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NYS Community Development Block Grant Microenterprise Program Guide

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I. Introduction

NYS Community Development Block Grant Program (NYS CDBG) is a federally-funded program that provides financial resources to assist in the development of viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low- and moderate-income (LMI). The Office of Community Renewal (OCR) administers NYS CDBG funds for non-entitlement communities which are generally cities, towns and villages with populations under 50,000 and counties with populations under 200,000. There are approximately 1,300 eligible communities (units of local government) statewide.

New York State must ensure that not less than 70% of its CDBG funds are used for activities that benefit low- and moderate-income (LMI) persons (at or below 80% of median). This is achieved by granting maximum priority to activities that meet one of the following Federal National Objectives: benefit low- and moderate-income persons or families; or aid in the prevention or elimination of slums or blight; or meet an urgent community development need.

The NYS CDBG Microenterprise program achieves the National Objective by providing jobs and economic opportunities for persons from LMI families. The program provides funds to eligible local governments to assist qualifying businesses undertake activities that result in the creation of job opportunities for persons from LMI families. Funding decisions are based, in part, on the following: severity of need; public benefit; program feasibility; sustainability of activity outcomes; reasonableness of costs; extent to which the activity compliments other local, state, or federal programs; and public support for the locally-driven program.

II. Program Description

The NYS CDBG Microenterprise program provides resources to support and foster the development of microbusinesses by providing grants in conjunction with capacity building and entrepreneurial assistance. The program is designed to stimulate economic growth and create businesses and jobs that will improve and preserve NYS homes and communities. An objective of the NYS CDBG Microenterprise program is to create opportunities for the development of microbusinesses that promote employment opportunities for persons of low- to moderate-income families.

A microenterprise is defined as a commercial enterprise that has five (5) or fewer employees, one (1) or more of which is the principal and owns the enterprise at the time of application. This includes both part-time and full-time employees. A microenterprise is a private for-profit business entity; corporation, partnership, or sole proprietorship that is legal, licensed and operating. Nonprofit entities are not microenterprises.

A. General Requirements

- The maximum total allocation for which a community can apply is \$200,000.
- A minimum of 50% of a total allocation (less grant administration costs) must be awarded to start-up businesses. A start up business is one which has been in operation less than six (6) months.
- Although it is not required that specific microenterprises are identified as part of the application for Microenterprise Program funding, an application that identifies microenterprises and entrepreneurs that have gone through a prescreening stage is recommended. The prescreening stage should verify eligibility, evaluate the proposed project and determine funding need.

- NYS CDBG Microenterprise funds must be allocated as a **grant** to each microenterprise.
- Grant assistance to an individual microenterprise must be between \$5,000 and \$35,000. **The maximum award is not intended to serve as a target amount for requests for assistance.** The amount of CDBG assistance should be based on need and CDBG funds should not be used to reduce the amount of non-federal financial support for the project.
- Grants may not exceed 90% of the total project cost to assist in the start-up or expansion of a microenterprise.
- A minimum amount of 10% owner equity contribution to the project is required.
- Each microenterprise owner must complete an approved entrepreneurial assistance or small business training program prior to receiving CDBG Microenterprise grant funds. The cost for the owner to attend the training may be an eligible CDBG expense.

B. Meeting a National Objective

The primary objective of the CDBG program is the development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate- income (LMI). For this to be achieved, each CDBG funded activity must meet a National Objective. A microenterprise may meet a National Objective one of two ways:

1. By creating a minimum of one (1) permanent full-time equivalent job for persons from LMI families. A full time equivalent (FTE) job is any combination of two or more part-time jobs that, when combined together, constitute the equivalent of a job of at least 40 hours per week. If more than one (1) FTE job is created as a result of NYS CDBG assistance, a minimum of fifty-one percent (51%) of the jobs must benefit persons from LMI families. A LMI job activity is one which creates a job that is either *held by* or considered to be *made available* to persons from LMI families. The distinction between “held by” and “made available to” is detailed below.
 - “taken (held) by” - A job is considered to be taken by a LMI person if, at the time their employment starts, that person is a member of a family whose income falls at or below the applicable Section 8 Income Limits. (Reference www.huduser.org/datasets/il.html or the most current income limits.)
 - “available to” - A job is considered to be made available to a LMI person if the position does not require special skills acquired from substantial training or work experience, and education beyond high school is not a prerequisite to employment. The assisted business must take actions to ensure that LMI persons receive “**first consideration**” for filling such jobs.
 - There are three principles involved in providing “first consideration”:
 - a. The business must use a hiring practice that under usual circumstances would result in over 51% of LMI persons interviewed for applicable jobs being hired,
 - b. The business must seriously consider a sufficient number of LMI 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 particular LMI person may be considered a serious applicant for the job.

2. If the beneficiary / entrepreneur receiving the grant qualifies as LMI himself/herself. For microenterprises that are owned and operated by more than one individual, a majority of the owners must qualify as LMI in order to meet the Limited Client Microenterprise (LMCMC) National Objective.

III. Application Process

The application process is designed to provide a consistent format for the presentation and evaluation of proposed projects. Where a program is determined to be eligible, feasible, and likely to address the underwriting criteria listed in this guidebook, the community will be encouraged to submit an application for funding. Funding opportunities are available year round in an open window format.

The following steps summarize the application and funding process:

- A. **Pre-Submission**: In an effort to facilitate effective program delivery, potential applicants must confer with OCR staff prior to submitting a Pre-Submission Form. The Pre-Submission Form along with consultation with OCR Economic Development staff will serve as a threshold review prior to the formal submission of an application for funding. The OCR requires applicants to provide a brief program summary, proposed program budget, and details on the proposed program accomplishments. The Pre-Submission Form is available on our website: www.nysocr.org. Additional information may be requested from applicant.
- B. **Application**: If OCR determines the program as proposed is an eligible activity; meets the minimum program requirement; complies with program objectives and is feasible, an Invitation to Apply may be extended to the applicant. Applicants that receive an Invitation to Apply are not guaranteed funding.
- C. **Citizen Participation**: Applicants must hold a minimum of two (2) public hearings prior to submission of the CDBG application for the purpose of obtaining citizens' views and responding to proposals and questions. For more information on citizen participation requirements, refer to the OCR Grant Administration Manual at www.nysocr.org.
- D. **Application Review and Award Process**: Staff will undertake a comprehensive review of the application to determine compliance with federal, state, and program regulations, policies and statutes. The review includes financial underwriting and determination of compliance with the public benefit standards. Applications that meet all of the funding criteria will be recommended to the NYS Housing Trust Fund Corporation (HTFC) Board for consideration. Recommendations for funding are contingent upon the availability of funds. If the program has been approved by the HTFC an award letter and grant agreement are forwarded to the applicant.

E. Post Award: If funding is approved by the HTFC, the recipient must undertake the following prior to the disbursement of funds.

- Participate in a Program Implementation Conference Call arranged by OCR Economic Development staff. All parties involved in the implementation of the program must participate.
- Execute the grant agreement and set up a non-interest bearing bank account specifically for the deposit and disbursement of NYS CDBG funds.
- Conduct an environmental review of the project and complete the environmental review record. Refer to the OCR Grant Administration Manual at www.nysocr.org for additional information on the environmental requirements.

IV. Application Review

The review process for the NYS CDBG Microenterprise Program is designed to ensure that the limited NYS CDBG funds available are awarded to communities that demonstrate that the proposed program will meet federal CDBG requirements, demonstrate a significant need for the proposed activity, demonstrate the project is financially feasible, and show a significant positive impact to the community. Project selection shall take into consideration the recommendation of the relevant regional economic development council or the Commissioner's determination that the proposed project aligns with the regional strategic priorities of the respective region.

In evaluating programs, the OCR will analyze the following specific factors:

- The documented need for microenterprise assistance in the project area.
- The extent to which the program will create permanent, full time equivalent job opportunities for persons of low- and moderate- income either through the support of LMI entrepreneurs or the creation of LMI jobs.
- The usefulness and practicality of the entrepreneurial training program.
- The degree to which the program supports a community-approved strategic or comprehensive plan.
- The program's impact on increasing the viability of the "Main Street" business sector and/or targeted industry sectors.
- Demonstration of expertise in technical assistance.
- The degree to which the program is financially and technically feasible.
- Reasonableness of program costs.
- The extent of documentation that supports the timely completion of the proposed activities within the term of the grant agreement. Issues which may hinder timely completion of the program must be addressed prior to award.
- Demonstrated assurance of the success of the program.

The capacity of the Applicant to complete activities in a timely manner may impact the evaluation of the application. OCR will review an applicant's program history, beginning with Program Year 2000, to determine whether or not the Applicant has completed and/or made appropriate progress with any and all prior OCR grants including the number of extensions requested to complete a project beyond the specified deadline. **Applicants should only apply for the amount of funding that can be fully expended and the type of activities that can be completed within the specified program completion period of twenty-four (24) months.** Applicants should not proceed with a program that cannot be completed within the specified timeframe or with the assumption that an extension of the project deadline will be considered.

V. Eligible Applicants

Eligible applicants are non-entitlement units of general local government (village, city, town or county), excluding metropolitan cities, urban counties and Indian Tribes that are designated entitlement communities. Non-entitlement areas are generally defined as cities, towns and villages with populations of less than 50,000, except those designated principal cities of Metropolitan Statistical Areas, and counties with populations of less than 200,000. The NYS CDBG program does not provide direct financial assistance to businesses.

A. Roles and Responsibilities

Recipients assume responsibility for ensuring successful completion of the program; evaluating and selecting activities to be supported; entering into grant agreements with microenterprises; monitoring each microenterprise throughout the term of the grant agreement; and assuring compliance with all local, state and federal laws and regulations. Each Microenterprise Program will be implemented and managed in accordance with the NYS CDBG Grant Agreement, the OCR Grant Administration Manual, and program guidance material located on the OCR website. The Recipient must ensure that all projects are completed and have met the National Objectives within the 24 month term of the grant agreement between the Recipient and the HTFC, represented by OCR.

Each microenterprise must comply with HUD Underwriting Standards, set forth in 24 CFR 570.482(e) and Appendix A to Part 570. It is the responsibility of the Recipient to underwrite each grant application. The purpose of the underwriting is to select microenterprise projects which are financially viable and make the most effective use of NYS CDBG Microenterprise funds. In addition to HUD's underwriting criteria, the grants provided must be underwritten using typical commercial financing underwriting criteria. See Grant Underwriting Guidelines under section VII of these program guidelines for an overview of the criteria and how to comply.

VI. Microenterprise Program Design Plan

The development of sound policies and procedures and the implementation of a well-designed program are critical to a successful microenterprise program. Applicants proposing microenterprise activities must submit a Program Design Plan that describes how the proposed activities will be implemented. The Program Design Plan should provide a clear and detailed description of the following program elements:

1. **Eligibility** – Explain who is eligible to participate, the process that will be followed to verify participant eligibility, and what activities are eligible under the program.
2. **Funding** – Describe the terms and conditions for providing assistance, and the means of securing compliance during the regulatory term.
3. **Marketing and Supporting Activities** - Describe program marketing and outreach efforts. Summarize any unique program design features or additional administrative support for the program (such as business counseling, job training, etc.) that will increase the likelihood of successful completion.
4. **Entrepreneurial Training Requirement** – Describe the entrepreneurial assistance or small business training program each microenterprise must complete prior to receiving

NYS CDBG Microenterprise funds. See Entrepreneurial Training Requirement under Section VII of this program guide for additional guidance on the training requirement.

5. **Program Objectives and Impact** – Provide a detailed description of all appropriate quantifiable information and any unique aspects. Examples of quantifiable information are the number of grants to be made, and the number of jobs to be created. Describe how the benefits of the program will be sustained, resulting in long-term benefits.
6. **Program Oversight and Grant Approvals** – Provide a clear demonstration of the expertise to manage the grant fund program and identify other resources that will be made available to the participants. In addition, describe the grant approval process and a list of individuals who will be involved in the selection and approval process. The Recipient’s Microenterprise Grant Committee should be diverse and include qualified individuals from related professions, such as bankers, business owners, attorneys, etc.

VII. Evaluation of Eligible Activities and Additional Funding Requirements

A microenterprise that lacks access to traditional financing and is struggling to start or grow their enterprise is typically a good candidate for a NYS CDBG Microenterprise Program. Although a business may meet the definition of a microenterprise based on the number of employees, for the purpose of this program the proposed activity or project the microenterprise is undertaking may not qualify as a microenterprise activity. In that event, the Recipient and the Grant Committee must review the proposed activity to determine if it is an effective use of NYS CDBG Microenterprise funds. In addition, Recipients should confer with OCR staff when making such a determination.

A. Examples of eligible and ineligible uses of NYS CDBG Microenterprise funds

Eligible Uses of Funds

- Inventory
- Procurement of machinery, furniture, fixtures and equipment
- Operating capital
- Reimbursement of the cost to attend the entrepreneurial training program

Ineligible or Restricted Project Activities

- The repayment of existing debt
- Construction, building or other improvements when Davis Bacon and Related Acts must be applied (prevailing wage rate requirements)
- Assistance to a nonprofit
- Reimbursement of costs incurred prior to grant award
- Political or religious activities
- Lobbying any governmental entity

B. Grant Underwriting Guidelines

Underwriting is a process by which the Recipient of the NYS CDBG funds assesses the eligibility of a potential microenterprise and decides whether the entrepreneur is grant worthy by measuring risk and determining need. The Recipient must, at a minimum, use the underwriting guidelines that meet the requirements set forth in 24 CFR 570.482(e)

and Appendix A to Part 570 when evaluating potential microenterprises. The underwriting criteria is designed to support a program that assists microenterprises that could not proceed without CDBG assistance, and to determine whether a proposed CDBG grant is appropriate to assist the microenterprise. The objectives of the underwriting guidelines are to ensure:

1. that project costs are reasonable;
2. that all sources of project financing are committed;
3. that to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
4. that the project is financially feasible;
5. that to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
6. that to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

These guidelines provide a framework for financially underwriting and selecting projects which are financially viable and will make the most effective use of CDBG grant funds. NYS CDBG funds cannot be used to substitute other committed funding and the microenterprise must show that without NYS CDBG funding the proposed project could not be completed. Evidence of underwriting must be retained in the project files. In addition, there must be clear evidence that job creation will occur and/or that the owner(s) of the microenterprise qualifies as LMI before a grant is awarded.

C. Entrepreneurial Training Requirement

Each microenterprise owner that is awarded a grant must complete an entrepreneurial training class prior to incurring project costs and requesting CDBG grant funds. Owner(s) of the microenterprise must attend the entrepreneurial training. Attendance by the employees does not satisfy this requirement. If the microenterprise is owned and operated by more than one individual, at least one person must complete the training program.

The training requirement must be a classroom-style training that teaches the fundamentals of owning and operating a business. The training program should help entrepreneurs develop business skills. At minimum, the training program should consist of the following elements:

- Developing a business plan
- Legal issues
- Taxes, recordkeeping, accounting
- Financing
- Marketing, advertising
- Employee issues

NYS CDBG Microenterprise training funds cannot be used to subsidize the cost of conducting a training program. **NYS CDBG funds may be used to reimburse the microenterprise business owner(s) for participating in an entrepreneurial training course.** Reimbursement will not occur until the owner has successfully completed the course and has been awarded a NYS CDBG Microenterprise grant.

OCR will consider waivers of this requirement when a microenterprise owner can document completion of a similar entrepreneurial course(s) within the past 24 months. Requests for Waivers of the entrepreneurial training requirement must be submitted to the OCR for a determination. Recipients should not proceed with an award until a waiver determination has been issued by the OCR.

A request for a waiver must include the following:

- A review of the business's application for the program,
- A letter from the Chief Elected Official requesting an exemption and stating why it is merited,
- The resume of the entrepreneur, and
- Proof of the training program(s) completed and certificates received.

D. Owner Equity Requirement

Investments of NYS CDBG microenterprise funds must be matched by a minimum of 10% owner equity. The equity contribution must be provided as cash; not to be associated with debt of any kind. Equity must be committed and available to the project at the time of the business application. Documentation of the equity commitment must be kept in the Recipient's files. Project funds cannot be incurred or expended, including equity, prior to the approval of grant award by the Recipient and the Recipient has received OCR's approval of the Request for Release of Funds.

VIII. Disbursement of Funds

The National Environmental Policy Act of 1969 ("NEPA") requires Recipients to conduct an environmental review of their projects and establish a written record of their findings, known as an Environmental Review Record. A Recipient cannot expend or encumber CDBG funds for any activity, except those listed as exempt under 24 CFR 58.34, or which fall under the categorical exclusions set forth in 24 CFR 58.35(b), until a Recipient has completed the environmental and historic requirements. Further, microenterprise project costs must not be incurred prior to the microenterprise successfully completing the required entrepreneurial training requirement and receiving approval of grant award by the Recipient.

NYS CDBG funds are disbursed electronically upon the approval of the request for funds submitted by the Recipient. Funds should be available for withdrawal from the Recipient's CDBG bank account within 1-2 weeks from receipt of the request. Factors such as incomplete or incorrect request for funds will delay the disbursement process. OCR will not disburse funds to a Recipient for a microenterprise until the microenterprise obtains a DUNS number.

In order to substantiate all expenditures, Recipients must obtain copies of invoices for inventory or materials purchased, and cancelled checks from the business owners. Recipients should refer to of the OCR Grant Administration Manual for guidance on Financial Management. The manual is located at www.nyshcr.org.