



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: September 8, 2021

RE: Use of Economic Recovery Fund, IKEA Donation Funding or NJEDA General Operating Funds for the Creation of the Henri/Ida Business Assistance Grant Program

Summary

The Members are asked to approve:

1. The creation of an initial pilot Henri/Ida Business Assistance Grant Program (“Henri/Henri/Ida Grant Program”) to make up to \$10.5 million in grant funding available for rent or mortgage reimbursement to support New Jersey small and medium sized businesses and non-profits (collectively “SMEs” or “businesses”) that have suffered physical damage to their commercial location as a result of the remnants of Hurricane Henri and Ida;
2. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to contribute up to an additional \$5 million of Economic Recovery Fund or NJEDA general operating funds and to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund the Henri/Ida Grant Program and enter into any related MOUs up to \$100 million;
3. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program; and
4. Delegation to Authority staff (Chief Operations and Compliance Officer, Senior Vice President, Director – Recovery Front-End Operations, Director of Portfolio Relations) to approve individual applications to the Henri/Ida Grant Program in accordance with the terms set forth in this memo and the attached program specifications, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the Authority to decline applications and, in the event of

appeals from those declinations, issue final administrative decisions, which must be approved by the Chief Legal and Strategic Affairs Officer, a Senior Vice President, Vice President, Managing Director, Director or Program Manager.

Background

On August 22, 2021 and lasting into the early mornings of August 23, 2021, remnants of Hurricane Henri impacted the State of New Jersey with heavy rainfall totaling nearly 10 inches. The storm prompted evacuations, road closures and water rescues throughout the State. The damage was severe in many counties across New Jersey impacting homeowners and businesses alike.

Then, on September 1, 2021, in response to Tropical Storm Ida, Governor Murphy declared a statewide State of Emergency that was effective immediately and issued Executive Order No. 259. The Executive Order recognizes that Tropical Storm Ida “constitutes an imminent hazard that threatens and presently endangers the health, safety, and resources of the residents of the State” and that “this situation may become too large in scope to be handled in its entirety by the normal county and municipal operating services in some parts of the State, and this situation may spread to other parts of the State”. Executive Order 259 remains in effect as long as the Governor declares the State of Emergency continues to exist.

Over a very short time period on September 1st and 2nd, the storm impacted the State with severe tornadic conditions and sustained rainfall of approximately 10 inches in some towns that led to life-threatening flooding conditions, the tragic loss of at least 27 New Jersey residents and the loss of power. The historic flooding caused severe damage and devastation to private property, automobiles, structures, public facilities and transportation networks in parts of Bergen, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Passaic, Somerset, Sussex and Union. The New Jersey Business Action Center received numerous calls from businesses impacted by the storm. The Authority issued alerts for businesses and residents to take photos and document any property damages and to retain receipts for services for insurance purposes and for any federal or state relief programs that may become available. As of September 6, President Biden approved a declaration of major disaster for Bergen, Gloucester, Hunterdon, Middlesex, Passaic and Somerset counties for areas affected by the remnants of Hurricane Ida during September 1-3.

Tropical Storm Ida caused devastation to New Jersey’s downtowns and business districts throughout the State, just as many were just beginning to rebound from the severe economic hardship of COVID-19. In response to this barrage of challenges, the purpose of the Henri/Ida Grant Program is to provide short-term, immediate rent/mortgage reimbursement to New Jersey SMEs that suffered physical damage as a result of Tropical Storm Ida on September 1-3, 2021.

Program Details

The pilot Henri/Ida Grant Program is tailored as an initial support measure to SMEs impacted by the remnants of Hurricane Henri and/or Hurricane Ida. The Henri/Ida Grant Program will provide grants from \$1,000 up to \$5,000 to New Jersey-based SMEs that have up to 50 full-time equivalent employees (“FTE”) as reported on their last WR-30 form (Q2 2021) with the NJ Department of Labor and Workforce Development (“DOL”) and have a physical commercial location in the State that suffered physical damage as a result of the remnants of Hurricane Henri and/or Hurricane Ida.

As the Authority continues to monitor the economic impact needs of the SMEs from Tropical Storm Ida, the Authority may bring to the Board additional programs with varying parameters depending on available funding.

To fund this program, staff requests authority from the Members to utilize Economic Recovery Fund (“ERF”), IKEA Donation Funding or NJEDA general operating budget funds of up to \$10,500,000, with delegated authority to increase to \$15.5 million, to fund the Henri/Ida Business Assistance Grant Program. As enacted recently, P.L. 2020, c. 8, expanded EDA’s general powers and specific ERF authority to make grants for projects, including, but not limited to, grants for working capital and payroll purposes, during a period of an emergency declaration and for the duration of the economic disruption due to the emergency. One-third of the initial request and one-third of the subsequent request (if necessary) will be reserved for entities in a census tract that was eligible to be selected as a New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract), but can be released back into the general program pool at the CEO’s discretion if demand from these SMEs has been met. Furthermore, \$500,000 will be set aside for Henri impacted SMEs, but can be released back into the general program pool at the CEO’s discretion if demand from these SMEs has been met.

If federal funds are made available, staff is requesting delegated authority for the Chief Executive Officer to accept up to \$100 million (inclusive of any unrestricted federal, state, local, or private funds) consistent with standard federal disaster requirements, which may include repayment requirements if the federal funds are not used in accordance with the federal requirements, and to execute any Memorandum of Understanding with the New Jersey executive department responsible for the distribution and monitoring of such federal funding, such as has been done with the Coronavirus Relief Fund and the Coronavirus State Fiscal Recovery Fund.

Eligibility

In order to be eligible for this program, the SME must have been in operation on August 1, 2021. Applicants must be a SME with no more than 50 FTEs. Applicants must be able to submit evidence of an August rent/mortgage payment of at least \$1,000 as well as have a need that is greater than \$1,000.

The SME must have a physical commercial location in the State of New Jersey (e.g., an office, a physical point of sales, a warehouse, manufacturing facility, etc.). The SME must have sustained physical damage to their commercial location as a result of the remnants of Hurricane Henri on August 22-23, 2021 and/or Hurricane Ida on September 1-3, 2021. Eligible SMEs must be able to demonstrate evidence of physical damage. Physical damage includes, but is not limited to, flooding, interior or exterior damage to the building structure, roof damage, and siding damage, all of which are directly related to the remnants of Hurricane Henri and/or the remnants of Hurricane Ida. Loss of power alone **will not** be considered physical damage. Home-based businesses and Landlords are **not** eligible for this Henri/Ida Grant Program.

At the time of application, the SME must be registered to do business in the State of New Jersey, which can be evidenced by a valid Business Registration Certificate from the Division of Taxation. If the SME is not recognized by the Division of Taxation, then the SME must provide proof of registration with the State prior to August 1, 2021 and a valid Business Registration Certificate (BRC). The SME will have 7 calendar days from initial notification from the Authority to satisfy that requirement. No grant agreement will be executed without a current registration status from the Division of Taxation or a valid BRC.

The SME must satisfy Taxation's requirement to ensure that the SME does not have tax debts due to the State. This may be accomplished through a certification from the applicant that it does not owe any taxes and will be subject to repayment to the Authority if the certification is not correct.

Entities can submit only one application per EIN. Accordingly, businesses with multiple locations but only one EIN will be limited to one application.

Additional eligibility requirements will apply to ensure that federal funds, if available, can be used for this program or to reimburse the Authority for use of its funds for this program. This may include, but is not limited to:

- applicants must acknowledge and agree to the requirement that grant proceeds can only be used for August reimbursement of rent/mortgage payments,
- a restriction on duplication of benefits that could exclude potential applicants that have already received emergency Ida assistance, and
- a requirement that the applicant demonstrate that it has had physical damage as a result of the remnants of Hurricane Henri and/or Hurricane Ida.

Prohibited businesses include, but are not limited to: gambling or gaming activities; the conduct or purveyance of "adult" activities, services, products or materials; any auction or bankruptcy or fire or "lost-our-lease" or "going-out-of-business" or similar sales; sales by transient merchants, Christmas tree sales or other outdoor storage; any activity constituting a nuisance; or any illegal purposes. These prohibitions are consistent with other Authority programs.

Award Size and Determination

The minimum award size under the Henri/Ida Grant Program is \$1,000 with a maximum award of \$5,000, capped at the lesser of applicant's unmet need or rent/mortgage payment. The unmet need will be determined based on the applicant's estimated damages and revenue loss based on shuttered business operations, both of which must be certified by the applicant. If the grant amount as set forth above is greater than the need, the amount of the award will be capped at the amount of the need.

Grant funding can only be used to pay for August rent/mortgage only and shall be disbursed based as a reimbursement. Thus, no other direct use of funds is allowed, including, but not limited to, capital expenses, such as remediation or construction.

Applicants must be able to document both physical damage, such as through photos and/or repair invoices, and evidence of an obligation to pay rent/mortgage and of actual rent/mortgage payment. Rent/mortgage payment can be evidenced through a copy of their payment.

The Authority will rely upon estimated damages as provided by the applicant and will base any determination of need (prior to or after approval) on the reasonableness of that estimate, which will be capped at \$5,000. Based upon the Authority's prior experience with Superstorm Sandy, delayed payouts to applicants from insurance companies – which would reduce an applicant's need after the Authority's disbursement - may also occur, however the process and timeline is unknown at this time.

FTE Determination

To determine the number of FTEs for the purpose of calculating eligibility, the Authority will utilize the New Jersey WR-30 filings with the NJ Department of Labor (DOL). The most recently filed WR-30 filing will be reviewed (Q2 2021). Implied FTE calculations will be rounded to the nearest FTE (e.g., 2.49 FTE would be counted as 2 FTE for the program, whereas 2.50 FTE would be counted as 3 FTE). The calculation of FTEs is based on weeks worked and wages as reported on the WR-30 filing.

Eligibility Verification Process

Consistent with the COVID Grant Programs, staff is recommending that in addition to the eligibility parameters already stated above, the applicant must satisfy Taxation's requirement to ensure that the SME does not have tax debts due to the State and must certify that it does not owe any taxes, subject to repayment if the certification is not correct. The applicant will complete a simplified debarment legal questionnaire, and disqualification issues will be reviewed under existing delegated authority, including the delegated authority approved by the Board on October 14, 2020. To be eligible for the grant funding, the applicant must also be in good standing with the New Jersey Department of Labor and Workforce Development (LWD), the New Jersey Department of Human Services (DHS) (if the applicant is regulated by DHS), the Department of Children and Families (DCF) (if the applicant is regulated by DCF), and the New Jersey Division of Alcoholic Beverage Control (ABC) (if the applicant is regulated by the ABC) at the time of application, as determined in the sole discretion of LWD, DHS, DCF and ABC.

As part of the grant application, the SME's chief executive officer or equivalent officer must self-certify that the SME:

- Was in operation on August 1, 2021; and
- Has sustained physical damage to their commercial location as a result of the remnants of Hurricane Henri and/or Hurricane Ida on September 1-3, 2021.

To comply with duplication of benefits provisions within the Stafford Act, all applicants will be required to fill out an affidavit identifying all funding sources related to the remnants of Hurricane Henri and/or Hurricane Ida, including but not limited to prior grants, insurance, Small Business Administration loans and grants. Staff will use this information to ensure that the Small Business Emergency Assistance Grant (funded with federal assistance) is not used for the same purpose, i.e., creating a duplication of benefit. In addition to a certification from the applicant that their business was impacted by the remnants of Hurricane Henri and/or Hurricane Ida, whether the business was able to remain open and to what capacity, and estimated revenue decline. Efforts will be made to ensure that potential grant applicants whose primary language is not English will have resources or information available to help them understand and potentially access the grant funding.

Similar to the application process developed for the COVID grant programs, the Authority will use automation and interactivity such that businesses are immediately alerted if they enter information that may indicate ineligibility or trigger a manual review, giving them the opportunity to confirm that their responses are correct or choose not to proceed if they are ineligible. Recognizing the urgency to launch the Program as soon as approved by the Board, the Authority

will publicize the application opening date through issuance of a Notice of Funding Availability and via information on its website, its social media channels, and outreach to the media and stakeholders.

The NJEDA may create a pre-registration process to expedite the approval process. In expectation that this funding will be oversubscribed, NJEDA staff and outside services hired for application review will process the applications on a first-come, first-served basis.

Consistent with the approach taken in the COVID grant programs, the Members should be aware that in order to handle the volume of applications expected during this period, the Authority will be automating a number of the processing steps based on business rules as outlined in this memo. These streamlined processes were highly effective and allowed the Authority to review, approve and disburse a significant amount of funding to a large number of businesses as quickly as possible to meet the urgent need. Consistent with COVID grant programs, delegated authority is sought for staff (Chief Operations and Compliance Officer, Senior Vice President, Director – Recovery Front-End Operations, Director of Portfolio Relations) to approve individual applications in accordance with the terms set forth in the attached program specifications. Because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested for approval also includes the delegated authority to decline applications.

Businesses whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 3 days but no longer than 10 days). The Chief Operations and Compliance Officer will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will prepare a Final Administrative Decision, which must be approved by the Chief Legal and Strategic Affairs Officer, a Senior Vice President, Vice President, Managing Director or Director.

Staff is also requesting delegated authority for the Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer to accept governmental (Federal, State or county) funding and/or unrestricted gifts or grants that would be used to fund the Henri/Ida Grant Program. Should governmental requirements required by law restrict the ability for the Authority to utilize any of the parameters described herein, staff will revisit the program requirements with the Members for modification and alignment with governmental requirements. If governmental requirements are in addition to these parameters, staff is seeking delegated authority to add these requirements. Additionally, staff is requesting delegated authority to use previously received or new unrestricted private unrestricted gifts.

Due to anticipated financial hardships being faced by SMEs, the Authority will collect no fees from the applicant for this program.

The attached product specifications further describe the program details and minimum eligibility requirements the applicant must meet to be considered for an Henri/Ida Grant.

Recommendation

Approval is requested for:

1. The creation of an initial pilot Ida Business Assistance Grant Program (“Henri/Ida Grant Program”) to make up to \$10.5 million in grant funding available for rent or mortgage reimbursement to support New Jersey small and medium sized businesses and non-profits (collectively “SMEs” or “businesses”) that have suffered physical damage to their commercial location as a result of Hurricane Henri and/or Ida;
2. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to contribute up to an additional \$5 million of Economic Recovery Fund or NJEDA general operating funds and to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund the Henri/Ida Grant Program and enter into any related MOUs up to \$100 million;
3. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program; and
4. Delegation to Authority staff (Chief Operations and Compliance Officer, Senior Vice President, Director – Recovery Front-End Operations, Director of Portfolio Relations) to approve individual applications to the Henri/Ida Grant Program in accordance with the terms set forth in this memo and the attached program specifications, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the Authority to decline applications and, in the event of appeals from those declinations, issue final administrative decisions, which must be approved by the Chief Legal and Strategic Affairs Officer, a Senior Vice President, Vice President, Managing Director, Director or Program Manager.



Tim Sullivan
Chief Executive Officer

Attachments:

Exhibit A – Ida Business Assistance Grant Program Specifications