

July 9, 2020

RE: Louisiana Entertainment Development Fund – (#1 - Equipment and Training) – Summary Report

To Whom It May Concern:

The Department of Economic Development hereby announces its plan to proceed with rule-making by finalizing the Louisiana Entertainment Development Fund Rules published as a Notice of Intent in the February 2020 *Louisiana Register* on pages 268-271.

A public hearing was conducted on March 25, 2020 via a modified teleconference format during the COVID-19 crisis. It was attended by several entertainment industry representatives, including those from the following organizations: LFEA, NOVAC, JEDCO, Hark Fest, Media Services, Recording Academy, Louisiana Film Prize, Loyola, NOLABA and creative industries advocate Sherri Mc Connell.

Overall the feedback from the hearing was positive, and no requests for substantive changes were received.

LFEA was the only organization to submit written comments (see attached). They recommended proceeding with promulgation, but highlighted two issues: 1) that funds were derived only from motion picture tax credit program transfer fees, but could be used for the benefit of all entertainment industry sectors, and 2) that the reimbursement aspect of the program might put an undue burden on smaller entities with possible cash flow challenges.

All other hearing participants expressed their overall support for the proposed rules, while maintaining that there are still some areas that could be further refined and improved, such as: reconsidering the \$250,000 award cap for equipment purchases, which might be high given the limited funding available, and considering adding a cap on administrative fees that may be charged for training initiatives, either by individual award agreement or subsequent rule revisions.

We thank all interested parties for their comments and will consider these concerns moving forward in the administration of the program.

Subject to legislative oversight by the House or Senate Committees on Commerce, the House Committee on Ways and Means or the Senate Committee on Revenue and Fiscal Affairs, the Department intends to submit for final publication as a Rule in the August 2020 *Louisiana Register*.

As always, we welcome your consideration and I can be reached at ph.# (225) 342-5406 with any questions.

Sincerely,



Stephanie Le Grange  
Staff Attorney

cc: Senate, Committee on Commerce, Consumer Protection, and International Affairs  
Senate, Revenue & Fiscal Affairs Committee  
House of Representatives, Ways & Means Committee  
House of Representatives, Committee on Commerce

# Notices of Intent

## NOTICE OF INTENT

### Department of Economic Development ~~Board of Architectural Examiners~~

Louisiana Entertainment Development Fund  
(LAC 13:III.Chapter 21)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to enact program rules for issuance of awards from the fund known as the Louisiana Entertainment Development Fund created by Act 223 of the 2017 Regular Session of the Louisiana Legislature.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part III. Financial Assistance Programs

#### Chapter 21. Louisiana Entertainment Development Fund

#### Subchapter A. Education Development Grant Programs

#### §2101. Preamble and Purpose

A. Workforce development and job training is vital to support the state's commitment to the development of strategies and initiatives for the entertainment industry, and the State's long-term goal of achieving an independent, self-supporting entertainment industry.

B. The purpose of the program is to support entertainment industry workforce development and education with appropriate curriculum and equipment by approved training providers and educational institutions as a means of improving the competitiveness and productivity of Louisiana's entertainment industry workforce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

#### §2103. Definitions

*Applicant*—the entity or training provider requesting an award from LED under this program.

*Award*—funding approved under this program for eligible equipment, technology or training activities.

*Award Agreement*—that agreement or contract hereinafter referred to between the training provider and LED, through which, by cooperative endeavor agreement or otherwise, the parties set forth the amount of the award, the terms, conditions and performance objectives of the award provided pursuant to these rules.

*LED*—Louisiana Department of Economic Development, or their designee, including any third party administrator engaged by LED

*OEID*—Office of Entertainment Industry Development

*Program*—the Education Development Grant Program

*Secretary*—Secretary of the Department of Economic Development, or designee

*Training Provider*—the entity or applicant undertaking the approved project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

#### §2105. General Principles

A. The following general principles will direct the administration of the Program.

1. Awards are not to be construed as an entitlement for companies, and the secretary has the sole discretion to determine whether or not each particular applicant is eligible and meet the criteria for the award, and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of the applicants' award status.

2. Award amounts may vary at the discretion of LED, with a minimum of \$5,000 up to a maximum of \$250,000 per applicant, per year.

3. LED shall negotiate with each applicant seeking an award based on the individual merits of each project.

4. Contracts for awards shall contain "clawback" (or refund) provisions to protect the state in the event of a default.

5. Award funds shall be used for the approved project only.

6. Awards may be administered by LED through OEID, or LED may use funds to contract with a third party administrator to undertake such activities.

7. Applications will be accepted on a year round basis, subject to availability of funding in any given year, or as otherwise determined by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

#### §2107. Program Descriptions

A. This program provides two types of assistance:

1. Technology or equipment funding for approved training providers, related to entertainment industry training, as approved by LED. The funding may include but not be limited to;

a. replacement or upgraded equipment to replace existing equipment that has exceeded its useful life, which goes beyond replacing basic technology or performing incremental upgrades;

b. new technology or equipment, including the following by example: apps, cloud-based software, or technology now known or hereafter developed, or as otherwise approved by LED; and

2. On-the-job (and/or upgrade) training assistance to enhance the quantity and quality of individuals who possess sufficient skills to perform jobs in the entertainment industry. The training to be funded may include, but is not limited to;

a. film—lighting; hair and make-up; grip; electric; set construction; camera; post visual editing; post sound editing; post visual effects; digital animation;

- b. sound—scoring; engineering;
- c. live Performance—staging; lighting; sound; rigging; carpentry; wardrobe; special effects; and
- d. digital Media—immersive technology (VR/AR/MR), programming; animation/computer generated imagery; interactive animation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

**§2109. Eligibility**

A. An eligible applicant is an accredited Louisiana higher education institution, or customized training provider in the areas of arts, media and entertainment, with a proven track record of offering career oriented programs, as approved by LED.

B. Applicants must demonstrate a track record of successful organization and operations that have been in effect for at least two years. Start-up companies or training providers with less than two years of documented program history or performance shall be ineligible for this program, unless evidence of funding can be provided from established arts and entertainment organizations, as approved by LED.

C. A training provider shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to its failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceedings, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if the company has a previous contract with LED in which the company is in default and/or is not in compliance.

D. Training providers must be in full compliance with all state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

**§2111. Criteria**

A. LED will consider various factors when determining which proposal will be funded. Among the factors which may be taken into account in the review of the award requests are the following;

- 1. needs of the entertainment industry;
- 2. unique or innovative nature of the proposed project;
- 3. training or equipment cost per student;
- 4. the number of students to be trained;
- 5. evidence of a method of job placement;
- 6. evidence of need;
- 7. availability of other federal, state, local or private funding programs for the project;
- 8. the terms of the “clawback” (or refund) provisions, in the event of a default;
- 9. evidence of likely success of project;
- 10. availability of funding; and
- 11. best interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

**§2113. Application Procedure**

A. The applicant(s) must submit an application to LED, which may be in letter form or in a more formal application format, as directed by LED, which shall contain, but not be limited to the following:

- 1. an overview of the training provider institution, its history, and the business climate in which it operates;
- 2. a preliminary budget, overall description of the proposed project, and specific breakdown of costs for equipment to be purchased, or training programs to be provided, as applicable;
- 3. information evidencing eligibility;
- 4. an articulation of any relevant factors in §2111; and
- 5. any additional information required to make a determination of qualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

**§2115. General Award Provisions**

A. In the event the secretary determines, in his discretion, that an award would be appropriate, an award agreement shall demonstrate the intent and commitments of the applicant and LED to enter into an award agreement consistent with the Constitution and laws of the state of Louisiana and with these rules.

1. The award agreement will specify the amount of the award, the terms and conditions of the award, the performance objectives expected of the applicant and the compliance requirements in exchange for the award. Under the agreement, LED or its designated third party administrator will oversee the progress of the project.

2. Eligible training costs are limited to the scope of the approved project only and may include the following, on an individual, negotiated basis: instruction costs, wages for trainers and training coordinators, materials and supplies costs, and other justifiable costs when necessary for training, such as equipment or software.

3. Project costs ineligible for award funds include, but are not limited to: trainee wages and fringe benefits, employee handbooks, food and refreshments, costs associated with infrastructure upgrades or renovation of office space necessary to accommodate new equipment or technology, or any other costs LED determines to be ineligible.

4. Award funds will be disbursed to the applicant on an as-needed reimbursement basis following submission of required documentation to LED or its third party administrator, sufficient to demonstrate compliance, as set forth in the award agreement between the parties.

5. In the event a party to the award agreement fails to meet its performance objectives as specified in its award agreement with LED, LED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the applicant in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state, as determined by LED.

6. In the event an applicant knowingly files a false statement in its application or in subsequent compliance documentation, the applicant may be guilty of the offense of

filing false public records, and may be subject to the penalty provided in R.S. 14:133.

7. LED shall retain the right, for itself, for the Legislative Auditor, and for the Division of Administration, to require and/or conduct financial and performance audits of a project, including all relevant documents of the applicant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6007.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:

**Subchapter B. Louisiana Filmmaker Matching Grants—Reserved.**

**Subchapter C. Loan Guarantee Program—Reserved.**

**Subchapter D. Deal Closing Fund—Reserved.  
Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

All entities requesting funding from this program must provide documents sufficient to show eligibility for and compliance with all requirements for funding. A handful of small businesses, mainly non-profit entities or entertainment trade union organizations may be impacted, but the benefit from additional funding for equipment and training of interested parties, at a nominal cost of some additional planning and paperwork associated with the application process, reports and invoices for reimbursement should provide a positive impact to any small businesses that choose to apply to the program.

**Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

**Public Comments**

Interested persons should submit written comments on the proposed Rules to Chris Stelly through the close of business on Tuesday, March 24, 2020 at 617 North Third Street, Eleventh Floor, Baton Rouge, LA 70802 or via email to [chris.stelly@la.gov](mailto:chris.stelly@la.gov).

**Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Wednesday, March 25, 2020 at the La Salle Building, La Belle Room, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Louisiana Entertainment  
Development Fund**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be an increase in expenditures of the Department of Economic Development (LED) as a result of the rules

promulgated to provide guidelines and application procedures for the Louisiana Economic Development Fund (Fund) created by Act 223 of 2017.

Act 223 of 2017 created the Louisiana Entertainment Development Fund for education development initiatives, matching grants for Louisiana filmmakers, a loan guarantee program, and a deal closing fund. Expenditures of the LED will consist of grant awards to accredited Louisiana higher education institutions or customized training providers in the area of arts, media, and entertainment. These awards may provide assistance in technology or equipment funding as it relates to entertainment industry training and/or on-the-job training assistance for jobs in the entertainment industry. Award amounts may vary at the discretion of the Department, with a minimum of \$5,000, up to a maximum of \$250,000 per applicant, per year.

Administration of the awards will be carried out utilizing existing staff and resources at LED. Administration may also be handled by a third-party administrator (TPA). Should LED hire a TPA, administrative fees would be up to 10% of any award.

There may also be an increase in expenditures of those public higher education institutions that offer career-oriented programs in the areas of the arts, media, and entertainment to the extent that they successfully participate in the competitive grant program.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be an increase in revenues of the Department of Economic Development (LED).

Act 223 of 2017 provides that for film projects that apply to LED after July 1, 2017, a transfer fee of 2% of the tax credit transfer value is placed in the fund. A total of 25% is allocated to the Louisiana Department of Revenue (LDR) for administrative purposes and 75% to the Department of Economic Development for education development initiatives, matching grants for Louisiana filmmakers, a loan guarantee program, and a deal closing fund. The Department of Economic Development will see increased revenues as a result of this transfer fee. The Department estimates annual revenues as high as \$2.7 M could be generated based on the maximum transfer rate. However, actual total collections to date are approximately \$1.8 M. Since the transfer fee projections are occurring under the auspices of the \$150 M credit issuance and \$180 M claims caps, aggregate revenues for the state will not be affected.

Those public higher education institutions that offer career-oriented programs in the areas of the arts, media, and entertainment may see an increase in their revenue as a result of the grant award, to the extent that they successfully participate in the competitive grant program.

The proposed rule change will not affect local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Private institutions of higher education and customized training providers may benefit from additional revenues should they choose to participate in the LED grant program. The cost to these entities may include the cost of some additional planning and paperwork requirements associated with the application process, reports, and invoices for reimbursement. Those Louisiana businesses, including small businesses (mainly non-profit entities or entertainment trade union organizations) in the entertainment industry will benefit from better trained and more productive employees. Louisiana residents will benefit from enhanced employment opportunities in the Louisiana entertainment industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The program's goal is to make workers more employable in the Louisiana entertainment industry. The competitiveness of Louisiana businesses should be enhanced as employees become better equipped to adapt to the demands of this industry.

Anne G. Villa  
Undersecretary  
2002#012

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary**

**Legal Affairs and Criminal Investigations Division**

**LPDES Application and Program Requirements  
(LAC 33:IX.2501, 2707, 3113, and 3705)(WQ104)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2501, 2707, 3113, 3705 (WQ104).

The purpose of this Rule is to provide revisions to the Louisiana Pollutant Elimination System (LPDES) permitting regulations. Federal Regulations, which became effective June 12, 2019, were updated to promote submission of complete permit applications and clarify regulatory requirements. The basis and rationale for this Rule are to mirror existing federal regulations found at 40 CFR 122.21, 122.44, and 125.3. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part IX. Water Quality**

**Subpart 2. The Louisiana Pollutant Discharge  
Elimination System (LPDES) Program**

**Chapter 25. Permit Application Requirements and  
Special LPDES Program Requirements**

**§2501. Application for a Permit**

A. - C.1.c.i. ...

ii. the applicant's name, address, telephone number, email address, and ownership status;

C.1.c.iii. - E.2. ...

F. Information Requirements. All applicants for LPDES permits, other than permits for POTWs and other TWTDS, must provide the information in Paragraphs F.1-11 of this Section to the Office of Environmental Services using the application form provided by the state administrative authority (additional information required of applicants is set forth in subsections G-K and Q-R of this section and LAC 33:1.1701):

1. - 2. ...

3. up to four SIC codes and up to four NAICS codes which best reflect the principal products or services provided by the facility;

4. the operator's name, address, telephone number, email address, ownership status, and status as federal, state, private, public, or other entity;

5. - 7. ...

8. a brief description of the nature of the business;

9. additional application requirements in LAC 33:IX.6505.A and LAC 33:1.1701;

10. an indication of whether the facility uses cooling water and the source of the cooling water; and

11. an indication of whether the facility is requesting any of the variances at LAC 33:IX.2501.L.

G. - G.7.h.ii. ...

i. where quantitative data are required in Subparagraphs G.7.a-h of this Section, existing data may be used, if available, in lieu of sampling done solely for the purpose of the application, provided that:

i. all data requirements are met;

ii. sampling was performed, collected, and analyzed no more than four and one-half years prior to submission;

iii. all data are representative of the discharge; and

iv. all available representative data are considered in the values reported.

G.8. - J.1.a. ...

b. Applicant Information. Name, mailing address, telephone number, and email address of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both.

c. - h.iv.(a). ...

(b). the name, mailing address, contact person, phone number, and email address of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

(c). the name, mailing address, contact person, phone number, email address, and LPDES permit number (if any) of the receiving facility; and

J.1.h.iv.(d). - J.1.h.v.(c). ...

i. An indication of whether the facility is requesting any of the variances at LAC 33:IX.2501.M.

2. - 4. ...

a. As provided in Subparagraphs J.4.b-j of this Section, all applicants must submit to the Office of Environmental Services effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the state. The state administrative authority may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

4.b. - 5. ...

a. All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharge or on any receiving water near the discharge. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

5.b. - 6. ...

a. number of significant industrial users (SIUs) and nonsignificant categorical industrial users (NSCIUs), as

## Stephanie Le Grange

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**To:** Stephanie Le Grange  
**Subject:** FW: Written comments for LAC 13:III, Chapter 21

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**From:** Trey Burvant <[tburvant@secondlinestages.com](mailto:tburvant@secondlinestages.com)>  
**Date:** Tuesday, March 24, 2020 at 6:07 PM  
**To:** Christopher Stelly <[Chris.Stelly@LA.GOV](mailto:Chris.Stelly@LA.GOV)>  
**Cc:** Corey Parker <[cparker@iatse478.org](mailto:cparker@iatse478.org)>, Dawn Arevalo <[darevalo@iatse478.org](mailto:darevalo@iatse478.org)>, Jason Waggenpack <[jason@wearetheranch.com](mailto:jason@wearetheranch.com)>, David Tatman <[david@tاتمangroup.com](mailto:david@tاتمangroup.com)>, Jamie Freeman <[jamie@tاتمangroup.com](mailto:jamie@tاتمangroup.com)>  
**Subject:** Written comments for LAC 13:III, Chapter 21

**EXTERNAL EMAIL:** Please do not click on links or attachments unless you know the content is safe.

Dear Chris:

With respect to the notice of intent (LAC 13:III, Chapter 21) for the promulgation of rules for the Louisiana Entertainment Development Fund, I hereby submit comments on behalf of the Louisiana Film Entertainment Association.

We have concerns over several issues, the first being that the fund itself, created by Act 223 of the 2017 regular session, is derived from the fees only paid by projects housed in the Motion Picture Tax Credit program. No other industries (Live Performance, Digital Media, Music) under the auspices of LED are required to pay into this fund at the time of certification. It is therefore our opinion that the fund should only benefit and be distributed to those workforce development, education, filmmaker grants, loan guarantee, and discretionary funds that impact film and television industry only.

Secondly, with regards to the reimbursement portion, we feel it might be an undue burden on smaller entities with regards to maintaining healthy cash flows. We would want there to be some type of 25% initial grant with documentation of spend, then for the remainder of the program with quarterly or monthly reimbursements with documentation and milestones.

These are our concerns with the current rules as written. We also understand the department has a great deal of discretion in disbursement of the funds and the partnerships it contracts with each entity. With that in mind, we want to see these funds get into the hands of Louisiana residents as fast as possible in order to start educating and training our next generation of filmmakers and crew and delivering them to the workforce. Therefore we recommend that the rules as written be promulgated without delay, but let our concerns stand on the record as guidance for the department as it proceeds with distribution of the fund.

Sincerely,

--

Trey Burvant  
President  
Louisiana Film Entertainment Association  
[www.lfea.org](http://www.lfea.org)