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Introduction

This handbook is intended to assist Pennsylvania Units of Local Government (ULGs) managing small business funding programs within their communities with Community Development Block Grant (CDBG) dollars. CDBG is administered through the Commonwealth of Pennsylvania’s Department of Community and Economic Development (DCED), a State CDBG Grantee under the U.S. Department of Housing and Urban Development (HUD). CDBG funding is authorized by the Housing and Community Development Act of 1974, as amended (HCDA), codified at 42 U.S.C. §5301, within Part 570 - Community Development Block Grants.

This manual describes information to help Pennsylvania ULGs set up and administer direct small business and microenterprise CDBG funding programs under matrix codes 18-A and 18-C. Other economic development activities, such as façade improvements, job training, stand-alone technical assistance, and economic development infrastructure activities are not covered.

The following information may be used as a guide to these regulations but is not intended to be a comprehensive list of all federal and Pennsylvania state regulations that govern these funds nor a guarantee of a project’s legality.

For all DCED Guidelines or Questions on ULG Use of CDBG

DCED’s CDBG Program Guidelines and CDBG CARES Act (CDBG-CV) Program Guidelines

Or contact DCED at: (717) 787-5327 https://dced.pa.gov

2020 CARES Act HUD CDBG-CV Funding (“CDBG-CV”)

Pennsylvania ULGs with allocations of funds authorized by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act in 2020 (“CDBG-CV”) must use the funds to prevent, prepare for, and respond to coronavirus. These actions include some types of for-profit business assistance and follow all normal CDBG regulations except where noted.
I - Eligible Projects

The CDBG program funds a wide range of community and economic development activities that are primarily used to benefit low- and moderate-income (LMI) residents. To assist the local economy and create or retain jobs for LMI residents, Pennsylvania ULGs can establish a small business funding assistance program that provides CDBG dollars (up to $50,000) to local businesses. These programs can be created with locally-set rules and regulations provided the funds comply with federal funding requirements and are set up under CDBG matrix codes 18-A Special Economic Development Activities and 18-C Microenterprise Assistance.

Eligible projects under these programs follow multiple commonwealth and federal regulations that vary based on the business size, the number of employees, project objective, business location, and other factors. Section 105(a); 24 CFR § 570.203;

For a full list of DCED activity eligibility and documentation requirements, see:
Community Development Block Grant (CDBG) Application Kit Forms and Instructions
For CDBG-CV, see Appendix B – CDBG-CV Economic Development – Business Assistance Activity Guidance

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<tr>
<th>18A</th>
<th>Economic Development Direct Financial Assistance to For-Profit Business</th>
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<tr>
<td></td>
<td>24 CFR 570.203(b) or 42 USC 5305(a)(17)</td>
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<tr>
<td></td>
<td>Financial assistance to private for-profit businesses to (for example) acquire property, clear structures, build, expand or rehabilitate a building, purchase equipment, or provide operating capital. Forms of assistance include loans, loan guarantees, and grants.</td>
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<tr>
<td></td>
<td>With one exception, a separate 18A activity must be set up for each business assisted. If an activity is carried out under 24 CFR 570.208(a)(4)(vi) or 24 CFR 570.483(b)(4)(vi), job aggregation is allowed, and all businesses assisted during a program year may be combined in one activity.</td>
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<th>18C</th>
<th>Economic Development: Microenterprise Assistance</th>
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<tr>
<td></td>
<td>24 CFR 570.201(a) or 42 USC 5305(a)(22) + 24 CFR 570.482(c)</td>
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<tr>
<td></td>
<td>Financial assistance, technical assistance, or general support services to owners and developers of microenterprises. A microenterprise is a business with five or fewer employees, including the owner(s). The activity must be designed to exclusively serve microenterprises.</td>
</tr>
<tr>
<td></td>
<td>With one exception, a separate activity must be set up for each microenterprise assisted. If an activity is carried out under 24 CFR 570.208(a)(4)(vi) or 24 CFR 570.483(b)(4)(vi), job aggregation is allowed, and all assisted businesses may be combined in one activity.</td>
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Other CDBG-eligible economic development activities that can be carried out not as part of a small business assistance program include:

- Rehabilitation: Publicly or Privately Owned Commercial/Industrial (14E)
- Commercial/Industrial: Acquisition/Disposition (17A)
- Commercial/Industrial: Infrastructure Development (17B)
- Commercial/Industrial: Building Acquisition, Construction, Rehabilitation (17C)
- Other Commercial/Industrial Improvements (IDIS matrix code 17D)
- Economic Development: Technical Assistance (18B)
- Public Services: Employment Training (general) (05H)

**Recipients**

For-profit business recipients of CDBG funds can fall into one of two categories: **Microenterprises** or **Small Businesses**. For-profit businesses that do not meet the definition of a small business may still qualify for economic development assistance however they must contact their local municipality to determine if the assistance is permitted under local CDBG program design.

**Small Businesses**

Under Pennsylvania DCED CDBG rules, a “small business” is any for-profit business with less than $1 million in annual revenue with 100 or fewer employees.

Businesses may be any structure (sole proprietorships, general or limited partnerships, limited liability companies, or corporations) so long as they are legally recognized as a business by the Commonwealth of Pennsylvania. **24 CFR § 570.482**

![Small Business](image)

**Small Business**

Less than $1 million annual revenue
100 or fewer employees

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<tr>
<td>Eligible businesses must have been in business for at least one year.</td>
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**Microenterprises**

Microenterprises can encompass a wide range of service providers and retail businesses such as home-based daycare providers, neighborhood brick-and-mortar retail stores, small financial or legal services offices, salons, or independent businesses in the skilled trades.

Under the CDBG program, a “microenterprise” is defined as any commercial enterprise with five or fewer employees, one or more of whom owns the enterprise. Section 105(a)(22) (a) of the HCDA outlines eligible microenterprise assistance under the CDBG program.
A microenterprise may be either an existing microenterprise or a person developing a microenterprise (meaning persons who express interest in and who are expected to be actively working towards starting a microenterprise). 42 USC 5305(a)(22); 24 CFR 570.482(c)

See Appendix I-1: MICROENTERPRISE PROGRAM BEST PRACTICES for more information on establishing a microenterprise program.

Microenterprise
Five or fewer employees (including owner)

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<td>Eligible microenterprises must have been in business for at least one year.</td>
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**National Objectives**

While a small business funding program may have multiple goals and benefits, all CDBG-funded projects must meet a CDBG “National Objective” to be eligible for funding.

CDBG was created to promote community and economic development through activities and programs that provide decent housing, promote a suitable living environment, and expand economic opportunities. A central component of the program is the requirement that each CDBG-funded activity primarily benefits LMI persons, who are defined as individuals and families whose incomes are no more than 80 percent of the area’s median income. Each ULG must ensure that at least 70 percent of CDBG expenditures from each annual allocation is used for activities that serve LMI persons. In Pennsylvania, this is referred to as the “Principal Benefit Test”.

See Instructions for Completion of Activity Description: B. Specific Instructions for National Objectives in the DCED CDBG Program Guidelines for more information. 24 CFR § 570.483

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<td>CDBG-CV requires that 70 percent of the grant benefit LMI persons within the life of the grant. This calculation will not be combined with annual CDBG allocation principal benefit calculations.</td>
</tr>
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To ensure that CDBG-funded activities promote the goals of the program, each activity must meet one of three additional national objectives:

- Benefiting Low-and Moderate-Income Persons
- Preventing or Eliminating Slums or Blight
- Meeting Urgent Needs
Each of the three national objectives includes unique criteria for eligible activities and programs. Small business loan programs should target CDBG benefit to LMI persons to ensure that the ULG can assist at least 70 percent LMI persons overall.

For a small business assistance program, the national objective of the selected activity may be low- to moderate-income area benefit, limited clientele, jobs, slum/blight area basis, or urgent need. 

*24 CFR § 570.484*

Eligible National Objectives for Special Economic Development Assistance or Microenterprise Assistance Activities

Under CDBG Regulations, direct financial assistance to a for-profit business under eligible activity *Direct Financial Assistance to For-Profits* (IDIS matrix code 18A) or *Micro-Enterprise Assistance* (IDIS matrix code 18C) is not allowed for LMI Housing activities and Slum/Blight on a spot basis.

Other economic development activities may be carried out that meet different national objectives (including Slum/Blight spot basis) for activities such as façade improvements carried out as eligible activity *Rehabilitation: Publicly or Privately Owned Commercial/Industrial* (IDIS matrix code 14E).

<table>
<thead>
<tr>
<th>Eligible National Objectives</th>
<th>National Objective</th>
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<tr>
<td><strong>CDBG Direct Financial Assistance &amp; Microenterprise</strong></td>
<td><strong>Low- to Moderate-Income</strong></td>
</tr>
<tr>
<td>CDBG Matrix Code</td>
<td>Activity</td>
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<tr>
<td><strong>18A</strong></td>
<td><em>ED Direct Financial Assistance to For-Profits</em></td>
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<td><strong>18C</strong></td>
<td><em>Micro-Enterprise Assistance</em></td>
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</table>
Benefit Low- and Moderate-Income Persons

CDBG program principally targets funds towards activities and programs that serve lower-income residents of a community, meeting the “Benefiting Low- and Moderate-Income Persons” national objective. The CDBG program uses data published annually by HUD that calculates the median income of a specified area for 80%, 50%, and 30% of median income by family size.

Three subcategories benefit LMI persons:

1. **Area Benefit** – Activities that benefit all residents in a given service area with a high number of LMI persons. Examples include a grocery store, a general car-repair shop, or a for-profit (private) health clinic that treats a high number of LMI patients.

2. **Limited Clientele** – Activities that serve a limited clientele, or in other words, activities that intend to serve a specific group of LMI people. Examples include an inventory funding grant to a small business startup with two LMI owners or loaning a self-employed LMI person funds for a piece of equipment that will help improve sales. Most CDBG business funding activities for businesses with 5 or fewer employees (microenterprises) will be in this category.

3. **Jobs** – Activities that involve the addition or retention jobs held (or considered available to) LMI persons. Examples include a loan to a 60-person machine shop for working capital to expand operations and create three new positions, or a loan to a grocery store that will otherwise need to shut down. Most CDBG business funding activities for businesses with over 5 people will be in this category.

**Area Benefit (LMA)**

The Area Benefit subcategory includes activities that benefit all residents of a primarily residential area.

To qualify under this subcategory, activities must meet the identified needs of low- and moderate-income persons who live in an area where at least 51 percent of the residents are low-and moderate-income persons. The benefits of these activities, however, are available to all residents in the area regardless of income.

“Benefit” is considered a business providing essential goods or services to an area. A grocery store with standard prices would benefit an LMI community, while a high-end clothing boutique or jewelry store would not. Each eligible activity will need to be considered on a case-by-case basis.

Note: The distinction between the income level of residents in an area and the income level of recipients who will benefit from the activity is important. For example, if a small business is located in an area that meets the 51 percent threshold of LMI residents, funding for this small business may not qualify if the activity serves primarily wealthy (non-LMI) residents. A business cut off from a primarily LMI residential neighborhood by a highway may also be ineligible for CDBG funding.

The activity service area of the business does not need to align with census tracts, block groups, or other officially recognized boundaries. The service area must, however, encompass the entire contiguous area that will be served by the activity. For example, even though a predominantly LMI neighborhood may be one of several neighborhoods served by an activity, the percentage of LMI persons in the total area served by the activity is considered for this purpose.
Only one method of calculating the LMI percentage of a service area (census data or survey) is allowed for each activity. The methods cannot be combined. 24 CFR § 570.483(b)(1); 24 CFR § 570.483(f)(6)

For more on Area Benefit activities, see DCED CDBG Program Guidelines Appendix C – Service Areas and Survey Methodology for Area Benefit Activities.

**Limited Clientele/Microenterprise (LMC)**

The Limited Clientele subcategory includes activities that are intended to benefit a specific group of people rather than everyone in a defined service area. Many public services activities that serve LMI individuals are funded by CDBG qualify under “limited clientele”.

For a small business funding program, the “limited clientele” category is primarily used for funding very small businesses with 5 or fewer employees (including the owner). These businesses are known as “microenterprises” within CDBG regulations and will be discussed in greater detail in subsequent sections of this manual.

For microenterprises, the ULG will certify that the business owner(s) family income is no more than the low-to moderate-income limit for the county or metropolitan statistical area (MSA). Under the microenterprise CDBG regulations, once a microenterprise owner is determined to be L/M income, he/she may be presumed to continue to qualify as such for up to a three-year period. This would enable the provision of general support services to such a person during those three years without having to check to determine whether the person’s income has increased.
In a microenterprise assistance program, the funding activity can qualify under a different national objective (rather than LMC) if the owner of the microenterprise is not low- or moderate-income.

Appendix I-2: CDBG(CV) INCOME CERTIFICATION FORM

**Microenterprise Only**

*Note: Only microenterprise activities may use low- and moderate-income limited clientele (LMC)*

If the microenterprise owner(s) are not low- and moderate-income, the activity must meet the criteria of other national objectives such as Area Benefit or L/M Income Jobs (even if the business has 5 or fewer employees including the owner).

Low- and Moderate-Income Jobs (LMJ)
Under the CDBG program, this national objective category is for the creation and retention of full-time, permanent jobs. At least 51 percent of these jobs must be held by or “made available to” LMI workers.

It is important to note that when calculating a worker’s LMI status, the worker’s entire family income is considered in this calculation at the time CDBG is obligated. For job creation, this is the total family income of a worker before the job is created. The annual salary or hourly wage of the created position is not considered.

Jobs must be documented at both the time of CDBG assistance at the beginning of the activity and at the end of the activity to show job creation or retention.

Appendix I-3: CDBG(CV) JOB CREATION/RETENTION REPORT

**Full-Time Equivalent (FTE) Jobs Definition**
Under the LMJ national objective, permanent jobs must be held on a full-time equivalent (FTE) basis and must be either “held by” or “considered to be available to” at least 51 percent LMI workers.

24 CFR § 570.483(b)(4)

The following guidelines outline the criteria used to determine whether a job can be included when calculating the number of FTE jobs created or retained in a LMJ activity:

- To be included in the calculation, part-time jobs must be converted to full-time equivalents (FTE), defined by DCED as **40 hours per week**. For example, a job that will require working only 20 hours per week would count as only half a FTE job.
- Only permanent jobs can be included in the calculation; temporary jobs may not be included.
- Seasonal jobs are considered permanent only if the season is long enough for the job to be considered as the employee’s principal occupation.
• All permanent jobs created or retained by the activity must be counted even if the activity has multiple sources of funds.
• Jobs indirectly created or retained by an assisted activity (i.e., “spin-off” jobs) may not be counted (for example, jobs created by an unrelated company that supplies parts to the manufacturing firm being assisted).

Appendix I-2: CDBG(CV) INCOME CERTIFICATION FORM

Businesses must document at least one Full-Time Equivalent (FTE) job created or retained a. FTE based on a 40-hour workweek. Can be achieved with one person working 40 hours a week, two persons working part-time 20 hours a week, four persons working 10 hours a week, etc. A maximum of four persons may be combined for one FTE.

CDBG-CV

Grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for, and respond to coronavirus.

The recipient may substitute records showing the type of job and the annual wages or salary of the job in place of maintaining records showing the person’s family size and income to demonstrate that the person who filled or held/retained the job was a low- and moderate-income person.

HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family.

Jobs “Held by” vs. “Available to”

A central component of LMI Jobs activities is that they are held by or considered available to LMI persons. A job is considered “held by” a LMI person if the individual is, at the time their employment begins, a member of a family whose income is at or below the CDBG LMI income limits.

In comparison, a job that is not held by a LMI individual is “available to” a LMI person only if two conditions are met first:

1. The job does not require special skills that can only be acquired with substantial (i.e., one year or more) training or work experience, and education beyond high school is not a prerequisite to fill the job unless the business agrees to hire unqualified persons and train them; AND
2. The ULG and/or the assisted business take actions to ensure that low- and moderate-income persons receive “first consideration” for filling such jobs.

“First consideration” for low- and moderate-income persons means the following:

a. The business uses a hiring practice that results in over 51 percent of low- and moderate-income persons interviewed for an applicable job being hired,

b. The business seriously considers enough low- and moderate-income job applicants to give reasonable opportunity to fill the position with such a person, AND
c. The distance from residence and availability of transportation to the job site must be reasonable before a given low- or moderate-income person may be considered a serious applicant for the job.

Businesses must distribute employment notices in a way that will reasonably be accessible to LMI persons such as Pennsylvania Careerlink, local newspapers, or newsletters in an LMI neighborhood, job centers, public housing authorities, and any other local method that is often used to notify persons of job availability.

Retained Low- and Moderate-Income Jobs
For a LMJ activity to be considered retained under the CDBG program, there must be clear and objective evidence that permanent jobs would be lost if not for the CDBG assistance. For these purposes, “clear and objective” evidence includes:

- Evidence that the business has issued a notice to affected employees or made a public announcement to that effect, OR
- Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention.

Examples of clear and objective evidence to demonstrate that jobs would be lost if not for CDBG assistance:

- Company’s notice to workers of layoffs unless funding comes through
- Public announcement of a plant closing
- Financial records indicating cutbacks or plant closing without financial assistance.

Retained jobs must follow the LMJ regulation which requires that at least 51 percent of the retained jobs are either held by LMI persons at the time the CDBG assistance is provided or, if not held by a LMI individual, are reasonably expected to “turn over” to a LMI person within two years. This would involve the grant recipient or business taking actions to ensure that such a job, upon turnover, will be either taken by or made available to a LMI person in a manner similar to that of a newly created job.

Presumed Low- and Moderate-Income Status
When determining whether a job is held by or made available to a low- and moderate-income person, ULGs and businesses may presume LMI status if the individual lives or works in a census tract (or block group) with high poverty and distress.

To presume LMI status of a worker, the job holder must reside in either

a) A census tract or with at least 20% poverty* and in “general distress” ** (and is not in a Central Business District***); OR

b) A census tract with at least 30% poverty, is in a Central Business District, and in “general distress”; OR

c) A census tract/block group with at least 70% LMI residents.
A worker can also be presumed LMI if the **business and job** is located in either

a) A census tract with at least 20% poverty and in “general distress” (and is not in a Central Business District***); OR

b) A census tract with at least 30% poverty, is in a Central Business District, and in “general distress”

* The **poverty rate** as determined by the most recently available decennial census information.

** “Central Business District” as defined by the Census of Retail Trade

*** “General distress” is evidence of pervasive poverty. An area qualifies as in “general distress” if it meets at least one of the following standards:

i. All block groups in the census tract have a poverty rate of at least 20%; OR

ii. The specific CDBG activity is located in a block group with a poverty rate of at least 20%; OR

iii. HUD determines that the census tract or block group exhibits other objective signs of general distress such as a high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline. This determination will only be provided upon written request to HUD by the grant recipient.

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**CDBG-CV**

CV funding eliminates the 30% poverty rate requirement for tracts that contain central business districts. These districts require a 20% poverty rate or higher.

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**Low- and Moderate-Income Jobs by Activity**

When demonstrating that 51 percent or more of created or retained jobs are held by or made available to LMI persons, jobs from each business receiving CDBG small business loan funds are considered separately. Even if the ULG considers the CDBG-funded activity to be the small business assistance program, HUD considers assistance to each business as a separate activity. For this reason, each business assisted must meet a LMI national objective.

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**Slum/Blight**

**Area Basis**

To qualify under Slum/Blight (Area Basis), the designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law.

Additionally, the area must meet either one of the two conditions specified below:

1. Public improvements throughout the area are in a general state of deterioration; OR
2. At least 25% of the properties throughout the area exhibit one or more of the following:
(a) Physical deterioration of buildings/improvements;
(b) Abandonment of properties;
(c) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
(d) Significant declines in property values or abnormally low property values relative to other areas in the community; or
(e) Known or suspected environmental contamination.

The financial assistance to the business must address the conditions that contributed to the slum and blight.

**Spot Basis**
The national objective of Slum/Blight on a Spot Basis may not be used for a direct for-profit small business assistance program.

Other economic development activities to benefit businesses, such as public infrastructure or façade improvements, may be eligible on this basis.

**Urgent Need**
The assistance to a commercial or industrial business is designed to alleviate existing conditions and the grantee certifies that such conditions pose a serious and immediate threat to the health or welfare of the community, they are of recent origin or recently became urgent, the grantee is unable to finance the activity on its own, and other sources of funds are not available.

An activity must be designed to alleviate existing conditions in which the grantee certifies that all four of the following criteria are true. The existing conditions:

1. Pose a serious and immediate threat to the health or welfare of the community.
2. Are of recent origin or recently became urgent. A condition will generally be of recent origin if it is developed or became critical within 18 months preceding the grantee’s certification.
3. The grantee is unable to finance the activity on its own.
4. Other resources of funding are not available to carry out the activity.

**CDBG-CV**
Activities using CDBG-CV can be considered “Urgent Need”. A ULG, with approval from DCED, may certify that the activity to prevent, prepare for, and respond to coronavirus qualifies under the “Urgent Need” national objective.
II - Public Benefit Standards
HUD established mandatory guidelines (standards) for “public benefit” to ensure that the amount of public benefit will be commensurate with the amount of CDBG funds used for Special Economic Development small business financing projects.

Microenterprise
When assisted under a separate microenterprise business funding program, the public benefit standard does not apply. Please note that while microenterprises do not require meeting a regulatory public benefit standard, the UGL must still do a test for reasonable and necessary expenses during underwriting and the project must still meet all other HUD national objectives.

Microenterprise Exemption
No public benefit standard applies to microenterprise businesses assisted.

Small Business
ULGs must ensure that a minimum level of public benefit is obtained when assisting small businesses (under the DCED definition) with CDBG funds.

Any small business funding project must either:

1. Create or retain at least one FTE, permanent job per (up to) $35,000 of CDBG funds used; or
2. Provide essential goods and services to an area where the number of LMI persons served by the assisted business amounts to at least one LMI person per $350 of CDBG funds used.

For CDBG funding of less than $35,000, businesses will be required to meet the standard of one FTE, permanent job created/retained. Assistance of $35,000–$70,000 to a business “rounds up” to the requirement of two jobs created/retained.

Note: Regulations for special economic assistance activities under 24 CFR § 570.482(f) list these criteria under the “aggregate standard” for public benefit. Under DCED rules, each individual activity must meet this standard, allowing all activities to also meet the CDBG aggregate standard.

Small Business Public Benefit Standard
Small businesses must follow public benefit standard
Note that the public benefit standard is not tied to the national objective (Area Benefit, L/M Jobs, Limited Clientele, Slum/Blight, or Urgent Need). The activity must achieve one of the Public Benefit Standards. A small business could be assisted with CDBG under the Area Benefit national objective and meet the Public Benefit Standards by creating one full-time job per $35,000 of funding. \textit{24 CFR 570.482}

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\textbf{CDBG-CV} \\
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For activities subject to the public benefit standards, grantees must document that:

a) The activity will create or retain at least one full-time equivalent, permanent job per $85,000 of CDBG funds used

or

b) The activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per $1,700 of CDBG funds used

or

c) The assistance was provided due to business disruption related to coronavirus (in which case, \textbf{no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses} in the grantee’s jurisdiction that suffer disruption due to coronavirus, and that facilitation of business assistance for this purpose may help to avoid complete economic collapse within the grantee’s jurisdiction).
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III - Small Business Assistance Program

Program Design

Is your jurisdiction trying to create jobs, service businesses, or generate more income in a specific area? Is there a specific neighborhood commercial district that needs revitalization? With the input from the public, local community business groups, workforce development boards, and local government councils or committees, the program goals must be clear before designing program policies and procedures, soliciting applications, and distributing funds.

Determine if small business assistance program should have one program that funds both small and microenterprise businesses or two programs one that assists small businesses and one that funds microenterprises. Assess the advantages to having two programs. Some regulatory requirements, such as public benefit standards, do not apply when assisting microenterprises. 105(a)(14); 105(a)(17)

There also needs to be administrative and financial management infrastructure, applications and program forms, and complete program design. The following program components should be considered when designing a small business assistance program:

1. Identify and research the target market, in terms of geography, demographics, and industry.
   • What is the geographic area you want to serve?
   • What kinds of industries/businesses are needed to improve in the community?

2. Determine local technical and/or credit needs.
   • Conduct interviews with conventional lenders, focus groups with microbusiness hopefuls, and community leaders.
   • What are the most common reasons why certain segments have difficulty accessing credit?

3. Establish a financing program.
   • Decide on the appropriate financing mechanism. Will your program offer grants, forgivable loans, or grants? Will you offer a combination of these lending mechanisms or restrict financial assistance to one type?
   • Identify the approval and denial procedure for business funding applications. Who will review applications, approve them, and in what timeframe?
   • If loans, identify any loan processing fees, interest rates, and required level of equity to be injected with loans.

4. Identify the underwriting criteria.

5. Develop/adopt administrative procedures for administering the loans.

6. Decide if the program will offer support services and technical assistance.
   • Small business development centers (SBDCs), community colleges, and others may already offer supporting services.
7. Research marketing the program and application procedures.

8. Monitor and evaluate the program.

Appendix III-1: SAMPLE ECONOMIC DEVELOPMENT REVOLVING FUND GUIDELINES provides sample policy structure.

For a small business or microenterprise assistance program, up to $50,000 of CDBG financial assistance is limited to for-profit businesses:

1) Have annual sales revenue of not more than $1.0 million

2) Employ 100 or fewer workers.

No further restrictions have been established by DCED, though a community may elect to develop additional eligibility criteria such as the nature of the ownership of the business, the number of full-time equivalent employees on staff at the time the business applies for funding, or the type of the business requesting financial assistance (e.g., retail, personal or professional services, manufacturing, warehousing and distribution, agri-business, etc.).

CDBG-CV

| Small businesses and microenterprises must have been in business at least a year. |

To take advantage of the special advantages available under the Microenterprise Assistance category, the grantee needs to establish an activity for providing such assistance separate from all other business assistance it may elect to provide. This is necessary to avoid the confusion that would result from mixing assistance under two categories having differing requirements. Therefore, grantees should consider revamping their CDBG economic development programs to separate microenterprise assistance from all other forms.
Eligible Use of Funds

CDBG funds directly assisting for-profit businesses may fund:

- Machinery, furniture, fixtures, and equipment used for business purposes
- Working capital
  - Payroll
  - Rent/mortgage
  - Utilities such as oil, gas, electric, water/sewer, internet, phone
  - Supplies needed for day-to-day operations up to 90 days
  - Insurance, accounting, legal services
  - Advertising
- Inventory

**CDBG-CV**

All use of CDBG-CV funds for business assistance must be used to “prevent, prepare for, and respond to the coronavirus.”

A community may elect to narrow – not expand - the types of activities it will fund.

The use of funds must be detailed in a CDBG agreement between the ULG and business.

Substitutions/other expenses may not be permitted under CDBG regulations or the project Environmental Review and should only be allowed with a contract amendment.

Generally, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards require that:

- The expenditure is necessary, reasonable, and directly related to the grant.
- The expenditure has been authorized by the ULG
- The expenditure is not prohibited under Federal, Commonwealth, or local laws or regulations.
- CDBG is a reimbursement grant, meaning that businesses either spend the funds and then ask to be reimbursed by the ULG or send invoices directly to the ULG.
- A cost originally allocable to a particular federal grant program cannot be shifted to another federal grant program to overcome funding deficiencies, to avoid restrictions imposed by grant or by law, or any other reasons. In other words, if a cost is incurred under CDBG, the cost cannot be shifted to a different federal program and visa versa.

*2 CFR Part 200*
Ineligible Activities and Funding

The general rule in the State CDBG program is that any activity that is not stated in the HCDA as eligible should be considered ineligible.

Funds cannot be used for:

- Certain income payments
- Political activities
- General promotion of the community (as a whole)
- Assistance to professional sports teams
- Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele where the benefit to users clearly outweighs the benefit of jobs created or retained
- Assistance to a for-profit business owner that is the subject of unresolved findings of noncompliance related to previous CDBG assistance.
- “Sin businesses” which include:
  - Any private or commercial golf course
  - Country club
  - Massage parlor
  - Hot tub facility
  - Suntan facility
  - Racetrack or other facility used for gambling; or
  - Any store, the principal business of which is the sale of alcoholic beverages for consumption off the premises.
- Any other business type as specified by DCED
- Planning for economic development projects, including conducting market surveys to determine an appropriate type of business to attempt to attract to a particular area, developing individual commercial or industrial project plans, and identifying actions to implement those plans.

Financing Structure

There are no specific restrictions on the level of financial assistance that may be provided to an individual business, communities must establish a maximum and minimum loan or grant amount when designing their economic development program.

Identifying funding parameters allows communities to make the most of limited resources while recognizing the time and cost of administering their program. Alternatively, communities may make awards based on the number of new jobs to be created or jobs to be retained or decide to finance a portion of the overall project costs rather than the project in its entirety.

Financial assistance may be provided, at the discretion of the local government, in the form of a loan, a forgivable loan, or a grant.

A forgivable loan is a loan that, if all specified conditions are met (such as CDBG regulations), is forgiven at the end of the loan period. Should the business not meet required conditions, the loan is due and payable to the ULG.
## Financing Structure Considerations

<table>
<thead>
<tr>
<th>Definition</th>
<th>Grant</th>
<th>Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash infusions to a business that does not require repayment (unless funds used for ineligible activity)</td>
<td>The provision of a loan to a business or project; a specified timeframe (term) and/or conditions for repayment</td>
<td></td>
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<table>
<thead>
<tr>
<th>Pros</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Easier to administer than a loan</td>
<td>Repayment means the business is fully committed to the project</td>
<td></td>
</tr>
<tr>
<td>May be the only way to make a project financially viable</td>
<td>After repayment, funds can be re-loaned to assist other businesses</td>
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<table>
<thead>
<tr>
<th>Cons</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Funds are not replenished</td>
<td>Requires risk management (expectations of repayments)</td>
<td></td>
</tr>
<tr>
<td>May lead to a lack of commitment by the business since it is not liable for repayment</td>
<td>More administration and paperwork/documentation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Time-consuming from initial loan review to final loan repayment</td>
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<tr>
<td></td>
<td>For some businesses, a loan will not be financially viable</td>
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</tbody>
</table>
Administration vs Project Delivery

Administration Costs
Annual CDBG funds can be used for administration and planning activities. Examples of administration activities include:

- General management, oversight, and coordination
- Providing local officials and citizens with information about the CDBG program
- Preparing budgets and schedules
- Preparing reports and other HUD-required documents
- Monitoring program activities

For information on program income and administrative costs see the DCED Program Income Directive.

Project Delivery Costs
The costs of carrying out an activity by ULGs include not only goods and services provided by third parties, such as construction contractors, but also include the costs incurred by the ULG or subrecipient in connection with the use of its staff and other resources to carry out the activity.

For example, if the ULG employees underwrite economic development loans that are to be made with CDBG funds, the portion of their salaries spent on this function can be treated as costs of carrying out the activity. This is important because these costs are not subject to the limitation on the use of CDBG funds to pay planning and administrative costs.

See CPD Notice 13-07 for more information on allocating staff costs between administration and activity delivery.
**Underwriting**

All business activity involves more than the average amount of risk and the desired results (and accomplishments) may not occur. Underwriting is the evaluation of a potential project/financial assistance to determine the level of risk of failure, decide if the risk is reasonable and if the potential benefits outweigh the potential risks. Funding small businesses requires a ULG to effectively become a financial partner with the assisted business. If the CDBG-funded project fails and the required jobs or other are not created/retained by the small business, or other financing requirements are not met, there is the risk of a loss of public funds.

Funds may not be provided to a for-profit entity unless such activity or project has been evaluated under Appendix A to 24 CFR 570 Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.

**Third Party Organizations**

ULGs are responsible for underwriting each business application. If the ULG has the capacity to conduct this review internally it may do so. If not, the ULG should seek a third-party organization to assist with the determination.

Examples of third-party organizations include:

- Certified Economic Development Organizations [https://dced.pa.gov/CEDO](https://dced.pa.gov/CEDO)
- Local Development Districts [Information on Local Development Districts](#)
- Local Financial Institutions
- Certified Public Accountants
- Small Business Development Centers [Locations of SBDCs](#)

Businesses may focus heavily on their interests and it should not be surprising if they show little interest in the fulfillment of the community’s goals and objectives or CDBG program requirements. Grantees must therefore maintain proper documentation in the activity files and offer technical assistance to avoid program noncompliance. Ultimately, grantees should take care to protect the community’s interests.

HUD’s underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or small business, to take into account the differences in the capacity among businesses of differing sizes. ULGs are encouraged to also take these factors into account when they develop their programs and underwriting criteria.

Developing underwriting procedures are not only a mandatory federal requirement; the procedures also help the ULG mitigate risk and evaluate the amount of CDBG funding against the anticipated rewards so that the community can use its scarce public funds wisely. ULGs should be prepared to take on more risk than conventional lenders, but that additional risk should be reasonable and related to the public purpose and LMI principal benefit of the CDBG funds.

*Appendix III-2: DCED UNDERWRITING CHECKLIST FOR ECONOMIC DEVELOPMENT* provides a basic structure for the underwriting process.
Underwriting procedure is a part of the program’s upfront policy and procedure development. A ULG must decide:

- Who will be responsible for underwriting?
- What types of borrowers will be eligible?
  - Does the business headquarters or office need to be within the municipality?
  - What ownership structure will be required?
  - Will businesses without a physical local address (i.e. home-based or online-only) qualify?
- What uses of funds will be eligible?
- How will the ability to repay be analyzed (cash flow ratios)?
- What kind of collateral will be required?
- How will credit history be assessed? Note: Personal credit scores can be a barrier to LMI business owners.

Note: The same underwriting review, owner applications, and other documents must be completed and present in EVERY business’ file that has applied for assistance. The ULG’s records must also include the submitted and reviewed applicant files for the small business owners or applicants that were denied funding.

Although the suggested specific financial guidelines and objectives are voluntary, HUD expects some form of basic financial underwriting before the provision of CDBG financial assistance to a for-profit business.

24 CFR § 570.209; Guidance 24 CFR Part 570 Appendix A

HUD has six objectives for economic development writing that ULGs should consider when creating underwriting procedures. Though not mandatory under federal regulations, the objectives are required under DCED rules. The objectives are:

1. That project costs are reasonable. Costs are consistent with third-party, fair-market prices for that cost element.
2. That all sources of project financing are committed. The applicant must verify that all sources (in particular, private debt and equity financing) have been firmly committed and are available to be invested in the project at the time CDBG funds are awarded.
3. CDBG funds are not substituted for non-Federal financial support to the extent practicable.
4. The project is financially feasible
5. The return of the owner’s equity investment will not be unreasonably high
6. CDBG funds are disbursed on a pro-rata basis with other finances provided to the project

CDBG-CV

CDBG-CV requires a review of Duplication of Benefits.

Like with annual allocations of CDBG, ULGs will be responsible for underwriting financial business assistance projects using CDBG-CV. This requirement has not changed with CDBG-CV regulations.
Applications
In addition to an application process that is fair, transparent, and reasonable, the program’s application materials need to gather the data required to help the approving body award funds to businesses that are eligible to accept the funds and carry out projects that will both comply with CDBG regulations and further the local goals of the program.

ULGs may create business application forms that fit their local program design. Like underwriting, the amount of information and details should be commensurate with the level of assistance provided.

The following information should be captured in any program application created by the ULG:

1. A detailed description of the project and a brief description of the company (e.g., type of firm and its product or service) as well as the number of employees within the company and approximate annual revenue.
2. The amount of funding requested and how the CDBG funds will be used (e.g., adding machinery or working capital to accommodate new sales). Narrative can also describe the circumstances that make this project necessary or beneficial.
3. Reasons why CDBG funding is needed for the project to move forward instead of other funding sources and if the project will include multiple funding sources. For projects involving multiple funding sources, the details of other financing that will be expended as part of the project and inclusion of additional funding commitment letters.
4. For other funding sources, a firm commitment of funding. A firm commitment from a financial institution must include language which indicates that the loan has been approved subject to CDBG approval and that the institution will lend subject to certain conditions; the specific dollar amount of the loan; the specific term of the loan; the interest rate of the loan; and specific collateral or security. The lender's letter should also discuss the reasons why the lender cannot or will not provide additional funds for the project.
5. A description of the project’s financial feasibility and the company's ability to bring the project to fruition. For larger projects, this will also include documentation of financial feasibility as described in Underwriting.

The application form developed to help make informed award decisions will vary. It should provide the information needed to determine if an applicant is eligible to receive CDBG funds, to clearly understand how the funds will be used, and to gauge the ability of the applicant to carry out the proposed project in a manner that complies with federal regulations while advancing the goals of your local program. For example, a small grant awarded for the purchase of personal protection equipment for employees will require less information than that required to evaluate a larger loan request for the purchase of equipment which will allow the business to create new jobs while retaining existing jobs.

While the amount of information and the details requested in your application should be commensurate with the level of assistance provided, much of the following information should be captured, regardless of the type of assistance provided or the scope of the project. Applications should also include any other information needed to make an informed decision under the program policies.
The following information needs to be collected from applicants for small business and microenterprise programs:

Appendix III-3: SAMPLE CDBG(CV) SMALL BUSINESS ASSISTANCE PROGRAM APPLICATION

Business Name and Address
- Legal Name
- Trade Name (DBA)
- Mailing Address
- Street Address of business benefitting from assistance
- Phone Number
- Website Address (optional)

Business Contact
- Name
- Title
- Mailing Address
- Email Address
- Phone Number

Business Structure
- Sole Proprietorship
- Partnership
- Limited Liability Corporation (LLC)
- Corporation
- Other

Microenterprise Eligibility (microenterprise program only)
- Applicant has five or fewer employees, one or more of whom owns the business
- Applicant is actively working toward the development of a microenterprise
- Not a microenterprise

Federal EIN Number

Pennsylvania Certificate of Subsistence (Good Standing) Entity Number (optional)

DUNS Number

Annual Sales
- Actual from prior year
- Projected based on current sales activity

Current Number of Employees
- Full time
- Part-time
CDBG REQUEST

Project Narrative
Narrative describing the circumstances that make the project necessary or beneficial; explains why CDBG funding is needed; how the funds will be used to create and/or retain jobs; and, for applicants providing services or goods to a predominately LMI area, how area residents will benefit.

If the applicant is a microenterprise, the narrative should describe how CDBG funds will be used to create and/or sustain the business.

Form of Assistance Requested
• Loan
• Forgivable Loan
• Grant

Requested Assistance Amount ($)

Use of Funds

National Objective
• Benefit to LMI persons
  Area
  Limited Clientele (Microenterprise only)
  Jobs
• Meet a need having a particular urgency (commonly referred to as urgent need)

Economic Development Objective (small business program only)
• Job Creation
• Job Retention
• Job Creation and Retention
• Provision of goods and services to LMI area

Job Creation and/or Retention
Information should be provided for each identified Job Title
• Job Title(s)
• Number of New Positions Created
• Number of At-Risk Positions Retained
• Skills required
• Average Hours per Week
• Hourly Wage

FINANCIAL INFORMATION

Total Project Budget and Financing
• Names of Funding Sources
• Amounts of Funding by Source
• Use of Funds by Source
• Financing Status (pending or committed)
• Documentation of Funding Commitments
• Financing Terms (interest rates and repayment terms)
Business Financials

- Most recent year-end prepared financial statements which may include, but are not limited to:
  a. Debt Schedule outlining all existing debts of the operating entity
  b. Cash Flow Analysis Statement demonstrating the debt service coverage ratio for the loan request.

If a debt schedule and cash flow analysis statement are not included in financial statements, these should be analyzed and documented independently.

- Property Insurance Certificate
- Signed W-9 form for any individual or entity serving as a Borrower or Co-Borrower

Applications can also include any other information required by the ULG to make an informed decision under the program policies.

Business Registration for Federal Awards

CDBG prohibits financial awards to businesses that are listed by the federal government as “debarred, suspended or ineligible contractors or subrecipients”. To identify any business on this list, all for-profit businesses are required to have a DUNS number or Unique Entity Identifier (UEI). The identifier allows the business to register in the System for Award Management (SAM) to show eligibility for economic development loans funded with CDBG.

Anti-Pirating

Job pirating is prohibited under Section 588 of the Quality Housing and Work Responsibility Act of 1998. Job pirating refers to the use of Federal funds to lure or attract a business and its jobs from one labor market to another.

CDBG funds may not be used “to assist directly the relocation of any industrial or commercial plant, facility, or operation, from one area to another area if the relocation likely to result in a significant loss of employment in the labor market area from which the relocation occurs.”

- A loss of 25 or fewer jobs would not constitute a significant job loss.
- Job losses between 25 - 500 must be less than 0.1 percent of the area’s labor force, (i.e. the area losing jobs) to avoid being counted as significant.

42 USC 5305(h)

Appendix III-4: ANTI-PIRATING POLICY AND CERTIFICATION
Duplication of Benefits (CDBG-CV)

Annual, regular CDBG allocations to ULGs do not include regulations governing “duplication of benefits” (DOB), or duplication of funding for the same purpose from multiple sources. However, CDBG does require that grantees follow the “necessary and reasonable” cost principles in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in subpart E of 2 CFR part 200 (the Cost Principles) that also prohibit grantees from charging a cost paid by another source to CDBG.

CDBG-CV

CDBG-CV (CARES Act) grantees must follow additional regulations to prevent duplication of benefits when carrying out eligible activities. ULGs can analyze the duplication of benefits by either:

- Requiring entities or beneficiaries to provide a self-certification indicating that they have not received a duplicative benefit.
- Requiring entities or beneficiaries to fill out a questionnaire listing potentially duplicative assistance that they have already received, or reasonably anticipate receiving.

Duplication of benefits occurs when a person, household, business, or other entity receives assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need.

To calculate a DOB, grantees are required to identify “total assistance.” Total assistance includes cash awards, insurance proceeds, grants, and loans received by or available to each applicant, including awards under local, state, or federal programs, and from private or nonprofit charity organizations.

Total assistance does not include personal assets such as money in a checking or savings (except any insurance proceeds or financial assistance deposited into the applicant’s account); retirement accounts; credit cards and lines of credit; in-kind donations; and private loans. A private loan is a loan that is not provided by or guaranteed by a government entity, and that requires the applicant to repay the full amount of the loan (principal and interest) under typical commercial lending terms. Unless the loan is forgivable, private loans are not financial assistance and are not used when calculating DOB.

If the business received funds through the Paycheck Protection Program, the amount of those funds (duplicated benefit) would be subtracted from the amount of assistance offered through the CDBG-CV.

Appendix III-5: CDBG-CV DUPLICATION OF BENEFITS CERTIFICATION

Appendix III-6: CDBG-CV DUPLICATION OF BENEFITS (DOB) WORKSHEET
Documenting DOB

The following sources are generally considered acceptable backup documentation for CDBG-CV duplication of benefits analyses:

Cost necessity and reasonableness:

- Narrative description of the scope of work
- Tie to COVID-19 Pandemic narrative and/or photographs and/or data
- Cost estimate by a municipality, contractor
- Written quotes by contractors, vendors
- Appraisals by tax assessors or licensed appraisers (real property acquisition)

Unmet Need:

- Project budgets and/or cost estimates (including sources and uses of funds and estimates in application materials and contract amendment requests)
- Award and/or denial letters from SBA, FEMA, and/or other sources
- Signed and notarized Duplication of Benefit Affidavits

SBA: Documented by data or correspondence provided by SBA

- SBA loan documents
- SBA award and/or denial letters
- Financial institution statements showing transfer/deposit amounts from SBA If an applicant did not receive SBA assistance, no documentation may be available. In such a case the applicant’s notarized affidavit shall be accepted as adequate source documentation.

Insurance: Documented by letter/forms from insurance company

- Insurance proof of loss statements
- Insurance company correspondence
- Financial institution statements showing transfer/deposit amounts from insurer
- If an applicant did not have applicable insurance, no documentation may be available. In such a case the applicant’s notarized affidavit shall be accepted as adequate source documentation.

Any Other Sources: documented by commitment letter or correspondence with the other source.

- Loan documents
- Award and/or denial letters
- Financial institution statements showing transfer/deposit amounts from source
- If an applicant did not have any other sources, no documentation may be available. In such a case the applicant’s notarized affidavit shall be accepted as adequate source documentation.

Actual Costs:

- Contracts, invoices, and/or receipts, with evidence of payment
- Requests for payment showing actual project costs and actual amounts drawn.
CDBG Agreement

The most important part of creating contracts within a small business financing program is obtaining legal counsel to prepare and/or review loan documents including CDBG regulations.

CDBG regulations dictate that when assistance is provided to a business for the purpose of creating or retaining jobs, the grantee (ULG) must have on file a written agreement with the business in which that business agrees to keep or create a specific number of jobs and identifies each such job by type and whether the job will be full- or part-time. The agreement must also specify the actions the business and the grantee will take to ensure that at least 51% of the jobs created or retained will benefit L/M income persons.

When providing “direct” assistance to a business (such as in a business financing program), the agreement needs to include what is commonly known as a “clawback agreement” with the business regarding the applicable sanctions that may be applied if those objectives are not satisfied.

Appendix III-7: SAMPLE JOB CREATION/RETENTION AGREEMENT

Agreement Requirements

The following information must be contained within a CDBG agreement with the business:

1. Commitments for Job Creation/Retention (LMJ)

Provide firm assurances from the borrower (employer) regarding the number of permanent jobs to be created or retained for low- and moderate-income persons by the business. Specify types of positions and the timeframe for job creation, or in the case of retention, the job retention period not to exceed 24 months.

DCED requires the following information within the CDBG agreement for LMJ activities:

- A commitment from the assisted business to create or retain LMI persons
- The type of job and whether the created or retained job will be full or part-time AND
- The actions that the business will take to ensure that at least 51% of the jobs created or retained will be LMI persons.

2. Public Benefit Standards

A firm definition and of the public benefit standard that must be met by the business within a specified timeframe.

3. Statement of Work

The agreement needs to include a description of the work to be performed, a schedule for completing the work, and a budget. These should be in sufficient detail to provide a sound basis for the Commonwealth, DCED, or HUD to effectively monitor performance under the agreement.

4. Records and Reporting

The ULG must specify in the agreement the particular records the business must maintain and the particular reports the business must submit to assist both the ULG and DCED in meeting their recordkeeping and reporting requirements.

5. Environmental Review

An Environmental Review is required before the CDBG activity can begin.
The costs that are integrated with the project as a whole and incurred before the date of a CDBG contract/agreement will result in a project ineligible for CDBG assistance. In other words, an Environmental Review must be completed before CDBG funds can be committed and before the project as a whole can start (regardless of the timing of CDBG funds). This must be stated within the CDBG agreement.

6. Uniform Administrative Requirements
The agreement must require subgrantees to comply with applicable uniform administrative requirements found within 2 CFR 200.

7. Equal Opportunity
The agreement should also require the subgrantee/business to carry out each activity in compliance with all applicable Federal and Commonwealth laws and regulations including those requiring Equal Opportunity/non-discrimination in hiring.

8. Conditions for Religious Organizations
Where applicable, the conditions prescribed by HUD for the use of CDBG funds by religious organizations should be included in the agreement.

9. Suspension and Termination
The agreement must specify that suspension or termination may occur if the subgrantee/business fails to comply with any terms of the agreement and that the agreement may be terminated for convenience.

CDBG-CV

A subrogation agreement (an agreement by assisted businesses to pay back CDBG-CV if they receive duplicate funding) must be signed by the business before awarding funds and the agreement must be attached to the Grant or Loan agreement. See Appendix III-8: PENNSYLVANIA COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT (“CDBG-CV”) SUBROGATION AND ASSIGNMENT AGREEMENT.

Amendments
If, after the grantee enters into a CDBG project contract, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, a legally signed and dated contract amendment is required.

When considering a contract amendment, the project must be reevaluated under HUD, DCED, and the recipient’s guidelines. This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided or an extension to the loan payment period required in the contract.

If a reevaluation of the project indicates that the financial elements and anticipated public benefit have also substantially changed, then the recipient must make appropriate adjustments in the amount, type, terms, or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance. If the amount of CDBG assistance provided to the project is increased, the amended project must still comply with the public benefit standards.
**Loan Agreements**

**Loan Agreement Contents**
A loan agreement may be created separately from the CDBG Agreement detailing loan amounts, interest rates, payback schedule, and other terms. If developing loan agreements, contact DCED.

Loan agreements may be legally recorded and provide a standard, understandable format for courts or lending institutions.

**Loan Subordination**
A CDBG loan agreement does not have a required position or ranking against other loans and collateral. It may be subordinate to other financing. For questions on loan position, contact DCED.
IV Legal Requirements

There are numerous regulations at the local, commonwealth, and federal levels that govern or impact the CDBG Program. It is the responsibility of the ULG applicant to ensure compliance with all applicable regulations and statutes and include the applicable requirements within CDBG agreements.

The following is a listing that is not all-inclusive of federal regulations that apply to the State CDBG Program. See the Community Development Block Grant (CDBG) Application Kit Forms and Instructions for a list of required documents to submit with an application.

HUD
Housing & Community Development Act of 1974, as amended;

HUD Reform Act of 1989

24 CFR Parts 35, 58, 85, and 570

Structures
36 CFR Part 800 (Protection of Historic Properties)

Environmental
24 CFR Part 58

The National Environmental Policy Act of 1969 (NEPA) 40 CFR 1500-1508

Title IV of the Lead-Based Poisoning Prevention Act (42 USC 4831)

Lead Safe Housing Rule 24 CFR Part 35

24 CFR Part 51 (Environmental Criteria and Standards)

24 CFR Part 55 (Floodplain Management)

Labor
Fair Labor Standards Act (FLSA)

Davis-Bacon and Related Act (40 USC 276a)

Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333)

Copeland Anti Kickback (18 USC 874)

Civil Rights
Title VI of the Civil Rights Act of 1964 (42 USC 200(d))

Fair Housing Act: Title VIII of the Civil Rights Act of 1968 (42 USC 3601)
Section 3 of the Housing and Urban Development Act of 1968, as amended (24 CFR Part 135)
Section 109 of the Housing and Urban Development Act of 1974, as amended (42 USC 5309)
Age Discrimination Act of 1975, as amended (42 USC 6101)
Architectural Barriers Act of 1968, as amended (42 USC 4151) 24 CFR 570.614;
Americans with Disabilities Act of 1991;
Equal Employment Opportunity (Executive Order 11246, September 24, 1965);
Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)

For more information, see the Instructions for Compliance with Fair Housing and Civil Rights Requirements in the Application Process

CDBG-CV
See E. Instructions for Compliance with Fair Housing and Civil Rights Requirements in the Application Process of DCED CARES ACT (CDBG-CV) Program Guidelines

Financial Management
2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

SUBPART A — Acronyms and Definitions
SUBPART B — General Provisions
SUBPART C — Pre-Federal Award Requirements & Contents of Federal Awards
SUBPART D — Post Federal Award Requirements
SUBPART E — Cost Principles
SUBPART F — Audit Requirements

Conflict of Interest
24 CFR 570.489(h)

The Hatch Act (5 USC 1501 et seq.)

Acquisition and Relocation

CDBG Applicability: 24 CFR 570.488

One-to-One Replacement: 24 CFR 42.375 also known as “The Barney Frank Amendment”

Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs: 24 CFR Part 42

Displacement, Relocation, Acquisition and Replacement Housing: 24 CFR 570.606
V - Implementation

Required Documentation
The timing of documentation for activities is an important consideration. Compliance with national objectives can be documented upfront for a number of the categories. For example, compliance documentation for the following national objectives can be established up front for activities under the national objective of benefit to LMI persons or LMI area benefit.

Some national objectives must be documented over time. For example, future hires of created jobs cannot be identified before beginning the activity, and documentation of compliance cannot be obtained upfront. Rather, hires by the assisted business have to be monitored over time.

Appendix I-2: CDBG(CV) INCOME CERTIFICATION FORM

Documentation for L/M Area Activities
The records that the grantee must keep demonstrating compliance under this subcategory include:

1) Boundaries of the service area and the basis for determining those boundaries.
2) Proof that the service area is primarily residential
3) The percentage of LMI persons in the service area (including the total number of residents in the service area) and the data used for determining that percentage.
4) The description of the essential goods or services provided to the community.

If the activity is a special or unique situation, the records must identify the unique aspects of the activity that make it qualify under the respective subcategory.

Documentation for Limited Clientele Activities
Documentation for Microenterprise as a LMC activity can be beneficial because documentation can be obtained upfront at the time of committing the CDBG funds.

To demonstrate eligibility as a Limited Clientele activity, documentation must be maintained showing:

1) The annual income of the business owner. Third-party income verification is suggested for verifying the income of LMI microenterprise owners but is not required.
2) The number of owners of the microenterprise.
**Documentation for L/M Jobs Activities**

Maintaining records to demonstrate compliance with this subcategory can be quite challenging. Not only do businesses often dislike having to provide or keep special reports, but individuals who hold a job to be retained or who will take or are being considered for a newly created or “turnover” retained job may be reluctant to provide information on their family income. Program requirements have evolved to try to decrease the administrative burden of the program while still upholding its goals.

In general, when a business receives CDBG assistance to create or retain jobs, the grant recipient must keep and maintain certain records with the applicable business. ULGs must have a written agreement with the business where the business agrees to keep or create a specified number of jobs and identifies each such job by type and whether the job will be full- or part-time. Furthermore, the agreement must detail the actions that the business and grant recipient will take to ensure that no fewer than 51 percent of the jobs created or retained will benefit low- and moderate-income persons. Program records must also document the actual number of jobs that were created or retained, the full-time equivalency status of the position, and if the jobs were held by or available to a low- and moderate-income individual.

In addition to these general documentation requirements, additional records are required depending on whether the activity created or retained jobs.

*Appendix I-3: CDBG(CV) JOB CREATION/RETENTION REPORT*

**Documentation Requirements for Created Jobs**

The following list of documentation requirements applies for activities related to job creation.

Documentation should generally show the number of jobs created, if any and the nature of the jobs created (number of skilled, semi-skilled, and unskilled positions, and for semi-skilled jobs, any special education or experience required).

In addition, each assisted business must provide the following to demonstrate that created jobs will be *taken by* low- and moderate-income persons:

1. A written agreement stating that at least 51 percent of the jobs, on a full-time equivalent basis, will be held by low- and moderate-income persons.
2. A list, by job title, of employees at the time the application for CDBG assistance is submitted.
3. A list, by job title, of the permanent jobs that will be created.
4. Evidence supporting the estimated total number of jobs to be created.
5. A list, by job title, race/ethnicity, gender, and disability status of the permanent jobs actually created and those initially taken by low- and moderate-income persons.
6. A description of the methodology that the ULG used to determine the income status of hired individuals.
7. A description of how the total number of jobs was determined.
Each assisted business must provide the following to demonstrate that created jobs will be available to low- and moderate-income persons:

1. A written agreement stating that the business will make no less than 51 percent of the jobs on a full-time equivalent basis available to low- and moderate-income persons and will provide training for any of these positions that require special skills or education.
2. A list, by job title, of employees at the time the application for CDBG assistance is submitted.
3. A list, by job title, of the total permanent jobs that will be created that specifies which of these positions will be: a) available to low- and moderate-income persons, b) require special skills or education, and c) are part-time/full-time.
4. Evidence supporting the estimate of the total number of jobs.
5. A description of actions that the grant recipient and business will take to ensure that low- and moderate-income persons will receive first consideration for these jobs.
6. A list, by job title, race/ethnicity, gender, and disability status of the permanent jobs created; which jobs were made available to low- and moderate-income persons, and a description of how first consideration was given to such persons for those jobs. The description should include details about the hiring process, the number of low- and moderate-income persons considered for each job, and the number of low- and moderate-income persons actually hired.
7. A description of the methodology used to determine the income status of individuals given first consideration for the position.
8. A description of how the total number of jobs was determined.

**Documentation Requirements for Retained Jobs**

The following list of documentation requirements applies to activities related to job retention.

For each job retained and held by LMI person, document family size and income. Each assisted business must maintain records to demonstrate that retained jobs comply with CDBG program requirements:

1. Clear and objective evidence that if not for CDBG assistance, the jobs would be lost.
2. A written agreement by the business stating their commitment to meeting the standard for retained jobs that employ low- and moderate-income persons.
3. A list, by job title, race/ethnicity, gender, and disability status of the employees at the time the CDBG assistance is provided.

Should any jobs turn over in the job retention period:

- A listing of each job that has turned over to date, indicating which of those jobs were either taken by or made available to, low- and moderate-income persons.
- A description of how first consideration was given to persons for whom the job was made available (consistent with the "available to" standard).
- A description covering the items identified above as necessary in demonstrating the "taken by" standard.
- A description of how the ULG determined jobs were held by, made available to, or taken by low- and moderate-income persons.
**Documentation for Slum/Blight**

Documentation must be maintained on the boundaries of the slum/blight area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be re-determined every 10 years for continued qualifications.

**Documentation for Urgent Need**

The records should include all the following:

- A description of the condition that was addressed, showing the nature and degree of seriousness of the threat it posed
- Evidence that the grantee certified that the CDBG activity was designed to address the urgent need
- Information on the timing of the development of the serious condition
- Evidence confirming that other financial resources to alleviate the need were not available.

**Administrative Requirements**

**Program Income**

Gross income received by a State, a ULG, or a subgrantee of the ULG that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out.

**Program Income Does NOT Include** the total amount of funds, which does not exceed $35,000 received in a single year from activities, other than revolving loan funds, that is retained by a unit of general local government and its subgrantees.

If the grantee’s total funds generated from the use of CDBG do not exceed $35,000 received in a single year of activities those funds are **not subject to Program Income rules**. As a result, those funds lose their federal identity and are no longer subject to CDBG regulation.

Note: program income should be calculated at the end of the end of the program year to be sure the amount is under $35,000. All funds received from revolving loan funds are considered program income, regardless of the amount. *24 CFR 570.489(e)*

See the [DCED Library](#) for Department information and documents on:

- Program Income Directive
- Timeliness
- Activity Closeout
- Environmental Review
- Recordkeeping
- Income Verifications

**Appendix V-1: MONITORING CHECKLIST ECONOMIC DEVELOPMENT/SMALL BUSINESS/MICROENTERPRISE ASSISTANCE PROGRAMS**
Revolving Loan Funds
Revolving loan funds (RLF) are allowed within the CDBG program in conjunction with microenterprise or small business loans. A revolving fund is a separate fund (independent of other CDBG program accounts) set up for the purpose of carrying out specific activities. These activities generate payments to the account for use in carrying out the same types of activities (e.g. microenterprise loans).

Program income that is held in a revolving fund does not have to be used before grant funds are drawn down for a different type of CDBG project. Program income in a revolving fund does need be used before additional grant funds are drawn down for revolving fund activities.

Note that all funds received from revolving loan funds (principal and interest repayments) are considered program income, regardless of the amount. These funds can then be re-loaned to other businesses that qualify under the ULG’s financing program.

It is important to note that RLFs are funded by program income and cannot be initially capitalized with grant funds. If the ULG’s program income is used to continue the same activity that generated it, the Commonwealth must allow the ULG to keep the program income. However, the CDBG rules apply to the re-use of the money.

All interest earned on an RLF account must be returned to the federal government.

ULGs should keep in mind that RLFs should not accumulate funds but should re-loan money into the community. If the funds accumulate beyond what can be lent out, the program should be reevaluated.

If considering setting up a RLF, first contact DCED
### VI - CARES Act (CDBG-CV) Funding Summary

For all HUD guidance documents on CARES Act CDBG-CV funding, see [Community Development Block Grant (CDBG) Programs Covid-19 Grantee Guidance](#).

The following is a summary of key differences between CDBG and CDBG-CV that could apply to small business or microenterprise funding.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>CDBG</th>
<th>CDBG-CV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Verification (Job Creation/Retention)</td>
<td>LMI Persons = Individuals who reside in a family whose total annual income is at or below 80% of median for County/MSA.</td>
<td>o Grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families</td>
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<td></td>
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<td>o Activities must prevent, prepare for, and respond to coronavirus.</td>
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<td>o The recipient may substitute records showing the type of job and the annual wages or salary of the job (in lieu of maintaining records showing the person’s family size and income to demonstrate LMI status)</td>
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<td></td>
<td></td>
<td>o LMI = annual wages or salary of the job is equal to or less than the Section 8 low-income limit for a one-person family</td>
</tr>
<tr>
<td>Public Benefit Standard Individual Project</td>
<td>Create/Retain Job = $35,000 Goods/Services per LMI person = $350</td>
<td>Create/Retain Job = $85,000 Goods/Services per LMI person = $1,700</td>
</tr>
<tr>
<td>Duplication of Benefits</td>
<td></td>
<td>Must have duplication of benefits procedures for each activity/program. Must include, at minimum:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1) A requirement that any person or entity receiving CDBG-CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative; and</td>
</tr>
</tbody>
</table>
|                                    |                                                                      | 2) A method of assessing whether the use of CDBG-CV funds will duplicate financial assistance that is already received or is likely to be received by acting reasonably to evaluate need and the resources available to meet that need.
VII - Best Practices

OUTREACH

Goal: Target program information (marketing/outreach) to the types and locations of businesses who you have identified in the program policies and procedures.

- Create an overall marketing strategy to create awareness of the small business financing program and the application process.
- Define the location/size of targeted businesses.
- Know who potential business applicants are and what they need.
- Explore partnerships with private lenders in local community.
- Use staff meetings to review marketing, ensuring quality and consistency.
- Have outreach coordinator to keep key timelines, materials, and connections to media outlets.
- Designate a “customer service representative” as a point of contact for all program inquiries.

APPLICATION/INTAKE

Goal: Accept and consider applications from the targeted group that you are looking to assist in a way that is easy to understand and transparent.

- Record time and date of application submission.
- Implement screening checklists for each application.
VIII - Appendix: Forms

I-1: MICROENTERPRISE BEST PRACTICES
I-2: CDBG(CV) INCOME CERTIFICATION FORM
I-3: CDBG(CV) JOB CREATION/RETENTION REPORT
III-1: SAMPLE ECONOMIC DEVELOPMENT REVOLVING FUND GUIDELINES
III-2: DCED UNDERWRITING CHECKLIST FOR ECONOMIC DEVELOPMENT
III-3: SAMPLE CDBG(CV) SMALL BUSINESS ASSISTANCE PROGRAM APPLICATION
III-4: ANTI-PIRATING POLICY AND CERTIFICATION
III-5: CDBG-CV DUPLICATION OF BENEFITS CERTIFICATION
III-6: CDBG-CV DUPLICATION OF BENEFITS (DOB) WORKSHEET
III-7: SAMPLE JOB CREATION/RETENTION AGREEMENT
III-8: PENNSYLVANIA COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT (“CDBG-CV”) SUBROGATION AND ASSIGNMENT AGREEMENT
V-1 MONITORING CHECKLIST ECONOMIC DEVELOPMENT/SMALL BUSINESS/MICROENTERPRISE ASSISTANCE PROGRAMS