

ALLEGANY COUNTY

“Small Business Support Fund”

Administered by the Allegany ACIDA Industrial Development Agency

Program Guidelines

1. Program Overview. Pursuant to the Coronavirus Aid, Relief and Economic Security Act (the “CARES Act”), Allegany County (“County”) has received supplemental Community Development Block Grant (“CDBG”) funding to be used to prevent, prepare for, and respond to the impacts of the coronavirus pandemic. In response to the economic hardships experienced by businesses resulting from the COVID-19 pandemic, the Allegany County Industrial Development Agency (“ACIDA”) is utilizing CDBG funding to establish the “Small Business Support Fund” (the “Program”), which will be implemented and administered by the ACIDA in accordance with these Program Guidelines (the “Guidelines”) and the regulations governing use of CDBG funds. The Program will provide grants to eligible businesses that were negatively impacted by COVID-19 to support customer and staff safety, improve, and expand business operations, and improve business resiliency. Any revisions to the Guidelines must be authorized by the ACIDA Executive Director.
2. Form of Assistance. Assistance will be in the form of a grant of CDBG funds made to an eligible business applicant (the “Business”).
3. Eligible Program Participants. Fund recipients must meet the following requirements:
 - (a) The Business must be a for-profit business located in Allegany County, New York. Not-for-profit corporations or similar nonprofit entities, agencies, or authorities are not eligible.
 - (b) The assisted Business must have been continuously operating since on or before March 1, 2020, except for any closure resulting from the effects of the COVID-19 pandemic. The Business must either be operating at the time of fund approval or, if not operating, demonstrate to the ACIDA’s satisfaction that it intends to resume operations within 90 days of the fund approval date. A business that is not in operation at the time of fund approval will not receive a funding disbursement until the business has demonstrated to the satisfaction of the ACIDA that it has restarted operations within Allegany County and, if applicable, has met the employment requirements of Section 5 hereof.

- (c) The assisted Business must have filed a federal income tax return for 2019 if required, either as an independent business entity or as a part of a personal income tax filing (Schedule C for sole proprietors). If a federal income tax return for 2020 or 2021 has not been filed, documentation of an extension request will be required.
- (d) The assisted Business must have been negatively impacted by the effects of COVID-19 as evidenced by one or more of the following:
 - (i) The business experienced a reduction of gross sales or revenues as a direct result of COVID-19 of at least 20% in any month from March 2020 through April 2021 based on sales for the immediate prior month or the corresponding month for the prior year. Such determination will be made by the ACIDA based on documentation provided by the business.
 - (ii) The business experienced a reduction of at least 10% in net profit from tax year 2019 to tax year 2020 or tax year 2020 to tax year 2021 as evidenced by federal income tax returns. This reduction in net profit must be a direct result of COVID-19.
 - (iii) The business reduced employment by at least one full-time equivalent (FTE) position during any quarter of 2020.
 - (iv) The business reduced its operating hours by at least 10% for at least four consecutive weeks during the period March 1, 2020, to April 30, 2021, or otherwise substantially changed its business operations due to COVID-19 during that period as determined by the ACIDA.
 - (v) The business experienced and has appropriately documented other negative impacts that are determined by the ACIDA to meet this criterion. Such determination will be detailed as part of the application underwriting.
- (e) The assisted Business must have restarted or expanded its operations in 2021 or will restart or expand its operations within 90 days of the conditional grant approval date.
- (f) The assisted Business must either (i) be a microenterprise owned by a low- or moderate-income person or persons (as such term is defined by the U.S. Department of Housing and Urban Development (“HUD”)), or (ii) be a small business (having 25 or fewer employees at time of application) and create or retain employment positions consistent with the low- and

moderate-income benefit provisions of the Federal regulations governing the CDBG program.

- (g) The assisted Business, and any sole or partial owner of the business, must not be delinquent in the payment of any taxes owed on real property in Allegany County.
- (h) Any real property owned by the Business that is located in Allegany County must not be subject to any outstanding code violations.

4. Eligible Uses of Program Funds.

- (a) Program funds may be used for any justifiable business purpose associated with the expansion or reestablishment of operations after the negative impacts of COVID-19 including, but not limited to fixed assets, operating expenses, and permanent working capital. The use of Program funds must also be eligible pursuant to the Federal regulations governing the CDBG program. ACIDA must review and approve all Program expenditures for eligibility.
- (b) Program funds must be used in a manner consistent with the ACIDA's application for funds and must meet the following goals, as determined by ACIDA:
 - 1) provide grants to support increased payroll costs to safely and properly staff the business;
 - 2) grants to purchase furnishings, fixtures, equipment, and softs costs related to outdoor dining and safely socially distant workplaces;
 - 3) fund working capital costs such as inventory, supplies, advertising and marketing, and soft costs that allow a business to restart or improve operations that were slowed or ceased by the pandemic;
 - 4) grants to purchase equipment such as PPE, touchless point of sale, and air filtration that directly make a business safer to operate and more resilient to future occurrences of the pandemic.
 - 5) grants to support working capital costs or other expenses which directly and demonstrably improve the Business's resilience to the COVID-19 pandemic or other future public health challenges.
- (c) All costs reimbursed with Program funds must be incurred no later than ninety (90) days after the effective date of the grant agreement between the ACIDA and the Business.
- (d) **In an effort to** support businesses that have persevered through the pandemic but require additional assistance to maintain and improve their operations, the ACIDA is considering eligible costs to include expenses incurred both pre-and-post award of CDBG funds, dating back to March 1, 2020.

5. Program Financing Amounts.

- (a) Microenterprises (defined as having 5 or fewer employees at time of application, including owners) determined to have low- and moderate-income ownership as defined by HUD, and that are not creating and/or restoring at least one full-time equivalent employment position as part of the expansion or reestablishment of operations, may receive Program assistance not to exceed \$25,000.
 - (b) For all businesses except Microenterprises, the amount of Program assistance will be subject to the following:
 - (i) If less than one (1) FTE employment position will be created and/or restored, no Program assistance may be provided.
 - (ii) If at least one (1) and less than two (2) FTE employment positions will be created and/or restored, then the Business may receive Program assistance not to exceed \$25,000.
 - (iii) If at least two (2) FTE employment positions and less than three (3) FTE employment positions will be created and/or restored, then the Business may receive Program assistance not to exceed \$50,000.
 - (iv) If at least three (3) FTE employment positions will be created and/or restored, then the Business may receive Program assistance not to exceed \$75,000.
 - (e) Employment positions used to determine the maximum amount of Program assistance must be held by, or made available to, low- and moderate-income persons consistent with the regulations at 24 CFR 570.208(a)(4).
 - (d) Consistent with the Federal regulations governing the CDBG program, Program assistance must be no greater than the minimum amount necessary to affect the business activity. Business must therefore demonstrate that all other private and public sources of funding have either been maximized or are inappropriate, unaffordable, or otherwise unavailable.
6. Minimum Amount of Program Assistance. Program assistance will not be considered where the amount of the required assistance is less than \$10,000.
 7. Maximum Amount of Program Assistance. Total Program assistance provided to a single business shall not exceed the aggregate amount of \$75,000.
 8. No Duplication of Benefits. In no event may Program funds be used to finance or to reimburse the business for costs that were paid from other program assistance

including, but not limited to other CARES Act assistance (e.g., Paycheck Protection Program, EIDL, Restaurant Revitalization Fund, etc).

9. Employment. Consistent with CDBG regulations, if the assisted Business is not a Microenterprise owned by a low- or moderate-income person or persons, it must create or retain employment opportunities, principally for low- and moderate-income persons. It is acknowledged that, due to the COVID-19 pandemic and related government operating restrictions, businesses may have been required to reduce or close operations at various times since March of 2020. As a result, businesses may be restoring employee hours previously reduced by the impacts of COVID-19, and/or hiring new employees to fill either newly created positions or positions previously held by employees who will not be returning.

In determining the employment impact of the Program assistance, the following will apply:

- (a) Where the Business must create employment positions to establish eligibility for Program assistance, a minimum of 51% of those positions must be taken by, or made available to, low- and moderate-income persons as defined by HUD.
- (b) Where the business will add hours to existing positions because of Program assistance, a minimum of 51% of those positions must be held by low- and moderate-income persons as defined by HUD.
- (c) Where any combination of (a) and (b) is applicable, the ACIDA will aggregate the net employment impact in determining eligibility for Program assistance based on the CDBG requirements for low- and moderate-income benefit.
- (d) Only permanent jobs will be counted; temporary and construction jobs will not be counted.
- (e) Employees must be on the business payroll. Contracted labor will not be counted.
- (f) Jobs of 35 or more hours per week will be considered as one full-time job. Part-time permanent jobs of less than 35 hours per week will be converted to full-time equivalent jobs by dividing the number of part-time hours by 40.
- (g) Seasonal jobs will be considered to be permanent jobs if the duration of the seasonal employment period is long enough to classify the job as the employee's principal occupation. The eligibility of seasonal jobs will be determined by the ACIDA.

- (h) For the purposes of determining the low- and moderate-income status of employees and/or employment positions, the ACIDA may apply the modified rules established by HUD pursuant to its Notice published in the Federal Register (<https://www.federalregister.gov/d/2020-18242/p-134>) on 8/20/20 at 85 FR 51457.
- (i) Evidence of job creation or retention will be required prior to the disbursement of grant proceeds.

10. Application Form and Processing.

- (a) The form of application for Program funding is attached to these Guidelines as Exhibit A. All applications must be accompanied by the information and documentation specified in the application form. No application fee will be charged.
- (b) Prospective Business will be screened by the ACIDA's third-party contractor (the "Contractor") to make a preliminary determination of eligibility.
- (c) The Contractor will review applications for completeness and will contact the Business to obtain any required additional information or documentation.
- (d) Completed applications will be reviewed and processed in the order in which they are determined to be complete.
- (e) For all applications that have been determined to be complete and eligible for Program funding, the Contractor will prepare a memorandum to the ACIDA's Executive Director providing appropriate Business information, determinations with respect to grant eligibility and amount, completion of the CDBG underwriting analysis (if required), and information required by the ACIDA to properly report the grant to HUD.

11. Application Review and Scoring Criteria. The Contractor will provide the ACIDA with a review document for each complete application summarizing the Business information, documented negative COVID impact, and proposed used of grant funds, expected outcomes including proposed job creation/retention.

The Contractor will notify the ACIDA of any applications which are determined to be ineligible for the Program and how this determination was made. Ineligible applications will not be reviewed and scored for funding consideration.

Eligible applications, following Contractor review, will be scored on a scale from 0-10 based on the following criteria:

- (a) COVID Impact – Zero points if the Business failed to demonstrate and negative impact to their operations as a result of the COVID-19 pandemic. One point if the demonstrated COVID impact meets the criteria outlined above in section 3(d). Two points if the demonstrated COVID impact is determined to be significantly more severe than the criteria in section 3(d).
- (b) COVID Response/Resiliency – Zero points if the Business failed to indicate how the proposed use of grant funds allows the Business to successfully respond to, or become more resilient to, the impacts of the COVID-19 pandemic and/or future public health challenges. One point if the proposed use of funds clearly and directly assists the Business mitigate the challenges of the COVID-19 pandemic. Two points if the Business proposes altering operations, diversifying revenue streams, reaching new target markets, or significantly altering their business model in an effort to respond to and/or become more resilient to current and future pandemics.
- (c) Financial Feasibility – Zero points if the Business and/or Business owner is determined to be financial incapable of successfully completing the Program. One point if there are any concerns of the proposed use of grant funds such as inaccurate or unknown project costs, insufficient project cost estimates, or insufficient existing capital making it a challenge for the Business to be able to complete the grant Program. Two points if the project costs are determined to be reasonable and accurate and the Business appears financially capable of completing the grant Program.
- (d) Funding Leveraged – Zero points if the Business does not propose providing any matching or leveraged capital. One point if the Business proposes providing matching capital up to 20% of the total project costs. Two points if the Business proposes providing over 20% of the total project cost as matching capital.
- (e) Community Impact – Zero points if the Business demonstrates no or very little positive impact on the community including employment, sales or property tax revenue generated, significant services provided to the community, or spin-off or ancillary benefits from the Business. One point if the Business is determined to have a positive impact on the community. Two points if the Business demonstrates or is known to have a significant positive impact on the community.

12. Funding Approvals and Documentation.

- (a) Funding approvals will be issued by the ACIDA Executive Director upon approval by the ACIDA Board of Directors. Approvals will be confirmed in a commitment letter to the Business to be prepared by the Contractor that will specify the amount of the funds, the use of proceeds, method of disbursement, and other conditions, including any employment

requirements.

- (b) A conditional approval may be made for a Business that is not in operation at the time of funding approval, but that has demonstrated to the satisfaction of the ACIDA that it intends to resume operations within 90 days of the conditional grant approval date. In such instances, the ACIDA will issue a commitment letter that details the conditions that must be met prior to the execution of a loan agreement and any disbursement of Program funds.
 - (c) A grant agreement to be prepared by the Contractor will include a description of the grant terms, eligible uses of the funds including the latest date that costs may be incurred, appropriate representations and warranties, the conditions of granting, affirmative and negative covenants including compliance with applicable federal laws and regulations, requirements regarding employment creation and reporting if applicable, default provisions, and any other appropriate provisions. Execution of the grant agreement will be by the ACIDA Executive Director and the Business.
 - (d) Businesses that have submitted complete applications that have been declined for Program funding will be promptly notified in writing of the declination and the reason(s) for the declination.
13. Grant Disbursements. The disbursement of grant proceeds will be the responsibility of the ACIDA Executive Director under the following general guidelines:
- (a) Subject to the grantee's compliance with the terms and conditions of the grant agreement (including provisions relating to job creation or other compliance with CDBG national objectives) and all documents evidencing and securing the grant, the ACIDA may disburse grant proceeds upon the grantee's presentation of paid invoices, receipts, or such other documentation satisfactory to the ACIDA that represent paid or accrued expenses of the grantee and that are eligible Program costs as determined by the ACIDA.
 - (b) For businesses that are not low- and moderate-income owned microenterprises, a disbursement of grant funds of up to \$25,000 may be made for each FTE position created or restored and appropriately documented as being available to, or taken by, low- or moderate-income persons, up to a maximum grant of \$75,000. Such disbursement will also be subject to the grantee's submission of appropriate cost documentation for the amount being disbursed.

- (c) For microenterprises that have low- and moderate-income ownership as defined by HUD, a disbursement of grant funds of up to \$25,000 may be made upon grantee's submission of appropriate cost documentation for the amount being disbursed.

14. Program Management.

- (a) The ACIDA will direct the Contractor to monitor the Business's compliance with the terms and conditions of the grant agreement. This monitoring shall include file review, cost documentation and employment review, and site visits as needed to verify project information. Such responsibility shall include taking appropriate actions in the event of non-compliance, including requiring repayment of the grant amount.
- (b) As part of the review process, the Contractor will compile all Business information and statistics required to be reported to HUD regarding the use of CDBG funds and will provide such information to the ACIDA.

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Exhibit A

Form of Application