



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Public Health Emergency Grant Program	Number 9-20
Originating Department Finance	Effective Date April 15, 2020

Montgomery County Regulation on:

PUBLIC HEALTH EMERGENCY BUSINESS ASSISTANCE PROGRAM Department of Finance

Issued By: County Executive
Regulation Number: 9-20
COMCOR No. 20.76F.01

Authority: Montgomery County Code (2014), Section 20-76F
Council Review: Method 2 under Code Section 2A-15
Register Vol. 37, No. 8
Effective Date: April 15, 2020
Sunset Date: None

SUMMARY: The regulation provides for the award process and criteria for the provision of grants, or conditional grants, from the Public Health Emergency Grant Program, a sub-program of the Economic Development Fund.

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Rockville, Maryland 20850

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BACKGROUND INFORMATION: On March 5, 2020 a Public Health Emergency and Existence of Catastrophic Health Emergency ("Public Health Emergency") was declared in the State of Maryland. The Public Health Emergency Grant Program has been created as a sub-program of the Economic Development Fund to assist the continued operation of certain local for-profit small businesses and non-profit organizations located in the County that are experiencing significant adverse impact due to the spread of a communicable disease in the County that resulted in a Federal, State, or County Public Health Emergency order restricting business operations in the County. Assistance from the Public Health Emergency Grant program will be in the form



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of a grant or a conditional grant.

PUBLIC HEALTH EMERGENCY BUSINESS ASSISTANCE PROGRAM

20.76F.01.01 Authority

In accordance with the procedures authorized in Section 20-76F of the Montgomery County Code 2014, the following Executive Regulation establishes an award process and criteria to administer the Public Health Emergency Program as a sub-program of the Economic Development Fund.

20.76F.01.02 Definitions

Adjusted Revenue – means Revenue adjusted for deferred rent or reduced payroll expenses.

Adverse Impact – means a loss of revenue resulting directly or indirectly from a public health emergency, including the declared Public Health Emergency for the State of Maryland on March 5, 2020.

Assistance – means the commitment of money in the form of a grant or conditional grant from the Economic Development Fund to an adversely impacted local for-profit business or non-profit organization, in order to partially or entirely offset the adverse impact. The conditional grant will remain as a grant upon the recipient's satisfactory adherence to the terms of the conditional grant. Otherwise, all or part of the conditional grant will become repayable to the County, according to the terms set forth in the conditional grant agreement.

Local business - *Local business* means a for-profit or non-profit entity that:

- (1) has its principal place of business in the County; and
- (2) employs 100 or less full-time-equivalent employees.

Non-profit entity - means an organization dedicated to furthering a particular social cause or advocating for a shared point of view. In economic terms, it is an organization using its surplus of revenues to further achieve its objective rather than distributing its income to the organization's shareholders, leaders or members.

Principal place of business in the County - means a regular course of business commerce in the County by a business, along with any of the following:



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- (1) the business has its physical business location(s) only in the County; or
- (2) the business has physical business locations both in and outside of the County, and the County-based location(s) account for over 50% of the business's total number of employees, or over 50% of the business's gross sales.

Public Health Emergency - means a situation caused by the spread of a communicable disease in the County that results in a Federal, State, or County Public Health Emergency order restricting business operation in the County.

Restaurant - means any lunchroom, café, or other establishment located in a permanent building for the accommodation of the public, equipped with a kitchen containing facilities and utensils for preparing and serving meals to the public, and outfitted with a public dining area. A restaurant includes a business with a license to serve alcoholic beverages for consumption on its premises.

Retail storefront establishment - means a business engaged in the retail sale of goods or services to the public from a physical location in the County. Retail establishment includes a convenience store, shop, hair salon, barber shop, food truck, or restaurant, and any other sales outlet where a customer can buy goods or services in person.

Revenue – means all income received in exchange for the provision of goods and/or services as well as all income received from grants or donations.

Significant Financial Loss – For purposes of the Economic Development Fund Public Health Emergency Grant Program, Significant Financial Loss means Adjusted Revenue loss of 50% or greater for a certain financial period that is attributable to the Public Health Emergency.

20.76F.01.03 Eligibility

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

- (a) Be a privately owned local for-profit business or non-profit organization having its principal place of business in the County as defined in Section 2 of this Executive Regulation.



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- (b) Be in existence and in Good Standing with the State of Maryland at the time the application is submitted. For sole proprietorships and general partnerships only, registration with SDAT is sufficient to satisfy this condition.
- (c) Employ 100 or less full-time or full-time equivalent employees.
- (d) Demonstrate a Significant Financial Loss for a certain financial period, caused directly or indirectly by the Public Health Emergency when compared to a financial period of equal duration prior to the Public Health Emergency.
- (e) All grants or conditional grants awarded are subject to appropriation and the availability of funds.

20.76F.01.04 Grant Funding

- (a) The County Council has appropriated \$25,000,000.00 to fund this Program.
- (b) The maximum amount of assistance that a local business can receive under this Program for actual lost revenue is \$10,000.00.
- (b) The maximum amount of assistance that a local business can receive under this Program for purchasing technology equipment and software is \$2,500.00.
- (c) Any unused appropriation for this Program will be redirected to fund the Reopen Montgomery program and distributed to local businesses that operate a restaurant or retail storefront in compliance with Section 20-76F(g) of the Montgomery County Code.

20.76F.01.05 Assistance

- (a) Each for-profit business or non-profit organization must provide documentation, such as federal income tax returns and Profit and Loss Statements, with their application that demonstrate revenue for a certain financial period immediately prior to the Public Health Emergency and corresponding financial documentation demonstrating the significant loss of revenue incurred as a result of the Public Health Emergency.
- (b) Assistance up to a maximum amount of \$10,000.00 will be based on the documentation provided by the applicant that demonstrates the actual loss in revenue for each eligible local



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for-profit business or non-profit organization. All applicants shall apply on-line.

- (c) Assistance up to a maximum amount of \$2,500.00 may be provided to a for-profit or a non-profit local business for the cost of purchasing technology equipment and software to facilitate employee teleworking during a public health emergency. All applicants shall apply on-line.
- (d) The amount of assistance shall be determined in the following manner:
 - 1) Determine that the applicant's decrease in revenues demonstrates Significant Financial Loss:
 - A. Determine the Annual Historical Average for the business or non-profit prior to the Public Health Emergency. This is based upon the require documentation stated in item (a) of this Section.
 - B. Divide the average annual revenue for the business by 12 to determine the Monthly Historical Average. For a financial statement of less than 1 year, divide the revenue for that period by the number of months the financial statement represents to get average monthly revenue. For purposes of this Program, the Monthly Historical Average will serve as the baseline for determining revenue loss during the Public Health Emergency.
 - C. Determine the business's actual revenue reported for the period of the Public Health Emergency (PHE Revenue) based on a calendar-based monthly financial statement during the Public Health Emergency. PHE Revenue must be calculated on a monthly basis.
 - D. If the application indicates that payroll expenses were reduced or rent has been deferred or waived, add the amount by which these expenses were REDUCED to the PHE Revenue to determine Adjusted Revenue for the period of the PHE revenue. If no expenses were reduced, PHE Revenue will equal Adjusted Revenue.
 - E. Determine the amount of Revenue Loss by subtracting the Adjusted Revenue from the Monthly Historical Average. For the month of March



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2020, multiply the Revenue Loss by 1.9375 to account for the number of unrestricted business operation days during that financial period.

- F. Divide the Revenue Loss by the Monthly Historical Average to determine the percentage of decline in revenue (Percentage Decline). If the Percentage Decline is 50% or greater, the applicant is deemed to have incurred Significant Financial Loss and is considered eligible for assistance under this Program. Under no circumstances will the eligible assistance under this Program exceed the applicant's Monthly Historical Average, except for funds distributed under subsection (c) of this Section for teleworking software and equipment.
- 2) Determine the amount of financial assistance available to the applicant:
- A. Businesses that have suffered Significant Financial Loss will be eligible for a disbursement that is equal to the difference between the businesses' Average Historical Revenue and its Adjusted Revenue up to \$10,000.
- (e) In order to receive financial assistance under the Program, a local business must enter into a grant agreement with the County, which includes
- (1) the County's right to audit financial records of the grantee;
 - (2) the grantee's reporting obligations to the Director of the Department of Finance;
 - (3) the grantee's obligation to remit to the County any unused or improperly used funds; and
 - (4) a certification by the grant applicant, under penalty of perjury, that the grant application and all documentation and statements in support of eligibility for funds are true and correct, and that the applicant understands that they may be prosecuted for any false statements made as part of the application.
- (f) Grant funds from this Program that are used for any expenses that have been or will be reimbursed by Covid-19 related Federal and/or State government assistance programs must be repaid.



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- (g) Grant funds from this Program cannot be used to reimburse a business for losses that are reimbursed through an insurance policy purchased by the business.
- (h) Grant funds from this Program cannot be used reimburse a business for wages paid to an employee for a time period the employee is eligible for unemployment insurance benefits.

20.76F.01.06 Program Operations

- (a) The Director of Finance must establish a separate account in the Economic Development Fund to track all activities of the Public Health Emergency Grant Program.
- (b) The Program account will consist of: (1) funds appropriated to it by the County Council; (2) all repaid grant funds 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 local for-profit businesses and non-profit organizations and their anticipated lost revenues so that assistance may be provided as applications are received and verified.
- (d) For each conditional grant awarded, the Director will establish appropriate closing documents for all applicants and will require that grant recipients adhere to the terms of the conditional grant, including repayment in the event of non-compliance.
- (e) The Director will designate an individual to coordinate outreach efforts to for-profit and non-profit business organizations. 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.

20.76F.01.07 Effective Date

This Executive Regulation takes effect upon notification to the County Council.



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Marc Elrich
County Executive

Approved as to form and legality:

Taggart Hutchinson

Taggart Hutchinson
Associate County Attorney

Date: July 10, 2020