



## **Texas Community Development Fund**

2016 Texas Capital Fund Small and Microenterprise Revolving Loan Fund  
(SMRF)

Application Guide

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## **TxCDBG Goals and Requirements**

The goal of the Texas Community Development Block Grant (TxCDBG) Program is to develop viable communities by providing decent housing and a suitable living environment, as well as by expanding economic opportunities, principally for persons of low-to-moderate income. In awarding funding pursuant to Government Code Section 487.351(c), the Texas Department of Agriculture (TDA) shall give priority to eligible activities in the areas of economic development, community development, rural health and rural housing to support workforce development.

The objectives of the TxCDBG Program are:

1. To improve public facilities to meet basic human needs, principally for low-to-moderate income persons;
2. To improve housing conditions, principally for persons of low-to-moderate income;
3. To expand economic opportunities by creating or retaining jobs, principally for low-to-moderate income persons; and
4. To provide assistance and public facilities to eliminate conditions hazardous to the public health and of an emergency nature.

The Small and Microenterprise Revolving Loan Fund (SMRF) provides capital for rural communities to invest in new and/or existing small businesses and microenterprises. In cooperation with a qualified, **nonprofit development organization (NDO)**, SMRF monies are loaned to local small businesses and microenterprises to support job creation/retention activity for predominately low and moderate income persons. Once the contractual job creation/retention requirements are satisfied, the contract is monitored for compliance and closed out by TDA.

At the local level, the NDO continues servicing the original SMRF loans, and repayments are deposited into a locally established Revolving Loan Fund (RLF) operated by the NDO. The RLF continues lending to small businesses and microenterprises, but the funds are no longer subject to Federal requirements nor further TDA oversight per Section 105(a)(15) of the Housing and Community Development Act of 1974 (HCDA).

## **Application Submittal and Deadline Requirements**

The application procedures for the 2016 Texas Capital Fund (TCF) Small and Microenterprise Revolving Loan Fund (SMRF) is included in this Application Guide. The application for the 2016 SMRF Fund is available at [www.TexasAgriculture.gov](http://www.TexasAgriculture.gov).

The Texas Capital Fund SMRF will be available on a competitive basis, to eligible applicants statewide. Applications for the 2016 program year are due by 5:00 p.m. C.T. on August 19, 2016. Applications will not be accepted after 5:00 p.m. on the date due.

1. Each applicant must submit a complete application to TDA. No changes to the application will be allowed after the application deadline date, unless they are a result of TDA recommendations for clarification purposes only.
2. Applications will be ranked by score from high to low, and tie-breakers may be used.
3. Applications within the funding range are reviewed for eligibility and completeness in descending order based on their score.

You may contact TDA to verify the availability of funds before preparing and submitting an application.

## Contact Information

Mailing Address (for U.S. Postal Service): Texas Department of Agriculture Texas Community Development Block Grant Program Post Office Box 12847, Capitol Station Austin, Texas 78711	Physical Address (for Overnight Carriers): 1700 N. Congress Avenue, 11 <sup>th</sup> Floor Mailroom Austin, Texas 78701
Physical Address (for Hand Delivery): 1700 N. Congress Avenue, 11 <sup>th</sup> Floor Reception Desk Austin, Texas 78701	Telephone (for Technical Assistance): 512-936-8163 or 512-936-0232 – Telephone

Any application that is incomplete, noncompliant with program requirements, or received late will be disqualified. Applications lacking information necessary to make a determination concerning the eligibility of the activity or compliance with TxCDBG and Federal program requirements (e.g., citizen participation requirements) will be disqualified. A substantially complete SMRF application must include all of the following information:

- A completed 424 Form with original signature;
- All application forms, fully completed;
- A passed/adopted Local Government Resolution authorizing submission of the application;
- Evidence of compliance with the TxCDBG Citizen Participation Plan including the Public Hearing Notice;
- Fully executed Applicant/NDO Agreement;
- Applicant’s Annual Audit (See Attachments Section); and
- Applicant’s active SAM registration (See Attachments Section).

Applications lacking any of the items listed above will be disqualified. An Application Review Checklist is located at the end of the Application Guide. Applicants must verify that the application is complete using the checklist.

Completed applications received by the deadline may be subject to disqualification including but not limited to any of the following reasons:

- The applicant is not a unit of general local government;
- The project is located in an entitlement area;
- The application contains ineligible activities;
- The applicant does not comply with the TxCDBG Citizen Participation Plan requirements;
- The applicant does not meet the Applicant Performance Threshold Requirements;
- The application contains false information;
- The application does not contain adequate or acceptable information to show that each proposed application activity meets the applicable National Program Objective;
- The application does not comply with the requirement concerning the preparation of an assessment of the applicant's housing and community development needs prior to submission of a TxCDBG application;
- The applicant does not provide necessary financial interest report(s) (Form A503); or
- The applicant does not respond, refuses to respond, or does not provide an adequate response to requests for revisions or additional information within the prescribed timeline.

The requirements and procedures specified in the Annual Action Plan and the Texas Administrative Code will govern the 2016 TCF SMRF application process. Copies of the Action Plan are available on the TDA website at [www.TexasAgriculture.gov](http://www.TexasAgriculture.gov).

## **Eligible Applicants**

Eligible applicants are non-entitlement units of general local government, incorporated cities and counties not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant Program (CDBG). Non-entitlement cities that are not participating in urban county programs through existing participation agreements are eligible applicants unless the city's population counts toward the urban county CDBG allocation.

Non-entitlement cities are located predominately in rural areas and are generally:

- cities with populations of less than 50,000 persons;
- cities that are not designated as a central city of a metropolitan statistical area; or
- cities that are not participating in urban county programs.

Non-entitlement counties are also predominately rural in nature and generally have fewer than 200,000 persons in the non-entitlement cities and unincorporated areas located in the county.

**While non-entitlement units of general local government are the only eligible applicants for TxCDBG funding, these applicants must submit applications that will provide benefits through a NDO serving an area within the applicant's jurisdiction.**

The following are examples of entities that may qualify as NDOs under HCDA Section 105(a)(15). The applicant should research any nonprofit under consideration to ensure that it meets the other requirements of HCDA Section 105(a)(15) discussed below:

- Small Business Investment Companies organized under 15 USC Section 681,
- SBA Section 504 Certified Development Companies,
- Community Action Agencies,
- Community Development Corporations,
- Local Development Corporations, and
- Community Housing Development Organizations (CHDOs) under the HOME program

In addition to qualifying as a nonprofit development organization under section 105(a)(15) of the HCD Act, the organization must meet the following requirements:

- The organization meets an IRS definition of a nonprofit organization;
- The organization is organized under state or local law to serve or carry out community/economic development activities which address the development needs of communities;
- The organization is independent of the local government; and
- The organization will be carrying out the initial specified activity.

Only the highest scoring applicant in a Regional Council of Government (COG) service area may be awarded a SMRF grant during a program year. However, TDA may waive this restriction if additional funds are available to fund multiple high-scoring applications in a COG area or in the event that the only eligible applicants are in the same COG service area.

## **Applicant Performance Threshold Requirements**

An applicant must meet all of the following requirements in order for its application to be considered:

- Commit to create and/or retain jobs where at least fifty-one percent (51%) of the jobs benefit low and moderate income (LMI) individuals (see National Program Objective requirements below);

- Demonstrate the financial management capacity to oversee the servicing of loans made in conjunction with the SMRF and local revolving loan fund;
- Levy and collect a local property tax or local sales tax option;
- Demonstrate satisfactory performance on prior and existing TxCDBG contracts and resolve all outstanding compliance and audit findings related to previous TxCDBG awards;
- Applicants with an existing local RLF must be in compliance with all RLF requirements; and
- Applicants with open TxCDBG contracts must be in compliance with 12-month and 18-month timelines as described in the contract special conditions.

## **National Program Objective (NPO)**

Title I of the Housing and Community Development Act of 1974 (42 USC 5301 et seq.) requires all Community Development Block Grant (CDBG) funds to be expended in such a way to satisfy one of three national objectives specified in the statute. Texas CDBG funds provided under the TCF SMRF program are required to comply with the national objective of principally benefiting persons of low and moderate income. The objective of the program is to expand economic opportunities that create or retain jobs, principally for low and moderate income persons. The SMRF program provides resources for an eligible applicant to support qualified small and microenterprise business(es) (a for-profit entity) to create or retain jobs for Texans.

### **Identifying Activity Beneficiaries**

For an activity that creates/retains jobs, the applicant and business must document that at least 51% of the jobs are or will be held by low-and moderate-income persons. For purposes of determining whether a job is or will be held by a low-or moderate-income person, the applicant must use one of the following methods of documentation.

1. The business may survey all persons filling a created/retained job. Persons filling a created job should be surveyed at the time of employment. Persons holding a retained job should be surveyed prior to application submission. This determination is based on the family's size and previous 12-month income and is normally documented on the Family Income/Size Certification form, which is filled out, dated and signed by employees; or
2. The person(s) employed by the business for created/retained jobs may be presumed to be a low-or moderate-income person if the person resides within a census tract that meets the following criteria:
  - a. The census tract has a poverty rate of at least 20% as determined by the most recently available American Community Survey 5-yr Estimates poverty rate;
  - b. The census tract does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30% as determined by the most recently available American Community Survey 5-yr Estimates poverty rate; and
  - c. The census tract shows evidence of pervasive poverty and general distress by meeting at least one of the following standards:
    - i. the census tract has a poverty rate of at least 20%; or
    - ii. Has at least 70% of its residents who are low-and moderate-income persons; or
    - iii. The assisted business is located within a census tract that meets the requirements of this subparagraph, and the job under consideration is to be located within that census tract.
3. Microenterprise assistance can qualify under the limited clientele criteria for LMI benefit, if the business owner is LMI. This eliminates the need to track LMI status of job creation or retention. In certifying LMI status, the recipient need look only at the owner's income, not that of any employees. Furthermore, there is a 3-year presumption of LMI status to allow for continued assistance. (Note, however, that in order to qualify as an eligible microenterprise activity, the business must still meet the definition of "microenterprise" each time new financing is provided.)
  - a. As such, all microenterprise owners must be documented as meeting HUD low/mod income definition prior to receiving any SMRF funds. This is in addition to meeting the "definition" of a microenterprise.

- b. If the grantee finds that the applicant income information is not accurate and the program participant is over HUD's income limits, then all program services must cease and TDA must be notified immediately.

### **Eligible Activities**

Through a nonprofit development organization (NDO), loaned SMRF funds are available to provide "general support" to establish, stabilize, and expand eligible small businesses and microenterprises. Generally, SMRF loaned funds may be used for the following:

- Lease Space
- Purchase Inventory
- Working Capital
- Machinery and Equipment (M&E)
- Raw materials

Additional guidance and further definition concerning eligible and ineligible activities for some of the TxCDBG eligible activities are included in Section 105(a)(22) of the Housing and Community Development Act of 1974 (HCDA).

NDOs are encouraged to establish lending practices that narrow the eligible uses of SMRF monies to avoid activities triggering additional federal regulations.

- The applicant is responsible for compliance with federal environmental review requirements. A key factor in performing an environmental review is the fact that the environmental review process must consider the ultimate effect of a proposed project. That is, the effects of both the TxCDBG and related project activities must be considered.
- Acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 et seq. ("URA"), and the federal regulations found in 49 C.F.R. Part 24.
- Title I of the Housing and Community Development Act of 1974 requires the payment of Davis-Bacon Act prevailing wage rates (which are determined by the U.S. Department of Labor) to all workers on CDBG construction projects in excess of \$2,000. (42 USC §5310; 40 USC 3142).

### **Microenterprise Definition**

The CDBG regulations provide the following definitions:

- A "microenterprise" is a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.
- "Persons developing microenterprises" means persons who have expressed interests in and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed. 24 CFR §570.201(o)(3)

### **Small Enterprise Definition**

The TxCDBG regulations provide the following definitions:

- A "small enterprise" or "small business" is a commercial enterprise that has 25 or fewer employees, one or more of whom owns the enterprise.

### **Ineligible Activities**

In general, any type of activity not described or referred to in Section 105(a)(22) of the Housing and Community Development Act of 1974, as amended, is ineligible for TxCDBG funding. Specific ineligible activities under the TxCDBG Program include:

- Leasehold Improvements
- As the national objective of the SMRF program is to support small businesses and microenterprises that create and/or retain jobs, principally for low and moderate income persons, wages are an ineligible use of SMRF funds.
- The applicant may not grant or otherwise transfer SMRF monies to a business.

- SMRF monies may not be used for speculation, investment or excess improvements over the minimum improvements needed for the business.
- SMRF funds may not be utilized for refinancing or to repay the applicant, a local related economic development entity, the benefiting business(es) or its owners and related parties for expenditures, prior to TDA approval.
- Government entities may not be the business creating/retaining the jobs.
- Non-profits are not an eligible small or microenterprise business.

Federal guidance and definitions concerning eligible and ineligible activities are included in Section 105(a) of the Housing and Community Development Action of 1974 (HCDA).

## **Citizen Participation Plan Requirements**

Each applicant must complete a citizen participation process that complies with the TxCDBG Citizen Participation Plan requirements as described in this guide prior to submitting an application.

A locality can only receive a TxCDBG grant if the locality certifies that it follows a detailed citizen participation plan that provides for and encourages citizen participation at all stages of the program.

TxCDBG applicants and funded localities are required to carry out citizen participation in accordance with the Citizen Participation Plan adopted for the TxCDBG Program. Each applicant certifies by signing a 424 Form that it has and will comply with the requirements of this Citizen Participation Plan.

Each applicant must maintain a citizen participation file that includes a copy of this Plan, the applicant's complaint procedures, any technical assistance provided by the applicant, and public notices, minutes, and attendance lists for public hearings.

### **Complaint Procedures:**

The applicant must have written citizen complaint procedures that provide a timely written response to complaints and grievances. Citizens must be made aware of the location, days, and hours when copies of the plan are available.

### **Technical Assistance:**

When requested, the applicant shall provide technical assistance to groups representative of persons of low-to-moderate income in developing proposals for the use of TxCDBG funds. The level and type of assistance shall be determined by the applicant based upon the specific needs of the community's residents.

### **Public Hearing Provisions:**

For public hearings scheduled and conducted by a TxCDBG applicant, the following public hearing provisions must be observed:

1. Public notice of the hearings must be published in a local newspaper at least seventy-two (72) hours prior to the scheduled hearing. The public notice must include the date, time, location and topics to be considered at the public hearing. A published newspaper article may also be used to meet this requirement so long as it meets all content and timing requirements. Notices should also be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.
2. The public hearing must be held at a time and location convenient to potential or actual beneficiaries and include accommodations for persons with disabilities. Furthermore, the applicant must make arrangements for individuals who require auxiliary aids or services if contacted at least two days prior to each hearing. The public hearing must be held after 5:00 p.m. on a weekday or at a convenient time on a Saturday or Sunday.
3. When a significant number of non-English speaking residents are expected to participate in a public hearing, an interpreter must be present to accommodate the needs of the non-English speaking residents.

Applicants must comply with the following citizen participation requirements for the preparation and submission of an application to the TxCDBG program:

1. The public hearing must occur on a date prior to the adoption of the local government resolution authorizing the submission of the application. To ensure reasonable advance notice, it is highly recommended that the public hearing occur on a date prior to the adoption of the local government resolution authorizing the submission of the application.
2. The locality must retain documentation of the hearing notice(s), attendance lists, minutes of the hearing(s), and any other records concerning the proposed use of funds for a period of three years after the application deadline, or as specified by other program requirements. Such records must be available to the public in accordance with Chapter 552, Government Code.
3. The public hearing must meet the following TxCDBG notification requirements and include a discussion with citizens covering the following topics:
  - The development of housing and community development needs.
  - The amount of funding available.
  - All eligible activities under the Texas Community Development Block Grant Program.
  - The applicant's use of past TxCDBG contract funds, if applicable.
  - The estimated amount of funds proposed for activities that will meet the national objective of benefit to low-to-moderate income persons.
  - The plans of the locality to minimize displacement of persons and to assist persons actually displaced as a result of activities assisted with TxCDBG funds, if applicable.

Citizens must be encouraged to submit their views and proposals regarding community development and housing needs, with particular emphasis on persons of low-to-moderate income who are residents of slum or blighted areas. Local organizations that provide services or housing for low-to-moderate income persons, including the local Public Housing Authority, the local Health and Human Services office, the local Mental Health and Mental Retardation office, and other local service providers such as Faith-Based organizations, must receive written notification concerning the date, time, location and topics to be covered at the public hearing. Citizens must be made aware of the location where they may submit their views and proposals in case they are unable to attend the public hearing. While more than one application may be discussed at the public hearing, a hearing held for the previous program year's submission of the same application does not satisfy the requirements for any subsequent competition.

At least five (5) days prior to the submission of an application for TxCDBG funds, the applicant must publish a public notice in a local newspaper that includes the following information:

- The TxCDBG fund categories for which applications will be submitted.
- The amount of TxCDBG funds requested in each application.
- A short description of the proposed project activities in each application.
- The locations of the project activities included in each application.
- The location and hours when the application will be available for public review.

Note: This 2nd notice must be published no less than one (1) day after the notice for the initial public hearing/meeting is published.

Applicants must comply with the following citizen participation requirements in the event that the application is successful:

- The locality must hold a public hearing concerning any proposed substantial change, as determined by TDA, in the use of TxCDBG funds from one eligible activity to another.

- Upon completion of the activities, the locality shall hold a public hearing and review its program performance, including the actual use of TxCDBG funds.
- The locality must retain documentation of the hearing notice(s), attendance lists, minutes of the hearing(s), and any other records concerning the actual use of funds for the greater of:
  1. Three years after close-out of the U.S. Department of Housing and Urban Development's (HUD) grant to the State of Texas (please see TDA website)
  2. If notified by TDA in writing, the date that the final audit is accepted with all audit issues resolved to TDA's satisfaction (Please see date of TDA audit acceptance letter if applicable); or
  3. A date consistent with the period required by other applicable laws and regulations as described in 24 CFR 570.490 and 570.506, and 2 CFR 200.333.

The applicant certifies compliance with the TxCDBG Citizen Participation Plan requirements by signing the 424 form. Failure to comply with these requirements may result in disqualification of the application.

## **Local Certifications**

Each applicant for TxCDBG funding must certify by signing the 424 Form that it has adhered to the Local Certifications included in this application guide in the preparation of any TxCDBG application. Adherence to these certifications must be ongoing in the event that the application is successful.

With respect to the expenditure of funds provided under a Texas Community Development Block Grant contract, each TxCDBG contractor is required to certify that:

1. It will minimize displacement of persons as a result of activities assisted with such funds.
2. The program will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 USC 2000d *et seq.*) and the Fair Housing Act (42 USC 3601 *et seq.*), and that it will affirmatively further fair housing, as specified by TDA.
3. It will provide opportunities for citizen participation, hearings and access to information with respect to its community development programs, and that it is following the TxCDBG Program Citizen Participation Plan.
4. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with such funds by assessing any amount against properties owned and occupied by persons of low-to-moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (A) such funds are used to pay the proportion of such fee or assessment related to the capital costs of such public improvements that are financed from revenue sources other than such funds; or (B) for purposes of assessing any amount against properties owned and occupied by persons of low-to-moderate income who are not persons of very low income, the contractor certifies that it lacks sufficient funds under this contract to comply with the requirements of clause (A).
5. It will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Federal implementing regulations at 49 CFR Part 24, and the requirements of 24 CFR 570.606 including the following of a residential anti-displacement and relocation assistance plan, as specified by TDA, in the event that displacement of residential dwellings will occur in connection with a project assisted with TxCDBG funds.
6. It has adopted or will adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and enforce applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction.
7. To the best of the TxCDBG contractors' knowledge and belief, no Federal appropriated funds have been paid or will be paid, by or on behalf of the TxCDBG Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress,

or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

8. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the TxCDBG Contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
9. The TxCDBG contractor must require that the language of this certification be included in the award documents for all sub-awards at all levels (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

### **Minority Participation/Local Opportunity**

The Texas Community Development Block Grant Program encourages localities to affirmatively take action to utilize small, minority (MBE) and women-owned (WBE) businesses whenever possible. Although funded localities are not directly responsible for meeting a specific minority business participation goal, TxCDBG reports to HUD on the levels of MBE and WBE hiring under all CDBG contracts. To increase participation of small, minority and women owned-businesses, localities may use the Texas Comptroller of Public Accounts Historically Underutilized Business (HUB) Directory. Also in accordance with Section 3 of the Housing and Urban Development Act of 1968, successful applicants using CDBG funding for housing or other public construction are required, to the greatest extent feasible, to provide training and employment opportunities to lower-income residents and contract opportunities to businesses in the project area.

### **Fair Housing Activities**

Any locality receiving funds under the TxCDBG Program must certify that it will affirmatively further fair housing choice. Each funded locality must conduct at least one fair housing activity during the contract period, even if the locality is currently undertaking fair housing activities. Activities that qualify as affirmatively furthering fair housing include, but are not limited to, the following:

- Cities may pass a fair housing ordinance and publicize the existence of such an ordinance.
- Counties may adopt written fair housing policies and procedures that are equivalent to a fair housing ordinance and publicize the existence of such policies.
- The development of a strategy to pass a fair housing ordinance to be evidenced by public hearings and input from interested parties.
- The establishment of a written local complaint and monitoring process and notification to the public of its existence.
- The initiation of a fair housing counseling referral service that provides housing choices outside historically minority and/or low-to-moderate income neighborhoods to be evidenced by adoption of written procedures and publication of the availability of such service.
- The completion of a community-wide housing analysis to determine impediments to fair housing and actions to eliminate these impediments.
- The designation of April, or some other month, as Fair Housing Month through resolution or proclamation along with other activities to support fair housing.

In addition, communities that receive CDBG funds, chief elected officials, and third party consultants may be required to have Fair Housing training. Training will be offered at both on-site workshops and state-wide webinars.

## **Environmental Review Requirements**

Any locality receiving funds under the TxCDBG Program must complete an environmental review for all project activities, including:

- All activities being funded through TxCDBG funds;
- All activities conducted at the location where jobs will be created/retained, including any acquisition, construction, or rehabilitation of buildings required to provide the jobs;
- All sites included in the SMRF project; and
- All other activities conducted as part of the same overall project.

No project activities may occur until TDA's Environmental Regulatory Officer has cleared the activity and issued an Authority to Use Grant Funds. The *A303 Exempt or Categorical Exclusion Not Subject to 58.5* form documents clearance for administration (including in-kind), and similar activities, but does not address construction or other activities for the proposed project. (See Appendix I: Form and Document Samples)

While every project will require some level of review, some SMRF loan projects may be designated as Categorically excluded activities not subject to § 58.5 (24 CFR 58.35(b)) and may not require the publication of a Notice of Intent (NOI) or Request for Release of Funds (RROF), per § 58.5 (24 CFR 58.35(b)(4):

- Economic development activities, 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.

The applicant should contact the TDA Environmental Regulatory Officer for specific technical assistance.

Note: Final environmental documentation must be signed and submitted by the applicant to TDA **prior** to the commitment of any SMRF financed loans.

## **Conflict of Interest**

Under the conflict of interest provisions at 24 CFR 570.489(h) included in the regulations governing state administration of CDBG non-entitlement funds (24 CFR 570, Subpart I), no persons who exercise or have exercised any function or responsibilities with respect to TxCDBG activities, or who are in a position to participate in a decision-making process, or gain inside information regarding TxCDBG activities, may obtain a financial interest or benefit from the activity, or have interest in any contract, subcontract, or agreement, or the proceeds thereof, either for themselves or those with whom they have family or business ties, during their tenure, or for one year thereafter.

These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official of the state, or of a unit of general local government, or of any designated public agencies, or sub-recipients receiving CDBG funds.

Under these provisions, a conflict of interest would exist if an employee or elected official of the applicant, or their family members, receive benefit from an activity. In addition, an apparent conflict of interest would exist if a principal of the benefitting business or their family members receive a benefit from an activity other than the real estate and/or infrastructure improvements outlined in the application. For example, if a member of a mayor's family was selected to receive SMRF assistance or would benefit from or receive an award, abstention from voting does not clear the conflict of interest.

TDA may grant an exception to the conflict of interest provisions on a case-by-case basis if it determines that such exception will serve to further the purpose of the TxCDBG program and the effective and efficient administration of

the project. An exception may be considered only upon written request from the city or county that includes the following documentation:

- A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made.
- An opinion of the attorney for the city or county that the interest for which the exception is sought would not violate state or local law.
- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project that would not be available otherwise.
- Whether an opportunity was provided for open competitive bidding or negotiation.
- Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class.
- Whether the person affected has withdrawn from his/her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question.
- Whether the interest or benefit was present before the affected person was in the position as an employee, agent, consultant, officer, or elected official of the city or county, or of any designated public agencies, or sub-recipients that are receiving CDBG funds.
- Whether undue hardship will result to the city or county or the persons affected when weighed against the public interest served by avoiding the prohibited conflict.
- Any other relevant considerations.

## **Types of Applications**

Note: The benefiting small and microenterprise business(es) may not be located in an entitlement area that receives CDBG funds directly from the federal Department of Housing and Urban Development (HUD) entitlement program.

### **Single Jurisdiction Applications**

A single eligible applicant (city or county) may submit one application for funding if the NDO serves beneficiaries within the applicant's jurisdiction.

If the application includes activities benefitting persons located in the applicant's extra-territorial jurisdiction (ETJ), the applicant must describe how the activity benefitting persons located in the ETJ is meeting the applicant's community development and housing needs, including the needs of low-to-moderate income persons.

### **Multi-Jurisdiction Applications**

Two or more eligible applicants may submit a joint application for funding when the project beneficiaries are persons located within more than one unit of general local government. The requirements for multi-jurisdiction applications are:

- In order for a multi-jurisdiction application to be eligible for consideration for TxCDBG funding, a multi-jurisdiction application must mutually benefit residents of the applicant localities (e.g. The NDO serves a tri-county area).
- The multi-jurisdiction applicants shall determine which one of the participating units of general local government will be authorized (the authorized applicant) to act in a representative capacity for all of the participating units.
- Each participating jurisdiction shall submit a signed 424 Form and be responsible for compliance with the Local Certifications therein.

- Each participating jurisdiction shall submit a Community Needs Assessment that identifies the housing and community development needs and activities designed to meet those needs for each of the participating jurisdictions.
- The authorized applicant jurisdiction and each of the other participating jurisdictions must meet the citizen participation requirements.
- The authorized applicant assumes overall responsibility for ensuring that the application activities will be carried out in accordance with statutory requirements. In order to accomplish this, the authorized applicant must enter into a legally binding cooperation agreement with each participant that includes the above criteria.
- All jurisdictions participating within the multi-jurisdiction application must be TxCDBG eligible. For example, if a city and county are submitting a multi-jurisdiction application and the city is currently ineligible due to past performance issues, the application is ineligible.

In a multi-jurisdiction application, a cooperative agreement must also be included and signed by all participating local governments, and must state which participant will serve as the lead administrative entity if the project is funded. Additionally, each locality participating in a multi-jurisdiction application must submit a resolution adhering to the guidelines below.

The language of the resolution must, at a minimum:

1. Authorize the submission of an application for funding under the Texas Community Development Block Grant Program.
2. Designate the Small and Microenterprise Revolving Loan Fund as the fund category under which the application is to be considered.
3. Designate the activities addressed in the application.
4. Designate the dollar amount being requested.
5. Designate a person (e.g., County Judge, County Commissioner, or Mayor) who will be authorized to execute documents in conjunction with the application, and any resulting grant contract.
6. Commit to the provision of resources by source and use (if applicable) in support of the proposed project activities, including the specific source (e.g., General Fund, General Obligation Bonds) and use of those resources.
7. Commit to compliance with all federal, state, and program requirements, including environmental review, labor standards, procurement, acquisition of property, civil rights, and administrative requirements.

Note: See Application Scoring Criteria regarding SMRF's Multi-jurisdictional Application scoring criteria.

### **Funding Request Amounts**

For PY 2016, up to \$1,500,000 will be made available for the SMRF. Applicants may apply on behalf of a qualified NDO in the applicant's jurisdiction for a fixed award amount of \$100,000.

### **Matching Funds**

At a minimum, SMRF monies must be matched with a minimum of 10% (\$10,000) cash or in-kind administrative services by the applicant or NDO. Additional match is encouraged. Reimbursable and matching funds may not be spent or incurred prior to a contract execution date from the TxCDBG program.

### **Contracts and Agreements**

An applicant approved for funding must enter various contracts to complete the project. The SMRF contract is intended to ensure a complete understanding of the expected number of jobs to be created or retained, the sources and uses of all funds committed to the project, the reporting requirements of the NDO and the applicant to TDA, and all other obligations of the NDO, applicant and TDA.

Some of these contracts are identified below.

- Contract with TDA - This details the duties and responsibilities of both the applicant and TDA. Currently, these contracts are for a standard term of two (2) years. Applicants may contact TDA for a sample "boilerplate" contract, which will include most contract conditions.
- Applicant/NDO Agreement - This details duties and responsibilities of both the applicant and the NDO. Applicants are strongly encouraged to seek guidance from their legal counsel to assist with the drafting of the agreement.
- Other contracts - These will include contracts for administration services and others as necessary to carry out the project.

## **Assurances**

In executing the contract with TDA, the applicant assures and certifies that it will comply with the federal and state regulations, policies, guidelines and requirements, including those related to financial management, recordkeeping, conflict of interest, civil rights, environmental review, real property acquisition, labor standards, and review requirements of other agencies.

A copy of the standard assurances included in the contract is available upon request.

## **Jobs**

SMRF funds shall be used to provide general support to small businesses and microenterprises that commit to create/retain jobs where at least 51 percent of the jobs benefit LMI individuals. LMI levels are provided annually by HUD and are the same income levels used for Section 8 housing. A list of the most recent LMI levels may be downloaded from TDA's web page at [www.TexasAgriculture.gov](http://www.TexasAgriculture.gov).

Only full-time permanent and part-time permanent created jobs, as defined below, are eligible for consideration. A job is defined as a permanent full-time position held by one employee or two part-time employees.

- A full-time job is defined as permanent employment for 35 hours or more per week.
- A part-time job is defined as permanent employment for at least 20 hours or more per week. Employees working less than 20 hours per week may not be counted individually or in combination/aggregate towards meeting the job goal of the small business or microenterprise.
- Seasonal jobs are not eligible for consideration in the program. The position must be required year-round.
- Contract jobs are not eligible for consideration. Only permanent employees may be counted toward job creation/retention requirements.
- Unfilled or vacant jobs/positions are not eligible for consideration.

## **Jobs Retained**

In order to consider jobs retained as a result of SMRF assistance, a business must submit documentation showing clear and objective evidence that permanent jobs will be lost without SMRF assistance. For these purposes, clear and objective evidence that jobs will be lost must include all of the following:

1. Evidence that the business has issued a notice to affected employees or made a public announcement to that effect;
2. 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;
3. Documentation verifying that they will meet at least one of the following requirements:
  - a. That some or all of the employees will be permanently laid off,
  - b. That the business will close down its existing operation/facility, or
  - c. That the business will relocate out of state. Requires 3rd party documentation from out of state locations; and
4. Income certifications for all affected employees showing that a minimum of 51% of the retained jobs are held by LMI individuals.

## **Responsibility for Jobs not Created/Retained**

TxCDBG funds provided under the SMRF program are required to comply with the national objective of principally benefiting persons of low and moderate income. This requirement is fulfilled by lending funds to small businesses or

microenterprises that create/retain jobs, principally for persons of low and moderate income (51%). The State has certified to HUD that expenditure of economic development funds will satisfy this national objective and has also executed a grant agreement with HUD containing this requirement. Title I of the Housing and Community Development Act of 1974 (42 USC 5.301 et seq.) also provides that the state may only contract with units of general local government. TDA, therefore, must hold the local government recipient of SMRF monies accountable for completion of the job creation/retention activity.

In the event of a failure to create/retain all the jobs specified in a SMRF contract, TDA's standard policy requires a recipient city or county to repay TDA and deobligate funds for the number of jobs not created/retained, based on the original cost per job. Other penalties may apply as well. In the event of a failure to create the LMI jobs specified in a SMRF contract, such that the project does not meet a National Program Objective, the project is no longer eligible for the SMRF program and all TxCDBG funds must be repaid.

If repayment of funds is required under this policy, the community is responsible for immediate repayment to TDA. The responsibility of the NDO to reimburse the community and the business to reimburse the NDO should be outlined in the terms of the agreement executed between the parties. The contract executed between TDA and the local government will include a provision prohibiting the release of any payments of TxCDBG funds to the community under any open contract, including contracts funded under programs other than the SMRF program, as well as prohibiting the award of new TxCDBG funds to the community, until all repayment required under this policy are paid in full.

At TDA's discretion, the repayment of funds may be retained in the RLF as program income rather than being returned to TDA; if requested and approved, this repayment for ineligible costs must be considered program income and subject to all CDBG requirements.

## **Nonprofit Development Organization (NDO) Performance**

All SMRF monies must be loaned to provide general support for small businesses and/or microenterprises for job creation/retention primarily benefitting LMI persons.

The NDO shall be responsible for servicing all SMRF loans and reporting job creation/retention activity by the small businesses and microenterprises. Responsibilities include:

- Document participant CDBG income eligibility and adequate number of employees
- Ensure set up of participant files to document all provided services and eligible costs
- The applicant will work with program participants and ensure compliance with these program guidelines.

NDO business or microenterprise loan agreements must contain the following TDA requirements:

- Define a FTE as 35 or more hours per week and a .5 FTE as 20 hours or more per week;
- Require employees be employed for a minimum of 30 days to be considered for job creation;
- Require SMRF loan recipients to submit approved job creation/retention documentation (initial payroll) as well as any other requested documentation;
- Loan recipients must be for-profit entities and meet the TxCDBG definition of a small or microenterprise business;
- Charge an interest rate on all loans made to increase the value of the RLF;
- Ensure that all SMRF loan recipients have a business address or reside within the applicant's jurisdiction; and
- Establish rules governing the RLF.
  - While RLF loans may be made outside of the applicant's jurisdiction, no RLF may be used in entitlement jurisdictions that receive CDBG funds directly from the federal HUD entitlement program.

HUD requires all CDBG-assisted Economic Development projects to be reviewed for financial underwriting and feasibility characteristics. By submitting a SMRF program application, the NDO certifies that all SMRF loans will be

reviewed to determine that it is an appropriate project to be supported by SMRF funding. The review must be completed by a person with the appropriate knowledge and skills to assist with the underwriting review. Upon completion of the underwriting, form D2 must be completed and submitted to TDA. All underwriting documentation will be retained by the NDO, subject to monitoring by TDA.

The descriptions of underwriting elements below are based on guidance provided by HUD in Appendix A to 24 CFR Part 570 and are found on form D2:

**1. *Determination of reasonable project costs.***

Reviewing costs for reasonableness is important. It will help the applicant avoid providing either too much or too little TCF assistance for the proposed project. Therefore, it is suggested that the applicant obtain a breakdown of all project costs and that each cost element making up the project be reviewed for reasonableness. The amount of time and resources the applicant expends evaluating the reasonableness of a cost element should be commensurate with its cost. For example, it would be appropriate for an experienced reviewer looking at a cost element of less than \$10,000 to judge the reasonableness of that cost based upon his or her knowledge and common sense. For a cost element in excess of \$10,000, it would be more appropriate for the reviewer to compare the cost element with a third-party, fair-market price quotation for that cost element. Third-party price quotations may also be used by a reviewer to help determine the reasonableness of cost elements below \$10,000 when the reviewer evaluates projects infrequently or if the reviewer is less experienced in cost estimations. If an applicant does not use third-party price quotations to verify cost elements, then the applicant would need to conduct its own cost analysis using appropriate cost estimating manuals or services.

**2. *Commitment of all project sources of financing.***

The applicant should review all projected sources of financing necessary to carry out the economic development project. This is to ensure that time and effort is not wasted on assessing a proposal that is not able to proceed. To the extent practicable, prior to the application for TCF funds, the applicant should verify that: sufficient sources of funds have been identified to finance the project; all participating parties providing those funds have affirmed their intention to make the funds available; and the participating parties have the financial capacity to provide the funds.

**3. *Determination that, to the extent practicable, CDBG funds are not substituting for non-Federal funds.***

- a. The applicant should review the economic development project to ensure that, to the extent practicable, CDBG funds will not be used to substantially reduce the amount of non-Federal financial support for the activity. To reach this determination, the reviewer would conduct a financial underwriting analysis of the project, including reviews of appropriate projections of revenues, expenses, debt service and returns on equity investments in the project. The extent of this review should be appropriate for the size and complexity of the project and should use industry standards for similar projects, taking into account the unique factors of the project such as risk and location.
- b. An applicant should familiarize itself with the lending practices of the financial institutions in its community. If the project's total cost is one that would normally fall within the range that financial institutions participate, then the applicant should normally determine the following:
  - i. Private debt financing—whether or not the participating private, for-profit business (or other entity having an equity interest) has applied for private debt financing from a commercial lending institution and whether that institution has completed all of its financial underwriting and loan approval actions resulting in either a firm commitment of its funds or a decision not to participate in the project; and
  - ii. Equity participation—whether or not the degree of equity participation is reasonable given general industry standards for rates of return on equity for similar projects with similar risks and given the financial capacity of the entrepreneur(s) to make additional financial investments.

#### **4. *Determination of the project's financial feasibility.***

- a. The public benefit an applicant expects to derive from the CDBG assisted project (the subject of separate regulatory standards) will not materialize if the project is not financially feasible. To determine if there is a reasonable chance for the project's success, the applicant should evaluate the financial viability of the project. A project would be considered financially viable if all of the assumptions about the project's market share, sales levels, growth potential, projections of revenue, project expenses and debt service (including repayment of the CDBG assistance if appropriate) were determined to be realistic and met the project's break-even point (which is generally the point at which all revenues are equal to all expenses). Generally speaking, an economic development project that does not reach this break-even point over time is not financially feasible. The following should be noted in this regard:
  - i. Some projects make provisions for a negative cash flow in the early years of the project while space is being leased up or sales volume built up, but the project's projections should take these factors into account and provide sources of financing for such negative cash flow; and
  - ii. It is expected that a financially viable project will also project sufficient revenues to provide a reasonable return on equity investment. The applicant should carefully examine any project that is not economically able to provide a reasonable return on equity investment. Under such circumstances, a business may be overstating its real equity investment (actual costs of the project may be overstated as well), or it may be overstating some of the project's operating expenses in the expectation that the difference will be taken out as profits, or the business may be overly pessimistic in its market share and revenue projections and has downplayed its profits.
- b. In addition to the financial underwriting reviews carried out earlier, the applicant should evaluate the experience and capacity of the assisted business owners to manage the business to achieve the projections. Based upon its analysis of these factors, the applicant should identify those elements, if any, that pose the greatest risks contributing to the project's lack of financial feasibility.

#### **5. *Determination of return on equity investment.***

To the extent practicable, the CDBG assisted activity should provide not more than a reasonable return on investment to the owner of the assisted activity. However, care should also be taken to avoid the situation where the owner is likely to receive too small a return on his/her investment, so that his/her motivation remains high to pursue the business with vigor. The amount, type and terms of the CDBG assistance should be reviewed given industry rates of return for that investment, local conditions and the risk of the project.

As part of the underwriting review, applicants are also encouraged to obtain a complete Business Plan for each benefitting business, including:

- Business History, including information on business strengths and business weaknesses, legal structure, owners, etc.
- Product/Services
- Market, including information on product demand, total market, target market, competition, the niche of the business, etc.
- Operations, including information on location, physical facility, area labor market, suppliers, employee training requirements, regulatory requirements, etc.
- Marketing, including information on how the business intends to market product, promotions, advertising, distribution channels, customer conveniences, etc.
- Management history and Organization Chart
- Business References
- List of other businesses in which the benefitting business, its owners or majority stockholders own a 20 percent interest
- Identification of potential conflicts of interest where the benefitting business buys from, sells to, or uses the services of a business concern in which someone in the benefitting business has a significant financial interest

All payments received for SMRF loan repayment must be recaptured by the NDO and deposited into a local revolving loan fund. Per HCDA Section 105(a)(15), these funds are not considered program income and shall be used to support a local RLF for lending in support of the creation, stabilization or expansion of additional small businesses and microenterprises. Loans made with monies in the local RLF may be made without federal and CDBG programmatic oversight or requirements. However, applicants and NDOs are strongly encouraged to continue lending under the original goals of supporting job creation/retention activity for predominately LMI persons.

**SMRF Loan Requirements**

- The maximum allowable loan is \$25,000 per job created and/or \$10,000 per job retained. However, applicants are encouraged to spend less than the maximum allowed.
- No single loan may exceed \$50,000.
- Every loan to be funded with SMRF funds must submit appropriate environmental review documentation to TDA *prior* to commitment for assistance.
- The NDO must submit the loan information/certification on the D1 SMRF Loan Information/Certification form within 30 days of loan execution.
- While the NDO is not required to submit source documentation related to the loan, they are required to maintain all documentation at the grantee’s location for monitoring purposes.
- Any changes to the scope of work or terms of the loan may require a review of the environmental review and a revised SMRF Loan Information/Certification form be submitted to TDA.
- Upon completion of job creation/retention activity, closeout documentation shall be submitted to TDA for monitoring and contract closeout.

**TDA-Applicant Contract Length**

- SMRF contracts are for a standard term of two (2) years to document all job creation/retention requirements. However, upon satisfaction of the contractual job creation/retention requirement, closeout documentation may be submitted to TDA for closeout prior to the contract end date.

**Application Scoring Criteria**

Applications will be scored and ranked using the following criteria.

**Community Need**

Use the below table to determine scoring for multijurisdictional applications.

Multi Jurisdiction Type	Use
Only counties	Use average of all county level Community Need data
Only cities	Use average of all city level Community Need data
Any combination of county(ies) and city(ies)	Use average of all county level Community Need data

- **Unemployment Rate** (maximum 15 points) – Awarded if the applicant's unemployment rate meets or exceeds the annual state’s unemployment rate (**Percent Unemployed**) using the most recent available Table DP03 American Community Survey – 5 year estimate table as follows
  - score 5 points if the applicant’s rate meets or exceeds 85% of the state unemployment rate;
  - score 10 points if the applicant’s rate meets or exceeds 100% of the state unemployment rate; or
  - score 15 points if the applicant’s rate meets or exceeds 115% of the state unemployment rate.
- **Poverty Rate** (maximum 10 points). Awarded if the applicant's annual poverty rate meets or exceeds the annual state poverty rate (**All people**) using the most recent available Table DP03 American Community Survey – 5 year estimate as follows:
  - score 5 points if the applicant’s rate meets or exceeds the state’s poverty rate; or
  - score 10 points if the applicant’s rate meets or exceeds 115% of the of the state’s poverty rate.

### **Nonprofit Loan Program Capacity**

The below criteria must be **explicitly stated** in a letter from the NDO's director or chief officer and be supported by documentation based on the NDO's loan program as of January 1, 2015. Supporting documentation is **not required** to be submitted with the SMRF application. However, TDA staff may request additional or supporting documentation at **any time**. If this documentation is not made available, the locality may be subject to the sanctions described in the "False Information on Application" section of this guide.

- **Current Loan Program Years in Existence** (maximum 5 points) - Applicant's score is determined by the continuous operation of a lending program by the Nonprofit Development Organization. Score 1 point for every two calendar years of operation. Points will not be broken into half points for increments less than two-years.
- **Incidence of Default** (maximum 15 points) - Applicant's score is determined by dividing the Nonprofit Development Organization's number of loan defaults (written off and charged off loans ) over the past 12 months divided by the number of loans made during the same period. If no loans were made in the prior 12 months, no points can be awarded for this criterion.
  - score 15 points if the default rate is <5%;
  - score 10 points if the default rate is <10%; or
  - score 5 points if the default rate is <20%
- **Cash-on-Hand Ratio** (maximum 15 points) - Applicant's score is determined by dividing the Nonprofit Development Organization's current loan program cash balance by the outstanding loan balance. If no outstanding loan balance currently exists for the NDO, no points can be awarded for this criterion.
  - score 15 points if the Cash-on-hand ratio is <25%;
  - score 10 points if the Cash-on-hand ratio is <50%; or
  - score 5 points if the Cash-on-hand ratio is <75%
- **Technical Assistance and/or Business Training** (Maximum 5 points) - Applicant's score is determined by the availability of technical assistance or business training by the Nonprofit Development Organization to loan recipients.

### **Multi-Jurisdictional Applications**

- **Multi-Jurisdictional Applications** (maximum 5 points) – Applications conforming to the requirements found under Types of Applications in the SMRF application guide will score 5 points.

## **Federal Funding Accountability and Transparency Act (FFATA)**

In September 2006 the President signed the Federal Funding Accountability and Transparency Act (FFATA) requiring the Office of Management and Budget (OMB) to develop a publicly available, free-of-charge, searchable website on federal funding. Federal funding includes grants, sub-grants, loans, awards, cooperative agreements, and other forms of financial assistance. On April 6, 2010, the OMB issued a memorandum outlining responsibilities for State agencies making sub-awards with Federal funds.

Beginning October 1, 2010, TDA is responsible for reporting data on each TxCDBG award, which will be entered into the [usaspending.gov](http://usaspending.gov) database. This data includes:

- The name of the entity receiving the award;
- The amount of the award;
- Information on the award, including transaction type, funding agency, Catalog of Federal Domestic Assistance (CFDA) number, program source, and a descriptive award title;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, state, congressional district, and county; and
- The Data Universal Numbering System (DUNS) number for the entity receiving the award.

Additional information deemed relevant by the OMB must also be provided, and all information is due no more than thirty days after a grant is awarded.

In addition, applicants must register on the System for Award Management (SAM) and entities must have an active registration to receive funding from HUD. Information on SAM registration is available at <https://www.sam.gov>.

## **False Information on Applications**

The following actions may be taken, on a case-by-case basis, where TDA finds that an applicant, its agent, or the benefiting business(es) provided false information in its application for TxCDBG funding. False information may include:

1. Knowingly making a false entry in, or false alteration of, a government record;
2. Making, presenting, or using any item, record or document with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
3. Intentionally destroying, concealing, removing, or otherwise impairing the verity, legibility, or availability of a governmental record. A governmental record is defined as anything belonging to, received by, or kept by government for information or that government is required by law to be kept by others for information of government. An offense under this paragraph is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the third degree; or
4. Over-estimates of the number of jobs to be created when compared to actual number created.

If the applicant knowingly makes false statements or provides false or incorrect information in an application that has the effect of increasing the applicant's competitive advantage, or false beneficiary information that increases the number or percentage of potential beneficiaries, TDA staff shall make a recommendation for action to the Director of the State TxCDBG Program.

Actions that the Director may make include, but are not limited to:

1. Disqualification of the application and holding the locality ineligible to apply for TxCDBG funding for a period of at least one year not to exceed two program years.
2. Withdrawal of the award and/or termination of the contract - the locality may be liable for funds expended.
3. Holding the locality ineligible to apply for TxCDBG funding for a period of two program years or until any issue of restitution is resolved, whichever is longer.

An applicant may appeal a decision of the State TxCDBG Director by filing an appeal with the Administrator of the Office of Rural Affairs.

## **Appeals Process**

Refer to Title 4, Part 1, Chapter 30, Subchapter A of the Texas Administrative Code (TAC).

## **Application Instructions**

### **Cover Sheet**

Enter the applicant's name in the space provided. The applicant's name will then appear in the footer of every page in the application. Using the drop-down box, select the applicant's county. Region-specific information such as COG region and County Code will automatically appear where appropriate throughout the application once the county has been selected.

NOTE: the application must contain an original signature on the 424 form by the applicant's authorized signatory.

### **Application Checklist**

Carefully read the list of required attachments and application forms located on page 29 of this guide, checking off each completed item. This minimizes the likelihood of serious deficiencies or disqualification.

## 424 Form

The numbered sections below coincide with the numbered fields on the 424 Form. All information is required unless otherwise noted. The applicant must provide an email address, as indicated, in box 18.

1. **Type of Submission**- Under the Application column, select either Construction or Non-Construction. The majority of TxCDBG applications, except for Planning-only applications, include some construction activities.
2. **Date Submitted**- To use the calendar provided, click on the drop-down arrow on the right side of the box.
3. **Date Received by State** – Leave this field blank.
4. **Date Received by Federal Agency** – Leave this field blank.
5. **Applicant Information**- Provide the applicant’s Legal Name (e.g., City of ABC, ABC County) and the Organizational Unit (can be the same as the Legal Name). **Mailing address, telephone number, fax number, and email address are required for both the applicant and the application preparer.** The applicant’s physical address and county are also required.
6. **Employer Identification Number**- Also known as the Federal Tax ID, this 14-digit number is required to facilitate disbursement of funds.
- 6a. **DUNS Number** – All applicants must have a Data Universal Numbering System number to apply for Federal funds. The DUNS number is a nine-character identification number provided by Dun and Bradstreet. There is no charge to obtain a DUNS number. For additional information, visit the Dun and Bradstreet website at [www.dnb.com](http://www.dnb.com). Failure to provide the applicant’s DUNS number at the application stage may result in delayed award disbursement. The DUNS number is also required to be registered with the System for Award Management.
7. **Type of Applicant**- Select County or City.
8. **Type of Application**- Check the appropriate box.
9. **Name of Federal/State Agency** – Provided by TDA
10. **Catalog of Federal Domestic Assistance Number** – Provided by TDA
11. **Project Type** – Use the drop-down menu to select the project type that best describes the proposed project. For a project with a benefiting business, use Economic Development Direct Financial Assistance - For Profit. 11a. **Type of Application** – Provided by TDA
12. **Target Area(s) Affected by the Project**- Briefly identify the target areas of the city or county affected by the project. Acceptable descriptions would be: "The ABC Community in southeast XYZ County", "The ABC Community and LMN Community in XYZ County", "The ABC Water Supply Corporation Service Area", "The A, B, C, and D Colonias of XYZ County", and "Jollyville neighborhood in the northwest portion of ABC Town".
13. **Applicant’s Fiscal Year** – Indicate the beginning and end dates of the applicant's fiscal year.
14. **Congressional Districts**- Provide the congressional districts of the entity applying for funding, as well as for the proposed project site(s). This information is available through the “Who Represents Me” feature at the Texas State Legislature’s web site: [www.fyi.legis.state.tx.us](http://www.fyi.legis.state.tx.us).
15. **Estimated Funding**- Complete each field as follows:
  - A. TxCDBG Request: Provided by TDA;
  - B. Federal: Amount committed from federal resources such as RUS or USDA-RD;
  - C. State: Amount committed from state resources such as TWDB;
  - D. Applicant: Amount of match committed by the applicant;
  - E. Local: Amount committed from local resources such as a WSC, WCID, MUD, or any other local entity other than the applicant;

- F. Other: Amount committed from resources other than those listed above, including cash or equity from the business; and
- G. Total: This will calculate automatically.

- 16. ***Is application subject to review by State Executive Order 12372 Process?*** – For TxCDBG applications, the answer to this question is “No.” Texas Review and Comment System (TRACS) no longer exists for review.
- 17. ***Is the Applicant delinquent on any Federal debt?***- If the answer is “Yes,” include an explanation concerning the nature, amount, and date when payment of the debt became delinquent.
- 18. ***Certification***– Before signing the 424 Form, the authorized signatory should read the text in this field carefully and review the Local Certifications and Citizen Participation Plan sections of this guide. Complete all sub-fields prior to signature.

**Project Approval Information**

This form asks for a variety of information about a proposed project. Please be sure to verify your responses, as TDA staff may rely on this information to make important decisions regarding the project’s eligibility and approval status. Some items on this form include follow-up questions that will only appear if necessary. If a question does not apply to the proposed project, select “N/A”. Failure to respond to any item on the Project Approval Information form will result in a deficiency notice.

**Community Needs Information**

***List of All Identified Community Needs***

Provide a list of all the applicant’s identified community development and housing needs, not just those addressed in the application. List the needs in order of importance, using the boxes marked “+” and “x” to add or delete space for additional items.

***Community Needs Assessment Questionnaire***

Provide the information requested for each item, including information concerning the applicant’s past and future efforts to provide affordable housing opportunities in the applicant’s jurisdiction and the applicant’s past efforts to provide infrastructure improvements through the issuance of general obligation or revenue bonds. A response is required for each item; “None” and “N/A” are acceptable.

***Fair Housing Activities***

Any locality receiving TxCDBG monies must certify that it will affirmatively further fair housing. Using the drop-down box, identify the activities presently undertaken to affirmatively further fair housing and which new activities will be undertaken if an award is made by TDA. Applicants should be aware that, in the event of funding, these fair housing efforts will be monitored. Other activities may be eligible, and the applicant should contact TDA to determine eligibility.

***The Needs Addressed In This Application Were Determined By***

Indicate the method(s) used to determine the needs addressed in this application, including the date(s) of each method/assessment. If the exact date is not known, choose the first day of the appropriate month and year. If a city’s application includes activities benefiting persons located within the city’s ETJ, the applicant must describe how the activity benefiting persons located in the ETJ is meeting the applicant’s community development and housing needs, including the needs of low to moderate income persons.

**Project Summary**

- 1. **“Summarize the problem(s) to be addressed within the application.”**

**Guidance:** Provide a description of the problem the proposed project will address, including the role of the revolving loan fund. TDA will use the information from this section to draft a contract in the event that the application is successful.

**Example:** The Town of Pays Maudit is currently seeking to expand economic development. The Town would like to expand lending opportunities to small businesses and microenterprises in the area through the local economic development corporation, but requires additional capitalization to further the Town’s goal.

**2. “Identify the Nonprofit Development Organization (NDO) that will service the lending of SMRF funds and the jurisdictions served by the Nonprofit Development Organization.”**

**Guidance:** Provide the required information about the Nonprofit Development Organization, including jurisdictions served and details about the existing loan program (as applicable).

**3. “Provide a narrative (approximately one page) describing the NDO and past performance in the applicant's jurisdiction including outcomes. If the NDO has not previously serviced this jurisdiction, provide a description of anticipated performance and outcomes.”**

**Guidance:** Provide a one-page narrative describing the Nonprofit Development Organization, including history, mission, organization and past performance in the applicant’s jurisdiction, including outcomes. If the NDO has not previously serviced this jurisdiction, provide a description of anticipated lending and job creation/retention outcomes.”

**4. “Disclose the source(s) and use(s) of non-TxCDBG funds.”**

**Guidance:** Disclose the source, use and amount of any non-TxCDBG funds committed to the proposed project. This includes all cash, material, land, and in-kind match.

Provisions at Subpart A of 24 CFR Part 4 require TxCDBG applicants to disclose the information requested in each part of this section:

- Assistance from other government sources in connection with the TxCDBG project;
- The sources of funds contributed to the project; and
- The uses for which the funds are to be utilized.

Each reportable source of funds must indicate:

- The name and address, city, state, and zip code of the individual or entity providing the assistance. If applicable, include at least one organizational level below the agency name. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol;
- The program name, and any relevant identifying numbers or other means of identification for the assistance; and
- The type of assistance (e.g., applicant contribution, loan, grant, loan insurance).

TDA will make all applicant disclosure reports available to the public for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be available along with the disclosure reports, but in no case for a period less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Texas Public Information Act (Chapter 552, Texas Government Code). Failure to provide any required information may delay the processing of the application and may result in sanctions and penalties, including imposition of the administrative and civil penalties specified under 24 CFR Section 4.38.

### **Additional Project Information**

Answer the two questions on this page to identify: 1) any persons with a reportable financial interest to disclose; and 2) any administrative activities to be completed by Force Account if applicable.

Applicants must provide information on anyone with financial interest in the proposed project exceeding \$50,000 or 10 percent of the requested amount (whichever is lower). This includes developers, contractors, or consultants involved in the application for SMRF assistance or in the planning, development, or implementation of the project or

activity. A “financial interest” is any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity.

The applicant disclosure report must specify all expected sources of funds from TxCDBG and from any other source that is or will be available for the proposed project or activity. Non-TxCDBG sources typically include the applicant's local contribution, other government assistance referred, equity, and contributions from foundations and private individuals. The report must also specify all expected use(s) of the funds. All sources and uses of funds must be included if they can be reasonably expected to be available for the proposed project.

Additional disclosures apply to update reports. During the period in which a SMRF application is pending, the applicant must make the following additional disclosures:

1. Any information that should have been disclosed in connection with the application but was inadvertently omitted.
2. Any information that would have been subject to disclosure in connection with the application but that arose at a later time, including information concerning an interested party that now meets the applicable disclosure threshold.
3. Any changes in previously disclosed Other Government Assistance that exceeds the previously disclosed amount.
4. For changes in previously disclosed financial interests, any change in the amount of the financial interest of a person that exceeds the amount of the previously disclosed interests by \$50,000 or by 10 percent of such interests (whichever is lower).
5. For changes to previously disclosed sources of funds, any change in a source of funds that exceeds the lower of:
  - a. The amount previously disclosed for that source of funds by \$250,000 or by 10 percent of the amount previously disclosed for that source, whichever is lower; or
  - b. The amount previously disclosed for all sources of funds by \$250,000 or by 10 percent of the amount previously disclosed for all sources of funds, whichever is lower.
6. For changes to previously disclosed uses of funds, any change in a use of funds that exceeds the lower of:
  - a. The amount previously disclosed for that use of funds by \$250,000 or by 10 percent of the amount previously disclosed for that use, whichever is lower; or
  - b. The amount previously disclosed for all uses of funds by \$250,000 or by 10 percent of the amount previously disclosed for all uses of funds, whichever is lower.

For Question 2, click on the appropriate response and provide additional information as prompted.

### **National Program Objectives**

Provide a Justification of Beneficiary Identification Method that was used to identify the beneficiaries of the proposed projects.

### **Anticipated Objectives and Outcomes**

Indicate the anticipated objectives and outcomes from the proposed activities by completing the following for each activity:

- Activity – using the dropdown menu, select the appropriate activity. If the options in the drop-down menu do not accurately describe the proposed activity, you may type the appropriate project type in this field rather than selecting from those provided from the drop-down list. Also, use the boxes marked “+” and “x” on the right side of the page to add or delete space for additional activities.
- Anticipated Objective – select one anticipated objective for each activity:

- Create a suitable living environment.
- Provide decent affordable housing
- Create economic opportunities.
- Anticipated Outcome – select one outcome for each activity in the application (excluding engineering and administration):
  - Availability / Accessibility
  - Affordability
  - Sustainability

NOTE: Only one set of objectives and outcomes is required for each activity. If multiple objectives and outcomes are provided for each activity, the responses listed first for each activity will be used for reporting purposes by TxCDBG staff.

***Anticipated Outcome Units***

Of the following, select the box next to the most appropriate description of the proposed activities:

- Infrastructure/Public Facilities Improvement Project
- Services
- Planning Activity

Once the additional questions appear, select the Activity from the dropdown menu. Use the “+” box on the right side of the page to add additional activities, if applicable (or the “x” box to delete unnecessary ones). For each activity, provide the following:

- Identify the number of persons for each of the following:
  - Anticipated to have new access to this type of public facility or infrastructure improvement;
  - Anticipated to have improved access to this type of public facility or infrastructure improvement;
  - Anticipated to be served by public facility or infrastructure that is no longer substandard.

NOTE: The total for each activity and outcome must not exceed the total number of beneficiaries identified in the application.

***Additional Activity Information***

Select only those that apply.

- *One-for-One Replacement* – requires that a grantee replace occupied and vacant units that are demolished or converted.
- *Revolving Loan Fund* – established to make loans whereby principal repayments of loans are re-paid into the fund and re-lent to other borrowers.
- *Brownfield Activity* – any activity designed to treat a piece of industrial or commercial property that is abandoned or underused and often environmentally contaminated, especially one considered as a potential site for redevelopment.
- *Special Assessment* – means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or one-time charge made as a condition of access to public improvement.
- *Favored Activity* – certain activities specifically related to economic development.
- *Colonia* – Any identifiable unincorporated community that is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and was in existence as a colonia prior to the date of enactment of the Cranston-Gonzalez National Affordable Housing Act (November 28, 1990).

- *Presidentially Declared Disaster Area* – any area that is listed as an active disaster area on the Federal Emergency Management Agency website (www.fema.gov).
- *Historic Preservation Area* – any area that has been identified in accordance with the standards for the treatment of historic properties as set by the Secretary of the Interior.
- *Displacement* – a displaced person is any lower income family or individual that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of the conversion of an occupied or vacant occupiable low/moderate income dwelling unit, or the demolition of any dwelling unit, in connection with an assisted activity.
- *Float Funded* – process by which a state’s CDBG funds are already under contract to grant recipient, yet the state awards the same funds to another grant recipient providing that the state is repaid before the initial grant recipient needs the funds to meet their obligation(s) for their CDBG funded activities.

## **Attachments**

The application must be submitted with the following attachments, if applicable, in the order specified.

### ***Scoring Sheet Supporting Documentation***

All scoring criteria must be supported by documentation such as American Community Survey data. Failure to submit all back-up documentation to support scoring may result in a loss of points.

### ***Area Map, showing NDO service area***

#### ***Census map***

Census Map: A census map will be required for applicants documenting the low/moderate income requirement through a qualified census tract. The location of the NDO must be identified on the census map.

#### ***Resolutions***

The application *must* be submitted with a resolution from the local governing body (i.e. County Commissioners Court or City Council) authorizing the submission of that application. The governing body must adopt/pass the resolution before the application submission and after the application public hearing. Failure to comply with these resolution requirements may result in disqualification of the application.

For a sample resolution, see Appendix I: Form and Document Samples.

### ***Fully Executed Applicant/NDO Agreement***

Applicants are strongly encouraged to seek guidance from their legal counsel to assist with the drafting of the agreement.

### ***Documentation of Match***

Only cash or in-kind administrative services are eligible for match under the SMRF.

All resources committed in an application and considered in the scoring of that application must be provided in the event that the project is selected for funding. If these resources are not made available, the locality may be subject to the sanctions described in the “False Information on Application” section of this guide.

### ***Published Notices of Public Hearing and Application Activities***

Prior to the preparation and submission of an application for SMRF funds, each applicant must hold at least one public hearing and publish a notice that describes the application activities and the availability of the application(s) for public review.

The public hearing gives citizens information about the Texas Community Development Block Grant Program and eligible program activities, as well as opportunities to participate in the development of the applicant's community and economic development needs and the development of TxCDBG applications.

The public notice gives citizens information on proposed uses for the funds and an opportunity to review and comment on the application(s) prior to submission.

Other requirements include:

- Public notices should be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community service providers.
- Ensure nondiscrimination by taking reasonable steps to ensure meaningful access for persons with Limited English Proficiency (LEP) by providing language assistance as appropriate. Contact TDA for additional information on this requirement based on the community's needs and characteristics.
- Persons with disabilities must be able to attend the hearing and an applicant must make arrangements for individuals who require auxiliary aids or services, if contacted at least two days prior to the hearing.
- Local organizations that provide services or housing for low-to-moderate income persons, including the local Public Housing Authority, Health and Human Services office, Faith-based organizations, and Mental Health and Mental Retardation office, must receive written notification concerning the date, time, location and topics to be covered at the public hearing.

The written notification sent to local service providers for the public hearing must include the date, time, location and topics of discussion at the public hearing (a copy of the notice will suffice if it includes all required information). Send this notification to service providers serving the jurisdiction's residents – if a local office is located in the community, then that office should receive the notification. If a local office is not located in the community, send the notification to the local or regional office location that serves the jurisdiction's residents.

The following items are required as evidence of adherence with public hearing and public notice requirements:

- A copy of the actual published public hearing notice (full page of the newspaper with publication title and date or publisher's affidavit and a copy of the notice) for the required public hearing. The notice must conform to the requirements of the Citizen Participation Plan, including specifics such as the date, time, location of the hearing and the topics to be discussed.
- A copy of the actual published notice of the application(s) activities and availability of the application(s) for public review. This may be either a full newspaper page with the publication title and date or publisher's affidavit and a copy of the notice. The notice must conform to the requirements of the Citizen Participation Plan including the timing of the published notice and the information included in the notice.
- A listing of the local service providers that received written notification of the public hearing. Copies of the written notifications must be kept by the applicant and will be reviewed by TDA staff during site visits. Again, the written notification must conform to the requirements of the Citizen Participation Plan including specifying the date, time, and location of the hearing and the topics of discussion.

TDA recommends verifying that the public notices are published on the correct days, as well as allowing sufficient time for publication and public hearing issues to be resolved rather than completing these steps just prior to submitting the application.

For sample public notices, see Appendix I: Form and Document Samples.

### ***Evidence of Active SAM Registration***

The applicant shall include a screen-shot from the System for Award Management (SAM) website at <https://sam.gov> verifying the entity's registration is active. The screen shot must include the registration expiration date. Multi-Jurisdictional applicants must all have active SAM registrations.

Additionally, the NDO must be cleared in the SAM.gov system. Submission of a screen shot from the System for Award Management (SAM) website at <https://sam.gov> indicating “No records found for current search” of the NDO may satisfy this requirement.

Note: All SMRF loan recipients shall also be cleared in the SAM.gov system. This documentation should be submitted at the same time environmental review information is submitted to TDA.

***Annual Audit***

Applicants must comply with the audit requirements in the Texas Local Government Code for the fiscal year ending 2014 or later. The applicant is required to submit their most recent annual audit or audit opinion letter with their application to demonstrate financial capacity. The audit opinion letter is preferred to the whole audit (not the management letter). Annual audits for fiscal years ending on or before December 31, 2013 will not be accepted. Failure to submit an audit for FY 2014 or FY 2015 by the application deadline will result in automatic disqualification.

***A303 Categorical Exclusion Not Subject to 58.5***

The applicant shall include a completed A303 Categorical Exclusion Not Subject to 58.5 form for the proposed project. (See Appendix I: Form and Document Samples)

***Application Review Checklist***

See the following page for the Application checklist and instructions.

Applicant Name: \_\_\_\_\_

### Application Review Checklist for Small and Microenterprise Revolving Fund

The following items **must** be included in the application. If the application is found to be substantially incomplete it will be denied without further consideration. Applications that have deficiencies will be given 10 business days to satisfy those deficiencies. Applicant or Application Preparer must initial for each item included in the application or indicate that the item is not applicable. Print this page separately and insert directly behind the Application Coversheet.

<b>TEXAS CAPITAL FUND Small and Microenterprise Revolving Fund Application Contents</b>	<b>Initial if complete NA if not applicable</b>
---	---

***Original Application – Part 1***

Completed 424 Form with original signature	
Completed NDO Information	
Completed SMRF Scoring Sheet	
Project Approval Information with all question answered	
Community Needs Assessment	
Project Summary	
Additional Project Information and Source and Use of non-TxCDBG funds Disclosure	
National Program Objectives	

***Attachments – Part 2***

Attach supporting documentation for Score Sheet	
Area Map, showing NDO service area	
Census Map and data to support low/moderate income beneficiaries (As applicable)	
Resolution passed by the applicant	
Executed Applicant/NDO Agreement	
Match documentation - Letter(s) of Commitment	
Public notices	
1. Copy of actual published public hearing notice or Publisher’s Affidavit and copy of notice	
2. Copy of actual published notice of application activities and availability of the application for public review or Publisher’s Affidavit and copy of notice	
3. Listing of the local service providers that were sent the written notification of the public hearing	
Evidence of active SAM Registration and NDO Clearance	
Applicant’s Most recent Annual Audit	
A303 Categorical Exclusion Not Subject to 58.5	
Application Review Checklist	

## **Appendix I: Form and Document Samples**

### *Sample Public Hearing Notice and Application Activities Notice*

SAMPLE PUBLIC HEARING NOTICE:

Published on (July 14, 20XX):

PUBLIC HEARING NOTICE

(XYZ) COUNTY

TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

(XYZ) County will hold a public hearing at 7:00 p.m. on July 14, 20XX, at (XYZ) County Courthouse regarding the submission of an application to the Texas Department of Agriculture for a Texas Community Development Block Grant Program (TxCDBG) grant. The purpose of this meeting is to allow citizens an opportunity to discuss the citizen participation plan, the development of local housing and community development needs, the amount of TxCDBG funding available, all eligible TxCDBG activities, and the use of past TxCDBG funds. The County encourages citizens to participate in the development of this TxCDBG application and to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views and proposals to (John Doe), County Judge at the County Courthouse. Persons with disabilities that wish to attend this meeting should contact the County Courthouse to arrange for assistance. Individuals who require auxiliary aids or services for this meeting should contact the County Courthouse at least two days before the meeting so that appropriate arrangements can be made. Para más información en español, comuníquese con (add local contact name) al XXX-XXX-XXXX.

SAMPLE APPLICATION ACTIVITIES NOTICES:

Published on (September 26, 20XX):

PUBLIC NOTICE

(XYZ) COUNTY

TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

(XYZ) County is giving notice of the county's intent to submit Texas Community Development Block Grant Program grant applications for a [FUND NAME] grant request of [AMOUNT REQUESTED] for [ACTIVITIES] in the [ACTIVITY LOCATION(S)]. The application is available for review at the (XYZ) County Courthouse during regular business hours. Para obtener una copia en español, comuníquese con (add local contact name) al XXX-XXX-XXXX.

SAMPLE

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING AN APPLICATION FOR FUNDING THROUGH THE TEXAS DEPARTMENT OF AGRICULTURE, TEXAS CAPITAL FUND**

BE IT RESOLVED by the City Council/Commissioners Court of the City/County of \_\_\_\_\_ as follows:

SECTION 1.

The City Council/Commissioners Court has reviewed and hereby approves an application for: (list activities, location and dollar amount)

*Grant funds to support a Small and Microenterprise Fund in conjunction with the XYZ EDC – \$100,000*

SECTION 2.

The City Council/Commissioners Court has reviewed and hereby agrees to comply with all assurances executed in connection with the application and, if funded the award.

SECTION 3.

All funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

SECTION 4.

The City Council/Commissioners Court directs and designates the Mayor/County Judge as the County's Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and the County's participation in the Texas Community Development Block Grant Program.

SECTION 5.

That it further be stated that XYZ EDC is committing (\$10,000.00) as in-kind contribution toward the administration activities of this economic development project.

PASSED AND ADOPTED at a regular meeting of the City Council/Commissioners Court of the City/County of held on by the following vote:

ATTEST: \_\_\_\_\_  
(Title of Authorized Signer and Applicant Name)

\_\_\_\_\_  
(Title of Attestor and Applicant Name)

**EXHIBIT A**

**PERFORMANCE STATEMENT**

All activities funded with TxCDBG funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income (LMI) persons, aid in the prevention or elimination of slums or blight, or meet community development needs having a particular urgency.

Contractor shall carry out the following activities in the target area identified in the Application. The Contractor shall ensure that the amount of funds expended for each activity described does not exceed the amount specified for such activity in the Budget.

**CURRENT NEED**

The Town of Pays Maudit is currently seeking to expand economic development. The Town would like to expand lending opportunities to small businesses and microenterprises in the area through a cooperative agreement with a qualified, nonprofit development organization (NDO), to support job creation/retention activity for predominately low and moderate income persons, but requires additional capitalization to do so.

The Contractor certifies that the activity(ies) carried out under this contract will meet the National Objective of benefitting LMI persons with at least 51% of the beneficiaries qualifying as LMI.

**ACTIVITIES**

**ED Financial Assistance to For-Profits** The Contractor shall grant one hundred thousand dollars (\$100,000 and no/100) to (Nonprofit Development Organization) for the purpose of lending to small and microenterprises within the Contractor's jurisdiction.

The Contractor shall ensure that the repayment of these loans is deposited into a revolving loan fund under the control of the (Nonprofit Development Organization) and that future lending is made in accordance with the Contractor/NDO Agreement.

These activities shall benefit at least fifty-one percent (51%) of low-to-moderate income persons. Additionally, each loan made shall result in the creation of one (1) job per twenty-five thousand dollars (\$25,000 and no/100) and/or the retention of one (1) job per ten thousand dollars (\$10,000 and no/100) with no single loan exceeding fifty thousand dollars (\$50,000 and no/100).

**General Administration**

Contractor shall ensure that the amount of Department funds expended for all eligible project-related administration activities, including the required annual program compliance and fiscal audit does not exceed the amount specified for administration in the Budget.

**Environmental Review  
for Activity/Project that is Exempt or  
Categorically Excluded Not Subject to Section 58.5  
Pursuant to 24 CFR Part 58.34(a) and 58.35(b)**

**Project Information**

**Project Name:**

**Responsible Entity:**

**Grant Recipient** (if different than Responsible Entity):

**State/Local Identifier:**

**Preparer:**

**Certifying Officer Name and Title:**

**Consultant** (if applicable):

**Project Location:**

**Description of the Proposed Project** [24 CFR 58.32; 40 CFR 1508.25]:

**Level of Environmental Review Determination:**

Activity/Project is Exempt per 24 CFR 58.34(a): \_\_\_\_\_

Activity/Project is Categorically Excluded Not Subject To §58.5 per 24 CFR 58.35(b): \_\_\_\_\_

**Funding Information**

<b>Grant Number</b>	<b>HUD Program</b>	<b>Funding Amount</b>

**Estimated Total HUD Funded Amount:**

**This project anticipates the use of funds or assistance from another Federal agency in addition to HUD in the form of (if applicable):**

**Estimated Total Project Cost** (HUD and non-HUD funds) [24 CFR 58.32(d)]:

**Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities**

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<b>Compliance Factors:</b> Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6</b>		
<b>Airport Runway Clear Zones and Accident Potential Zones</b>  24 CFR Part 51 Subpart D	Yes    No <input type="checkbox"/> <input type="checkbox"/>	
<b>Coastal Barrier Resources</b>  Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes    No <input type="checkbox"/> <input type="checkbox"/>	
<b>Flood Insurance</b>  Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes    No <input type="checkbox"/> <input type="checkbox"/>	

**Mitigation Measures and Conditions [40 CFR 1505.2(c)]**

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Project Name

Project Locality and State

HEROS Number

Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

Responsible Entity Agency Official Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s)