

Opportunity Grant Program

Program Guidelines | February 2008

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Section I – Statement of Purpose

- A. The Opportunity Grant Program was established for the purpose of securing job-creating economic development projects through the preservation and expansion of existing industry and the attraction of economic development prospects to the Commonwealth of Pennsylvania.
- B. The Opportunity Grant Program is a key component of Governor Rendell’s plan to develop and maintain a flexible and effective arsenal of economic development incentives for Pennsylvania businesses to lead the way into the 21st century.

Section II – Eligibility

A. Eligible Applicants

Eligible applicants for Opportunity Grants include:

1. **Municipalities** (Boroughs, Townships, Towns, Counties, Cities, Home Rule municipalities)
2. **Industrial Development Authorities and Corporations**
3. **Municipal Authorities**
4. **Redevelopment Authorities**
5. **Private Developers** - This includes any person, partnership, corporation or other for-profit business entity that is involved in the promotion or construction of economic development projects and that is engaged in the development of real estate for use by more than one person.
6. **Private Companies** - This includes any person, partnership, corporation or other for-profit business entity involved in the following enterprises:
 - a. **Agricultural Enterprise** - An enterprise that is engaged in either of the following:
 - The manufacture, development or preparation for sale of one or more farm commodities which adds value to those commodities.
 - The conversion of a farm product into a marketable form, including, but not limited to, livestock by slaughtering, fruits and vegetables by canning and freezing and forest products by secondary processing.
 - b. **Agricultural Producer** - A small business enterprise involved in the management and use of a normal agricultural operation for the production of a farm commodity. Such operations consist of, but are not limited to, the production, harvesting or preparation for market of poultry, livestock, and their products (including bee products), agricultural crops, timber, horticultural crops (including flower, fruits, vegetables and shrubs), and aquaculture crops including fish and plants grown in water. The enterprise must operate on not less than ten contiguous acres in area or operate on less than ten contiguous acres in area but with an anticipated yearly gross income of at least \$10,000.

- c. **Industrial Enterprise** - An enterprise other than a mercantile, commercial, or retail business. Examples include: warehouse and terminal facilities, office buildings utilized as national or regional headquarters and computer or clerical operations centers.
- d. **Manufacturing Enterprise** - An enterprise engaged in the giving of new shapes, new qualities or new combinations to matter by the application of skill and labor.
- e. **Research and Development Enterprise** - An enterprise for the discovery of new, or the refinement of known, substances, processes, products, theories, and ideas, but does not include activities directed primarily to the accumulation or analysis of commercial, financial or mercantile data.
- f. **Export Services Enterprise** - An enterprise engaged in activities that increase the Commonwealth's share of domestic and international commerce. An export service enterprise shall be found to increase the Commonwealth's share of domestic and international commerce if more than half of its sales or services are rendered to customers outside of this Commonwealth.
- g. **Other enterprise** - Any other enterprise that offers a significant economic impact to the Commonwealth as a whole or to a region within the Commonwealth as determined solely by DCED.

NOTE: Eligible private companies must also meet all of the following conditions:

- The company must locate, expand, or maintain operations at a Pennsylvania site.
- The company must invest private capital at the site, as specified in Section III -A.
- The company must create or preserve jobs at the site, as specified in Section III -B.
- The company must operate at the project site for a minimum period of 5 years.

B. Eligible Uses of Funds

All costs financed through the Opportunity Grant Program must be necessary for the operation of an eligible private company or companies at a specific site(s) in Pennsylvania. Specifically, funds may be used for:

1. Job training.
2. Construction or rehabilitation of infrastructure.
3. Acquisition of land, buildings, and rights-of-way.
4. Construction or rehabilitation of buildings.
5. Purchase or upgrading of machinery and equipment.
6. Working capital.
7. Site preparation, including demolition and clearance.
8. Environmental assessments.
9. Remediation of hazardous materials.
10. Architectural and Engineering fees up to 10% of the Opportunity Grant Program award.

C. Ineligible Uses of Funds

Include but are not limited to:

1. Fees paid to consultants, lobbyists, or other parties to negotiate public financial incentives or otherwise lobby public officials.
2. Refinancing or retirement of existing debt.
3. Costs unrelated to a company's expansion or location at a site in Pennsylvania.

Section III – Program Requirements

A. Private Investment Requirement

1. Private investment means any new investment made at a Pennsylvania site by a private company or private developer in any of the categories of eligible uses of funds outlined above in Section II-B. In addition, the value of intellectual property (as documented by an appraisal) and any investment made by venture capitalists in the company may be considered eligible matching investment. An investment made more than 90 days prior to approval of an Opportunity Grant is not eligible to satisfy this requirement unless the investment is specifically approved by DCED. All private investment must occur within the time frame specified in the commitment letter executed by the applicant and the private company or the private developer.
2. Letters of intent for Opportunity Grant Program assistance must include a written commitment from a private company or private developer to make the private investment as described above. The amount of private investment required must be equal to or greater than \$4 for every \$1 of Opportunity Grant Program assistance requested.

B. Employment Requirement

1. Private companies within three years of receiving Opportunity Grant Program funding must: (1) create or preserve a minimum of 100 full-time jobs at the site of the facility affected by the Opportunity Grant Program investment; or (2) increase their employment within Pennsylvania by at least 20%; or (3) provide a substantial number of new employment opportunities within a high-growth industry; or (4) create or preserve fewer than 100 jobs when those projects are located in counties or communities suffering from severe economic distress.
2. The base pay of an employee hired or retained by the private company must be at least 150% of the minimum wage in order for the employee to be counted towards the employment requirement.

C. Execution of Documents

All commitment letters, letters of intent, contracts, requests for payment and other reports and documentation required by the Department shall be executed by the two highest ranking officials of the applicant, as DCED shall deem appropriate, and shall be subject to the penalties under 18 Pa. C.S. § 4904 for unsworn verifications.

Section IV – Assistance Limitations

- A. Applicants may not receive Opportunity Grant Program assistance more than two consecutive fiscal years for the same company expansion or location project.
- B. The project may not commence prior to the approval of Opportunity Grant Program assistance without the written consent of DCED to incur project costs. Commencement of work prior to receiving DCED approval will result in the project becoming ineligible for funding consideration.
- C. The maximum grant amount is \$5,000 for each created or retained job. DCED has discretion to modify this amount for special circumstances.

Section V – Penalties and Security

A. Penalties

- 1. Private companies are liable for a penalty of up to the full amount of the Opportunity Grant Program assistance, plus an additional penalty of up to 10% of the grant amount awarded by DCED, if the company:
 - a. Fails to operate at the project site for a minimum period of 5 years; or
 - b. Fails to create or preserve the number of jobs specified in an executed commitment letter; or
 - c. Fails to invest the required amount of private investment into the project.
- 2. This penalty may be waived by DCED at its sole discretion if failure is due to circumstances outside the control of the private company.
- 3. The penalty may be collected in a lump sum or in installments, as DCED deems appropriate.

B. Security

- 1. DCED may require a private company that receives Opportunity Grant Program assistance, either directly or indirectly, to secure a possible penalty obligation with a mortgage lien, a letter of credit, or other collateral for a period of five years following the final disbursement of Opportunity Grant Program assistance.

Section VI – Application Procedures

- A. An eligible applicant must submit to DCED a letter of intent that is on the company's letterhead signed as follows and may be subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification. If a Corporation, the requirement is for the signatures of the President and Treasurer or Secretary. If a General Partnership, the requirement is for the signatures of all Partners. If a Limited Partnership, the requirement is for the signature of the General Partner. The letter of intent shall provide the following information:
1. The amount of Opportunity Grant Program funds that are being requested and the intended use of the funds.
 2. The legal name and address of the applicant for Opportunity Grant Program funds if different from the company.
 3. The name of the municipality, county, and zip code in which the project site is located.
 4. A description of the type of business (what the company does) and its Standard Industrial Classification (S.I.C.) or North American Industrial Classification System (NAICS) code.
 5. A statement regarding the current employment levels at the project site, statewide and worldwide and the number of net, new full-time jobs to be created or preserved at the project site. Please include the start date for job creation.
 6. A project description, an estimated total dollar amount, and estimated commencement and completion dates for the private investment to be made at the site.
 7. The estimated starting wage level and dollar value of the benefits that will be paid to workers employed at the project site.
 8. The company's Federal Employer Identification Number (FEIN).
 9. The company's total dollar sales in Pennsylvania and total sales outside the USA.
 10. Percentage of the company's yearly budget spent on research and development and the percentage spent on employee training.
 11. How the company is organized, i.e. Sole proprietorship, S Corporation, C Corporation, Partnership.
 12. Please state if the company is minority or woman owned.

Section VII – Application Evaluation

- A. DCED determines eligibility for Opportunity Grant Program financing by evaluating and scoring each request according to the following criteria.
1. The number of jobs created and/or preserved.
 2. The quality of the jobs created or preserved jobs as reflected in the average wage threshold.
 3. The economic conditions of the region where the project is located.
 4. The relationship of the industry segment to priorities of the Governor’s Action Team.
 5. The impact of the project on the Commonwealth’s competitiveness in the global marketplace as reflected in export expansion, investment in workforce skills and/or the potential for impact on other Commonwealth businesses (suppliers/vendors for example).
 6. The level of private sector investment leveraged; and the contribution of the project to the reuse of industrial/manufacturing sites.
- B. In addition to these criteria, the following factors may be considered in determining a request for Opportunity Grant funding:
1. The strategic importance of the project to the region and participation by local or regional economic development programs.
 2. The extent to which the project involves the development or application of leading technologies.
 3. Active participation in a neighborhood assistance or community development project, and active participation in a school to work program.
- C. The goal of the Opportunity Grant Program is to improve economic conditions throughout the Commonwealth of Pennsylvania. To achieve this goal, DCED takes into account the location of the sites proposed by the various applicants. DCED will make every effort to equitably distribute Opportunity Grant Program assistance throughout the regions of the Commonwealth, including the urban and rural centers of the Commonwealth and the high unemployment and low unemployment areas of the Commonwealth. The annual financing strategy developed by DCED addresses geographic diversity in greater detail.

Section VIII – Procedures for Accessing Funds

A. Commitment Letter

1. DCED, upon approval of the funding request, will mail a commitment letter to the private company notifying them of the Opportunity Grant Program commitment and the terms and conditions of that approval.
2. The private company must sign and return the commitment letter to DCED, as required under Section III C. of these guidelines, if the company agrees to the terms and conditions of the approval. If the private company is not the applicant for Opportunity Grant Program funds, then both the private company and the applicant must sign the commitment letter, as provided above.
3. If the commitment letter is not executed within 90 days of the letter's date, DCED, upon written notification, may withdraw the offer of financial assistance that is stated in the commitment letter.

B. Grant Agreement

1. An executed grant agreement between the applicant and DCED is required in order for the applicant to receive payment of Opportunity Grant Program assistance. The agreement must be executed as provided in Section III C. of these guidelines, requiring signatures of the two highest ranking officials of the applicant, as DCED shall deem appropriate, and shall be subject to the penalties under 18 Pa.C.S. § 4904 for unsworn verifications.
2. A grant agreement will be sent to the applicant based on the estimated time frame the applicant provides to DCED for the use of the Opportunity Grant Program funds. Following is a summary of the general provisions included in the grant agreement.

- a. **Conditions of Funding Commitments** - The terms and conditions contained in the commitment letter signed by the applicant and the private company are included in the grant agreement. These will include any additional conditions the applicant must meet before the disbursement of any funds.

If otherwise required by law, the applicant is responsible for seeking competitive bids for all construction-related activities that are to be paid with Opportunity Grant Program assistance. If not required by law to seek competitive bids, the applicant must provide a narrative to DCED outlining the method it followed in selecting a contractor or contractors for construction-related activities that are to be paid with Opportunity Grant Program funds.

- b. **Certification of Expenses** - The applicant shall sign an affidavit certifying that the expenses were incurred and were in accordance with the scope of work approved by DCED. Prior to final closeout of the grant agreement, the company is required to submit copies of all canceled checks verifying the expenditure of the Opportunity Grant Program proceeds.
- c. **Nondiscrimination** - No assistance is awarded to an applicant under this Act unless the applicant certifies to DCED that they shall not discriminate against any employee or against any person seeking employment because of race, religion, color, handicap, national origin, age, or sex. All contracts for work to be paid for with Opportunity Grant Program assistance must contain the Commonwealth's official nondiscrimination clause.
- d. **Change in Company Operating Status** – The Grantee shall promptly notify the Department of events or change in circumstances that may result in the inability of the Grantee to perform any or all of its obligations under this Contract.

- e. **Disbursement Process** - Requests for payment must be submitted to the Economic Development Assistance Office by using a payment request form that is accompanied by invoices or other approved documentation verifying costs incurred by the applicant. Applicants should take note that payment requests require at least 35 days for processing and check issuance. All requests for payment must be signed by the two highest ranking officials of the applicant, as DCED shall deem appropriate, and shall be subject to the penalties under 18 Pa.C.S. § 4904 for unsworn verifications.
- f. **Project Records** - The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over the records of related parties in the project. DCED requires access to such records, as well as the ability to inspect all project work, invoices, materials, and other relevant records at reasonable times and places. The grant agreement requires the applicant to furnish, upon request of DCED, all data, reports, contracts, documents, payroll records to verify jobs, and other information relevant to the project. The grant agreement specifies a periodic reporting requirement for the applicant. All reports must be signed by the two highest ranking officials of the applicant, as DCED shall deem appropriate, and shall be subject to the penalties under 18 Pa.C.S. § 4904 for unsworn verifications.

Section IX – Monitoring and Reporting

- A. Applicant shall submit interim reports on the status of the project within thirty (30) days of each anniversary of the approval date.
- B. DCED shall have the right to make such site visits as it shall deem appropriate during the grant period until monitoring is complete. The initial visit may occur during the first 12-18 months of the grant period (1st half of the 2nd year of the grant).

Section X – Program Inquiries

- A. Program inquiries should be directed to:
 - The Opportunity Grant Program
 - Center for Business Financing
 - Department of Community and Economic Development
 - 4th Floor, Commonwealth Keystone Building
 - Harrisburg, PA 17120-0225
 - Telephone: (717) 787-7120
 - E-mail: ra-dcededa@state.pa.us
- B. These guidelines can be accessed on-line at www.newPA.com.