



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

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

Montgomery County Regulation on:

SMALL BUSINESS ASSISTANCE PROGRAM

Department of Economic Development

Issued By: County Executive

Regulation Number: 24-12

Authority: Montgomery County Code, Section 20-76B

Council Review: Method I Under Code Section 2A-15

Register Vol. _____, Issue _____

Sunset Date: None

Effective Date:

SUMMARY:

The regulation provides generally 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.

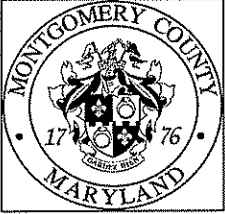
ADDRESS:

Department of Economic Development
Executive Office Building
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Rockville, Maryland 20850

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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 or grants from the Economic Development Fund.



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Section 1. **AUTHORITY.**

In accordance with the procedures authorized in Section 20-76 B of the Montgomery County Code 1994, 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 business revenue resulting from a Redevelopment Project.

Small Business – means a privately owned business that meets the requirements of 11B-65(a).

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

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



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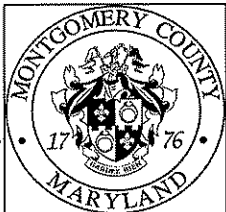
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- (1) If a Small Business is a C Corporation or an LLC filing tax as a C corporation, the corporate tax return can show a net loss, but the Small Business owner(s) individual tax return must show that federal and the state income taxes have been paid in two of the three immediately previous years; or
- (2) If a Small Business is a partnership, single member LLC, or a sole proprietorship, the business income reported in schedule C must exceed the Small Business expense 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 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's bank statements for the corresponding operating period must show a profitable operation; or
- (d) On a case by case, a Small Business meeting the above conditions only partially may still apply for the assistance under the Program, if the Small Business principal submits a narrative summary and supporting documents presenting a compelling case as to why the Small Business is financially healthy despite not fully satisfying the above criteria; and the Small Business must be likely to continue operating for the foreseeable future.

Assistance – means the commitment of money in the form of a grant or loan from the Economic Development Fund to an Adversely Impacted Financially Healthy Small Business, in order to partially or entirely offset the Adverse Impact.

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 (“Director”).



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Section 3. ELIGIBILITY.

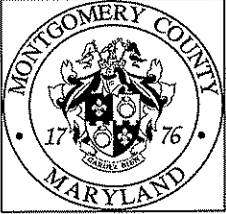
Based on the information submitted by the applicant in its application for assistance, the applicant must meet all of the following eligibility conditions:

- (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; and
- (b) Owns or that has a lease 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 other parts of the County, the small business must submit a letter of commitment for a lease renewal in the same premise or a purchase or lease in a new location within the County having 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 24 months or longer, and the County Council through an appropriation resolution authorizes additional assistance to the same business entity.

Section 4. FUNDING CRITERIA

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, on the basis of criteria defined in this Executive Regulation.

- (a) Priority will be given to Financially Healthy Small Businesses having locations that due to their proximity to the Redevelopment Project can demonstrate an impediment in accessibility, including a reduction of previously available public parking space(s) within a quarter mile radius of the business premise.
- (b) If no evidence linking the Adverse Impact experienced by the Financially Healthy Small Business to the Redevelopment Project due to proximity exists, the Financially Healthy Small Business must present a compelling case demonstrating how the Redevelopment



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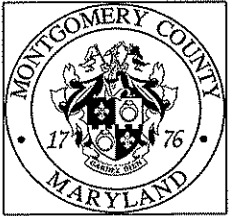
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Project adversely impacts or will impact its business operations to be considered for assistance under the Program.

Section 5: DETERMINATION OF FUNDING AMOUNT

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 Projects during the given fiscal year, and must either specify a maximum assistance amount awarded to any one 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 grant or a loan (substantial or full amount can be converted to a grant once the small business meets all of the requirements under the loan agreement), based on the actual Adverse Impact on the eligible Financially Healthy Small Business, up to maximum assistance amount under the Program, as set by the County Council's appropriation resolution.
 - (2) Applicants that are reviewed and approved for the 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.
- (b) If the assistance amount is approved as a percent 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



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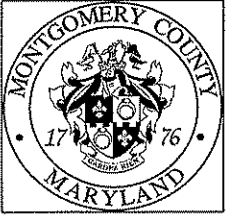
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applicants and converted to a percentage of the total Adverse Impact. The final assistance amount to the applicant will be determined by multiplying the applicant's calculated percentage times the given fiscal year's appropriation for the Program;

- (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 percent distribution method described above will apply to only the new applications, and using only the additional appropriations.
- (c) A formal application, including a detailed presentation and evidence of 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:

- (a) Accounting
 - (1) The Director must establish a separate account in the Economic Development Fund to track all activities of the SMALL BUSINESS ASSISTANCE PROGRAM.
 - (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



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days during Council recess) for Council comments before the assistance is made to the applicant.

- (4) For each transaction, the Director and the County Attorney's Office will negotiate appropriate closing and security documents with the applicant requiring the applicant to adhere to the terms of the repayment, including the agreed rate of interest.
- (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 grants and loans made, and an evaluation of the effectiveness of each grant and loan 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 the necessary documents, and the post-assistance monitoring. If necessary, the Department of Economic Development may form a multi-agency application review committee.
- (2) The Department of General Services shall be responsible for providing written notice to the Director of Economic Development at least twelve (12) months before the construction is scheduled to begin, including the projected construction start and completion dates, any road closures and detours that will be in force during the construction, and any public parking facility closures.



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- (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 the application and the applicant's financial record, the cost of which will be charged to the Program.
- (4) 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, availability of assistance, and other pertinent process and deadline information, the cost of which will be charged to the Program.
- (5) Subject to compliance with the County's procurement laws, the Director may, from time to time, develop and execute a marketing program – including providing signage – if that program will supplement the efforts of the majority of the Adversely Impacted Financially Healthy Small Businesses 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.

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.



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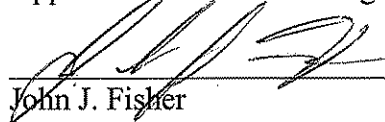
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Section 8. EFFECTIVE DATE.

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

Isiah Leggett
County Executive

Approved as to form and legality:



John J. Fisher
Associate County Attorney

12/21/12
Date