

310 CMR 17.00: PART I: RECYCLING INDUSTRIES REIMBURSEMENT CREDIT GRANT PROGRAM

Section

- 17.01: Authority
- 17.02: Purpose
- 17.03: Definitions
- 17.04: Eligibility Criteria
- 17.05: Process of Selecting Eligible Materials for the Designated List
- 17.06: Grant Application Process
- 17.07: Grant Application Review Process
- 17.08: Grant Awards
- 17.09: Grant Agreement Conditions
- 17.10: Conditions of Use
- 17.11: Reporting
- 17.12: Severability

17.01: Authority

The Department of Environmental Protection has adopted 310 CMR 17.00, the Recycling Industries Reimbursement Credit Grant Program, pursuant to St. 1997, c. 88, § 85.

17.02: Purpose

(1) 310 CMR 17.00 sets forth the Department's authority and responsibilities for the administration of the Recycling Industries Reimbursement Credit (RIRC) Grant Program. The goal of 310 CMR 17.00 is to provide the means for the Department to administer the RIRC grant program in accordance with 815 CMR 2.00 to ensure proper use of public funds.

(2) The Department shall employ 310 CMR 17.00 to administer the RIRC grant program with the intent of awarding grants to Eligible Businesses that commit to achieving the following objectives and public benefits:

- (a) to identify and target materials that face economic and technical barriers to the reclaiming process and/or the manufacturing process relative to the use of designated unprocessed materials and/or designated feedstock materials, as more particularly described in 310 CMR 17.00;
- (b) to increase the throughput of designated unprocessed materials and/or designated feedstock materials;
- (c) to create long-term market-based demand for designated unprocessed materials and/or designated feedstock materials;
- (d) to add value to designated unprocessed materials and/or designated feedstock materials collected through municipal and business recycling efforts; and
- (e) to complement the Department's solid waste policy goals and objectives.

17.03: Definitions

For the purposes of 310 CMR 17.00, the following terms shall have the meaning set forth below unless the context clearly requires otherwise:

Broker or Intermediary means a Company or Corporation that acts solely to sell, buy or trade Post-Consumer Waste Materials between Companies or Corporations engaged in the Manufacturing Process or Reclaiming Process.

Company or Corporation means: any for profit or non-profit Company, Corporation, entity, or institution duly organized or recognized by the Secretary of State pursuant to the laws of the Commonwealth.

Department means the Department of Environmental Protection.

17.03: continued

Designated Feedstock Materials means Post-Consumer Waste Materials, as listed by the Department on the Designated List, which materials may include, but are not limited to, paper, glass and plastic bottles, and tires, which have been processed through a Reclaiming Process and are ready for use as an input to a system that transforms said materials, and any other inputs, into products of economic value. Said materials shall not include Post-Industrial Waste Material or metals.

Designated List means a list as determined by the Department under which Designated Unprocessed Materials and the Designated Feedstock Materials shall be eligible for a Grant; provided, that no materials that are metals or hazardous waste under applicable state and federal environmental laws shall be eligible.

Designated Unprocessed Materials means Post-Consumer Waste Materials, as listed by the Department on the Designated List, which materials may include, but are not limited to, unprocessed loose paper, glass and plastic bottles and tires. Said materials shall not include metals.

Eligible Business means a Company or Corporation, which:

- (a) either
 1. uses Designated Unprocessed Materials in its Reclaiming Process; or
 2. uses Designated Feed Stock Materials in its Manufacturing Process; and
- (b) has at least 50% of its full-time equivalent non-salaried workforce at the site for which the grant is being utilized in the State.

A business shall not be considered eligible which:

- (c) has been convicted of violating any state or federal civil or criminal environmental law in the past three years; or
- (d) acts as an intermediary or broker between companies and Corporations engaged in the manufacturing process or reclaiming process.

Grant means funds for financial assistance provided under contractual terms between the Department and a Grantee to assist the Grantee in the achievement or continuation of a specified public purpose to benefit the general public or a segment of the general public consistent with the Department's Legislative Authorization.

Grant Agreement means a written contract between the Grantee and the Department.

Grant Application means an annual application form prescribed by the Department to be completed by an Eligible Business and reviewed by the Department to determine eligibility.

Grantee means an Eligible Business selected as a recipient of a Grant.

Manufacturing Process means those activities by which Designated Unprocessed Materials and Designated Feedstock Materials, as identified by the Department on the Designated List, are used as an input to a system that transforms them, and any other inputs, into products of added economic value and resold to a non-affiliated business or consumer.

Post-consumer Waste Material means any product generated by a business or consumer that has served its intended use, and that has been separated from solid waste for the purposes of collection and recycling or reuse and that does not include Post-industrial Waste Material.

Post-industrial Waste Material means internally generated scrap or fragments of products commonly returned to industrial or manufacturing processes, including home scrap or mill broke.

Reclaiming Process means those activities that densify, shred, bale, grind, culletize or otherwise process theretofore Designated Unprocessed Material.

Statute means St. 1997, c. 88, § 85.

Virgin Feedstock Material means those materials extracted from their natural resource base and that are prepared for input into a system that transforms them and any other inputs, into products of economic value.

17.04: Eligibility Criteria

- (1) In General. To be considered for a Grant, proposed projects must satisfy all of the following eligibility requirements. The eligibility of any Grant Application shall be determined in each instance by the Department.
 - (a) Eligible Business. To be eligible for a Grant, an Eligible Business must, at the time of the application, be:
 1. a Company or Corporation;
 2. employing at least 50% of its full-time equivalent non-salaried workforce, at the site for which the grant is being utilized, in the Commonwealth; and
 3. in compliance with the Commonwealth's applicable environmental laws and regulations.
 - (b) Ineligible Applicants. A Grant Applicant is considered ineligible if:
 1. its owners have been convicted of violating any state or federal civil or criminal environmental law in the past three years; and/or,
 2. the Company or Corporation is defined solely as an Intermediary and/or a Broker.
 - (c) Eligible Activities. For the purposes of this Grant Application, eligible activities shall include, but not be limited to, one or more of the following:
 1. Reclaiming Process; and/or
 2. Manufacturing Process.
 - (d) Eligible Materials. Only those materials on the Designated List will be considered eligible materials for Grant Funds.

17.05: Process of Selecting Eligible Materials for the Designated List

The Department shall provide public notice of the Designated List of eligible materials, the availability of grants, and the amount of grant funds the Department intends to make available, at least 30 days prior to issuing Grant Applications. The Department reserves the right to modify the Designated List prior to each grant application period. The Designated List shall remain valid during the Grant Application period for which it is issued. The selection of said materials shall be based on the following factors:

- (1) the difference between market prices or price quotations for Designated Unprocessed Materials or Designated Feedstock Materials and the price paid for Virgin Feedstock Materials;
- (2) the market history and price fluctuations of materials;
- (3) an analysis which identifies materials with stable or mature markets and problematic materials with unstable immature markets;
- (4) the potential for successful reclaiming of each material under investigation;
- (5) public input; and,
- (6) no materials that are metal or hazardous waste under applicable state and federal environmental laws shall be eligible.

17.06: Grant Application Process

- (1) In General. The Department shall award grant funds to Eligible Businesses through an open and competitive process.
- (2) Promotional Program. The Department shall develop and implement a promotional strategy to distribute the Grant Application and announce the total grant funds available.
- (3) Application Filing Requirements. The Grant Applicant must comply and respond to requested information within the Grant Application.
- (4) Application Period. The Department shall maintain a grant application period of at least 30 consecutive days. Grant applications must be submitted prior to the deadline. Late applications will not be considered for a grant.

17.06: continued

(5) Application Certification Process. Within 30 days after the expiration of the Grant Application period, the Department shall review each application filed during the application period to determine its compliance with 310 CMR 17.00 and for adequacy, and completeness of information contained therein, and shall notify the Grant Applicant in writing whether the Grant Application is complete. An incomplete Grant Application may be deemed ineligible for the current cycle of grant awards. Only a Grant Application determined to be complete shall be considered for a Grant.

17.07: Grant Application Review Process

(1) In General. Within 90 days of the Grant Application deadline, using the evaluation criteria in 310 CMR 17.07(2), the Department will score and rank all Grant Applications certified by the Department as complete.

(2) Evaluation Criteria. Evaluation criteria will be included in the Grant Application. Evaluation criteria will be based on: the adequacy and quality of the narrative description in relation to the purpose stated in 310 CMR 17.00 and the Grant Application; the time line of the proposed activity; and, the amount of Designated Unprocessed Material and/or Designated Feedstock Material proposed to be used in the Eligible Activities, and any other relevant information.

17.08: Grant Awards

(1) Execution. The Grant Award shall be deemed awarded when the Department and the Grantee execute the Grant Agreement. Until that time, the award is conditional.

(2) Amount of Award. The amount of the Grant Award will be incorporated into the Grant Agreement. The Department shall determine the amount of the grant to Eligible Businesses based on the following factors including, but not limited to:

- (a) the difference between market prices or price quotations for virgin feedstock materials and the price paid for Designated Feedstock Materials by an Eligible Business in the Manufacturing Process in the Commonwealth;
- (b) the amount of Designated Feedstock Material to be sold by the Eligible Business engaged in the Reclaiming Process in the Commonwealth;
- (c) the amount of Designated Feedstock Material used by the Eligible Business engaged in the Manufacturing Process in the Commonwealth; and,
- (d) the market history and price fluctuations of materials.

The Department shall provide grant funds of up to \$250,000 and may make periodic adjustments, as deemed necessary, to this amount based on market conditions.

(3) Project Scope. The funded activities shall be based on the scope provided in the Grant Application and finalized in the Grant Agreement.

(4) Payment Process. The Grantee shall submit itemized invoices detailing the use of the grant funds in accordance with the Grant Agreement. The invoice may include written information, either as part of the invoice or attached by the Grantee, for the Department to determine that the costs are eligible under the Grant Agreement.

17.09: Grant Agreement Conditions

(1) Contract. The Grantee is required to submit a signed Commonwealth Terms and Conditions from.

(2) Contract Delay. Failure of a Grantee to commence work within the timeline in the Grant Agreement may constitute sufficient cause for the Department to exercise its right to terminate the Grant Agreement.

17.09: continued

(3) Suspension of Grant Payments. The Department may temporarily suspend a grant payment whenever the Department becomes aware of allegations, evidence or appearance of illegality, corruption, or fraud associated with the award of the Grant; allegations or evidence of failure to comply with the terms of 310 CMR 17.00 or the terms of the Grant Agreement; or, allegations of improprieties with respect to the expenditure of grant funds, terms of agreement, or expenditure of grant funds.

(4) Termination of Grant. The Department shall terminate and revoke a Grant Agreement whenever the Department determines that there is substantial evidence of illegality, corruption or fraud associated with the award of the Grant Agreement; noncompliance with the terms of the Grant Agreement; or improprieties with respect to expenditures. Written notice to the Grantee shall be provided whenever a Grant is terminated and revoked, and the Grantee shall return all funds to the Department within 60 days. The Department may terminate the Grant Agreement for other good cause.

(5) Affirmative Action. Each Grantee must be in compliance with the State's Affirmative Action requirements stated within the Grant Agreement.

17.10: Conditions of Use

In General. The Department's Grant award applies only to the Grantee's eligibility to receive assistance from the Department, pursuant to these regulations, and does not constitute an approval by the Department for any other purpose, permit or otherwise.

17.11: Reporting

In General. The Grantee shall furnish periodic reports to the Department that demonstrate the status of achievement and grant effectiveness relative to the goals specified in the Grant Agreement. The Department shall use reporting and other relevant information to determine whether the Grantee has committed fraud, including but not limited to the following:

- (1) reclaiming the same batch of designated unprocessed materials multiple times; and/or,
- (2) purchasing designated feed stock materials, but not using said materials in the manufacturing process.

17.12: Severability

If any provision of 310 CMR 17.00 is found to be illegal, unenforceable or void, then the Department or Grantees shall be relieved of all obligations under that provision only and all other provisions shall remain in full force and effect.

REGULATORY AUTHORITY

310 CMR 17.00: St. 1997, c. 88, § 85.