RESOLUTION NO. R-2024-121

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING CHANGES TO THE BASTROP ECONOMIC DEVELOPMENT CORPORATION'S REVOLVING LOAN FUND (RLF) PROGRAM; REPEALING ALL RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Bastrop Economic Development Corporation ("BEDC") is a public instrumentality and non-profit industrial development corporation duly established and operating under Local Government Code, Chapters 501 and 505 *et seq.*, as amended, known as the Development Corporation Act of 1979 (the "Act"), and is acting with the approval of the governing body of the City of Bastrop, Texas (the "City"); and

WHEREAS, on July 24, 2023, the BEDC established a "Revolving Loan Fund Program" with funding from Roscoe Bank in Bastrop, the purpose of which is to provide Bastrop businesses with access to capital so they may achieve positive public outcomes while creating a direct overall improvement and stimulus to the local economy; and

WHEREAS, on May 20, 2024, the BEDC further modified the Program by establishing a review committee to evaluate applications to the Revolving Loan Fund Program; and

WHEREAS, the BEDC currently wishes to modify certain Program policies by changing the role of the BEDC from a loan originator to a loan guarantor, with BEDC funds held in a restricted account for payment to Roscoe in the event of applicant default; and

WHEREAS, Roscoe Bank has considered this modification to the Program and agrees with the reestablishment of BEDC and Bank roles as provided; and

WHEREAS, at the August 26, 2024, BEDC board meeting, the BEDC found that this modification to the Revolving Loan Fund Program structure will further benefit Bastrop businesses and the overall economy, and is in the best interests of the BEDC and the City of Bastrop.

WHEREAS, the City has reviewed the August 26, 2024, actions of the BEDC related to the program noted herein, has considered and evaluated the program and its polices and procedures, and has found it meritorious of the City Council's authorization and approval.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

<u>Section 1</u>. Findings and Determination. The City Council hereby finds and determines that it is in the best interest of the BEDC and the City to approve the modification of the Revolving Loan Fund Program as provided in the policy and other Program documents provided hereto as Exhibit "A."

<u>Section 2</u>. Open Meeting. The City Council hereby finds and determines that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place and purpose at which it was read was given in accordance with Chapter 551, Texas Government Code.

<u>Section 3</u>. Any prior resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

<u>Section 4</u>. Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 17th day of September 2024.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Irma G. Parker

Irma Parker, City Secretary

CITY OF BASTROP 1832

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

Section 1. **Findings and Determination.** The City Council hereby finds and determines that it is in the best interest of the BEDC and the City to approve the modification of the Revolving Loan Fund Program as provided in the policy and other Program documents provided hereto as Exhibit "A."

Section 2. **Open Meeting.** The City Council hereby finds and determines that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place and purpose at which it was read was given in accordance with Chapter 551, Texas Government Code.

Section 3. Any prior resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

Section 4. Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 17th day of September 2024.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Irma G. Parker

Irma Parker, City Secretary

CITY OF BASTROP 1832

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney
Rezzin Pullum, Assistant City Attorney

Exhibit "A"

BEDC Revolving Loan Fund Program Policy

RESOLUTION NO. R-2024-0009

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION REDEFINING ITS ROLE AS LOAN ORIGINATOR TO THAT OF LOAN GUARANTOR IN THE REVOLVING LOAN FUND PROGRAM WITH ROSCOE BANK; REPEALING ALL OTHER RESOLUTIONS IN CONFLICT; AND AUTHORIZING THE INTERIM EXECUTIVE DIRECTOR TO EXECUTE ALL NECESSARY IMPLEMENTING DOCUMENTATION.

WHEREAS, the Bastrop Economic Development Corporation ("BEDC") is a public instrumentality and non-profit industrial development corporation duly established and operating under Texas Local Government Code, Chapters 501 and 505 *et seq.*, as amended, known as the Development Corporation Act of 1979 (the "Act"); and

WHEREAS, on July 24, 2023, the BEDC established a "Revolving Loan Fund Program" with funding from Roscoe Bank in Bastrop, the purpose of which is to provide Bastrop businesses with access to capital so they may achieve positive public outcomes while creating a direct overall improvement and stimulus to the local economy; and

WHEREAS, on May 20, 2024, the BEDC further modified the Program by establishing a review committee to evaluate applications to the Revolving Loan Fund Program; and

WHEREAS, the BEDC currently wishes to modify certain Program policies by changing the role of the BEDC from a loan originator to a loan guarantor, with BEDC funds held in a restricted account for payment to Roscoe in the event of applicant default; and

WHEREAS, Roscoe Bank has considered this modification to the Program and agrees with the reestablishment of BEDC and Bank roles as provided; and

WHEREAS, the BEDC therefore finds that this modification to the Revolving Loan Fund Program structure will further benefit Bastrop businesses and the overall economy, and is in the best interests of the BEDC and the City of Bastrop.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION THAT:

SECTION 1. The Board hereby finds that all of the recitals above are true and correct and are incorporated herein as if restated in full.

SECTION 2. The Board approves the modification of the Revolving Loan Fund Program as provided in the policy and other Program documents provided hereto as Exhibit "A."

SECTION 3. The Board hereby authorizes the BEDC Interim Executive Director to execute all documentation necessary to effectuate this modification and administer the Program as revised.

SECTION 4. Any prior resolutions of the BEDC Board of Directors in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

SECTION 5. This Resolution is effective upon passage.

PASSED AND APPROVED on the 26th day of August 2024, by the Board of Directors of the Bastrop Economic Development Corporation.

BASTROP ECONOMIC
DEVELOPMENT CORPORATION

Ron Spencer

Ron Spencer, Board Chair

ATTEST:

Frank Urbanek, Board Secretary

APPROVED AS TO FORM:

Denton Navarro Rodriguez Bernal Santee & Zech, P.C.
Board Counsel

Exhibit "A"
BEDC Revolving Loan Fund Program Policy

bastrop
EDC

Bastrop Economic Development Corporation
Revolving Loan Fund Program Policy

I. GENERAL POLICY

The Bastrop Revolving Loan Fund (RLF) Program provides businesses with direct loans. As the RLF receives the principal and interest from outstanding loans, the money is made available to another borrower. This recycling of funds makes RLFs particularly valuable for small businesses and entrepreneurs that lack the equity typically required by financial institutions to start or grow their business. This RLF program provides a financial guarantee for financing to assist with business start-ups and the expansion of existing businesses for the purposes of creating jobs, increasing sales tax producing revenue, and enhancing private capital investment within the City of Bastrop, Texas by partnering with Roscoe Bank, ~~local lenders such as banks or credit unions~~ who will originate the loan.

II. ECONOMIC OBJECTIVES

The Bastrop Economic Development Corporation (BEDC) will consider guaranteeing applications for the RLF, which demonstrate the achievement of one or more of the following objectives:

1. Enhance the City's economic base through property tax and sales tax.
2. Assist businesses that provide permanent employment opportunities.
3. Stimulate private sector investment in commercial opportunities.
4. Encourage site improvements and redevelopment of commercial and industrial areas, blighted properties and vacant land.

III. DEFINITIONS

As used in this Policy, the following words or phrases shall have the stated meanings:

1. "Applicant" – Business or person applying for the loan
2. "BEDC" – Bastrop Economic Development Corporation
3. "BEDC Board" – BEDC Board of Directors
4. "RLF" – Bastrop Revolving Loan Fund Program
5. "RLF Committee," or "Committee" – loan committee comprised of a maximum of three BEDC Board members and additional members as determined by the BEDC Board – through appointment at a scheduled board meeting.

6. "Lender" – BEDC or established BEDC bank or lending institution
7. "Loan" – (aka microloan or small business loan) amount not to exceed $10,000
8. "Recipient" – Business or person approved for a loan

IV. ELIGIBLE BUSINESSES

All RLF Applicants must meet the following criteria. The business must:

1. Be a for-profit business in the industrial, commercial, retail or service sector.
2. Be a private business (dba, LLC, LLP, PC, C, or S corporation).
3. Have a physical address within the City of Bastrop city limits. Proof of address shall be required when applying.
4. Be an allowed use through zoning of the property or be a legally non-conforming use.
5. Not have delinquent taxes, bills, or charges due to the City.
6. Not have any outstanding violations with the City of Bastrop unless working to come into compliance by utilizing the RLF.

Any participant in the RLF must be in good standing with the BEDC and the City of Bastrop (e.g., not in litigation against the BEDC or City or owing monies for utilities, judgements, fines, having unresolved code enforcement issues, etc.) and may only carry one revolving loan at a time.

V. ELIGIBLE USES OF THE REVOLVING LOAN FUND

1. Land and building acquisition
2. Property improvements
3. New building construction
4. Building renovation and modernization
5. Machinery, equipment & fixtures
6. Inventory
7. Working capital
8. Information technology

VI. INELIGIBLE USES OF THE REVOLVING LOAN FUND

1. Debt refinancing
2. Residential real estate, public buildings or infrastructure, speculative buildings, or any project not located within the city limits of Bastrop, Texas.
3. Investments, payments on current loans, or refinancing of existing debt.
4. Loans used as a loan guarantee or as a substitute for private capital.
5. Taxes
6. Gambling, religious, political or adult/pornographic businesses
7. Loans which would create a potential conflict of interest for any BEDC staff member, elected or appointed official, or members of the Committee.

VII. AMOUNT AVAILABLE

Applications will be accepted for loan amount requests ranging from ~~$3,000~~ $2,500 up to $10,000. Loans will be considered on a first come first served basis each fiscal year, which is October 1 to September 30. Once budgeted funds are exhausted, then the BEDC Board must approve additional funding during the fiscal year or applicants will need to reapply in a subsequent term.

VIII. ADMINISTRATION

~~Application forms are available online at www.bastropedc.org.~~

~~Applicant should allow a minimum of six to eight weeks for processing once the completed application and all required documentation are submitted.~~

~~Consideration for approval will be based on but not limited to the following:~~

1. ~~Business plan for the proposed business or project~~
2. ~~Assessment of business capacity to operate successfully based on current market conditions~~
3. ~~Analysis of personal credit score~~
4. ~~Cash flow analysis~~
5. ~~Other financial documents as requested~~
6. ~~The following minimum criteria will be used in assessing candidacy for a loan:~~

~~Business Status~~	~~Personal Credit Score~~	~~Business Annual Revenues~~	~~Years in Business~~	~~Business Plan~~	~~Articles of Org/Incorp/ EIN~~	~~3 Months Personal Bank Statements~~	~~3 Months Business Bank Statements~~
~~Existing~~	~~>600~~	~~$50,000~~	~~>1 Year~~	~~Yes~~	~~Yes~~	~~No~~	~~Yes~~
~~Start-Up~~	~~>700~~	~~N/A~~	~~N/A~~	~~Yes~~	~~Yes~~	~~Yes~~	~~No~~

7. ~~If minimum criteria are met for securing a loan, then the loan committee will analyze and score the loan applicants based on their potential risk in the categories noted in the table below. Risk will be assigned as low (1), medium (2), or high (3). A total risk score will be calculated and used in the final evaluation of the loan application.~~

	~~Applicant Credit Score~~	~~Current Economic Conditions/ Communication (Business Plan)~~	~~Repayment Capacity (Bank Statements)~~	~~Total Score~~	~~Risk Score Average (Total Score/3)~~

~~Risk Score:~~	-	-	-	-	-
~~1 - Low~~	-	-	-	-	-
~~2 - Medium~~	-	-	-	-	-
~~3 - High~~	-	-	-	-	-

~~An initial meeting with the Applicant and BEDC staff will be set up to review the request. If the application meets the initial policy guidelines and the application is deemed complete, BEDC staff shall prepare a loan summary to be submitted to the BEDC RLF Committee for consideration in making a recommendation to the BEDC Board.~~

LOAN REVIEW

A copy of the loan summary, application, and Bank recommendation ~~and application~~ will be sent to the Committee at least 72 hours prior to the meeting. Information in the loan summary will include:

1. Project description and use of funds
2. Type of business
3. Number of jobs created or retained
4. Source and use of personal or other funds
5. ~~Staff~~ Bank recommendation for loan application
6. Estimated economic benefits to the City

~~Incomplete applications will be returned to the Applicant.~~

The RLF Committee shall meet on an as-needed basis to review applications for financial feasibility, security and ability to satisfy the purposes and priorities of the program. If required, t~~T~~he Applicant will be invited to the meeting to present to the committee. Applications shall require a majority vote of the Committee for recommendation to proceed to the BEDC Board. During the next regularly scheduled BEDC Board meeting, the Board will formally approve/deny the application. If an application is denied, BEDC staff shall have the option to continue assisting the Applicant in gathering additional information for resubmittal.

Nothing in this Policy shall require the BEDC to ~~make~~ guarantee a loan to a business that meets the requirements of the Policy. The BEDC is not required to ~~make~~ guarantee a loan or provide any financial assistance to a business that meets the requirements of this Policy unless the BEDC in its sole discretion determines that it is in the BEDC and City of Bastrop's best interest to make a loan. Each application will be reviewed on a case-by-case basis.

NOTE: Information that the Applicant believes to be confidential should be clearly marked "Confidential" on each page containing confidential information. The BEDC shall take every precaution allowed by law to maintain confidentiality. Application materials may be subject to public disclosure.

IX. LOAN TERMS AND GUIDELINES

1. Minimum amount of loans – $~~3,000~~ $2,500
2. Maximum amount of loans – $10,000
3. Loan term will be five (5) years.
4. Loan origination fees will be incurred by the BEDC.
5. The interest rate of all approved loans will be a fixed rate, established at the time of loan approval, and set to 75% of the Wall Street Journal prime rate.
6. Recipients will be required to maintain property insurance on buildings and contents for full replacement value. If required, insurance policies shall name the BEDC as a Lender Loss Payee.

X. LOAN PAYMENT TERMS AND GUIDELINES

1. Initial payment may be deferred up to three (3) months after closing.
2. Loan payment shall be made monthly to the City of Bastrop Finance Department by any means authorized by the department.
3. Payments more than thirty (30) days delinquent will be assessed a five (5) percent penalty. Payments first go towards any accrued penalties, then towards accrued interest, and lastly to reduce the balance of the principal.
4. The Recipient may repay the loan without incurring a prepayment penalty, to encourage early repayment of loans.
5. The Applicant will authorize the BEDC to obtain verification of any applicable records, including assets, employment records, and consumer credit reports.
6. BEDC will review RLF agreements annually.

XI. LOAN PROCEDURES

Prior to releasing RLFs, the following documentation as applicable, and any other documentation required by the BEDC, must be provided:

1. **Notice of Award** – The BEDC has reviewed and approved a complete application for an eligible Applicant.
2. **Loan Agreement** – A RLF agreement shall be executed by the BEDC Chair and the principal owner(s) or officer(s) of the business. The agreement must be dated, state the agreement between the BEDC and the business and specify the amount and terms of the loan funds delivered.
3. **Loan Security** – If RLF security is required, any mortgage or lien instruments must be

executed at the time of the loan closing. The BEDC may take a security interest position in any equipment, real estate, or other collateral being financed. Subordinate lien position loans will be accepted.

4. **Amortization Schedule** – An amortization schedule shall be prepared by BEDC Staff with a copy provided to the borrower.
5. **Evidence of Permits** – Documentation must be provided by the Applicant.
6. **Other Documentation** – The Applicant may be asked to provide other types of documentation.

XII. POST-APPROVAL OF RLF RECIPIENT

In addition to the terms and conditions of the RLF, all Recipients must agree to comply with the following:

- To use RLF money only to pay the cost of services and materials necessary to complete the project or activity, or purchase the equipment for which the loan was awarded.
- To permit inspections by persons authorized by the BEDC of all projects and properties assisted with RLFs. Related project materials shall also be open to inspections which include but may not be limited to materials and equipment. Requests for inspection shall be complied with by the Recipient.
- To maintain records on the projects as may be requested by the BEDC. These files shall be maintained as long as the loan is active or for at least three (3) years after completion of the work for which the loan has been obtained, whichever is longer.
- The business must maintain an actual physical presence within the city limits of Bastrop, Texas, for 5 years.

XIII. POST-CLOSING AND MONITORING OF RLFs

General Procedures

1. When the loan closing is completed and the funds are disbursed, ~~the Lender~~ Roscoe Bank will establish a loan servicing file to contain:
   1) All closing documents.
   2) A log of all conversations and correspondence relating to the loan.
   3) A master follow-up file to ensure loan monitoring functions are performed on a timely basis.
2. The calculation of principal and interest and monthly payment reports will be executed at the time of the loan closing by the Lender.
3. Fund management services will be provided by the Lender. The BEDC may assist with loan packaging, underwriting, and related marketing services for the Fund.

Monitoring

Lender will be responsible for collecting and maintaining evidence of ongoing compliance with any loan requirements, insurance, financial reporting, and any special conditions of the original agreement. An annual report of projects financed through this program will be provided to the BEDC and BEDC Board at the budget planning meeting each year.

XIV. DEFAULT

In the event the Recipient is in default on any of the terms and conditions of the RLF agreement, all sums due and owing, including penalties, shall, at the BEDC's option, become due and payable. To exercise this option, the BEDC Attorney shall prepare a written notice to the Recipient. The notice shall specify the following:

1. The default.
2. The action required to cure the default.
3. A date, not less than thirty (30) days from the date of the notice, by which the default must be cured to avoid foreclosure or other corrective action.
4. Any penalties incurred as a result of the default.

XV. USE OF LOAN REPAYMENTS AND REPORTING

Repaid loans shall be redeposited in the RLF account and used in a manner consistent with these policies and procedures. A separate accounting record for each loan shall be kept to account for all funds loaned.

XVI. PERFORMANCE ASSESSMENT PROCESS

The BEDC staff shall annually review the goals and objectives of the RLF to verify it is meeting its objectives. If staff determines the program requires modification, staff will prepare and present any modifications to the Committee for review, with final approval by the BEDC Board.

Bastrop Economic Development Corporation
Revolving Loan Fund (RLF) Process

Business Interested in RLF

BEDC staff provide RLF information, process, and application

~~Business completes application~~

~~Business begins to gather materials necessary for application requirements~~

Application Submission

Business submits application and required documentation to ~~BEDC~~ Roscoe Bank

~~BEDC staff review application and documents for completeness~~ Roscoe Bank issues recommendation to BEDC

~~If incomplete, business is notified of components for correction~~

~~If complete,~~ BEDC staff will submit application to the BEDC RLF Committee and schedule a Committee meeting

Committee Convenes

Committee is provided with all application materials for review (at least 72 hours prior to meeting)

Committee meets to discuss application in which business is advised to make a presentation

If approved, Committee sends recommendation to the BEDC Board for approval

If not approved, Committee may decide to provide recommendations for the business for another application submission

Application Approval

Application is submitted to BEDC Board for approval

If application is approved, the ~~business is notified of any additional contingencies required by the Board~~ Roscoe Bank is notified, BEDC transfers funds to a secured Roscoe Bank Account

Loan is ~~awarded to business~~ guaranteed~~,~~ Bank issues fund proceed~~s~~

BEDC RLF Committee meets on an as-needed basis. The Committee must have sufficient time for review and presentation of the RLF application before materials are distributed to members, a minimum of 72 hours prior to meeting.

DRAFT 8.26.24

bastrop EDC

Bastrop Economic Development Corporation
Revolving Loan Fund Application Form

Applicant Information

Name of Applicant(s): ____________________

Address: ____________________ City, Stat de: ____________________

Phone Numbers: ____________________

Email Address: ____________________

Information about Your Business

Name of Business: ____________________

Address of Business: ____________________ Zip Code: ____________________

Phone Numbers: ____________________

Type of Business: ____________________ Emp mber: ____________________

Number of Employees: Full-Time: ____________________ Part-Ti ____________________

Business Banking Institution: ____________________

Products or Services Your Business Provides: ____________________

Information about the Project

Brief Description of the Project:

Anticipated Start Date for the Project: ____________________

Amount of Loan Funds Requested: ____________________ Requested Loan Term: ____________________

Sources and Uses of Loan Proceeds

USES		SOURCES	
Land Acquisition:	____________	BEDC RLF:	____________
New Building Construction:	____________	Financial Institution:	____________
Site Preparation or Demolition:	____________	Owner's equity:	____________
Rehabilitation or Renovation:	____________	Other:	____________
New Machinery and Equipment:	____________	Other:	____________
Inventory and Working Capital:	____________	Other:	____________
Other: ____________	____________	Other:	____________

Additional Requirements

Each complete application to be submitted shall include the following items:

1. A cover letter describing the project, explaining the need for Economic Development Loan Funds, and describing the public benefits of the project.

2. A business plan outlining the management, marketing, competition, business history, and future potential.

3. Resumes of the principal borrowers.

4. Financial statements for the preceding th[illegible]cluding bal[illegible] income statements, and the most recent interim statements.

5. A current personal financial statement of any o[illegible]ownership in the business.

6. A project budget showing a breakdown of the tota[illegible] of funds for the project.

Private Financing Information

If private financing is being requested for this pr[illegible]te t[illegible]information.

Financial Institution: ______________________________

Address: ______________________ City, State, [illegible] ______________________

Contact Person: ______________________________

Phone Number: ______________________ Email Address: ______________________

Loan Amount: ______________________________

I hereby authorize the above referenced financial institution to release my financial records to the Bastrop Economic Development Corporation and/or their representatives.

______________________________ ______________________________
Applicant Signature Date

Applicant Certification

I authorize the Bastrop Economic Development Corporation to make inquiries as necessary to verify the accuracy of the information provided and to determine my credit worthiness. I certify the statements contained on this application and the supporting documentation are true and accurate as of the stated dates.

______________________________ ______________________________
Applicant Signature Date

______________________________ ______________________________
Applicant Signature Date

Roscoe Bank will be the authorized intermediary lender participating in BEDC microloan program and have its own lending and credit requirements. Personal guarantee of the business owner will be required along with a credit check for individuals and/or their business to determine character and ability to make payments on time. Minimum FICO score 650 on individuals and personal guarantee.

BEDC microloans can be used for purposes that help small businesses expand and to be used when in need of $2,500 up to $10,000 to rebuild, re-open, repair, enhance, or improve one's small business. Minimum loan amount is $2,500. Prospect must complete a Roscoe Bank application and provide required documents including but not limited to: financial statements, business plans, tax returns, and bank statements. Once loan request is approved and accepted, the approved funds are transferred to the business's bank account to be held at Roscoe Bank. Client is to make regular payments according to the agreed schedule, including principal and interest, based on the loan terms.

Examples include:

- Working capital
- Inventory
- Supplies
- Furniture
- Fixtures
- Machinery
- Equipment

Proceeds from a BEDC microloan cannot be used to pay existing debts or to purchase real estate.

To be eligible for BEDC loan assistance, businesses must:

- Be an operating business
- Operate for profit
- Be headquartered/located in the City of Bastrop or ETJ
- Be creditworthy and demonstrate a reasonable ability to repay the loan

The following types of businesses are ineligible:

- (a) Non-profit businesses;
- (b) Financial businesses primarily engaged in the business of lending, such as banks, finance companies, and factors (pawn shops, although engaged in lending, may qualify in some circumstances);
- (c) Passive businesses owned by developers and landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds;
- (d) Life insurance companies;

- (e) Businesses located in a foreign country;
- (f) Pyramid sale distribution plans;
- (g) Businesses deriving gross annual revenue from legal gambling activities;
- (h) Businesses engaged in any activity that is illegal under Federal, State, or local law;
- (i) Private clubs and businesses which limit the number of memberships for reasons other than capacity;
- (j) Government-owned entities;
- (k)-(m) [Reserved]
- (n) Businesses with an Associate who is currently incarcerated, serving a sentence of imprisonment imposed upon adjudication of guilty, or is under indictment for a felony or any crime involving or relating to financial misconduct or a false statement;
- (o) Businesses which:

    1) Present live performances of a prurient sexual nature; or
    2) Derive directly or indirectly more than *de minimis* gross revenue through the sale of products or services, or the presentation of any depictions or displays, of a prurient sexual nature;

- (p) Unless waived by BEDC or intermediary lender for good cause, businesses that have previously defaulted on loan assistance financing, loan or credit facility resulting in sustaining a loss in any programs, and businesses owned or controlled by an applicant or any of its Associates which previously owned, operated, or controlled a business which defaulted on loan assistance financing, loan or credit facility which was defaulted and caused to sustain a loss in any programs. For purposes of this section, a compromise agreement shall also be considered a loss;
- (q) Businesses primarily engaged in political or lobbying activities; and
- (r) Speculative businesses (such as oil wildcatting).