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**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
GUIDELINES FOR CERTIFICATION OF ECONOMIC DEVELOPMENT
ORGANIZATIONS**

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Section 1. Purpose.

The Department currently administers a variety of business loan financing programs which require the financing to pass through an economic development organization. The Department desires to establish standards which an economic development organization must meet to demonstrate that it possesses the qualifications necessary to evaluate and administer loans made by the Department, before the economic development organization may submit a financing application to the Department on behalf of a business entity.

Section 2. Definitions.

The following words and terms, when used in these guidelines, have the following meanings, unless the context clearly indicates otherwise:

“Area loan organization” - A local development district, an industrial development agency, or any other nonprofit economic development organization that seeks certification under these guidelines to participate in the Small Business First Program.

“Business entity” - A sole proprietorship, corporation, partnership, limited liability company, joint venture or other form of for-profit business.

“Certified provider” - An economic development organization that has complied with the provisions of these guidelines and has been certified by the Department.

“Department” - The Department of Community and Economic Development.

“Economic development organization” - An area loan organization or industrial development agency.

“Industrial development agency” or “industrial development corporation” - a nonprofit corporation that seeks certification as an industrial development agency by the Pennsylvania Industrial Development Authority pursuant to §305.2 of the Pennsylvania Industrial Development Authority Act (73 P.S. §305.2).

“Professional staff” - Employees of a certified provider for whom a substantial portion of their required job function or duties involves performing one of the following functions:

- (i) Preparing, packaging, analyzing and presenting a loan application, including performance of credit analysis.
- (ii) Managing and directing the closing of a loan.
- (iii) Servicing and monitoring a loan after approval and closing.

The term does not include members of the board of directors of a certified provider or members of a loan review committee of a certified provider.

“Secretary” - The Secretary of the Department of Community and Economic Development.

Section 3. Eligibility.

(a) Only a certified provider may submit a financing application to the Department on behalf of a business entity. Each financing application must be reviewed and approved by the certified provider’s loan review committee before the application is submitted to the Department.

(b) The presence or absence of a certified provider certification does not otherwise affect any rights, duties, privileges or liabilities of the economic development organization, beyond its ability to submit business financing applications to the Department.

Section 4. Certification Procedure.

(a) In order to become a certified provider, an economic development organization must submit to the Department an application for certification, in a format approved by the Department, which demonstrates that the economic development organization meets the requirements of Sections 5 – 11 of these guidelines.

(b) If the Department determines that the application meets the requirements of these guidelines, the Department may, in its sole and final discretion, certify the economic development organization as a certified provider. If an economic development organization is seeking to become a certified provider in a geographic area currently

being served by another economic development organization or certified provider, the Department's determination will be based on but not limited to (1) the number of organizations currently serving the proposed area, (2) the project volume generated by existing certified providers in the proposed area, and (3) the quality of services provided by the existing certified providers. The Department certification shall remain in effect until a periodic review is conducted in accordance with Section 13 of these guidelines. At the beginning of each calendar year, the certified provider shall submit to the Department changes, which occurred during the previous calendar year, to the information provided in the application.

(c) If the Department determines that the application does not meet the requirements of these guidelines, the Department will provide to the economic development organization a list of deficiencies which must be corrected before the Department will certify the economic development organization as a certified provider.

Section 5. General Certification Requirements.

(a) An application for certification shall include the following:

(1) A copy of the organization's articles of incorporation on file with the Department of State, which must indicate economic development as a purpose, and specify the programs the organization will administer and the geographic area the organization will serve.

(2) A copy of the organization's bylaws, which shall state how board members are selected, the term length of board members, how officers are selected, and the term length of officers.

(3) A good standing certificate of the economic development organization issued by the Department of State.

(4) A certified resolution of the economic development organization adopting the Code of Ethics set forth in Section 11 of these guidelines.

(5) A list of current members of the board of directors and a brief resume of each board member.

(6) A list of current loan review committee members and a brief resume of each loan review committee member. The loan review committee members shall be separate and apart from the economic development organization's professional staff.

(7) A brief resume of the executive director or chief operating officer of the economic development organization, each member of the economic development organization's professional staff, and other employees of the economic development organization who may provide assistance as described under the definition of "professional staff".

(8) The location of the economic development organization's permanent office, a list of other organizations utilizing that same office, and a description of the activities performed by the organizations utilizing the same office.

(9) An organization chart and job description for each member of the economic development organization's professional staff.

(10) The current or proposed membership dues structure of the economic development organization, if any, and a list of all anticipated revenues from identified sources that will finance the operating costs of the economic development organization.

(11) A description of the fees charged by the economic development organization for its services.

(12) A copy of the most recent audited financial statements of the economic development organization prepared by an independent certified public accountant.

(13) A statement as to the geographic area to be served by the economic development organization. If a geographic area is currently being served by another economic development agency or certified provider, a detailed explanation must be submitted justifying the need for a new economic development organization to administer loans in the area.

Section 6. Additional Certification Requirements.

(a) In addition to the requirements set forth in Section 5, an economic development organization that wishes to receive capital development loans under the Small Business First Program must enter into a Master Loan Agreement with the Department setting forth the responsibilities and duties of the organization with regard to the processing of loan applications, the closing of loans, the monitoring of closed loans, and collection and workout efforts for troubled or defaulted loans.

(b) An economic development organization that wishes to receive financing from The Pennsylvania Industrial Development Authority (PIDA) must also be certified as an industrial development agency by The Pennsylvania Industrial Development Authority and comply with the provisions set forth at 12 Pa Code §73.1 – 73.8. In order to obtain that certification, in addition to the requirements set forth in Section 5 the following additional items must be submitted:

(1) Articles of incorporation or bylaws which provide that membership in the agency is open to all persons interested in industrial development willing to pay the agency's dues, and that the management of the agency is vested in a board of directors elected by the full membership of the agency.

(2) A list of current members and the organization, if any, each represents.

(3) Indication of a broad-based private sector support evidenced by fundraising which satisfies the following criteria:

(i) A minimum of \$10,000 is raised; and

(ii) There are a minimum of 25 contributors for each 100,000 in population of the geographic area served by the agency, but in no case fewer than 25 contributors.

(4) An industrial development plan of the agency, including an explanation of the need for a new agency in the geographic area the agency will serve.

Section 7. Professional Staffing.

(a) **Employment of Professional Staff.** A certified provider shall employ full-time professional staff and demonstrate professional management ability to service its geographic area.

(b) **Basic Requirements.** At least one member of the certified provider's professional staff shall be qualified by basic training, work experience, or both, which shall include, but not be limited to, at least two of the following:

(1) A bachelors or masters degree in business, accounting, finance, or a related discipline from an accredited college or university; or

(2) No less than five years, related, on-the-job experience involving economic development, commercial lending, or similar business activities; or

(3) Completion of economic development training courses related to finance offered by a reputable training organization or learning institution and approved by the Department.

(c) Additional Requirements. In addition to fulfilling the basic training requirements of section 7(b), a certified provider's professional staff shall in the aggregate also attend:

(1) Not less than 20 hours of related continuing education courses (6 of which must deal with financing) every year, which courses shall be approved by the Department. Courses may consist of any training that enhances the ability of a certified provider's professional staff to perform their day-to-day duties and is offered by a reputable training organization or learning institution. Proof of attendance at such courses must be provided to the Department at the time of the certified provider's periodic review.

(2) All mandated training programs offered by the Department. Attendance at such programs shall be counted towards the 20-hour requirement set forth in Section 7(c)(1).

Section 8. Facilities.

A certified provider shall demonstrate that the certified provider has available for the certified provider's use adequate facilities and resources that will permit it to perform all necessary functions on behalf of business entities. Adequate facilities and resources include, but are not limited to, the following:

(a) Adequately equipped office space for professional staff, meetings, and conferences.

(b) Appropriate online electronic information systems, such as the internet, which permit electronic communication with the Department.

(c) Appropriate technical and clerical support and systems.

Section 9. Quality Services.

(a) A certified provider shall demonstrate its commitment to and the performance of quality service for business needs in its designated geographic area. Quality service shall include:

(1) Provision of a professional level of service in the preparation, packaging, analysis, management, closing and monitoring of loan applications. This includes the following:

(i) Demonstrating an adequate level of technical knowledge regarding lending activities and financial analysis and a thorough knowledge of Commonwealth financing programs.

(ii) Providing timely response and service to business entity requests and keeping the business entity accurately informed of all steps to be followed in the financing process.

(iii) Providing appropriate assistance to other potential applicants, certified providers and economic development organizations requesting assistance with financial packages.

(2) Cooperative interaction with representatives from the Department, other certified providers and economic development organizations, in order to insure that all business entities have access to the full range of services and resources available.

(3) Active participation in Commonwealth initiatives or programs designed to address the needs of business entities.

(b) A certified provider shall demonstrate to the Department its commitment to cooperate with the Department in the administration of the Department's financing programs. This includes, but is not limited to, the following:

(1) Assisting the Department in the gathering of information and data from business entities.

(2) Assisting with monitoring and collection efforts.

(3) Meeting submission deadlines for reports required by the Department.

Section 10. Fee Schedule.

The basis or rate of all fees charged by the certified provider to a business entity for its services shall be communicated to the business entity in writing before the services are performed. The certified provider will set forth all fees, costs and charges that a certified provider requires the business entity to pay to the certified provider or to any individual or organization as a result of preparing, processing, approving, submitting and closing a loan application. Fees, costs and charges include the following:

- (a) One time fees.
- (b) Ongoing servicing fees.
- (c) Legal fees.
- (d) Accounting fees.
- (e) Required memberships.
- (f) Fees assessed by the Department.
- (g) Other costs passed on to the business entity for payment.

Section 11. Code of Ethics.

A certified provider shall adopt and comply with the following Code of Ethics.

(a) An officer, director, employee, or member of a loan review committee of the certified provider who is a party to or who is interested in a project shall disclose the nature and extent of the interest to the board of directors of the certified provider, and may not vote on actions of the certified provider or any board or committee thereof concerning the project, nor participate in the deliberations of the certified provider or any board or committee thereof concerning the project.

(b) A consultant or independent contractor of a certified provider who is a party to or who is interested in a project shall immediately disclose the nature and extent of the interest to the board of directors of the certified provider.

(c) The disclosures required under Sections 11(a) and 11(b) include the existence of:

- (1) A financial interest in a project.
- (2) An interest of a relative by blood or marriage in a project.
- (3) An employer-employee, partnership, agency or fiduciary relationship with a party to or a person financially interested in a project.
- (4) A matter which might reasonably be expected to influence that person in the discharge of the person's official duties concerning a project.

(d) The board of directors or committee of the certified provider shall take action that is necessary in light of the facts revealed by the disclosure to avoid a conflict of interest or impropriety with regard to a project. The disclosure statement of the officer, director, employee, consultant or independent contractor, and action by the board of directors and committee, if applicable, shall be made a part of the minutes of the certified provider at the next regular or special meeting of its board of directors and shall be disclosed to the Department.

(e) No officer, director, employee, loan review committee member, consultant or independent contractor of a certified provider may solicit, accept or receive from a person, firm, corporation or other business or professional organization a gift, loan, gratuity, favor or service that might influence his position in the discharge of his official duties concerning a project. This paragraph does not apply to gifts and business entertainment of less than \$50.

(f) No officer, director, employee, loan review committee member, consultant or independent contractor of a certified provider may directly or indirectly use for personal gain information not available to the public concerning projects which come to him as a result of affiliation with a certified provider, nor may he provide that information to others not directly connected with a certified provider's investigation concerning the feasibility, development or establishment of a project.

(g) Each certified provider shall cause a copy of this Section 11 to be given to each officer, director, employee, loan review committee member, consultant and independent contractor of the certified provider. A copy of Section 11 shall also be given to a business entity seeking direct or indirect assistance under a Commonwealth financing program.

(h) Failure to disclose or another breach of Section 11 is grounds for disciplinary action by the certified provider against the officer, director, employee, loan review committee member, consultant or independent contractor of a certified provider, which disciplinary action may include removal or dismissal, and is grounds for disapproval of a financing application, rescission of a commitment, or decertification by the Department.

Section 12. Annual Reporting Requirements.

Each certified economic development organization shall submit to the Department by June 30 of each year an annual report including the following:

- (a) A copy of the most recent audited financial statements of the economic development organization prepared by an independent certified public accountant.
- (b) A list of the organization's current loan review committee members, board of directors, and professional staff, including the resumes of any new members of the loan review committee, board of directors or professional staff.
- (c) The organization's current mailing address and telephone number.
- (d) A statement of the current service fees charged by the organization.
- (e) A statement of training completed by the organization's professional staff during the year that satisfies the requirement of Section 7(c).
- (f) A statement of any changes in the organization's charter or bylaws that have been made during the year.

Section 13. Periodic Review.

- (a) An advisory board will be established to include representatives of the Department and representatives of the economic development organizations affected by these guidelines. The advisory board will work closely with the Department to define the standards for training and the review process. The composition of the board shall be determined by the Department. The secretary (or his designee) shall sit as chairman of the board.
- (b) A certified provider will undergo review every three years by the Department in order to determine if the certified provider remains in compliance with the provisions set forth in these guidelines. The Department shall adopt a staggered schedule for periodic review of certified providers, with the schedule established in such a way that a certified provider is reviewed not less than once every three years. Periodic reviews may include site visits.
- (c) If the Department has reason to believe that a certified provider is not in compliance with the requirements of these guidelines, the Department may schedule a periodic review to occur sooner than the time established by the schedule described in Section 13(b)

(d) If, as a result of the periodic review, the Department determines that the certified provider remains in compliance with the provisions of these guidelines, the Department shall renew the certified provider's certification as a certified provider for a three-year period.

(e) If, as a result of the periodic review, the Department determines that the certified provider is not in compliance with the provisions of these guidelines, the Department may take one of the following steps:

(1) The Department shall provide the certified provider with a written list of deficiencies. If the observed deficiencies are few, of a minor nature, and do not materially impair the quality of service provided to business entities, the Department may continue the certified provider's certification as a certified provider for a period of six months, during which time the certified provider will be required to correct the deficiencies noted by the Department. At the end of the six-month period, the Department will conduct a review to determine if the deficiencies have been corrected. If the corrections have been made, the Department will renew the certified provider's certification as a certified provider for a three-year period. If the corrections have not been made, the provisions of Section 13(e)(2) will be followed.

(2) The Department shall provide the certified provider with a written list of deficiencies. If the observed deficiencies are many, of a major nature, or are minor but have persisted through the corrections period described in Section 13(e)(1), the Department will not renew the certified provider's certification as a certified provider until such time as the deficiencies have been corrected to the satisfaction of the Department. Upon curing the deficiencies, the economic development organization may reapply to the Department for certification as a certified provider in accordance with the provisions of Section 4.

(3) For the purposes of this subsection, a deficiency of a minor nature will be defined as a deficiency which does not materially impair the quality of service provided to business entities. A deficiency of a major nature will be defined as a deficiency that materially impairs the quality of service provided to business entities.

(f) A certified provider subject to loss of its certification under Section 13(e)(2) may retain its certification as a certified provider for a six-month period, at the option of the Department, if it agrees to undergo a peer review process that leads to correction of all of the identified deficiencies. The Department will appoint an ad hoc three-person peer review team, composed of one Department staff representative, one representative from an industrial development agency which is a certified provider and

one representative from an area loan organization which is a certified provider. The Department shall employ measures to assure that the individuals appointed to the peer review team do not possess any conflict of interest with the certified provider under review. The peer review team will visit the site of the certified provider and work with the certified provider's professional staff to develop a plan for correcting the deficiencies. The peer review team will report back to the Department on the plan that was developed and the actions that need to be taken by the certified provider to correct the deficiencies. At the end of the additional six-month period, the Department will conduct a review to determine if the deficiencies have been corrected. If the corrections have been made, the Department will renew the certified provider's certification as a certified provider for a three-year period. If the corrections have not been made, the provisions of Section 13(e)(2) will be followed.

Section 14. Implementation.

These guidelines are effective immediately for new economic development organizations. Existing economic development organizations in good standing with the Department may continue to submit applications to the Department but must comply with these guidelines and be certified by the Department by no later than December 31, 2009.

Section 15. Contact Information.

Inquires about the guidelines or certification process should be directed to Jared Lucas:

Phone: (717) 346-8006

Email: jarlucas@state.pa.us

Completed applications should be mailed to:

Attn: Jared Lucas
Department of Community and Economic Development
Center for Business Financing
400 North Street, 4th Floor
Commonwealth Keystone Building
Harrisburg, Pennsylvania 17120-0225