

---

# COMMUNITY ECONOMIC DEVELOPMENT FUND FACT SHEET

---

Community Development Block Grant (CDBG) funding was established by the *Housing and Community Development Act of 1974*. In accordance with Section 104(b)(3) of the Act, the use of CDBG funding must “give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums and blight” and “may also include activities which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the community”. These provisions constitute the three CDBG national objectives. See the 2019 CDBG Program Design for additional information on the CDBG Nationals Objectives.

The Community Economic Development Fund (CED) is designed to support economic development activities, particularly those creating employment opportunities for low- and moderate-income persons, in CDBG-eligible localities. In 2020, \$4,650,000 is available under the Open Submission Funding category to support three programs including the CED Fund. Up to \$800,000 will be available per project.

Assistance is limited to projects involving employment creation by private, for-profit basic industries. Assistance may include off-site improvements such as water lines, sewer lines, roads, and drainage. On-site assistance may be eligible in some projects, but these projects are subject to underwriting.

## **PLEASE NOTE:**

**FOR ALL CED’S AN IRREVOCABLE LETTER OF CREDIT, BOND, OR OTHER GUARANTEED FORM OF SECURITY WILL BE REQUIRED IN THE AMOUNT OF THE CED GRANT. THIS SECURITY MUST REMAIN IN PLACE UNTIL ALL PROGRAM REQUIREMENTS ARE SATISFACTORILY MET.**

## **INDUSTRY COMMITMENT LETTER**

All CED applications must include an industry commitment letter. Such a letter serves as documentation of the industrial commitment which provides the basis for project eligibility. A commitment letter must include the following:

- The need for the improvements which the locality will implement using CDBG funding;
- The commitment of the business to locating or expanding in the locality;
- The type and amount of the private investments;
- The number of jobs (LMI and total) to be created or retained by category;
- The timing of the investments and hiring;
- A summary of the wages and benefits to be provided;
- The plans for job training, if applicable; and,

- The plans for use of a single point of contact for screening applicants, if applicable, such as the Virginia Employment Commission;
- The comprehension and acceptance that a formal industry agreement must be signed to secure the commitments.
- For Community Economic Development Fund projects, these industry commitments must provide details on the accompanying benefits package.

Where appropriate, the industry should attach documentation to its letter supporting the figures detailed in the letter.

## **INDUSTRY AGREEMENTS**

Prior to the execution of a grant contract with DHCD, grantees **MUST** execute an agreement with all private firms which will receive grant assistance or which have made benefit or leveraging commitments included in the grant proposal. Such agreements **MUST** stipulate completion of all committed actions, as well as grant related requirements. **This agreement must be reviewed and approved by DHCD prior to its execution.** The industry agreement must be reviewed by the locality's legal counsel to insure that it is enforceable.

Industry Agreements should be consistent with the locality's Employment Assessment and must contain provisions relating to the following issues:

1. Construction and equipment installation;
2. Investment; and
3. Employment
  - a. Total jobs and LMI jobs to be created and/or retained by job category (at least 51% of all jobs created and/or retained will benefit low- and moderate-income persons.);
  - b. Total number of persons employed by job category at time industry agreement is executed;
  - c. Description of the jobs anticipated to be created;
  - d. Timetable projecting job creation;
  - e. LMI employment by race, ethnicity, gender, age greater than 62 years, and handicap status;
4. Training requirements;
5. Time of completion of the above-mentioned actions;
6. Recordkeeping and reporting requirements to document low- and moderate income benefits by race, ethnicity, gender, age greater than 62 years, and handicap status:
  - a. At Administrative Closeout;
  - b. At six month intervals until completion; and
  - c. At completion;
7. Documentation of investment;
8. Security of grant-assisted improvements;
9. Repayment/amortization schedule;
10. Federal compliance requirements:
  - a. Labor Standards,
  - b. Equal Opportunity, and
  - c. Procurement (if applicable);
  - d. DUNS number

11. Monitoring rights and responsibilities of local and state officials;
12. Documentation of employee characteristics;
13. Payments in lieu of taxes (if lease-purchase);
14. Insurance requirements;
15. Continuation of occupancy;
16. Sanctions/liquidated damages for nonperformance.

A sample Industry Agreement can be obtained from DHCD. Please bear in mind that this is only a sample and agreements must be tailored to fit individual circumstances. Any agreement used for the purposes of this grant must be approved by DHCD prior to execution.

## **CDBG INVESTMENT**

CDBG funding will only pay for improvements of a scope and scale consistent with identified needs. Improvements which will benefit future development are not eligible for CDBG funding. **An irrevocable Letter of Credit, bond, or other guaranteed form of security will be required for the amount of the CED grant until all program requirements are satisfactorily met.**

## **PRIVATE INVESTMENT**

All economic development projects require private investment in the construction and/or installation of production equipment in a facility. Investment in inventory, supplies, and personnel, or in the form of refinancing or working capital is generally not considered as an eligible investment cost in fulfilling leveraging commitment. Prior to execution of a grant contract a legally binding agreement must be executed with each private enterprise to be assisted, firmly committing their investment.

All private expenditures **MUST** be documented by one of two methods:

1. An Independent Public Accountant's signed statement attesting that all agreed upon private expenditures have been made on the project for eligible activities, **OR**
2. Submission to the locality of copies of source documents in the form of invoices and cancelled checks documenting that full investment was made on the project for approved activities.

Only investment made after the date identified in the Community Improvement Grant proposal package of the fiscal year the project was funded and *until two years after start of construction* may be counted towards fulfilling leverage commitment, unless DHCD's specific deadline has been stipulated in the Special Conditions of the Community Improvement Grant contract.

Final closeout of the project will not be made until documentation of private investment has been reviewed and approved by DHCD. If the facility to be constructed is not completed, any CDBG funds expended in the project **MUST** be returned to the Department of Housing and Community Development. Provisions in the Industry Agreement **MUST** be in place to require the industry to pay such expenses.

## SANCTIONS

The Industry Agreement which will be executed between an assisted business and a locality will detail sanctions which will be imposed if the assisted business fails to achieve hiring, investment, or wage/benefit commitments. Failure to achieve hiring and investment commitments may result in all CDBG funding being recaptured by DHCD from the locality. Failure to achieve wage/benefit commitments may result in CDBG participation being limited to 50 percent of project costs up to \$350,000.

If a facility constructed or assisted by the project fails to substantially achieve the performance set forth in the Grant Agreement and the Industry Agreement, sanctions will be imposed, including, but not limited to, reduction of grant award, repayment of portions of grant expenditures by the assisted industry, repayment of portions of grant expenditures by the locality, or forfeiture of program income by the locality. In the event of substantial nonperformance, the assisted industry must be required to provide detailed documentation proving that a good faith effort has been made to achieve specified benefits.

Substitutions of businesses will not be permitted without prior written approval of DHCD. A detailed justification must be provided to this Department with documentation that the proposed substitute business has provided evidence on the number of jobs, LMI jobs and leveraged funds at least equal to the business originally detailed in the grant proposal and contract agreement. **DHCD will require the return of funds in those projects where jobs and private investment do not materialize, repayment and security of CDBG funds.**

All CDBG funds utilized for improvements made on the site of property either owned or leased to a private enterprise **MUST** be repaid to the locality by terms specified in the locality's proposal or subsequent agreement with DHCD.

All funds to be repaid must be fully secured by a mortgage and promissory note or other enforceable instrument which provides security on the improvements.

For new facilities, the locality must hold *first position* on a mortgage or other security instrument *unless* (i) other financing is provided by an Industrial Development Bond (IDB) through the locality; (ii) a secondary position is accepted in the project proposal; or (iii) written approval of secondary position is provided by DHCD.

In the case of IDB financing, grant funds shall be secured by a second position on the mortgage. Off-site improvements need not be repaid by the industry unless utility payments are subsidized to the firm. Off-site improvements must be available to other users and may not be restricted to the assisted industry unless the industry repays the cost of the improvement.

CDBG funded off-site improvements may not be initiated unless one of the following conditions is met:

1. Construction or investment of private improvements has been initiated or assured; or

2. A bond legally guaranteeing the total amount of CDBG expenditures has been provided by the industry; or
3. The industry is providing funds matching CDBG expenditures in a non- recourse escrow account from which the locality may be reimbursed in case of the failure of the industry to fulfill its investment responsibilities.

## **DUNS NUMBER**

A Data Universal Numbering System (DUNS) number is a requirement for any business that receives CDBG assistance. If a business does not have one, it can obtain one by calling the DUNS number line at 1-866-705-5711.

When completing the proposal, provide information on whether the businesses included in the proposal currently have a DUNS number or will need to obtain one at the start of the project.

## **LMI BENEFIT**

CDBG eligibility in economic development projects is established by creating job opportunities for low- and moderate-income persons. There are two options for ensuring LMI benefit results from the job creation process. The first option is to employ LMI persons in at least 51 percent of the available positions. Under this option, the locality or assisted business will retain documentation of the income status of employees. The second option is to establish procedures to ensure that LMI persons will receive first consideration for employment. Under this option, the job qualifications must be limited to possession of a high school diploma or its equivalent. No special training should be required. A third party single point of contact for application screening, such as the Virginia Employment Commission, is typically utilized. This contact will maintain all LMI documentation. The employer must hire only those persons screened by this third party.

At least 51 percent of the new jobs must be accessible to persons holding no more than a high school degree. Job creation must occur within two years of the date of completion of the private investment. Additionally, the documentation of job creation, including jobs to LMI persons, may not conclude until the completion of the CDBG-funded construction activity or the achievement of the total job creation and 51% LMI benefit, as agreed to in the executed Industry Agreement, whichever is later. Private Investment must occur within 2 years of the commencement date of the CDBG contact with the locality. The job creation requirement will be incorporated into a formal agreement. A business which fails to meet the job requirements will be subject to a non-performance penalty as outlined in this agreement.

Projects utilizing CDBG funds to install or improve water/wastewater services must make these services available to adjacent residential structures. **Low- to moderate- income households must be connected to the new service.**

## **PIRACY**

CDBG assistance will not assist a Virginia firm to relocate from one locality to another locality unless the firm provides substantial evidence that it cannot continue to do business in the existing

location due to inadequate facilities, that the firm is significantly expanding beyond the capabilities of the existing location, that the move to another location results in a net gain of permanent jobs for Virginia, and that the impacted local governments are aware of the need for relocation and concur with it. CDBG assistance will not assist a non-Virginia firm in relocating to Virginia if the relocation is likely to result in a significant loss of employment in the labor market from which the relocation occurs.

## **INELIGIBLE ACTIVITIES**

The following activities are not eligible for CDBG assistance:

- 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 such clientele clearly outweighs employment or other benefits to low- and moderate-income persons;
- Acquisition of land for which no specific purpose has yet been identified;
- Additional assistance to a for-profit business while the business is the subject of unresolved findings of non-compliance from previous CDBG assistance;
- Assistance to facilitate the creation of gambling operations;
- Development of infrastructure in a privately-owned industrial park; and,
- On-site assistance to prisons, colleges or state institutions.

## **ADDITIONAL BUSINESSES**

DHCD must be notified of any additional businesses or industries that are located near the project area and will also benefit from any CDBG funded improvements. Other businesses and industries that benefit from CDBG funding are likely subject to the same CDBG requirements. Notification must be made at the time of submission of the proposal. DHCD must also be notified at any point when a business locates in the proximity of an active CED contract.

## **CDBG OPEN CONTRACT LIMIT**

A locality which finds itself in a position to apply for a critical Community Economic Development project and is currently at or near the \$2.5 million limit MAY, at DHCD's discretion, be granted a temporary waiver of the cap limit. The locality should contact DHCD to discuss a possible waiver prior to submittal of the proposal. If the waiver is approved, the Community Economic Development funds will count towards the cap limit once other CDBG projects are closed.

## **COMPLIANCE**

All federal and state laws, regulations and rules normally affecting publicly funded construction projects shall be in effect for economic development project activities funded in whole or in part by DHCD.

Compliance areas which may apply:

## **Labor Standards**

Construction of facilities and installation of equipment related to grant assisted improvements are subject to the Davis-Bacon Act, the Copeland Anti-Kickback Act and the Contract Workhours and Safety Standards Act.

## **Equal Opportunity**

All CDBG related project activities **MUST** be carried out in such a manner so as to assure that no person shall be denied benefits on the grounds of race, color, religion, national origin, age, sex or handicap. In order to document nondiscrimination compliance, all firms receiving grant assistance must provide jobs in a nondiscriminatory manner and report to the locality information about the number, ethnicity and sex of all persons hired as a result of the project. Equal Opportunity requirements are contained in Chapter Four of the CIG Management Manual.

## **Property Acquisition**

Any purchase made in whole or in part with public funds must be in accordance with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended. A public hearing must be held prior to the acquisition of property by a Town for the development of business and industry (Code of Virginia 15.1-18).

# **PROJECT MONITORING**

DHCD representatives will make on-site visits to the assisted business to review job creation, progress, and reporting requirements. These visits may occur as follows:

- Prior to execution of grant contract between the locality and DHCD;
- During construction (if applicable);
- Prior to conducting a final compliance review of the locality; and
- Prior to granting closeout status.

Although DHCD representatives will conduct on-site visits to the industry, this does not relieve the locality from conducting its own monitoring and on-site visits to ascertain the above information on a more frequent basis. The industry **MUST** be reporting progress and jobs to the locality on a regular basis as agreed upon in the industry agreement. The locality **MUST** require the business to report the kinds of data which the Community Representative needs to determine compliance. In this way, some of the documentation can be reviewed by the Community Representative at the grantee's offices.

# **CLOSEOUT**

Investment for facilities and equipment **MUST** be completed and documented within six months of completion of Community Improvement Grant- assisted activities.

Enterprises are allowed two years (if CDBG funds are used as a loan) from the date of Administrative Closeout to meet employment commitments. Economic development projects may be Administratively Closed upon the completion of all grant assisted activities in accordance with normal Community Improvement Grant requirements and the approval (if applicable) of a Plan for Program Income.

Conditional Closeout of economic development projects is usually conditioned upon completion of all contracted activities, documentation of all required investment, and creation of all jobs, including LMI jobs. Usually investment and creation of jobs have not been completed at Administrative Closeout; therefore, economic development projects must be actively tracked until all performance requirements have been fulfilled. **It is expected that jobs will be created within two years of the opening of the private facility. Jobs must be tracked during that time.**

In order for DHCD to track completion of investment and job creation, localities are required to submit reports every six months following Administrative Closeout until performance is achieved. Conditional Closeout will not be issued until achievement of the National Objective is assured, that is, until all LMI jobs are in place.

If at the end of the tracking period following Administrative Closeout, performance has not been met, a Final Report MUST be submitted documenting final investment and job creation attained. If job creation and investment commitments have not been met, and the tracking period has expired since Administrative Closeout, the locality will not be eligible for further Community Improvement Grant contracts until this Final Report and any necessary documentation is received by DHCD. Should the Final Report indicate substantial non-achievement of performance, information identifying the reasons for non-achievement of the committed results MUST accompany the Report.

Grantees are responsible for the performance of private firms which they are assisting with grant funds. If contractual obligations are not met, persuasive documented evidence that good faith efforts were exhausted by the locality and/or third parties must be submitted to DHCD. If the project or the tracking period expires without meeting the National Objective appropriate sanctions will be imposed. These could include payback of grant funds, ineligibility for consideration of future grants, or withholding of draw-downs on a new grant until compliance with the National Objective is met.

## **CATEGORIES AND THRESHOLDS**

The nature of the financial assistance available under the CED Fund varies depending on the economic strength of the applicant localities. CDBG-eligible localities, excluding Towns, are placed in one of three categories: Distressed Transitional, and Competitive. Towns which are fully contained within a county are in the same category as the surrounding county. Towns which are divided among two counties are in the same category as the county with the least economic strength. Localities were placed in a category based on the relative position of local statistics to statewide statistics for each of three economic factors. The factor titles, sources of factor data, and delineations within each factor are as follows:

***Persons in Poverty***

(2017 Estimates, U.S. Census Bureau)

- Distressed: 150% or greater than statewide figure (or 16.0% or higher)
- Transitional: Greater than the statewide figure of 10.7% but less than 16.0%
- Competitive: Equal to or less than statewide figure of 10.7%

***Median Income per Household***

(2017 Estimates, U.S. Census Bureau)

- Distressed: 70% or less of statewide figure (or \$47,689 or less)
- Transitional: Less than the statewide figure of \$71,518 but greater than \$50,063
- Competitive: Equal to or greater than statewide figure of \$71,518

***Average Unemployment Rates***

(2018 Unemployment Rates for Virginia Localities, Virginia Employment Commission)

- Distressed: 150% or greater than statewide figure (or 4.0% or higher)
- Transitional: Greater than the statewide figure of 2.7% but less than 4.0%
- Competitive: Less than or equal to statewide figure of 2.7%

Localities receive two points for each factor in which they met Distressed levels, one point for each factor at Transitional levels, and no points for each factor at Competitive levels. Localities with 5 or more points are Distressed. Localities with 2 to 4 points are Transitional. Localities with 1 point or less are Competitive.

### ***On-Site Assistance***

CDBG funding is available for certain on-site improvements in support of a business creating jobs and completing private investment in an eligible locality. A locality seeking CDBG funding for on-site assistance must coordinate completion of an Appropriate Determination package. To complete this package, a locality must obtain detailed information on the background, financial position, and local development plans of the business to be assisted. This package is submitted by DHCD to independent underwriters for review.

CDBG on-site assistance is offered to localities in the form of a loan. The loan terms are established by the independent underwriters. The locality is responsible, in turn, to make the CDBG assistance available as a loan to the assisted business and to make arrangements with the assisted business to make regular payments. However, the repayment requirement may be waived if the locality has a long-term lease and ownership is maintained by the locality/EDA. A locality receiving CDBG funding for on-site improvements will not be required to repay DHCD unless the property is sold.

CDBG funding cannot be used to develop infrastructure in a privately-owned industrial park.

### ***Appropriate Determination***

On-site improvements are subject to underwriting because CDBG funds, which are public funds, must not be used to replace any form of financing that either could be or already has been secured at terms and conditions that make the project feasible. The underwriting is to determine if the use of CDBG funds in a project is appropriate for the anticipated level of public benefits and includes a financial analysis of the business. An Appropriate Determination package is available from DHCD which outlines the type of information required from the business to complete underwriting. Applicants must prepare a response to this package and submit it to DHCD approximately one month before completion of a CED proposal.

### ***Loan Guarantees***

Localities interested in loan guarantees in support of economic development should contact DHCD for additional information.

### ***CDBG Open Contract Limit***

A locality which finds itself in a position to apply for a critical Community Economic Development project and is currently at or near the \$2.5 million limit may, at DHCD's discretion, be granted a temporary waiver of the cap limit. The locality should contact DHCD to discuss a possible waiver prior to submittal of the proposal. If the waiver is approved, the Urgent Need or Community Economic Development funds will count towards the cap limit once other CDBG projects are closed.

Funding which has not been committed as of September 30, 2020 may be committed to Self Help projects, Construction Ready Water and Sewer projects, Community Development Innovation, the next highest ranking 2020 Competitive Grant project (to the established cut-off point), projects with Letters of Intent, and Community Economic Development Fund projects.

## **SUBMISSION**

Please note that applications are accepted electronically through the Agency's Centralized Application and Management System (CAMS). To access CAMS, visit the website at [www.dhcd.virginia.gov](http://www.dhcd.virginia.gov) and click on the CAMS icon in the upper-right hand corner. You may then create a locality profile, add staff members, and access the CDBG Planning Grant program using the APPLY button.

Potential applicants are encouraged to contact DHCD prior to submission of a proposal. Contact information is as follows:

**Matt Weaver, Associate Director**  
matt.weaver@dhcd.virginia.gov  
**(804) 371-7011**

**Rachel Jordan, Policy Analyst**  
rachel.jordan@dhcd.virginia.gov  
**(804) 371-7076**

**Virginia Department of Housing and Community Development**  
**600 East Main Street, Suite 300**  
**Richmond, Virginia 23219**  
**(804) 371-7061**  
**Fax (804) 371-7093**  
**711 TDD**  
**<http://www.dhcd.virginia.gov>**