

CDBG DISASTER RECOVERY
PROCEDURES FOR ECONOMIC DEVELOPMENT
SMALL BUSINESS DISASTER RECOVERY PROGRAM

Version 2, June 2018

The Small Business Disaster Recovery (SBDP) Program will provide financial assistance in the form of forgivable loans up to \$20,000 to businesses affected by the October 2015 Flood that continue to experience challenges to their recovery. Applicants may use funds as working capital to purchase inventory, furnishings and equipment, and cleanup and repair. Loans will be forgiven over a period of two (2) years with 50% forgiven each year on the anniversary of the loan closing. All forgivable loans require a personal guarantee from the borrower. While the forgivable loan is outstanding, the borrower agrees to supply the lender, the Columbia CDBG Disaster Recovery Program, with the following annual proof of good standing:

- Copy of valid business license;
- Current property and liability insurance for premises;
- Copy of most recent water and sewer bill showing no balance.

The forgivable loan shall be considered in default and repaid only if the Borrower closes, sells or relocates outside the city limits, has a significant change in ownership for any reason, to include foreclosure and/or any other legal action, prior to the two-year maturity date. If default occurs, Borrower will be issued a notice requesting immediate repayment of the pro-rated amount remaining on the loan.

As part of the City's emergency response to the October 2015 flooding, the Office of Business Opportunities (OBO) launched the Small Business Disaster Recovery Loan Program on Jan. 28, 2016 to provide short term gap financing to assist small businesses with disaster recovery efforts. Applicants were eligible for interest free loans up to \$10,000 for inventory, equipment, payroll, working capital and clean up and repair. Data from this program was used to assess the remaining degree of need for small businesses in Columbia, which helped determine that the program should be extended under the CDBG Disaster Recovery Program.

On August 5, 2016 OBO executed a Memorandum of Understanding with the U.S. Small Business Administration to exchange data on a monthly basis regarding business applicants for disaster loans. This data sharing is important to avoid a duplication of benefits for businesses receiving assistance under federal disasters FEMA DR 4241; SBA Declaration #14495, 14496, 14544, and 14545. The information provided includes the following:

- SBA application number, loan type, and effective date
- Current status
- FEMA declaration number/SBA declaration number

- Loan Decision, Date of Action, SBA Loan number, and amount approved
- FEMA Registration number, loss verification for Personal Property, Real Estate, and Mitigation
- Name, family size, mailing address, damaged property address, business name, number of employees,
- Adverse action reason

PROGRAM OUTREACH

On June 1, 2017, after HUD approval of the CDBG Disaster Recovery Action Plan, OBO mailed disaster recovery assistance questionnaires to 75 commercial businesses that previously applied to FEMA and/or the SBA for assistance. The initial survey indicated that most candidates have a minimum of \$10,000 in unmet recovery needs and some up to \$40,000; however, meeting a national objective of Low to Moderate Income (LMI)-Jobs seems unrealistic for most of these businesses, many of whom are microenterprises.

DETERMINING THE SERVICE AREA AND MEETING A NATIONAL OBJECTIVE

Economic activities that benefit a Low to Moderate Income (LMI) area may qualify under the Area Benefit of the LMI national objective *if* the business is in a neighborhood that is at least 51 percent LMI. CDBG Disaster Recovery staff considered the nature and location of the activity, accessibility, and the availability of comparable activities in defining the service area as within a one half mile radius of the business address, approximately a ten to fifteen minute walk.

With assistance from the Information Technology Department, CDBG Disaster Recovery staff applied census tract overlays within a half mile radius to business locations to determine income levels per tract using the most recent census information available. Low to Moderate Income (LMI) census tracts are those where at least 51% of households earn incomes 80% or less of the area median income as computed on the most current HUD Section 8 Income Limits.

Maps that identify the boundaries of the service area, the percentage of LMI persons residing in the service area, and the data used to determine the percentage of LMI persons will become part of the applicant's permanent record and demonstrate compliance under the LMI Area national objective. Under certain circumstances the Limited Clientele category may be used to qualify economic development activities under the LMI national objective. In this case, the City will document the income of the business owner and/or the individuals served.

MICROENTERPRISE ASSISTANCE

Microenterprise development activities are designed to foster the development, support, and expansion of commercial enterprises that have five or fewer employees, one or more of whom owns the company. Eligible activities include the provision of grants, loans, loan guarantees and other forms of financial support for the establishment, stabilization, and

expansion of microenterprises. The City of Columbia may use CDBG Disaster Recovery funds to provide financial assistance to an existing microenterprise or to assist in the establishment of a microenterprise by providing:

- Technical assistance, and
- General support to owners of microenterprises.

The guidelines for meeting a national objective under the Special Economic Development activity apply to microenterprises, with one notable exception: assistance may qualify under the LMI Limited Clientele category if the owner qualifies as low to moderate income. Assistance to microenterprises is not subject to the requirements concerning Public Benefit and services provided under this authority are not subject to the cap on public services regardless of the entity providing the service.

COMMERCIAL REHABILITATION

Activities designed to bring private, for-profit commercial structures up to code or improve their facades may be eligible if the following limitations apply:

- Rehabilitation is limited to the exterior of the building and the correction of code violations; and
- Any other improvements are carried out under the special economic development activities category discussed above.

Businesses eligible under this category, the repair of storm damaged business property, will be subject to an environmental review in addition to the Categorical Exclusion Not Subject to 58.5 completed in February 2017.

PRELIMINARY ELIGIBILITY REVIEW:

Business owners must meet the following preliminary eligibility criteria:

- Businesses must be located in an eligible census tract in a commercial corridor within the city limits;
- Businesses must have applied to SBA for disaster assistance; (Funds may be used by those who were denied funding by SBA or used as gap financing for those who have needs in excess of the amount received from other sources.)
- Applicants must qualify as a Small Business with less than 50 employees;
- Business owners must have owned and operated the business as of and prior to the date of the storm event (October 2015);
- Businesses must be located in a low-to-moderate income census track where 20% of residents are at or below the poverty level, 70% of residents are LMI, or serves a Neighborhood Revitalization Strategy Area;
- Priority will be given to businesses located in the most heavily impacted areas;
- Businesses must provide financial statements, tax returns or other documentation to demonstrate continuing unmet need.

MEETING PUBLIC BENEFIT CRITERIA

Under the national objective of Low to Moderate Income (LMI) Area for Special Economic Development activities, the City must apply Public Benefit Standards criteria. 24 CFR 570.209 requires that the level of public benefit derived from an activity be appropriate given the amount of CDBG assistance provided. The public benefit standard requires that the amount of assistance not exceed \$1000 per LMI person to which goods and services are provided **AND** either creates or retains at least one permanent FTE job per \$35,000 in funding **or** provide goods and services to an area (census tract) where the number of LMI persons served by the business amounts to at least one LMI person per \$350 of CDBG funds (or 57 LMI persons per \$20,000 award). Some leeway is allowed for assisting businesses in areas where 20% of the population resides in poverty or that stabilizes or revitalizes a neighborhood where at least 70% of residents are LMI.

The City of Columbia will ensure that a minimum level of public benefit is obtained for each economic development activity undertaken, and will maintain sufficient records to demonstrate the level of public benefit that is actually achieved upon completion of the economic development activity and how that compares to the level of benefit anticipated. Both individual and aggregate activity standards must be used to make this determination.

Applying the standards for individual activities:

- If an activity both creates/retains jobs and provides goods/services to LMI residents of an area, it will be disqualified only if the amount of assistance exceeds \$50,000 per FTE or \$1000 per LMI person to which goods or services are provided.
- The standards are applied to the number of jobs projected or LMI area residents at the time funds are obligated.

Activities, in the aggregate, must either:

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

Some activities may, at the City's option, be excluded from the aggregate standards if:

- Assistance is provided to businesses that operate in a Census tract with at least 20 percent of the residents in poverty;
- The activity stabilizes or revitalizes a neighborhood that has at least 70 percent low- and moderate-income residents;
- Provides services or creates/retains jobs in a HUD-approved Neighborhood Revitalization Strategy Area.

All businesses will be fully qualified when program applications, financial statements, and other required documents are submitted. The Disaster Recovery team will calculate the

public benefit at the time of application using census tract and service area maps and will perform the tracking and monitoring duties over the lifetime of the loan (two years).

APPLICATION APPROVAL PROCESS

The City of Columbia has established Economic Development Procedures for the Small Business Disaster Recovery Program to review all aspects of loan applications including project benefits, project costs, private financing sources, CDBG National Objective and CDBG Eligible Activity, and all additional considerations. For reporting purposes, businesses also will supply information on the number of current full-time and part-time employees, the number of low to moderate income positions, and the number of positions held by women or minorities. For-profit retail, manufacturing, wholesale, and service businesses are eligible for assistance, **except** those involved in gambling, speculative ventures, investment-oriented activities, religious activities, alcohol sales, sexually-oriented business, illegal activities, or any other inappropriate activities as may be set forth by the City of Columbia.

Disaster Recovery staff will verify incorporation information using the Secretary of State website; corporations not legally registered will not receive funds. Businesses not in compliance with State taxes, following April filings, will not receive their funds until in compliance (or under an approved Department of Revenue repayment plan) and may be required to repay funds received.

At a minimum, Disaster Recovery staff will review each application and associated financial information to evaluate project benefits, potential drawbacks, the fulfillment of all eligibility criteria, and financial stability. Financial underwriting will not be necessary for this forgivable two year loan. The review will focus on:

- What National Objective does the project meet?
- What eligible activities are associated with the project?
- Is there a public benefit component to the project?
- Are project costs reasonable?
- Are CDBG funds being substituted for non-federal financial support?

The applicant must provide the following documentation:

- Copy of valid or most recent business license;
- Copy of most recent *business* financial statements and most recent business federal tax return;
- Copy of valid Driver's License;
- Copy of the company's General Liability Insurance coverage with agent's contact information at the time of the flood;
- Proof of address in October 2015; the location of business must have been in the City limits at the time of the flood;
- Business owner must be a citizen or a lawful permanent resident of the United States;
- The business must have applied for relief funding from SBA at the time of flood

- demonstrating the damage is connected to the disaster;
- Copy of insurance claim;
- Copy of lease, if applicable.

While a formal underwriting is not mandated for this forgivable loan, Disaster Recovery staff will perform due diligence during its financial review. All loans will require a mortgage guarantee from the borrower and annual proof of good standing while the loan is outstanding. Applications must disclose all losses not fully covered by insurance, FEMA, or SBA funds, specifically:

- Type of Loss
- Amount of Loss
- Amount covered by insurance
- Amount covered by SBA
- Unmet need

TERMS AND CONDITIONS OF THE LOAN

- Maximum Forgivable Loan Amount - Up to \$20,000;
- Interest Rate – 0%;
- Forgivable Loan Amount forgiven at a rate of 50% per year for a period of 2 years;
- Security –Mortgage Guaranty;
- DEFAULT/Repayment - All funds due at maturity, (prorated) as applicable;
- Must remain in current location for one year from date of receiving loan, or if moving, must be within the City limits;
- Must expend funds within 90 days of receipt for the purposes stated in the loan agreement;
- Must maintain General Liability and Flood Insurance, if applicable;

DUPLICATION OF BENEFITS REVIEW

Disaster Recovery staff will review all business applications for possible duplication of benefits (DOB), which occur when:

- A beneficiary receives assistance;
- The assistance is from multiple sources; and
- The assistance amount exceeds the need for a particular recovery activity.

The first step in calculating DOB is to determine the amount of assistance needed and the amount of funds previously received or expected for a disaster recovery activity. All sources of recovery assistance must be disclosed and verified during the application process using third party information and verification procedures. Other sources of funding include Federal Emergency Management Agency (FEMA), Small Business Administration (SBA), the National Flood Insurance Program (NFIP), private insurance, local and state funds, other federal programs, and private and nonprofit organizations. Disaster Recovery staff will determine the amount of assistance as follows:

- Review applicant total need prior to assistance;

- Identify potentially duplicative assistance as defined above;
- Deduct duplicative assistance;
- Determine the amount of award and apply the program cap to calculate final award.

The City also will identify assistance not available for the activity such as funds from private loans not guaranteed by the SBA (forgivable loans are duplicative) and any other asset or line of credit available to the applicant such as checking and savings accounts, stocks, etc. These funds are not considered duplicative and may be excluded as a duplication of benefit. A Quality Assurance/Quality Control (QA/QC) review will be conducted to ensure all applications are complete and DOB calculations are correct before executing a loan agreement.

The loan agreement will include a subrogation clause requiring that any additional assistance received during the term of the loan (two years) for the same purpose as CDBG-Disaster Recovery funds, and that exceeds the need for disaster assistance, must be returned to the City of Columbia. Compliance and monitoring staff will review project information annually for duplicative assistance. All duplicative assistance will require an adjustment to the calculation and either a reduction in award or grant recapture carried out in accordance with the loan subrogation agreement.

ENVIRONMENTAL REVIEW

The City has completed a Categorical Exclusion Not Subject to 58.5 for economic development activities under 58.35(b) including, but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations. If assistance to a business is for the repair or rehabilitation of a commercial establishment, a Categorical Exclusion will be completed Subject to 58.35(a) (3) (iii) which requires that:

- The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
- The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

DETERMINE AWARD

The CDBG Disaster Recovery Manager and the Director of Community Development will determine the award amount based on the approved use of funds identified in the application; the City will execute loan agreements with business owners that stipulate the conditions, responsibilities and authorities required to complete the scope of work and will authorize program covenants, deed restrictions (if applicable), and standard language affirming the City is acting in the best interest of the business owner and the owner holds the program and City harmless. The Agreement also requires the applicant to return to the City of Columbia any additional assistance received for the same purpose as the

CDBG-Disaster Recovery funds as described above. This agreement will be monitored by program staff at least once annually for two years.

Disaster recovery assistance needs are calculated at a point in time. As a result, subsequent circumstances may occur that affect the need. If, after the assistance has been calculated and/or an award has been made, an applicant can demonstrate a change in circumstances the award calculation may be reevaluated. Such changes in circumstance include vandalism, contractor fraud, an increase in the cost of materials or labor, a change in local zoning law or building codes, or subsequent damage to a business that was partially repaired.

The reevaluation must be completed before the initial need for which assistance was granted has been fully met (e.g., before a damaged building is fully repaired). Unless an additional need is established, disaster recovery funds must be recaptured to the extent they are in excess of the need and duplicate other assistance received by the beneficiary for the same purpose. Protocols for recapturing assistance are mandatory and will be included in the Loan Agreement and communicated to applicants at each step in the process.

REIMBURSEMENT PROCESS

Once approved, Disaster Recovery staff will issue a commitment letter and schedule a time for execution of the loan agreement, which will include the following attestation clauses:

- **Good Standing:** The undersigned understands that the Program has the authority to confirm with the Department of Revenue that the award recipient is in good standing.
- **No Right of Assignment or Delegation:** The award recipient may not assign or otherwise transfer its rights or delegate any of its obligations under this letter unless expressly approved by the DR grantee.
- **Revocation:** The DR grantee reserves the right to revoke this award if the funds are not used for the stated purpose. The award recipient understands and agrees that revocation of this award will require the return of all funds disbursed. The business will be obligated to repay any funds received under this program in the event its application includes information that contains material misrepresentations.
- **Monitoring and Records:** This award may be used only for the purposes stated herein. Documents providing evidence that funds awarded were expended within 90 days of execution of the loan and for the purpose stated in the loan agreement. The City of Columbia compliance staff will monitor usage of award funds to ensure the entire amount of the award was used only for the expenses specified in the loan agreement.

The City of Columbia may, during regular business hours and on reasonable notice, inspect, audit, or copy records pertaining to this award. It is further agreed that the City's independent auditor, Office of Inspector General, City of Columbia internal auditor, and the U.S. Department of Housing and Urban Development (HUD) auditors or auditors contracted by them shall have the option of examining all records and accounts of award recipient that relate to this grant as often as deemed reasonably necessary and to make excerpts or transcripts of all relevant data. Awardee's failure to cooperate in such review will result in forfeiture of the award and awardee will be responsible for repaying the full amount of funds disbursed.

- Information Access Authorization: For determination of eligibility, the applicant should submit information requested in the Application Checklist. In the event that additional information is required to approve the request, the undersigned agrees to provide that information in a timely manner.
- The undersigned gives permission to the City of Columbia to use its name in its Annual Report and in its marketing materials. No financial details will be released.
- Affirmation of Information Provided in Application: By the applicant's signature below, the applicant represents and warrants that he/she has read the application and Statement of Understanding and attests that all information and documentation furnished is true, accurate and complete to the best of his/her knowledge and that he/she will comply with all regulations relative to the program.

MONITORING OF AWARDS

All loans will be subject to detailed audit by the City of Columbia compliance staff, Quality Assurance/Quality Control staff, and the Internal Auditor including verification of official documents, review of all application materials, and physical site visits to verify appropriate use of funds 90 days from closing and bi-annually thereafter for the term of the loan. Auditing will be increased if warranted.

GRANT CLOSING PROCESS

Disaster Recovery staff will document the funding assistance and the participant's obligations under the program; ensure participants understand program obligations; coordinate the draw-down of funds; and ensure project completion in a timely, efficient manner. Closeout procedures will be initiated when:

- All costs to be paid with CDBG Disaster Recovery funds have been incurred,
- The work financed with CDBG funding has been completed, and
- The participant's other responsibilities under its agreement have been met.

When these criteria have been met, or upon the expiration of the Loan Agreement, compliance staff will monitor all financial, performance, and project records, and other

reports that were a condition of the award. These reports may include but are not limited to:

- A final performance or progress report;
- A final request for payment.

RECAPTURE:

The written loan/subrogation agreement between the business owner and the City of Columbia imposes the recapture requirements. A clear, detailed grant agreement ensures that all parties are aware of the specific requirements and helps the City enforce those requirements. The recapture approach requires that all or a portion of the *direct subsidy* provided to the business owner be recaptured if duplicative assistance is obtained after receipt of CDBG Disaster Recovery funding. Specifically, Disaster Recovery staff will implement the following recapture procedure:

- ❖ Meet with applicant to document the reason(s) for recapture;
- ❖ Issue a 60-day notice requiring full repayment, certification of compliance, or creation of a repayment plan (installments) if approved by the City of Columbia.
- ❖ If a notice is returned, staff will take reasonable actions to locate the applicant.
- ❖ Business owner may appeal the recapture based on the City's appeal process. Disaster Recovery staff will gather additional information regarding the appeal and make a determination. The City of Columbia will make the final appeal decision.
- ❖ If fraud is suspected, the file will be submitted to the Office of the State's Attorney immediately.

RECORD KEEPING AND RETENTION:

Records providing a full description of each activity assisted with CDBG Disaster Recovery funds including the business location, the amount of CDBG funds budgeted, obligated and expended for the activity, as well as the following.

For each activity determined to benefit low and moderate income persons based on the area served:

- The boundaries of the service area;
- The income characteristics of households in the service area.

For each activity determined to benefit low and moderate income persons because the activity involves a facility or service designed for use by a limited clientele consisting exclusively or predominantly of low and moderate income persons:

- Documentation establishing that the facility or service is designed for the particular needs of or used exclusively by senior citizens, the severely disabled, persons living with AIDS, battered spouses, abused children, the homeless, illiterate adults, or migrant farm workers, for which the regulations provide a presumption concerning the extent to which low- and moderate-income persons benefit; or
- Documentation describing how the nature and, if applicable, the location of the facility or service establishes that it is used predominantly by low and moderate income persons; or

- Data showing the size and annual income of the family of each person receiving the benefit.

Disaster Recovery compliance staff will ensure that all required paperwork is in the master file prior to project close out. The City of Columbia will maintain program files and records for general administration activities for each applicant and for each assisted business for a period of not less than five (5) years as stipulated by City of Columbia record retention policy. The State of South Carolina, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records directly pertinent to the CDBG Disaster Recovery grant award for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this program will be maintained in a central location by the City of Columbia and will be maintained for five (5) years from the official date of the City's final closeout of the grant.

COMPLAINTS AND APPEALS:

The CDBG Disaster Recovery Program will handle citizen complaints in accordance with its *Grievance and Complaint Procedures*. Staff will maintain the following files:

- The name of the person who filed the complaint;
- The date the complaint was received;
- A description of the complaint;
- The name of each person contacted in relation to the complaint;
- A summary of the results of the review or investigation of the complaint; and
- An explanation of the reason the file was closed, if the file was closed.

The goal of the City's complaints and appeals process is to provide an opportunity to resolve complaints either formal or informal, in a timely manner, usually within fifteen (15) days where practicable, and to provide the right to participate in the process and appeal a decision when there is reason to believe their application was not handled according to program guidelines. The Program has established a Grievance Committee comprised of two members of the Citizen Advisory Committee and the CDBG Disaster Recovery Manager. The committee provides a means to respond to applicant concerns or the general public relating to Disaster Recovery activities, rules and decisions. The grievance process provides a way for an applicant's concern to be heard and responded to by a committee of peers.

COMMITTEE MEMBER RESPONSIBILITIES:

- ❖ Review applicant complaints concerning the administration of CDBG Disaster Recovery Program.
- ❖ Know the grievance process and how it directly relates to the Disaster Recovery program.
- ❖ Complete a grievance form.
- ❖ Log and file complaint, written response, and correspondence.

- ❖ Notify complainant in writing of findings with seven days of receipt. (15?)
- ❖ Participate in committee hearings if complainant disagrees with the decision
- ❖ Notify complainant in writing of hearing date
- ❖ Listen with an open mind to the grievance presented.
- ❖ Keep information presented during the grievance hearing and subsequent discussions confidential.
- ❖ Be consistent in the way decisions are made.
- ❖ Ask appropriate questions to ensure all relevant information is presented.
- ❖ After conferring with other members of the committee, make a decision regarding the grievance.
- ❖ Take responsibility for writing the written resolution to grievance hearings.
- ❖ Committee members must remove themselves if they have a personal connection/conflict of interest with an applicant or family filing or named in the grievance.
- ❖ Committee members will serve a one-year term.

All applications, guidelines, and websites will include the right to file a complaint or appeal and the process for beginning an appeal or making a complaint. The following procedures will be followed on all complaints received by the CDBG Disaster Recovery Program. The initial complaint may be expressed orally or in writing.

- The CDBG Disaster Recovery Manager will notify the Director of Community Development of the complaint, investigate the complaint, and report the findings to the Grievance Committee within eight (8) business days.
- The Grievance Committee will notify the complainant in writing of its findings within seven (7) business days.
- If the complainant disagrees with the Grievance Committee's findings, he/she must notify the CDBG Disaster Recovery Manager in writing that he/she desires a hearing by the Grievance Committee for review and reconsideration. The CDBG Disaster Recovery Manager will notify the complainant in writing of the hearing date.
- The complainant must bring all relevant data, witnesses, etc., to the hearing. The Director of Community Development will address the complaint and within fifteen (15) days forward to the complainant a certified copy of the decision rendered.

During the application process and before execution of a loan agreement, applicants will be provided with the City's *Grievance Procedures*, which contain a point of contact, street address, and telephone number along with timeframes for filing a grievance. As a part of this process, applicants must sign a receipt acknowledging they understand the grievance/complaint process. The city will provide a written response to each complaint within 15 calendar days of receiving the complaint. All citizen or applicant grievances will be appropriately logged and filed in a central repository for HUD review and monitoring. A copy of the grievance and response also will be maintained in the applicant's file. If the grievance has been forwarded to the city by HUD, the city's response to the grievance will be submitted to HUD's designated Disaster Recovery email address.