



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Economic Development Fund	Number 09-14
Originating Department Department of Economic Development	Effective Date

Montgomery County Regulation on:

ECONOMIC DEVELOPMENT FUND

Department of Economic Development

Issued By: County Executive

Regulation Number: 09-14

COMCOR 20.73.01

Authority: Montgomery County Code, Section 20-76

Supersedes: Executive Regulation 47-95

Council Review: Method 1 Under Code, Section 2A-15

Register Volume 31, Issue 6

Sunset Date: None

Effective Date:

SUMMARY:

This regulation establishes the award criteria and process to administer the provisions of the Economic Development Fund.

ADDRESS:

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

STAFF CONTACT:

Gene Smith
(240) 777-2011

BACKGROUND INFORMATION:

The Economic Development Fund was established to aid the economic development of the county by assisting private employers who are located, plan to locate, or substantially expand operations in the County.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

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Section 1. AUTHORITY.

In accordance with the procedures authorized in Section 20-76 of the Montgomery County Code [1994], as amended, the following Executive Regulation establishes an award process and criteria to administer the provisions of the Economic Development Fund (Fund) and replaces Executive Regulation 47-95.

Section 2. [DEFINITION]DEFINITIONS.

Economic Development Strategic Plan – A plan with measurable outcomes to track success and progress of the economy in Montgomery County and includes the defined criteria in Section 20-76 of the Montgomery County Code. This plan must be updated every four years starting July 1, 2015.

Fiscal Impact Model – A model developed by the County or third-party that, at a minimum, measures the direct economic impact for a proposed assistance package. Direct economic impact is the County revenues generated by the additional economic activity for the proposed project through job creation and capital expenditures minus the County expenses to support the population growth from the expected job creation.

Private Employer – [A -] For-profit or [nonprofit]not-for-profit corporation or firm that is not owned, primarily funded or controlled by a government agency, including a lessor or supplier of real or personal property or services to a government agency.

Section 3. ELIGIBILITY.

- a) Any private employer [(including nonprofits) which is] located in the County [that plans to substantially expand or retain operations in the County, or an] or a private employer that plans to [locate in] relocate its operations to the County.
- b) Special consideration may be given to private employers in the high technology and manufacturing [companies, businesses in] industries, located in or relocating to an urban revitalization [areas] area, or [other private employers which] who maximize the spin-off effects [for] of the public investment.

Section 4. AWARD CRITERIA.

The Director of Finance may spend or allocate moneys [for] from the Fund consistent with the [Fund] Economic Development Strategic Plan and based on any of the following criteria:



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- a) [Priority will be given to assistance that will materially improve the County's economy and advance the County's economic development objectives and strategies.] Priority will be given to private employers that can respond to the County's economic development priorities and objectives in the Economic Development Strategic Plan.
- b) [Highest consideration] Priority will be given to [assistance] private employers that [brings significant] bring employment growth [either] by creating new jobs, by expanding an existing operation, or by retaining jobs at an existing operation.
- c) Priority will be given to [assistance] private employers that [causes significant] make a capital investment [by private employer that] which over time will provide [significant] increased revenues to the County.
- d) Priority will be given to private employers that are knowledge-based or have high-value added products in expanding markets.
- e) [In urban revitalization areas, private employers locating in areas with good public transportation or educational services will be given priority consideration.] Priority will be given to private employers located or planning to locate in urban revitalization areas.
- f) Priority will be given to private employers that [either help reverse] aid in the prevention or reversal of commercial deterioration [or prevent it from happening].
- g) Special consideration will be given to private employers who are renovating existing structures that will generate directly, or through spin-offs, new revenues for the County.
- h) Special consideration will be given to private employers where the retention or attraction of jobs would not [be likely to] happen without assistance from the Fund.
- i) Special consideration will be given to private employers where the County assistance will compliment state financial assistance and enhance the [comprehensives] comprehensiveness and competitiveness of the overall financial package [and compliment state financial incentives].
- j) Special consideration will be given to private employers where municipal incorporated areas, when appropriate, provide financial incentives to complement the County's assistance from the Fund.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

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- k) Special consideration will be given to private employers whose activities, products, research or services enhance the County's quality of life, or if appropriate, [have demonstrated a record of good corporate citizenship] increase the advantage of the County's industry clusters, as defined by the Economic Development Strategic Plan.

Section 5. AWARD PROCESS

- a) [The Director of the Department of Finance must establish and administer the Economic Development Fund.
- b) The Fund will consist of: (1) funds appropriated to it by the County Council; (2) all payments on any loan from the Fund; (3) all interest earned on moneys in the Fund, and (4) all funds received from other public or private sources.
- c) The Director of Finance may spend or allocate loans or grants from the Fund on the basis of criteria defined in the Executive Regulation and the law.
- d) The County Executive must notify the County Council at least two working days (or five working days during a council recess) before offering assistance valued at more than \$100,000, specifying the proposed terms of assistance offered including any 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 comment before the offer or assistance is made to the private employer.
- e) An economic benefit analysis and/or pro-forma analysis will be completed for all awards above \$100,000, the cost of which will be charged to the Fund. The economic benefit analysis will be used when the business prospect can clearly demonstrate its ability and commitment to perform on its proposed project. The pro-forma analysis will be completed for projects which require due diligence by the County to determine feasibility. This could include analysis of the project's financial feasibility by examining revenues and costs, appropriate market analysis, profit and loss projections, current and projected balance sheets and return on investment.
- f) For awards of \$100,000 or less, a basic cost benefit analysis will be conducted. The basic cost benefit assessment (economic analysis of cost and benefits, including public and societal benefits) will be done in-house.
- g) For each loan or grant, the County Executive will negotiate a Memorandum of Understanding with the private employer requiring the recipient to meet certain



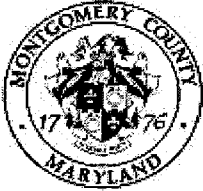
MONTGOMERY COUNTY EXECUTIVE REGULATION

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

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performance criteria specified in the offer of assistance, including a repayment agreement, unless the Executive describes why repayment of assistance is not required.

- h) The County Executive must report to the County Council by March 15 of each year on the status and use of the Fund, including an assessment of the costs and benefits to the County. The report will also include a briefing on the County Executive's use of tax credits, rebates or other incentives to further economic development.]
- a) The Director of the Department of Finance must establish and administer the Fund.
- b) The Fund will consist of: (1) funds appropriated to it by the County Council; (2) all payments on any loan from the Fund; (3) all interest earned on moneys in the Fund, and (4) all funds received from other public or private sources.
- c) The Director of Finance may spend or allocate grants, equity investments, or loans from the Fund on the basis of criteria defined in the law and this Executive Regulation.
- d) Each sub-program of the Fund may have a policy for their administration. However, that policy may not conflict with the law and this Executive Regulation in regards to eligibility standards and award process.
- e) The County Executive must notify the County Council at least five working days (or ten working days during a council recess) before offering assistance valued at more than \$100,000. The Director of Finance must include in the County Executive's notification the supporting documentation as required by Section 20-75 of the Montgomery County Code, as amended.
- f) The County Executive must not provide more than \$500,000 of assistance to a private employer unless the assistance is approved by the Council in a special or supplemental appropriation. The County Executive will submit the agreement to the Council within 60 days of execution for all assistance packages valued more than \$500,000.
- g) For all assistance proposals, an economic impact analysis will be conducted by the Department of Economic Development using the fiscal impact model to ensure that current and/or projected economic impacts from the proposed project are clearly connected with each offer of assistance. This analysis will be reviewed by the Department of Finance for accuracy.



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- h) For assistance proposals where the fiscal impact model is not suitable to capture current and/or projected impact of the proposed project, a clear explanation, and if appropriate an alternative analysis, must demonstrate how the award criteria is met.
- i) The Director of Finance may spend moneys from the Fund to retain consulting services for the purpose of analyzing and evaluating the financial projections or statements of the private employer, fiscal impact of the proposed assistance package, or any work that would objectively verify the necessity for the Fund to assist the applicant's project. Any moneys used for this purpose will be subject to Montgomery County's laws for procurement.
- j) The County Executive or the County Executive's designee will negotiate an agreement with the private employer requiring the recipient to meet certain performance criteria specified in the offer of assistance, including a repayment agreement, unless the Executive justifies why repayment of assistance is not required. The agreement will vary based on the Fund's sub-program, such as Economic Development Fund Agreement, Loan Agreement, or Equity Investment Agreement.
- k) The Department of Economic Development will monitor each executed assistance agreement to evaluate whether a private employer has satisfied or not satisfied the required performance provisions within the agreement. The Department of Economic Development will do this during the term of each agreement, and when possible and to the best of its ability, monitor the provisions for five years upon the termination of the agreement.
- l) Any assistance that exceeds \$500,000 and is designated for construction must meet the prevailing wage requirements of Section 11B-33C of the Montgomery County Code, as amended, for each employee performing direct and measurable work on the construction for which the assistance is received.
- m) The County Executive must report to the County Council by March 15 of each year on the status and use of the Fund. The report must include elements as described in Section 20-76(c) of the Montgomery County Code, as amended.

Section 6. CLARIFICATION

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



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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:



John J. Fisher
Associate County Attorney

Date

5/14/09
