

Resolution No.: 18-345
Introduced: December 8, 2015
Adopted: December 8, 2015

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Executive Regulation 24-12AM, Small Business Assistance Program

Background

1. On November 24, 2015, the County Council received Executive Regulation 24-12AM, Small Business Assistance Program.
2. The regulation must be reviewed under method (2) of Section 2A-15 of the Code.
3. Under method (2), the Council may approve, disapprove, or extend time for action within 60 days of receiving the regulation. In the absence of Council action, the regulation is deemed approved as submitted.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 24-12AM, Small Business Assistance Program, is approved.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Small Business Assistance Program	Number 24-12AM
Originating Department Economic Development	Effective Date December 8, 2015

Montgomery County Regulation on:

SMALL BUSINESS ASSISTANCE PROGRAM

Department of Economic Development
Issued By: County Executive
Regulation Number: 24-12AM

Authority: Montgomery County Code, Section 20-76B
Council Review: Method 2 Under Code Section 2A-15
Register Volume 32, Issue 10

Sunset Date: None
Effective Date: December 8, 2015

SUMMARY: The regulation provides for the award process and criteria for the provision of loans and grants from the Small Business Assistance Program, a sub-program of the Economic Development Fund.

ADDRESS: Department of Economic Development
111 Rockville Pike, Suite 800
Rockville, Maryland 20850

STAFF CONTACT: Peter B. Bang
(240) 777-2008

BACKGROUND INFORMATION: The Small Business Assistance Program has been created as a sub-program of the Economic Development Fund to assist certain small businesses located in the County who are adversely impacted by a County Redevelopment Project or a Redevelopment Project located on County property by providing loans, grants, or conditional grants from the Economic Development Fund.



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Section 1. AUTHORITY

In accordance with the procedures authorized in Section 20-76B of the Montgomery County Code 2004, as amended, the following Executive Regulation establishes an award process and criteria to administer the Small Business Assistance Program as a sub-program of the Economic Development Fund.

Section 2. DEFINITIONS

Redevelopment Project – means any construction, alteration, or improvement in an urban renewal area or Enterprise Zone where the existing land use is commercial or industrial and is:

- (a) Located on property owned by the County; or
- (b) Financed in whole or part by the County.

Adverse Impact – means a loss of revenue resulting from a Redevelopment Project.

Small Business – means a privately owned business that meets the requirements of 11B-65(a) and the following size requirements:

Business Type	Employee Less Than	OR	Prior 3 Years' Average Sales Less Than
Retail	30	or	\$5,000,000.00
Wholesale	30	or	\$5,000,000.00
Service	50	or	\$5,000,000.00
Construction	50	or	\$14,000,000.00
Manufacture	40	or	\$14,000,000.00

Financially Healthy Small Business – means a Small Business that meets any one of the following conditions:

- (a) At least one of the three immediately previous years' federal income tax returns shows a net profit;



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- (1) If a Small Business is a C Corporation or an LLC filing taxes as a C corporation, the corporate tax return can show a net loss, but the Small Business owner's individual tax return must show that federal and the state income taxes have been paid in one of the three immediately previous years; or
- (2) If a Small Business is a partnership, single member LLC, S Corporation or a sole proprietorship, the business income reported in schedule C must exceed the Small Business expenses resulting in a positive net income derived from the Small Business's operations, and federal and the state income taxes must have been paid by the Small Business in one of the three immediately previous years; or
- (b) If the Small Business has been in operation less than three years, the most recent year's federal income tax return for the Small Business must show a net profit; or
- (c) If federal income tax returns have never been filed by the Small Business, then the interim financial statement of the Small Business, submitted together with the Small Business' bank statements for the corresponding operating period, must show a net profit

Assistance – means the commitment of money in the form of a grant or conditional grant from the Economic Development Fund to an Adversely Impacted Financially Healthy Small Business, in order to partially or entirely offset the Adverse Impact. The conditional grant will remain as a grant upon the recipient business' satisfactory adherence to the terms of the conditional grant, such as not closing the business within certain time from receiving the conditional grant. Otherwise, all or part of the conditional grant will convert to a loan, repayable to the County, according to the terms set forth in the conditional grant agreement.

Technical Assistance – means training directly related to operating a Small Business, provided by an educational institution or a non-profit organization approved by the Director of the Department of Finance (the "Director").

Section 3. ELIGIBILITY

Based on the information submitted by the applicant in its application for assistance, the applicant must meet all of the following eligibility conditions:



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- (a) Be an existing Financially Healthy Small Business located near an ongoing or future Redevelopment Project that is planned to begin construction in less than 12 months from the time of application submission for assistance and is Adversely Impacted as a result.
- (b) Own a commercial property or has a commercial lease with at least 12 months remaining on the lease term. If the lease is of a shorter duration or if the business intends to relocate to another part of the County, the small business must submit a letter of commitment for a lease renewal on the same premise or purchase or lease in a new location within the County with a term of at least 12 months.

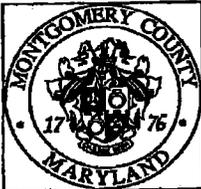
Section 4. PRIORITY CONSIDERATION

Priority consideration for Assistance through this program will be based on proximity to the Redevelopment Project.

- (a) Priority will be given to eligible Financially Healthy Small Businesses that can demonstrate through documentation in their application:
 - (1) A reduction in previously available public parking space(s) within a three hundred feet radius of the business premise; or
 - (2) An alteration to the pedestrian walkway that leads to the entrance of the business premise, or
 - (3) Obstruction to the view of the business' signage and/or business' premise by the Redevelopment Project.
- (b) Any Financially Healthy Small Business that does not receive Priority Consideration may apply for the assistance under this program by presenting clear evidence of how the Redevelopment Project Adversely Impacts its business operations in their application.

Section 5. ASSISTANCE

- (a) Each small business must provide the documentation, such as federal income tax returns, with their application that demonstrates the magnitude of their loss in net profit from the Redevelopment Project before Assistance is provided.
- (b) Assistance will be based on the documentation provided and actual loss in net profit calculated for the duration of the Redevelopment Project, up to a maximum of \$75,000 per eligible Financially Healthy Small Business.



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- (c) Eligible Financially Healthy Small Businesses may only receive Assistance once through this program.

Section 6. PROGRAM OPERATIONS

- (a) The Director must establish a separate account in the Economic Development Fund to track all activities of the Small Business Assistance Program.
- (b) The Program account will consist of: (1) funds appropriated to it by the County Council; (2) all repaid principal and interest earned from the Program's funding activities, and (3) all funds received from other public or private sources.
- (c) The County Executive may recommend an appropriation based on the anticipated number of eligible Financially Healthy Small Businesses and their anticipated loss in net profit so that Assistance may be provided as applications are received and verified.
- (d) For each conditional grant transaction, the Director will negotiate appropriate closing and security documents with the applicant and will require that the applicant adhere to the terms of the conditional grant, including the repayment and the agreed rate of interest should some or all of the conditional grant convert to a loan. Based on the review of the application, the Director will require some eligible Financially Healthy Small Businesses to take one or more Technical Assistance courses as a condition of receiving the conditional grant.
- (e) Subject to compliance with the County's procurement laws, the Director, from time to time, may use various means of outreach and marketing mediums, in addition to public announcements to inform businesses of the Program, notifications relating to Redevelopment Project(s), availability of assistance, and other pertinent process and deadline information, the cost of which will be charged to the Program.
- (f) The Director must compile and maintain a list of approved technical training courses on the County's website. The Director may also list the name and contact information of non-profit community resource organizations that can offer pro-bono assistance, or are under contract with the County to provide free assistance to eligible Financially Healthy Small Businesses, in order to prepare or mitigate the adverse impact of the Redevelopment Project.



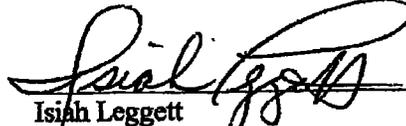
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Section 7. EFFECTIVE DATE:

This Executive Regulation takes effect upon approval by the County Council.


Isiah Leggett
County Executive

Approved as to form and legality:


Clifford Royalty
Assistant County Attorney

11/12/15
Date