

701 CMR: EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION

701 CMR 5.00: THE PUBLIC WORKS ECONOMIC DEVELOPMENT PROGRAM

Section

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5.01: Scope and Purpose

701 CMR 5.00 establishes the criteria and method for the application and distribution of funds under the Public Works Economic Development Program. They are intended to create a process for the awarding of financial assistance grants to municipalities which is equitable within the legislative intent for which these funds were authorized.

Whereas the establishment of this program is derived from the traditional state highway program authorization within the 1981 Transportation Bond Act (St. 1981, c. 732), the scope of the proposed regulations is limited to the financing of highway-related (as defined in 701 CMR 5.04) facility development.

Furthermore, the regulations contained herein are designed to provide eligible municipalities with maximum flexibility and discretion as it relates to project development and implementation.

5.02: Definitions

Commonwealth means the Commonwealth of Massachusetts.

Department means the Massachusetts Department of Public Works as defined pursuant to M.G.L. c. 16, § 1.

Lead agency means a department or agency designated by the local executive governmental body for the purpose of coordinating and implementing any activities related to the proposed project.

Local economic development effort means a promulgated plan or strategy by a municipality which seeks to attain a positive economic influence on a specific area, through the utilization of public and private incentives.

Local executive governmental body means a mayor, board of selectmen, town council, town manager, city manager or any combination thereof.

Municipality means any city or town within the Commonwealth.

Program means the public works economic development program as described in St. 1981, c. 732, § 17(c).

Project means any endeavor selected by a municipality which seeks to develop a facility (as described in 701 CMR 5.04) which is deemed to be integral to the advancement of a local economic development effort.

Secretary means the Secretary of the Massachusetts Executive Office of Transportation and Construction.

5.03: Eligible Applicants

Any city or town government within the Commonwealth, through its respective executive body, is eligible to apply under the provisions of the program.

Said executive body shall designate a lead agency for the proposed project.

5.04: Eligible Projects

(1) Eligible projects shall include but will not necessarily be limited to projects for the design, construction and/or reconstruction of existing and/or newly located public access roads, streets and bridges, curbing, sidewalks, lighting systems, traffic control and service facilities, drainage systems and culverts associated with a municipal economic development effort which seeks to or will:

- (a) retain, establish, expand or otherwise revitalize industrial or commercial plants or facilities;
- (b) create or retain long-term employment opportunities;
- (c) have a positive impact on the local tax base;
- (d) leverage high ration private investment, and;
- (e) strengthen the partnership between public and private sectors.

5.05: Ineligible Projects

(1) The following public works projects shall be ineligible for funding under this program:

- (a) sewage systems;
- (b) water delivery systems;
- (c) projects on which construction has been initiated.

5.06: Eligible Costs

(1) The following types of project costs are eligible for funding under this program. The requested amount may not exceed \$1,000,000, except in the case of a project that demonstrates significant regional economic benefits in the opinion of the Secretary.

- (a) project design costs;
- (b) costs for completing and updating plans, specifications, and estimates where either architectural design/preliminary engineering or related planning has already been undertaken, and where additional architectural and engineering work or related planning is required to permit construction of the project;
- (c) other architectural and engineering costs such as inspection fees and test borings;
- (d) costs associated with standard construction activities which are reasonable costs of construction work to be performed under contract;
- (e) up to 25% of the requested amount is eligible for the acquisition of any interest in real property including but not limited to land, rights-of-way, easements or air rights. (It is important to note that this 25% restriction is necessary in order to maximize the utilization of state funds for direct construction activities. Additional acquisition of interest in real property (when necessary) is considered to be a demonstration of the municipality's commitment to the project.)

5.07: Ineligible Project Costs

(1) The following costs are ineligible for funding under this program:

- (a) prior expenses related to administrative, planning, estimates or other architectural and engineering costs previously incurred;
- (b) any expense required to carry out the overall responsibilities of the recipient municipality;
- (c) any administrative expense.

5.08: Application

The applying municipality must transmit to the Secretary of the Executive Office of Transportation and Construction a project proposal application which consists of the following elements:

5.08: continued

- (1) Documentation of Executive Actions. Provide a certified copy of resolution and subsequent vote taken by executive body authorizing the submission of this proposal.
- (2) Designation of Lead Agency. Provide pertinent correspondence (memoranda, letter, etc.) of lead agency designation. This information shall include agency contact person and a brief narrative of lead agency's organizational responsibilities and structure.
- (3) Project Description. Description of proposed project, including the scope, purpose, need and locus of project. The use of graphic material (maps, profiles, etc.) is suggested in this description.
- (4) Project Costs. This segment of the application shall contain three elements:
 - (a) Estimated Architectural/Engineering Costs
 - (b) Estimated Construction Cost
 - (c) Other CostThese cost must be specific in format and contained within the context of a schedule of expenditure.
- (5) Description of Local Economic Development Effort. Provide information concerning local economic development and/or community development master plans, strategies, goals and objectives and accomplishments.
- (6) CARD Designation. If the proposed project is contained within or adjacent to a commercial area revitalization district, pursuant to M.G.L. c. 40D, § 12(2)(k) the application shall include the Executive Office of Communities and Development's letter of designation, CARD map and other documentation related thereto.
- (7) Public Sector Participation. The application shall include full documentation of all public (federal, state and local) funds or incentives currently committed to the affected local economic development effort. This should include:
 - (a) financial grants and appropriations made by federal, state or local government agencies.
 - (b) guaranteed loans authorized by federal or state agencies.
 - (c) industrial revenue bonds approved by federal or state agencies.
 - (d) descriptions of any M.G.L. c. 121A tax agreements executed and in the incentive/negotiation stages with private corporations located within the affected project area.
- (8) Private Sector Investment. The application shall present past, current and proposed investments to be made by the private sector within the area affected by the proposed project. Documentation of this investment may include:
 - (a) Letters of intent by private individuals or corporate entities describing the form and amount of investment in the affected project area.
 - (b) Documents, statements or prospect, describing private investments.
- (9) Economic and Demographic Support Data. This information should include:
 - (a) number of jobs to be created or retained by local economic development effort and proposed project.
 - (b) municipal unemployment rate for the past five year period and compared with state average.
 - (c) a description of the municipality's employment mix by industry over the past five year period and compared with statewide mix.
 - (d) equalize property value per capita data.
 - (e) general local tax data.
 - (f) average annual wage for all categories of jobs which are to be created or retained as direct result of the overall economic development effort being assisted by proposed project.
 - (g) number and type of jobs (including average salary) of temporary construction jobs to be created by proposed project.

5.08: continued

(10) Public Comment. The applicant shall conduct a public hearing relative to the proposed project. The application shall contain documentation of this hearing including but not limited to public notice(s), minutes and written testimony.

5.09: Criteria for Rating Economic Benefits of Project

(1) The following criteria shall be used by the Secretary in rating the economic benefit projected to be generated by the proposed project. In applying these criteria to a proposal, the Secretary may consult with such agencies of the Commonwealth as the Secretary may deem appropriate.

- (a) Number of jobs to be created or retained as a direct result of the proposed project.
- (b) Unemployment using the average unemployment rate in the applicant municipality for the most recent five year period based on Division of Employment Security data.
- (c) Equalized Property Value Per Capita in the project community as compared to the state average in the most recent year for which data is available based on Department of Corporations and Taxation data.
- (d) Annual Wage average over all categories of jobs which are expected to be created or retained as a direct result of the grant as compared to the average annual state wage in the most recent year for which data is available based on Division of Employment Security data.
- (e) Ratio of public investment in project/affected area to total private investment in new industrial plant or expansion of existing industrial plant or commercial facilities.
- (f) An estimate of future economic benefits that may result from the proposed project and private sector investment currently connected with the project.

5.10: Review of Application

(1) The secretary shall review the information contained within said application and evaluate the merits of the proposed based on:

- (a) the information contained within the required application (pursuant to 701 CMR 5.08), and;
- (b) the criteria for rating economic benefits of the project (pursuant to 701 CMR 5.09).

(2) The Secretary shall consult with the Secretary of Economic Affairs and the Secretary of Communities and Development for the purposes of review and recommendation(s) concerning those applications submitted herein.

(3) The Secretary shall transmit to all municipalities a copy of the program regulations and a timetable for the award of funds at least 30 days prior to the deadline for filing applications.

(4) The Secretary shall make a decision on applications within 30 days after the deadline for submitting of proposals.

REGULATORY AUTHORITY

701 CMR 5.00: St. 1981, c. 732, § 17c.