

PHED Committee #1
December 7, 2015
Worksession

MEMORANDUM

December 3, 2015

TO: Planning, Housing and Economic Development Committee

FROM: Jacob Sesker, Senior Legislative Analyst 

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

Introduction

Executive Regulation 24-12AM, Small Business Assistance Program, was submitted as a “Method 2” regulation. The Council may, by resolution, approve or disapprove a “Method 2” regulation. The Council must do so by December 31, 2015, the deadline for action established by the Council in Resolution 18-13, adopted on December 9, 2014. If the Council does not approve or disapprove the regulation by resolution on or before that deadline, the regulation is automatically approved and takes effect the day after the deadline for approval.

ER 24-12AM was advertised in the October 2015 register. No comments were submitted in relation to the amended regulation. The amendment was necessary to address issues raised regarding eligibility, priority consideration, and the amount of financial assistance provided.

Under Bill 6-12, a Small Business Assistance Program must be created and administered to assist small businesses that are adversely impacted by a redevelopment project. Not all small businesses are eligible for assistance under the Program—in fact, the universe of eligible businesses is limited to financially healthy small businesses that are located near a County redevelopment project in certain geographic areas.

Requirements of Bill 6-12

Bill 6-12 stated that the regulations must:

- (1) require the Director to compile and maintain a list of approved technical training courses on the appropriate website (*see Section 6(f)*);
- (2) specify the application procedures (*see Section 5*) and eligibility criteria (*see Section 3*) for a grant or loan to a small business under the Program;
- (3) specify conditions that the Director may impose on a small business for it to receive financial assistance from the Fund under the Program (*see Section 6(d)*);
- (4) define what constitutes an adverse impact on a small business (*see Section 2*);
- (5) define what constitutes financial health of a small business (*see Section 2*); and
- (6) identify outreach methods and marketing strategies to inform local small businesses of the program (*see Section 6(e)*).

The regulation as submitted addresses all minimum requirements of Bill 6-12. The regulation is consistent with the intent of Bill 6-12. Policy issues previously raised by Council staff have been generally addressed by the amendments.¹ **Council staff recommends approval of the regulation by the attached resolution.**

Attachments:

Draft Resolution	© 1
Transmittal memorandum	© 2
Fiscal Impact Statement	© 3
ER 24-12AM	© 6
ER 24-12AM redline	© 12
Bill 6-12	© 21

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¹ One issue previously discussed and not addressed by the regulation is whether the program should include an option for businesses that are not willing to share as much financial documentation to receive smaller grants (e.g., up to a maximum of \$20,000). Such a program could significantly increase the number of businesses taking advantage of the program, a result of which would be a corresponding increase in the cost of the grant program. On the other hand, the legislative intent was to implement a program to assist financially healthy small businesses. That definition clearly implies that the businesses applying for assistance must be demonstrably healthy, i.e., able and willing to produce financial records, such as tax returns, that demonstrate financial health/stability.

Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: 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

EXEC REG



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

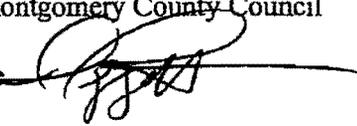
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Isiah Leggett
County Executive

MEMORANDUM

November 23, 2015

Method 2

TO: George Leventhal, President, Montgomery County Council
FROM: Isiah Leggett, County Executive 
SUBJECT: Executive Regulation 24-12AM: Small Business Assistance Program

I am submitting to you Executive Regulation 24-12AM, which establishes the award criteria and process for administering the provisions of the Small Business Assistance Program (SBAP), Section 20-76B of the Montgomery County Code. The amended regulation was published in the October 2015 Register, and we did not receive any comments.

Executive Regulation 24-12 was originally submitted to the County Council on April 15, 2013. Council staff requested that the Department of Economic Development (DED) address several items in that version. The areas that required attention were eligibility, priority consideration, and the amount of financial assistance provided. After working with numerous stakeholders and having a better understanding of the Wheaton Redevelopment construction schedule, we believe that the current draft accurately and sufficiently addresses these concerns. If you have questions, please contact Peter Bang in the Department of Economic Development at 7-2008.

IL/gs

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Fiscal Impact Statement
Executive Regulation 24-12AM Small Business Assistance Program

1. Regulation Summary.

Executive Regulation ER 24-12AM ("ER 24-12AM") would establish a program to assist small businesses located in either an enterprise zone or an urban renewal area of the County who are adversely impacted by a County redevelopment project or a redevelopment project located on County property.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The estimate of changes in expenditures and revenues cannot be made at this time but will certainly be influenced by the following factors:

- The number of County projects and/or projects on County owned property that have either been approved, are in the pipeline, and are in the planning stages;
- The number of small businesses that are eligible and financially healthy as defined by ER 24-12AM; and
- The number of eligible and financially healthy small businesses that experience a loss in net profit

Executive Regulation 24-12AM stipulates a maximum of \$75,000 per eligible and financially healthy small business. This amount is dependent on the ability of the small businesses to provide documentation that supports their eligibility, financial health, and loss of net profit.

It is anticipated that at least two full-time equivalent (either contractor or term) positions will be needed to manage the program. Assuming one Program Manager II, Grade 25 (approximately \$92,892) and one Office Services Coordinator, Grade 16 (\$64,828), the total cost estimate of contractors or term positions would be approximately \$158,000. No funding is appropriated in the FY16 budget to provide the payments for financial assistance or administer this program.

Depending on the level of redevelopment activity, some operating budget increase (estimated to be \$50,000 - \$80,000) is expected to argument staff capacity at periods of high-volume with contractor support to evaluate grant applications.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Revenue and expenditure estimates are unknown at this time due to the variables listed in #2.

4. An actuarial analysis through the entire amortization period for the regulation that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.

The number of redevelopment projects, as defined by Montgomery County Code 20-76B, that adversely impact small businesses in the county may impact future spending.

6. An estimate of the staff time needed to implement the regulation.

Executive Regulation 24-12AM allows applicants to submit an application 12 months prior to any redevelopment project actually impacting their business. As such, staff involvement with administering this Small Business Assistance Program can begin application review as soon as any redevelopment plan is made public, much earlier than when a redevelopment construction actually begins.

To carry out the duties as required by this regulation, the following are anticipated work scope of staff:

- Coordination with the Department of General Services on redevelopment project and its impact on business conditions of the area;
- Assess the type of businesses that could be impacted, and the nature and extent of the impacts;
- Market the program and conduct business visitations;
- Assist in the application process, review applications, audit/monitor the business for financial healthiness, and underwrite the conditional grant or loan package;
- Conduct performance monitoring and loan servicing/loan workout, and
- Gather, evaluate and monitor various technical training programs that can assist the businesses.

As indicated in #2, it is anticipated that at least two full-time equivalent (either contractor or term) positions will be needed to manage the program at an estimated cost of approximately \$158,000. It is also estimated that an additional \$50,000 - \$80,000 per year may be necessary to hire contractual staff at periods of high-volume to evaluate grant applications.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

As DED, or Finance once DED ceases to exist, does not have the current staff levels to plan or administer the program, new staff will be necessary. During periods of low activity, the additional staff can assist with other Economic Development Fund duties such as the Small Business Revolving Loan program and other small business-related work programs.

8. An estimate of costs when an additional appropriation is needed.

See #2 and #6 for the estimated costs to administer this program. It is unknown at this time how much would be needed for financial assistance.

DED, or Finance following the closure of DED, would need 1.0 FTE for a new Program Manager II position, Grade 25, to administer the program. Assuming the mid-point of pay grade and mid-range health insurance coverage, the cost of salaries and benefits would be approximately \$92,892 per year.

DED would also need 1.0 FTE for a new Office Services Coordinator, Grade 16, to help manage the program. Assuming the mid-point of pay grade and mid-range health insurance coverage, the cost of salaries and benefits would be approximately \$64,828.

9. A description of any variable that could affect revenue and cost estimates.

Descriptions of variables that may impact revenue and cost estimates are located in responses for #2, #5, and #6.

- The number of County projects that have either been approved, are in the pipeline, and are in the planning stages;
- The number of small businesses that are eligible and financially healthy as defined by ER 24-12AM; and
- The number of eligible and financially healthy small businesses that experience a loss in net profit.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

All revenue or expenditures are difficult to project at this time due to the variables described in #2.

11. If a bill is likely to have no fiscal impact, why that is the case.

Not applicable

12. Other fiscal impacts or comments.

None.

13. The following contributed to and concurred with this analysis:

Peter Bang, Chief Operating Officer, Department of Economic Development

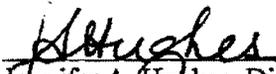
Gene Smith, Program Manager, Department of Economic Development

Alex Espinosa, Operating Budget Coordinator, Office of Management and Budget

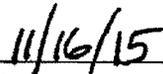
Pofen Salem, Sr. Management and Budget Analyst, Office of Management and Budget

Joe Beach, Director, Department of Finance

Robert Hagedoorn, Chief of Fiscal Management Division, Department of Finance



Jennifer A. Hughes, Director
Office of Management and Budget



Date



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

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

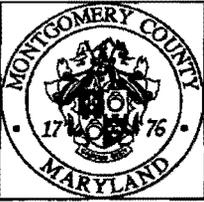
Sunset Date: None
Effective Date:

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.



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

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;



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

- (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:



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

- (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.



MONTGOMERY COUNTY EXECUTIVE REGULATION

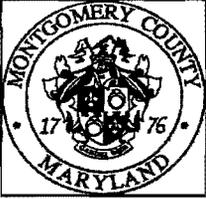
Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

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

- (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.



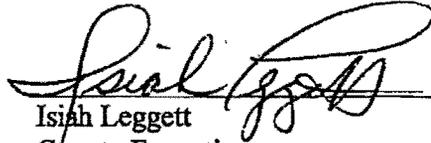
MONTGOMERY COUNTY EXECUTIVE REGULATION

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

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



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

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:

<u>Double Underlining</u>	<i>Added to original, proposed regulation</i>
[[Double brackets]]	<i>Deleted from original, proposed regulation</i>

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.



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

Section 1. AUTHORITY.

In accordance with the procedures authorized in Section 20-76[[]]B of the Montgomery County Code [[1994]]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. DEFINITION[[.]]

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: [[.]]

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

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

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



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

- (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[[two]] 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[[two]] 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[[profitable operation]].

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 a 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 [[a]]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 [[Economic Department]] 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:



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

- (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[[s]] a commercial property or has a commercial lease with[[for]] 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.
- [[c) A Financially Healthy Small Business that receives assistance under this Program will not be eligible to receive additional assistance under the Program, unless the duration of the Redevelopment Project is at least 12 months or longer, and the County Council through an appropriation resolution authorizes additional assistance to the same business entity.]]

Section 4. [[FUNDING CRITERIA]]PRIORITY CONSIDERATION

[[The Director will provide Assistance to a Financially Healthy Small Business that meets the eligibility criteria, from monies from the Economic Development Fund designated for the Program, based on criteria defined in this Executive Regulation.]]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 [[having locations, that due to their proximity to the Redevelopment Project,]]that can demonstrate through documentation in their application[[an impediment in their customer’s accessibility, including]]:
 - (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) [[If no evidence linking the Adverse Impact experienced by the Financially Healthy Small Business to the Redevelopment Project due to proximity exists, the] Any Financially Healthy Small Business that does not receive Priority Consideration may



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

apply[[ing]] for the assistance under [[the Program]]this program by presenting [[must present]]clear evidence of how the Redevelopment Project [[a]]Adversely [[i]]impacts[[or will impact]] its business operations in their application.

Section 5[[:]]. [[DETERMINATION OF FUNDING AMOUNT]]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.
- (c) Eligible Financially Healthy Small Businesses may only receive Assistance once through this program.

[[Each fiscal year the Program is active, the County Executive must recommend an appropriation for the Small Business Assistance Program to the County Council. The recommended appropriation will be based on the extent and the duration of the current or planned Redevelopment Project(s) during the given fiscal year, and must either specify a maximum assistance amount awarded to any individual eligible Financially Healthy Small Businesses, or specify that the total recommended appropriation be divided among all eligible small businesses in a proportional manner based on the relative magnitude of the adverse impact. The County Executive's recommended appropriation is subject to County Council approval.

- (a) If a maximum assistance amount per eligible Financially Healthy Small Business is approved for a given fiscal year:
 - (1) Based on the review and analysis of the application, a Financially Healthy Small Business will be awarded a conditional grant, upon execution of the Small Business Assistance Program Agreement, and based on the actual or projected Adverse Impact on the eligible Financially Healthy Small Business, up to the maximum assistance amount under the Program, as set by the County Council's appropriation resolution.



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

(2) Applicants that are reviewed and approved for assistance but not funded during a given fiscal year due to Program fund depletion will be funded during the subsequent fiscal year before any new applicants are awarded, in order of the application approval date. Those applications that were not processed due to fund depletion will be reviewed in the new fiscal year in the order of the date of receipt by the County.

(b) If the assistance amount is approved as a percentage method of appropriation for a given fiscal year:

(1) The application deadline date for assistance under the Program for any give fiscal year will be announced at least 120 days before the annual cutoff date. The total Adverse Impact of all eligible applicants submitting application by the cutoff date, which are approved for assistance, will be calculated. Each applicant's Adverse Impact amount will be compared to the total adverse impact of all approved applicants and converted to a percentage of the total Adverse Impact. The final assistance amount to the applicant will be determined by multiplying the applicant's calculated percentage times the given fiscal year's appropriation for the Program;

(2) Applicants missing the cutoff date will not be accepted and must resubmit their application the following year, unless the County Council appropriates additional funds to the Program during that fiscal year.

(3) If funds are added during a given fiscal year, a new application submission deadline will be announced and the percentage distribution method described above will apply only to the new applications submitted in time for the new deadline, and using only the additional appropriations.

(c) A formal application (using the to be developed County Form), with all required supporting documents, showing how the Redevelopment Project has or will have an Adverse Impact on the applicant small business, must be submitted by the applicants before an in-depth review of the assistance will be undertaken by the Department of Economic Development.]]

Section 6. PROGRAM OPERATIONS[[:]]



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

[[a) Accounting]]

(a)[(1)] The Director must establish a separate account in the Economic Development Fund to track all activities of the Small Business Assistance Program.

(b)[(2)] 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.

[(3) The County Executive must notify the County Council at least five working days (or ten working days during a Council recess) before making an offer of assistance valued at more than \$100,000, specifying the proposed nature of the assistance including the repayment provisions. The Council President, by notification to the County Executive, may request an additional two working days (or five working days during Council recess) for Council comments before the assistance is conveyed to the applicant.]]

(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)[(3)] For each conditional grant transaction, the Director [[and the County Attorney's Office]] will negotiate appropriate closing and security documents [[(or use the preapproved template documents)]]with the applicant [[requiring]]and will require that the applicant [[to]]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.

[(5) The County Executive must report to the County Council by March 31 of each year on the status, use, and the impact of the Program in mitigating Adverse Impacts on Financially Healthy Small Businesses. The report at a minimum must include the number of Financially Healthy Small Businesses assisted by the Program, the number and the dollar amount of the conditional grants made, and



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an evaluation of the effectiveness of each conditional grant on mitigating the Adverse Impact on the operations of the Financially Healthy Small Business.]]

[[**(b)** Administration

- (1) The Department of Economic Development shall be responsible for administering the Program, including the determination of eligibility, analysis of Adverse Impacts, credit and background check, amount and form of assistance, requiring certain technical assistance and/or other conditions of funding, structuring of the repayment terms, preparation of necessary documents, and post-assistance monitoring. If necessary, the Department of Economic Development may form a multi-agency application review committee, or solicit inputs from the Technical Assistance providers or community based small business resource organizations.
 - (2) The Department of General Services shall be responsible for providing written notice to the Director of Department of Economic Development at least twelve (12) months before construction is scheduled to begin, including projected construction start and completion dates, any road closures and detours that will be in force during construction, and any public parking facility closures.
 - (3) Subject to compliance with the County's procurement laws, the Department of Economic Development may, on a case-by-case basis, utilize the services of outside consultants in validating certain assumptions and facts used in assessing the Adverse Impact to the applicant, or to assist in the review of an application and the applicant's financial record, the cost of which will be charged to the Program. The Department of Economic Development and the Department of General Services may also hire a consultant to conduct a comprehensive needs assessment of the businesses that are in close proximity to the currently planned Redevelopment Project, the cost of which will be charged to the County CIP (Capital Improvement Project) that is tied to the Redevelopment Project.]]
- (e)[[**(4)**]] Subject to compliance with the County's procurement laws, the Director[[of Department of Economic Development]], 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.



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[[(5) Subject to compliance with the County’s procurement laws, the Director may, from time to time, develop and execute marketing and paid advertising program – including the provision of outdoor and public signage – if that program will supplement the efforts of the majority of the Adversely Impacted Financially Healthy Small Businesses to retain or attract customers. The cost of developing and implementing such a marketing program will be charged to the Program.]]

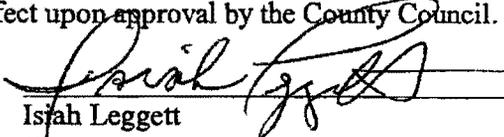
[[(6) The Director must compile and maintain a list of approved technical training courses on the County’s website. The Director may also list the name and contact information of non-profit community resource organizations that can offer pro-bono assistance, or are under contract with the County to provide free assistance to eligible Financially Healthy Small Businesses, in order to prepare or mitigate the adverse impact of the Redevelopment Project.]]

[[Section 7. CLARIFICATION.

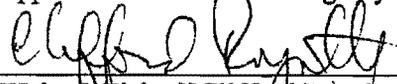
This confirms that the provisions of Chapter 11B, Procurement, do not apply to the selection of a grant or loan recipient or any agreement entered into with a grant or loan recipient pursuant to Article XIII of Chapter 20 of the Montgomery County Code of 1994, as amended.]]

Section 7[[8]]. EFFECTIVE DATE[[.]]

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


Isjah Leggett
County Executive

Approved as to form and legality:


[[John J. Fisher]] Clifford Royalty
Assistant County Attorney

11/17/15
Date

Bill No. 6-12
Concerning: Economic Development --
Small Business Assistance
Revised: April 11, 2012 Draft No. 6
Introduced: February 7, 2012
Enacted: April 17, 2012
Executive: April 26, 2012
Effective: July 26, 2012
Sunset Date: None
Ch. 6, Laws of Mont. Co. 2012

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council Vice President Navarro, Councilmembers Ervin, Floreen, Leventhal, Council President
Berliner and Councilmember Riemer

AN ACT to:

- (1) establish a program 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;
- (2) provide technical assistance and training to a small business who receives financial assistance from the Economic Development Fund;
- (3) authorize financial assistance to certain small businesses from the Economic Development Fund; and
- (4) generally amend the economic development laws.

By adding

Montgomery County Code
Chapter 20. Finance
Section 20-76B

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

1 **Sec. 1. Sections 20-76B is added as follows:**

2 **20-76B. Small Business Assistance Program.**

3 **(a) Definitions. As used in this Section:**

4 Adverse impact means a loss of revenue resulting from a redevelopment
 5 project.

6 Director means the Director of the Department of Economic
 7 Development.

8 Enterprise zone means an area designated under Maryland Code,
 9 Economic Development Article, Section 5-704 or any successor
 10 provision.

11 Fund means the Economic Development Fund established in Section
 12 20-73.

13 Program means the Small Business Assistance Program.

14 Redevelopment project means any construction, alteration, or
 15 improvement in an urban renewal area or enterprise zone where the
 16 existing land use is commercial or industrial and is:

17 (1) located on property owned by the County; or

18 (2) financed in whole or part by the County.

19 Small business means a privately owned business that meets the
 20 requirements of Section 11B-65(a).

21 Technical assistance means training directly related to operating a small
 22 business provided by an educational institution or a non-profit
 23 organization approved by the Director.

24 Urban renewal area means an area of the County as defined in Section
 25 56-9(f).

26 **(b) Establishment of Program. Subject to appropriation, the Director must**
 27 **create and administer a Small Business Assistance Program to assist**

28 small businesses who are adversely impacted by a redevelopment
29 project.

30 (c) Eligibility. The Director, based upon information submitted by the
31 applicant for assistance, must find that:

32 (1) the applicant is the owner of an existing small business located
33 near an ongoing or future redevelopment project that is planned
34 to begin construction in less than [[24]] 12 months after the
35 application;

36 (2) the applicant's small business is currently or is likely to be
37 adversely impacted by the redevelopment project; and

38 (3) the applicant's small business is financially healthy and likely to
39 continue operating for the foreseeable future.

40 (d) Conditions. The Director may impose reasonable conditions on a small
41 business, including the successful completion of approved technical
42 assistance training, in order to receive financial assistance from the
43 Fund under the Program.

44 (e) Financial assistance. The Director may award a grant or loan from the
45 Fund to an eligible small business under the Program. [[A loan or grant
46 to a small business that exceeds \$100,000 cumulatively must be
47 approved by the Council.]]

48 (f) Regulations. The Executive must adopt method 2 regulations to
49 implement this Section. The regulations must:

50 (1) require the Director to compile and maintain a list of approved
51 technical training courses on the appropriate website;

52 (2) specify the application procedures and eligibility criteria for a
53 grant or loan to a small business under the Program;

54 (3) specify conditions that the Director may impose on a small
55 business in order to receive financial assistance from the Fund
56 under the Program;

57 (4) define what constitutes an adverse impact on a small business;

58 (5) define what constitutes financial health of a small business; and

59 (6) identify outreach methods and marketing strategies to inform
60 local small businesses of the program.

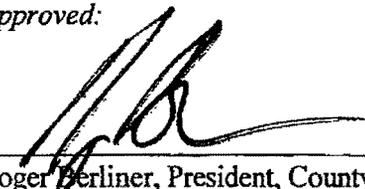
61 (g) Reports. On or before March 31 of each year, the Executive must report
62 to the Council on the activities of the Program. The report must
63 include:

64 (1) the number of small businesses participating in the Program;

65 (2) the number and dollar amount of grants and loans made; and

66 (3) an evaluation of the impact of each grant or loan on the operation
67 of the small business.

69 *Approved:*

70 

Roger Berliner, President, County Council

4/17/2012

Date

71 *Approved:*

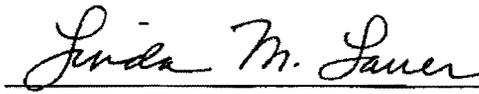
72 

Isiah Leggett, County Executive

April 16, 2012

Date

73 *This is a correct copy of Council action.*

74 

Linda M. Lauer, Clerk of the Council

4/27/12

Date