

Effective 5/4/2022

Superseded 2/27/2023

11-41-102 Definitions.

As used in this chapter:

- (1) "Agreement" means an oral or written agreement between a public entity and a person.
- (2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.
- (3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.
- (4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.
- (5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.
- (6) "General plan" means the same as that term is defined in Section 23-21-.5.
- (7) "Mixed-use development" means development with mixed land uses, including housing.
- (8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.
- (9) "Office" means the Governor's Office of Economic Opportunity.
- (10) "Political subdivision" means any county, city, town, metro township, school district, local district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.
- (11) "Public entity" means:
 - (a) a political subdivision;
 - (b) a state agency as defined in Section 63J-1-220;
 - (c) a higher education institution as defined in Section 53B-1-201;
 - (d) the Military Installation Development Authority created in Section 63H-1-201;
 - (e) the Utah Inland Port Authority created in Section 11-58-201; or
 - (f) the Point of the Mountain State Land Authority created in Section 11-59-201.
- (12) "Public funds" means any money received by a public entity that is derived from:
 - (a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (b) a property tax levy.
- (13) "Public infrastructure" means:
 - (a) a public facility as defined in Section 11-36a-102; or
 - (b) public infrastructure included as part of an infrastructure master plan related to a general plan.
- (14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.
- (15)
 - (a) "Retail facility incentive payment" means a payment of public funds:
 - (i) to a person by a public entity;
 - (ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and
 - (iii) in the form of:
 - (A) a payment;
 - (B) a rebate;
 - (C) a refund;
 - (D) a subsidy; or
 - (E) any other similar incentive, award, or offset.

- (b) "Retail facility incentive payment" does not include a payment of public funds for:
 - (i) the development, construction, renovation, or operation of:
 - (A) public infrastructure; or
 - (B) a structured parking facility;
 - (ii) the demolition of an existing facility;
 - (iii) assistance under a state or local:
 - (A) main street program; or
 - (B) historic preservation program;
 - (iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;
 - (v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;
 - (vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or
 - (vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.
- (16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.
- (17)
 - (a) "Small business" means a business entity that:
 - (i) has fewer than 30 full-time equivalent employees; and
 - (ii) maintains the business entity's principal office in the state.
 - (b) "Small business" does not include:
 - (i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;
 - (ii) a dealer, as defined in Section 41-1a-102; or
 - (iii) a subsidiary or affiliate of another business entity that is not a small business.