement includes a very comprehensive monitoring plan that, if implemented, would have insured that the BRGL program was being operated in compliance with CDBG regulations, Program Guidelines and in a uniform and correct fashion. These Exhibits are included as an attachment to this letter.

LED has stated to OCD that a problem has been the lack of an adequate budget and staffing to properly administer the program. When the original grant agreement was signed, LED was given $1,500,000 for administration of a $38,000,000 program. The $1,500,000 is the amount LED requested from OCD to provide all the contract administration required in the contract and discussed above. OCD made no cuts to the proposed LED administrative costs. Subsequent to signing the agreement, program funding was increased to more than $130,000,000. LED started the program and never advised that there was insufficient funding to properly deliver the program. It was not until the Legislative Auditor's Office inquired about LED's monitoring requirements and the lack of apparent monitoring oversight of the program that LED approached OCD for more staffing. LED was informed that the LRA and the Legislature had only allocated 2.3 percent of total funds from HUD for administration and there was insufficient budget to fund their request from the Administration allocation approved by the Legislature. But, we also told LED that they could have additional funds for administration by using some of the funding allocated to the program. LED decided not to move funds from program benefits to administration. OCD and the Legislative Auditor's Office continued to question LED about the lack of oversight and monitoring. LED has recently reversed their decision and has moved $2,500,000 from program to administrative delivery cost. LED is now in the process of hiring six (6) additional employees which would bring their staff total to eleven (11) people. LED and OCD have established weekly meetings to review program progress, changes and enhancements. LED is adding staff to provide the financial and compliance controls for the program.

OCD believes that the major issues that require specific focus are the need for continuous monitoring and training of the intermediaries and stability in the program policies and procedures. OCD believes that LED has charted a course for proper corrective action in order to quickly resolve the issues identified in your report, and that this program will operate in a greatly improved fashion from this point forward. A more cooperative and closer OCD/LED relationship will contribute to additional BRGL program success.

Sincerely,

Susan Elkins, Executive Director
Office of Community Development

SE

Attachments

State of Louisiana
DIVISION OF ADMINISTRATION
OFFICE OF COMMUNITY DEVELOPMENT

Kathleen Babineaux Blanco
GOVERNOR

Jerry Luke LeBlanc
COMMISSIONER OF ADMINISTRATION

June 29, 2007

Mr. Michael Olivier
Secretary, Department of Economic Development
1201 North Third Street
Baton Rouge LA 70802

RE: Small Firm Loan and Grant /Business Recovery Grant and Loan Program

Dear Mr. Olivier:

Staff members of the Office of Community Development conducted a pre-monitoring and technical assistance visit of the seven sub-recipients participating in the Small Firm Loan and Grant program (renamed by LED as the Business Recovery Grant and Loan program). These visits took place over the period May 3 to May 24, 2007. The purpose of these visits was to assess the compliance by the sub-recipients with the requirements of their agreements with LED. As you may be aware the Office of the Legislative Auditor conducted similar site visits prior to the OCD visits and will be issuing a forthcoming report. It can be expected that officials of the federal funding agency; the U.S. Department of Housing and Urban Development will be making a similar review in the future and it is our hope that the contents of this letter will aid your office in solving issues prior to HUD's monitoring review.

A small sample of the grant files (less than 2%) were examined during these visits. The OCD staff reviewed the files for documentation of compliance with the program requirements as stated in the approved Action Plan, the program guidelines and the sub-recipient agreements. Through this review OCD discovered several issues that we believe require urgent attention.

> **ISSUE:** Missing documentation of the requirement to assess the financial viability of grantees.

The Action Plan Amendments for this program, the program guidelines and the sub-recipient contracts all refer to the requirements of 24 CFR 570.209 and 570.482[1] in conducting economic development activities. Those regulations state in part

> "The underwriting guidelines are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which **are financially viable** and will make the most effective use of the CDBG funds."

P.O. Box 94095, Baton Rouge, LA 70804-9095
Claiborne Building, Suite 7-270
(225) 342-7412 • Fax (225) 342-1947 • 1-800-354-9548
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There is a considerable document trail indicating that this HUD requirement was to be incorporated into the grant program.[2] The first set of proposed instructions issued by LED, following the substantial restructuring of the original program; [3] included among its instructions *"Grants Funding Determination ...4. Business must prove on going viability (e.g., adequate total financing) to receive grant".* [4] Following the preliminary meeting with prospective sub-recipients on January 4, LED issued a set of process documents; including one labeled, *"BRGL Underwriting Checklist-Grant".* [5] The process document that listed the requirements for the grant underwriting process included a category called *"Post-storm financial prospects & viability"* which asked the sub-recipients to assess *"... prospective capitalization; financial projections (Profit and Loss, Balance Sheets, and Cash flow statements); business plan and market analysis".* [6]

The final version of the program guidelines that became part of the sub-recipient agreement retained the same item #4 *"Business must prove on going viability"* that was initially issued with the restructured program.[7] Finally, Action Plan Amendment # 8, modifying the original program, retained as eligibility criteria "Other eligibility requirements remain the same: ...<businesses> re-opened or with *demonstrated potential to re-open* [*italics* added].

The requirement to assess the viability of business applicants was clearly understood throughout the program development process.[8] However, none of the files reviewed contained supporting documentation of financial viability assessments.

Due to the nature of the program and the condition of many of the grantees; assessing business viability should be an especially important consideration. According to the revenue loss data provided by 6 of the sub-recipients; approximately 900 out of 2,500 funded grant recipients [36%] reported a 100% revenue loss between 2005 and 2006[9]; meaning: they were out of operation during the program eligibility period in 2006. The data currently available is insufficient to determine exactly how many have since re-opened. Some of the files examined documented extensive damage to the operating facilities of the grantees; well beyond the maximum grant amount of $20,000 to repair or replace[10]. None of these files had an assessment of their future viability and no plan to acquire additional financial resources to restore the business to operating condition.[11] This should be a major concern, as OCD learned from Bridge Loan II; some business owners who received five times the assistance [$100k] as the grant program [max $20k] were still unable to re-open due to the extensive nature of their damages. Other files examined contained pre-storm financial information that indicated the businesses were of questionable viable condition even before the hurricane.[12]

The HUD regulations provide flexibility to program administrators in developing criteria and applying judgment for assessing future viability of businesses requesting CDBG assistance; it is intended to be a flexible process[13]. What method of financial underwriting did LED instruct the sub-recipients to use to assess the future viability of the grantee's business?

RISK: While it is understood that those businesses that participated in this program would pose a higher risk, a high default rate will require that the sub-recipients have documentation to verify what efforts were made to determine viability.

ISSUE: Incorrect grant amount determinations

The rules for determining the amount of grant awards constantly changed throughout the process. The first set of instructions stated "*grant not to exceed one month's revenue*"[14]; the final version that became part of the sub-recipient agreement changed the amount to "*not to exceed two months revenue*".[15] Eventually LED developed and applied a different funding formula, but still based upon the data provided by the sub-recipients.[16]

However, the grant award amounts made by LED depended on the original calculations of the sub-recipients, which proved to be very inconsistent due to lack of clarity of the basis of the determination and the varying degrees of documentation. The end result was some grant awards being miscalculated[17].

Another source of confusion is the question of seasonal businesses, because revenue is earned unevenly throughout the year. This led to a variety of ways of calculating revenues by different sub-recipients that were used as the basis of the grant awards.

The sub-recipients had no consistent method of documenting the calculations used for the award determinations. All of the sub-recipients had difficulty explaining some of their amount determinations upon which LED made awards. When OCD asked questions about some of the files, each sub-recipient had to start from the beginning to determine how they derived their figures.[18]

RISK: The sub-recipients are in the process of collecting data and submitting requests for the second payment installment of the grant awards. Because LED had to rely on the data input from the sub-recipients being accurate, LED was not in a position to know whether this information was correct. The process could be compounding the errors already made unless immediate corrective actions are taken.

ISSUE: Questionable Grant Award Eligibility

At each sub-recipient we found at least one example of a grantee being ineligible according to the rules of the program. The amount of businesses' revenue was also used as eligibility criteria. Lack of clarity factored into the eligibility issue. The instructions provided that to be eligible, a business had to suffer a 30% revenue decline between second quarter of 2005 and second quarter of 2006. The instructions further provided that the sub-recipients could use "*a more representative quarter*". Some of the files examined contained a multiple set of calculations, making it difficult to determine the basis of the grant award. Even though the term "revenue" as distinct from "income" was understood by all the sub-recipients, we found cases in which net income rather than revenue [*GL07105*] was used to qualify grant recipients.

Another eligibility problem concerned the rules for the program which specified that single employee businesses were only eligible if they sold tangible goods.[19] We found examples of single employee firms [*JED-603, NC10693*] that did not sell tangible goods. After reviewing the files with the sub-recipients, they were in agreement with these findings. In another case [*ARDD GR-0529*] the grantee provided an attestation that she sold tangible goods, even though she is telling the IRS at the same time, on her *Schedule C Profit or Loss From Business* form1040, that she does not (*line 4 Cost of Goods Sold*: $0).

A related aspect concerning the tangible goods eligibility issue [*ARDD GR-0529*] was whether the single employee business that was not principally engaged in selling tangible goods could be eligible if they sold any tangible item; a barber who sold combs or a massage therapist who sold lotions. Several sub-recipients took this approach to qualify grantees. At the same time, some grant applicants were rejected because they were not given the benefit of this interpretation.

RISK: Without further clarification of the program guidelines; there is the possibility of both ineligible grantees and/or applicants wrongfully rejected.

ISSUE: Businesses with no employees

Meeting the national objective through job creation or retention was always understood to be a purpose of the program. This requirement is mentioned throughout the program documents.[20] The waiver the State requested and received from HUD addressing economic development issues specifically made reference to jobs and salaries as eligibility criteria.[21] The grant program checklist provided by LED to the sub-recipients had a specific section that required proof of employment.[22] Furthermore, LED's guidance to its sub-recipients and recipients provided that owners had to actually work in the business to count as an employee.[23] OCD found several cases of grantees whose "business"; even though they are a legal and tax/accounting entities, appears to be just a sideline or a hobby, due to the small amounts of annual revenue they earn. Their income statements reported pre-storm annual revenues of less than what a single full time minimum wage worker would earn. When their Schedule C 1040(s), *Profit or Loss From Business* tax information were examined, *item 26 Wages*, had zero dollars entered, [*ARDD GR-0529, JED 1072, JED 603, ARDD GR-6035]*; the businesses do not employ anybody, including the owners who make their living elsewhere.[24] One extreme example of this that we found was [*ARDD GR-6035]*; the "business" was nothing more than a vending machine, whose owners' personal income was over $100,000 from their real jobs. The business had pre-storm gross revenue of just $315, net loss of -$5,000; and it received a $10,000 grant award. There were also a number of grantees [*GL07-019, ARDD-GR0347, JED-096*] that claimed more than one employee, yet had amounts of revenue, that were too little to gainfully employ even one person.

RISK: Without immediate corrective measures an undetermined number of grantees may not meet a national objective because they cannot create or retain any jobs.

OCD also reviewed other areas of the program during these onsite visits; however, we believe these four issues needed immediate attention. We had previously discussed the incorrect grant award calculations with your staff on May 22. The other issues had not been discussed outside of our office until our meeting with your staff and the Legislative Auditor on June 21. Based upon this meeting we believe we have charted a course for proper corrective action in order to quickly resolve these problems

Sincerely,

Susan Elkins

Susan Elkins
Executive Director, OCD/DRU

SE

c: Mr. Jerry Luke LeBlanc, Commissioner of Administration
Ms. Jean Vandal, Deputy Commissioner of Administration

[1] 24 CFR 570.209 is the regulation from the Entitlement CDBG program, 24 CFR 570.482 is the regulations for the State CDBG program. Both incorporate the statutory requirements of 42 USC 5305 (c) "Guidelines for evaluating and selecting economic development requirements"

[2] This requirement makes no distinction between loans or grants.

[3] The original SFLG program, as described in the published Solicitations for Grant Offers due to LED on December 1, 2007, was primarily a loan program which provided that sub-recipients would disburse over a two year period; the restructured program was changed to a preponderantly grant program to be disbursed in two installments over a three month period.

[4] [Email from Michael Hecht to potential sub-recipients January 4, 2007].

[5] [Email from Michael Hecht to potential sub-recipients January 12, 2007]

[6] In subsequent edition(s) of the Grant checklist, this specific documentation requirement was removed even though the program requirement remained.

[7] [Email from Robin Keegan to William Hall and Dan Rees, February 13, 2007; email from Michael Hecht to William Hall, Kathy Blankenship and Dan Rees, February 14, 2007].

[8] Apparently some potential grant applicants even understood the post-storm viability requirement; one sub-recipient reported to us that an applicant declined a grant because she could not re-open within the next year.

[9] The eligibility criteria for the program stated that a grant applicant had to have sustained a 30% revenue loss between the second quarter of 2005 and the second quarter of 2006.

[10] The grant program actually prohibits the use of money for construction; so grantees needing building repair to resume operations will not be able to use the grant proceeds to get back into operation.

[11] The final version of the program guidelines stated a requirement for "demonstrating potential to re-open" "Eligibility –General business Characteristics ... 2. a. Potential to reopen may be demonstrated in ways including pre-storm performance, business plan for reopening (including changes in business model), projected market growth, total financing to support reopening: and, financial projections demonstrating above." That financial viability was an important consideration was further elaborated in Action Plan Amendment #8 "Business eligibility...Decisions will be made by Louisiana Economic Development based on: demonstrated success pre-storm, including revenue and employment base; demonstrated viability of business with SFLG assistance, including availability of sufficient total financing and viable market..."

[12][*SEEDCO SC10340* Revs 92,200 Exps, 205,000 losses -112,800; *ARDD 000004* Revs 356,000 Exps 529,000 losses -173,000, another grantee [*NC10426*] is a BL II defaulter who had pre-storm losses and is unable to make amortized payments for workout plan do to his previous and continuing losses].

[13] 24 CFR 570.482(e)(2) "HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account in size and scope of the project...to take into account differences in the capacity and level of sophistication among businesses of different sizes."

[14][Email from Michael Hecht, January 4]

[15] [Email from Michael Hecht, February 14]. Additional guidance from LED: LED website: http://led.louisiana.gov/business-recovery-grant-and-loan-program.aspx; FAQS; "How will it be determined which qualifying business ultimately get a grant?" ..."Additionally, for any business grant, size will not exceed two months' revenue." This FAQ reserved the right to LED to make the final determination; but within the limits mentioned.

[16] The formula eventually adopted by LED, in lieu of the instructions provided to the sub-recipient, provided that all recipients would receive at least $10,000 if their revenue was less than $20,000; $20,000 if the annual revenue was over $40,000 and 50% of the revenue between $20,000 and $40,000. The original input by the sub-recipients using the two month revenue calculation resulted in very small amounts many less than $700; the standard application processing fee. One extreme example [*ARRD-0635*] would have received $20 under the first

formulation, instead received $10,000; a 500% percent increase in the final formulation. There are many grant recipients whose $10,000 awards are multiples of their annual revenue.

[17] There were numerous inconsistencies in the calculation of the grant amount by LED's Sage system due to sub-recipients' instructions to enter quarterly revenues to determine eligibility of 30% decline in revenues of a quarterly comparison period.

[18] The following case numbers were identified as miscalculated, a majority (15) of which were over-funded:
[*SC10504* *JED-052* *JED-358* *JED-390* *JED-364* *AARD-GR0469* *NC10353*
NC10347 *NC10335* *NC10116* *RLCT1066G* *NC10304* *NC10334* *NC10831*
JED-1082 *RLCPK078G* *RLCKM007G*]

[19] [Email from Michael Hecht February 14]. In addition, according to the LED website: http://led.louisiana.gov/business-recovery-grant-and-loan-program.aspx; FAQS "Are single employee firms/sole proprietors eligible?" "Yes, if they sell tangible goods such as clothing."

[20] Action Plan Amendment #2 "The small Firm Recovery Loan and Grant Program is proposed as a program to target assistance to small firms that are deemed to have a chance to survive...and maintain and create jobs." "2.2 Small Firm Recovery Loan and grant Program ...Eligibility Requirements ...b minimum number of employees... c. maximum number of employees..." Action Plan Amendment #8 "Introduction ... This Action Plan Amendment proposes changes to the Small Firm Loan and Grant program which helps small firms with 50 employees... The other modification will include a change in eligibility requirements to allow certain single-employee businesses the ability to apply..."

[21] The waiver stated "National objective documentation for certain economic development activities. 24 CFR 570.483(b)(4)(i) is waived to allow the grantee to establish low- and moderate income jobs benefit by documenting for each person employed by the name of the business, type of job, and the annual wages or salary for the job. HUD will consider the person qualified if the annual wages or salary of the job is at or under the HUD-established income limit for a one person family." Federal Register: March 6, 2007 Vol 72 No 43.

[22] The instructions read: "Attachments: Please attach at least <u>one</u> item from each of the following categories: ..." "Proof of number of employees" "*For example* Payroll statement - State unemployment tax statement - Federal form 941". Most of the files examined contained very thorough documentation of employment.

[23] LED website: http://led.louisiana.gov/business-recovery-grant-and-loan-program.aspx; FAQS; "Is an owner considered an employee?" "An owner is considered an employee if he/she works in the business."

[24] The criteria of the program clearly requires that there be a least one employee. Action Plan Amendment#8 states "Business Eligibility: Eligible businesses include businesses up to 50 employees. This is a change from the initial program *to include* certain *single-employee* firms."
Italics added, it <u>does not</u> say "to include certain *zero* employee firms."

EXHIBIT A

CDBG Program Administration and Compliance

1. General Compliance

AGENCY agrees to comply with the requirements of Title 24 of the Code of Regulations Part 570 (http://www.gpoaccess.gov/cfr/index.html) including subpart K of these regulations, except that: (1) AGENCY does not assume the OCD's environmental responsibilities described in 24 CFR 570.604; and (2) AGENCY does not assume the OCD's responsibility for initiating the review process under the provisions of 24 CFR Part 52. AGENCY must coordinate envrironmental clearance process and ensure that loans and grants are not funded or work proceed prior to completion of environmental clearances. AGENCY also agrees to comply with all other applicable Federal, state, and local laws and all applicable Office of Management and Budget Circulars (http://www.whitehouse. gov/omb/circulars/).

AGENCY further agrees to utilize funds available under this Agreement only to supplement and not supplant funds otherwise available.

2. Performance Monitoring

OCD will monitor the performance of AGENCY and its contractors/sub-recipients against goals and performance standards in Exhibit B the "Plan." Substandard performance as determined by OCD will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by AGENCY within a reasonable period of time after being notified by OCD, contract suspension or termination procedures will be initiated.

3. Financial Management

   a. Accounting Standards

   AGENCY and its contractors/sub-recipients agrees to comply with 24 CFR 84.21–28 or 24 CFR 85.21 and agree to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

   b. Cost Principles

   AGENCY, and its contractors/sub-recipients shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-87 "Cost Principles for State and Local Government, as applicable. These principles shall be applied for all costs.

4. Documentation and Record Keeping

a. Records to be Maintained

AGENCY, and its contractors/sub-recipients shall maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

Records providing a full description of each activity undertaken;

i) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
ii) Records required for determination of the eligibility of activities;
iii) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
iv) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
v) Financial records as required by 24 CFR 570.502, 24 CFR 84.21–28 and 24 CFR 85.21; and
vi) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

b. Retention

AGENCY and its contractors/sub-recipients shall retain all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement for a period of five (5) years from the date that final closeout is approved by OCD. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

5. Close-outs

AGENCY's and its contractors/sub-recipients obligation to OCD shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets, (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to OCD, and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that AGENCY has control over CDBG funds, including program income.

6. Procurement

a. Compliance

AGENCY shall conduct all procurement transactions in a manner providing for full and open competition and comply with the applicable procurement regulations. Sub-recipient shall conduct all procurement transactions procurement standards governing the CDBG program and shall provide AGENCY with executed copies of all subcontracts along with documentation concerning the selection process. All program assets (unexpended program income, property, equipment, etc.) shall revert to the OCD upon termination of this Agreement

b. OMB Standards

Unless specified otherwise within this agreement, AGENCY shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48 or 24 CFR 85.36.

c. Travel

[redacted]

d. Indirect Costs

Indirect costs may not be charged to the grant proceeds or as administrative expenses by AGENCY or sub-recipients.

e. Utilization of Small, Minority and Women's Owned Enterprises.

AGENCY shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible following the steps outlined in 24 CFR 84.44(b) Procurement for Non-Profit organizations or 24 CFR 85.36(e) Procurement for Local Governments, as applicable.

f. Sole Source Procurement

AGENCY shall specifically identify all awards of sole source contracts and the rationale for making the award on a sole source basis in reports to OCD. All sole-source procurements must be approved by OCD\DRU in advance and will be reported to the U.S. Congress as per PL 109-148.

7. Program Income

AGENCY and its contractors/sub-recipients shall report quarterly any program income [as defined at 24 CFR 570.500(a)] generated by activities carried out with CDBG funds made available under this contract. The use of program income shall comply with the requirements set forth at 24 CFR 570.504. Program income shall be remitted to OCD upon collection by the AGENCY and/or its sub-recipients.

8. Prohibited Activity

AGENCY and its contractors/sub-recipients are prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, inherently religious activities, lobbying, political patronage, and nepotism activities.

9. Section 3 compliance in the provision of training, employment and business opportunities

AGENCY and its contractors/sub-recipients agree to comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3) insofar as this act applies to the performance of this Agreement. The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. HUD-assisted projects covered by Section 3 are those defined in 24 CFR 135.3 (a) (2) and (a)(3).

10. Labor Standards

AGENCY and its contractors/sub-recipients agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement.

11. Conflict of Interest

AGENCY and its contractors/sub-recipients agree to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

a. AGENCY and its contractors/sub-recipients shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the sub-recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, would be involved.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the AGENCY, the Subrecipient, or any designated public agency.

12. Debarment or Suspension

No funds provided under this award may be used to pay salaries of employees or costs of consultants, contractors, or other service providers where such individuals are currently under suspension or debarment by a Federal agency. AGENCY is responsible for verifying that its contractors, and each tier of subcontractors, are not on the List of Parties Excluded from Federal Procurement or Non-procurement Programs promulgated in accordance with E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24.

13. Environmental Conditions

AGENCY agrees to comply, insofar as they apply to the performance of this agreement, with all applicable standards, orders or regulations issued pursuant to: HUD Environmental Review Procedures 24 CFR Part 58, the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B; and the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470). In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), Sub-recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the

National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition and construction purposes.

14. Subcontract Provisions

AGENCY will include the provisions of all of the provisions of this exhibit, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-recipients or subcontractors.

EXHIBIT D

MONITORING PLAN TO BE UTILIZED BY AGENCY

Contract Monitor

The Contract Monitor for this contract is the AGENCY, who has been designated to undertake eligible activities and is responsible for ensuring that CDBG funds are used in accordance with all program requirements (24 CFR 570.501). The AGENCY is also responsible for determining the adequacy of performance of all sub-recipients receiving assistance under this contract.

Purpose of Monitoring Plan

Contract Monitor shall conduct adequate monitoring activities to ensure sub-recipients comply with all regulations governing their administrative, financial, and programmatic operations.

Contract Monitor shall conduct adequate monitoring activities to ensure sub-recipients achieve their performance objectives on schedule and within budget.

Monitoring Plan

Contract Monitor will perform onsite and administrative monitoring functions to determine adequate financial management, performance and capacity of selected sub-recipients.

1. Financial Management - The Contract Monitor shall

a. Review and analyze sub-recipients' Cost Reports and other documentation to ensure sub-recipient's compliance with contract requirements and reimbursements are consistent with approved budgets,

b. Review and analyze sub-recipients' Cost Reports and other documentation to ensure sub-recipients are charging only costs to their projects which are eligible under applicable laws and program regulations, are reasonable in light of the services or products delivered and that funds requested are not in excess of immediate needs,

c. Review and analyze sub-recipients' Cost Reports and other documentation to ensure sub-recipients are conducting their programs in a manner that minimizes the opportunity for fraud, waste, and mismanagement.

2. Performance - The Contract Monitor shall

a. Determine whether sub-recipients are carrying out its CDBG program and its individual activities as described in its application for CDBG assistance and the sub-recipient agreement,

b. Determine whether sub-recipient are carrying out their project activities in accordance with adopted project implementation schedules,

c. Compare reports to results, goals and objectives/implementing strategies and performance measures to determine the progress made,

d. Review and analyze the sub-recipient's written quarterly progress reports and any work product for compliance with the scope of services.

e. Review eligibility of loan, grant or technical assistance in accordance with the CDBG Requirements listed in Exhibits F and G.

3. Capacity – The Contract Monitor shall

a. Assess the sub-recipients continuing capacity to carry out the approved program in a timely and effective manner and in compliance with HUD specific requirements and other state/federal laws and regulations as listed in Exhibits A, F, and G,

b. Identify potential problem areas and to assist the Sub-Recipients in complying with applicable laws and regulations as listed in Exhibits A, F, and G,

c. Assist Sub-Recipients in resolving compliance problems through discussion, negotiation, and the provision of technical assistance and training.

Monitoring Requirements

Contract Monitor will establish a process for selecting sub-recipients and activities for onsite review (e.g. dollar amount, nature of activity, program experience). Contract Monitor shall make visits to the sub-recipient and site in order to review the progress and completion of the sub-recipient's services, to assure that performance goals are being achieved, and to verify information when needed. Contract Monitor shall provide written documentation of its monitoring activities. The Contract Monitor will document any deficiencies in performance or instances of non-compliance with the rules and regulations of the CDBG program. In instances of non-compliance the Contract Monitor shall identify fully every finding and concern in a formal monitoring letter. The Contract Monitor shall ensure that each finding is correctly identified; based on applicable law, regulation, or program policy; and supported by the facts presented in the monitoring letter. For each finding, the Contract Monitor shall specify corrective actions the sub-recipient must take.

A monitoring letter issued by the Contract Monitor shall include deadlines in the monitoring letter for providing a written response to the monitoring letter that describes how the sub-recipient will resolve any finding(s); and correct each deficiency identified in the letter. The Contract Monitor shall issue the letter no later than 30 days of the onsite monitoring visit.

Contract Monitor shall present as concerns in the monitoring letter instances where the deficiency is not a finding, or where non-compliance may occur in the future because of weaknesses in the sub-recipient's operations. For each concern, include specific recommendations for improvement.

During the term of this Agreement, the Contract Monitor or his/her designee(s) will meet with the sub-recipient as needed to discuss the progress and results of the project, ongoing plans for the continuation of the project, and any other matters relating to the project.

Contract Monitor shall require each sub-recipient to inform Contract Monitor between performance reporting dates, of any delays, problems, or adverse conditions that will materially affect the sub-recipient's ability to attain program objectives, prevent the meeting of schedules and goals, or preclude the attainment of project goals and results. Sub-recipient's disclosure shall be accompanied by a statement describing the action taken or contemplated by the sub-recipient, and any assistance that may be needed to resolve the situation.

Utility of Final Product

This cooperative endeavor agreement provides the State a mechanism to provide funding towards a project that that will encourage and promote the revitalization of Louisiana's small businesses' in the aftermath of Hurricanes Katrina and Rita and in so doing, Louisiana's economy and communities will benefit.

Louisiana Legislative Auditor
Performance Audit Division

Office of the Legislative Auditor – Performance Audit Division
Recommendations Checklist

Instructions to Audited Agency: Please check the appropriate box below for each recommendation. A summary of your response for each of the following recommendations will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

RECOMMENDATIONS -OCD	AGREE	PARTIALLY AGREE	DISAGREE
Recommendation 2: Before any additional grant rounds begin, LED should develop a comprehensive set of program guidelines and procedures covering all criteria and requirements for the grant application, review and selection processes. OCD should agree and formally sign-off on these guidelines and procedures. The policies should address, at a minimum, the following: • Intermediary capacity requirements • Grant recipient eligibility requirements • Determination of grant award amount • Use of grant award funds • Application review and selection process • Award disbursement process • Intermediary fees • LED monitoring of Intermediaries' services • Coordination between LED and the intermediaries • CDBG requirements	X		