

Bill No. 37-19
Concerning: Economic Development
Fund – Use of Fund and Remedies for
Noncompliance
Revised: 3/4/2021 Draft No. 5
Introduced: December 3, 2019
Enacted: March 16, 2021
Executive: March 25, 2021
Effective: June 24, 2021
Sunset Date: None
Ch. 5, Laws of Mont. Co. 2021

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Evan Glass
Co-Sponsors: Councilmembers Riemer and Jawando

AN ACT to:

- (1) require recipients of Economic Development Fund assistance to agree to certain terms and conditions regarding the use and repayment of the assistance;
- (2) alter eligibility requirements for the Small Business Innovation Research and Small Business Technology Transfer Matching Grants;
- (3) require the repayment to the County of Small Business Innovation Research and Small Business Technology Transfer Matching Grants in certain circumstances;
- (4) impose remedies related to the provision of false or fraudulent applications and the use of Fund assistance for unauthorized purposes; and
- (5) generally amend the law related to the Economic Development Fund.

By amending

Montgomery County Code
Chapter 20, Finance
Sections 20-75 and 20-76E

By adding

Chapter 20, Finance
Section 20-76F

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 20-75 and 20-76E are amended, and Section 20-76F is added, as follows:

20-75. Use of Fund.

* * *

(f) [Unless expressly inconsistent with any other federal, state, or County law, the] ~~[[The]]~~ Except as provided in subsection (h), the terms and conditions of any assistance from the Fund:

(1) must be specified in a written agreement between the County and the recipient; and

(2) except to the extent expressly inconsistent with any other federal, state, or County law, must:

(A) require the recipient to meet certain eligibility criteria and, if applicable, performance criteria specified in the offer of assistance[, including a repayment agreement unless the Executive justifies why repayment of assistance is not required.];

(B) grant the Director the right to audit or monitor the recipient's compliance with the terms and conditions of assistance;

(C) require periodic reports, if applicable, from the recipient;

(D) prohibit the use of assistance from the Fund for unauthorized purposes; and

(E) provide remedies for the County, including the repayment of assistance, if the recipient:

(i) uses the assistance for an unauthorized purpose;

27 (ii) fails to meet eligibility criteria and, if
28 applicable, performance criteria specified in
29 the written agreement; or

30 (iii) otherwise breaches the written agreement.

31 * * *

32 (h) The requirements of subsection (f) do not apply to assistance from the
33 Fund if the Director determines that the assistance program does not
34 require program recipients to comply with any terms or conditions after
35 receipt of the assistance.

36 **20-76E. Small Business Innovation Research and Small Business Technology**
37 **Transfer Matching Grant Program.**

38 * * *

39 (c) *Eligibility.* A business is eligible to receive the matching grant if the
40 business:

- 41 (1) has been awarded a SBIR or STTR Phase I or Phase II grant during
- 42 the current calendar year[by the National Institutes of Health]to
- 43 conduct research in medicine, biotechnology, or life sciences; and
- 44 (2) conducts at least 51% of its research and development operations
- 45 at a physical location in the County.

46 * * *

47 (f) Administration.

- 48 (1) The Director must administer the Program.
- 49 (2) The Director must require a business to enter into an agreement
- 50 under Section 20-75(f), including an agreement to pay back any
- 51 grant payments received if:

52 (A) the business does not remain in the County for [at least 2
53 years after receiving the grant payment.] a minimum time
54 period specified in the agreement; or

55 (B) the business uses the payment for an unauthorized purpose.

56 * * *


57 **20-76F. Remedies for Fraudulent Applications or Misuse of Funds.**

58 (a) The remedies under this Section supplement any other remedy available
59 under the law, including any remedy under Section 20-75(f)(2).

60 (b) A person who submits a false or fraudulent application, or withholds
61 material information, to obtain assistance under this Article has
62 committed a Class A violation.


63 (c) A person who violates Subsection (b), or who uses assistance from the
64 Fund for an unauthorized purpose under Section 20-75(f), is liable for all
65 court costs and expenses and reasonable attorney's fees incurred by the
66 County to recover any payment, interest, or penalty.

Approved:

 3/17/2021

Tom Hucker, President, County Council Date

Approved:

 3/25/21

Marc Elrich, County Executive Date

This is a correct copy of Council action.

 3/25/2021

Selena Mendy Singleton, Esq., Clerk of the Council Date