

Liberty Bonds and Other Disaster Recovery Incentives
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I. Traditional Federal Disaster Relief

A. Federal Emergency Management Agency (“FEMA”) Grants and Loans to Governments and Private Non-Profits (“PNPs”)¹

1) Public Assistance Program (“PAP”) Grants - for:

- a) emergency removal of debris
- b) emergency demolition of unsafe structures.
- c) restoration of a damaged facility by repair or replacement of schools or infrastructure²

2) Community Disaster Loans to Local Governments - loans for five or more years, of up to the lesser of \$5 million³ or 25% of its annual operating budget, to a local government that loses more than 5% of its estimated revenue because of a major disaster.⁴

B. Small Business Administration (“SBA”) Disaster Loans to Businesses - waivable limit of \$1.5 million total per borrower

- 1) Physical disaster business loans (for repair and replacement costs).
- 2) Economic injury disaster loans (for working capital)⁵

C. Economic Development Administration (“EDA”) Economic Adjustment Grants to Cities and Non-Profits - for public works and economic development (“PWED”), planning, and administrative expenses.⁶

II. City and State Loan and Grant Programs in New York

A. New York City Economic Development Corporation (“EDC”) -

- 1) WTC Disaster Bridge Loan Program (“BLP”) - pre-SBA bridge loans of up to \$250,000, with EDC and ESDC acting as guarantors for these loans and contributing 10% (\$25,000 maximum) of each loan to the reserve guaranty funds of the SBA lender.
- 2) Lower Manhattan Business Retention Grants - emergency grants for non-retail businesses relating to reopening in the Frozen Zone (restricted access as of 10/11/01) or relocating in the City.

B. Grants and loans through State-affiliated corporations -

- 1) Retail Recovery Grant Program - Empire State Development Corporation (“ESDC”) - grants for three days’ gross revenues, up to \$10,000.
- 2) revolving loans to small businesses - State Small Business Development Center/ New York Business Development Corporation - interest-free and low interest loans up to \$25,000.

- 3) Employment Training Assistance Program (“ETAP”) - Lower Manhattan Development Corporation (“LMDC”) - cash grants - up to half the cost of (re)training employees.
- 4) Residential Grant Program - LMDC - (i) one-time grants of \$1,000 and \$1,500 to remain as residents of the Zone and (ii) two-year grants to cover 30% of monthly rent, mortgage or maintenance payments, up to \$12,000 for residents near the Attack site.

C. Regional Economic Development Assistance Corporation (“REDAC”) loans - up to \$50,000 for five years

III. Post-9/11 Federal Fiscal Incentives - Job Creation and Worker Assistance Act of 2002⁷

A. Nationwide relief -

- 1) larger first-year depreciation deductions,⁸
- 2) longer carrybacks of net operating losses,⁹
- 3) extended duration of unemployment insurance benefits.¹⁰

B. Tax relief for the New York Liberty Zone (lower Manhattan) (“Zone”) -

- 1) Work Opportunity Tax Credit (\$ 600 million) - a per-employee income tax credit in 2002 and 2003 of the first \$6,000 of wages to cover eligible Zone employees¹¹
- 2) additional first-year depreciation (\$ 1.6 billion) of 30% for the cost of qualified Zone property;¹²
- 3) 5-year depreciation of certain leasehold improvements (\$600 million) through 2006, accelerating depreciation from the usual 39-year period;¹³
- 4) increased expensing of purchased equipment (\$ 40 million) under Code Section 179, from \$25,000 in 2003 to the lesser of \$35,000 or the cost of qualified Zone property;¹⁴
- 5) longer (5-year) period replace property without recognizing gains (\$300 million),¹⁵ and
- 6) range of tax-exempt bonds expanded (\$ 2.1 billion) to include office buildings, rental housing, and additional advance refundings.¹⁶

IV. Liberty Bonds - treated as “exempt facility bonds”¹⁷ that pay triple tax-exempt interest

General requirements: issuance by the State or the City, designation as Liberty Bonds respectively by the governor or mayor, issuance before 2005, and spending of at least 95% of the proceeds on Qualified Project Costs (“Qualified Costs”).¹⁸

Qualified Costs - costs of acquiring, (re)constructing and renovating property that is (1) located in the Zone and is nonresidential property, residential rental property, or public utility property, or (2) located outside the Zone but in the City, and consists of at least 100,000 square feet of usable office or other commercial space in one building or adjacent buildings.¹⁹

Limits - \$8 billion, and no more than: \$2 billion for projects outside the Zone but elsewhere in the City, \$1.6 billion on residential rental property, and \$800 million on buildings for retail sales and other commercial space; and up to \$9 billion in bonds before 2005 for an advance refunding on existing bonds with respect to facilities in or serving the City.²⁰

V. Initial Liberty Bonds

A. Commercial and utility - NYC IDA:

1) \$114 million bond - a 10-story, 396,000 SF office building in Brooklyn, largely for 1,400 employees of a major Manhattan bank, built above a 470,000 SF retail facility on land owned and operated as a subway and commuter rail hub.

2) \$400 million bond - a 52-story, 1.7 million SF office building to replace 7 WTC.

B. Residential -

NYC HDC - three bonds, \$490 million total, producing 1,470 new units

NYS HFA - four bonds, \$340 million total, producing 990 new units.

VI. The Post-9/11 Record of Federal Aid and Tax Incentives to the City²¹

Grants, loans and reimbursements.

a) FEMA disaster relief funds (\$3B) - rescue, cleanup, recovery and transit projects

b) CDBG (\$2B)

c) rebuild mass transit stations (\$1B).

d) compensation for business losses, business retention and attraction grants, and recovery loans (\$500M).

Tax incentives - a layered, phased approach.

a) 2002-2004 - mostly accelerated depreciation; also per-employee tax credits and deferral of taxes on insurance proceeds used to replace destroyed property.

b) 2005-2006 - accelerated depreciation; triple tax-exempt bond financing.

c) 2007-2012 triple tax-exempt bond financing.

¹ 42 USC §§ 5121, 5122, 5170, 5191; 44 CFR §§ 206.31-206.40

² 42 USC §§ 5122(8), 5170b(a)(3), 5173, 5192(5); 44 CFR §§ 206.221(h), 206.224.

³ 42 USC § 5184(b).

⁴ 42 USC § 5184; 44 CFR §§ 206.361, 206.363.

⁵ 13 CFR §§ 123.200, 123.202, 123.300, 123.303. §. See 15 U.S.C. § 636(b).

⁶ 42 USC § 3141, 3143; 13 CFR § 305.

⁷ Public Law 107-147; H.R. 3090.

⁸ Act § 101.

⁹ Act § 102.

¹⁰ Act § 203.

¹¹ Code § 1400L(a).

¹² Code § 1400L(b).

¹³ Code § 1400L(c). See NYC Comptroller, "One Year Later" (Sept. 4, 2002), pp. 47.

¹⁴ Code § 1400L(f).

¹⁵ Code § 1400L(g).

¹⁶ Code § 1400L(d).

¹⁷ Code § 1400L(d)(1). See Code § 142.

¹⁸ Code § 1400L(d)(2).

¹⁹ Code § 1400L(d)(4).

²⁰ Code § 1400L(d)(3), (7).

²¹ One Year Later, pp. 45, 47-53.