

3 AAC is amended by adding a new chapter to Part 17 to read:

Chapter 196. Coastal Impact Assistance Program Public Solicitation.

Section

- 10. Applicability
- 20. Eligible entities
- 30. Eligible grant proposals
- 40. Solicitation process
- 50. Application requirements
- 60. Preliminary proposal review
- 70. Proposal review committee
- 80. Proposal scoring process and criteria
- 90. Reconsideration
- 100. Integration into state Coastal Impact Assistance Plan
- 110. Acceptance of grant offer; grant conditions
- 120. Waiver of sovereign immunity
- 900. Definitions

3 AAC 196.010. Applicability. Subject to the availability of appropriations, this chapter applies to the award, allocation, and distribution of money that

(1) is disbursed through the coastal impact assistance program established under 43 U.S.C. 1356a;

Register ____, ____ 2009 COMMERCE, COMMUNITY, AND EC. DEV.

(2) is allocated directly to the state under 43 U.S.C. 1356a;

(3) is subject to final approval under 43 U.S.C. 1356a by the United States Secretary of the Interior, as grants for non-state proposals. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.020. Eligible entities. (a) Subject to Section 384 of the federal Energy Policy Act of 2005, and to

(b) 43 CFR Part 12, Subpart C, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”, the following instrumentalities of a government are eligible to submit a proposal under this chapter:

(1) a municipality;

(2) a local public authority, (including any public and Indian housing agency under United States Housing Act of 1973), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

(3) a coastal resource district;

(4) a governing body or a governmental agency of any Indian tribe, band, nation, or other organized group of community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the bureau of Indian Affairs. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.030. Eligible grant proposals. To be eligible for a grant under this chapter, a proposal must directly or indirectly benefit the natural coastal environment and meet one or more of the following uses authorized by 43 U.S.C. § 1356a(d)(1):

- (1) projects and activities for the conservation, protection, or restoration of coastal areas, including wetland;
- (2) mitigation of damage to fish, wildlife, or natural resources;
- (3) planning assistance and the administrative costs of complying with CIAP;
- (4) implementation of a federally-approved marine, coastal, or comprehensive conservation management plan; and
- (5) mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.040. Solicitation process. The department will publish a grant application guide. The department will solicit applications for grants under this chapter by publishing notice of the solicitation in a newspaper of general circulation, and posting the notice on the Alaska Online Public Notice System established under AS 44.62.175. The department may publish the notice in an additional form or manner that the department considers helpful in making the solicitation known to the public. The department will provide applications on request to an applicant. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.050. Application requirements. An application submitted in response to a solicitation under 3 AAC 196.040 must be

(1) complete, and must be submitted on forms provided by the department; those forms must include a project narrative for inclusion in the amended coastal impact assistance plan that is submitted, as described in 3 AAC 196.060(g), for approval under 43 U.S.C.

1356a(c)(3) - (4) by the United States Secretary of the Interior;

(2) submitted by an eligible entity as described in 3 AAC 196.020 and

(3) for a project that is eligible under 3 AAC 196.030 and no more than four years in duration. (Eff. __/__/____, Register ____)

Authority: AS 44.33.020

3 AAC 196.060. Preliminary proposal review. (a) The department will conduct a preliminary review of an application to ensure that it meets the requirements of 3 AAC 196.050.

At any time during the review under this section, the department will request additional information if it considers that information necessary to a complete review of the application. If

the department determines that the application meets the requirements of 3 AAC 196.050, the application will be accepted and scored and ranked by the proposal review committee. (Eff.

__/__/____, Register ____)

Authority: AS 44.33.020

3 AAC 196.070. Proposal review committee. The department will assemble a proposal review committee consisting of, at a minimum, representatives from the Department of Commerce, Community, and Economic Development, the Department of Environmental Conservation, the Department of Fish and Game, and the Department of Natural Resources.

3 AAC 196.080. Proposal scoring process and criteria. Each member of the proposal review committee shall score a proposal on a scale of 0 - 100 total points, and shall award

(1) no more than 30 points for its rating of a proposed project's design, goals, and results, as set out in the project description; the committee shall give a higher score to

(A) a proposal that clearly explains the project goals and identifies measurable outcomes;

(B) a proposed project that will have tangible and lasting results and that addresses project goals within the time allowed for completion;

(C) a proposal that demonstrates an ability to provide for continuing financial and administrative support, if the proposal is for an ongoing project;

(2) no more than 20 points for its rating of a proposed project's demonstrated need and potential benefit; the committee shall give a higher score to

(A) a proposed project that addresses a demonstrated need under one of the uses identified in section 3 AAC 196.030;

(B) a proposed project that will likely result in a lasting benefit for a community, a region, or the state, or that will result in a product that can be used by an agency in the state or by a similarly situated community in the state;

(C) a proposed project that effectively shares the results of the project with appropriate entities to maximize the project's benefits;

(3) no more than 10 points for its rating of a proposed project's cost effectiveness; the committee shall give a higher score to

(A) a proposal in which the costs are explained and justified;

(B) a proposal for which the costs of administration and overhead do not exceed 16 percent of the total proposed project costs;

(4) no more than 10 points for its rating of a proposal's collaboration with other agencies, the community, and the public and a proposal's level of support from those entities; the committee shall give a higher score to

(A) a proposal that includes appropriate consultation or collaboration with state agencies, communities, the public, or other appropriate entities;

(B) a proposal that includes a resolution or letter of support from the governing body of a community, a commitment of in-kind resources or financing, or other evidence of support from appropriate state agencies, communities, or the public;

(5) no more than 10 points for its rating of a proposed project's readiness; the committee shall give a higher score to

(A) a proposal that is well thought out and prepared to be implemented;

(B) a proposal that demonstrates a likelihood of receiving required permits or required landowner support;

(C) a proposal that has secured additional sources of financing, if those additional sources are necessary;

(6) no more than 15 points for its rating of the applicant's capability to manage and implement the grant; the committee shall give a higher score to

(A) a proposal that demonstrates that the applicant has the capability to manage the administration of the grant, including the maintenance of an accurate accounting and reporting system;

(B) a proposal that demonstrates that key individuals have the experience, qualifications, and technical ability to successfully complete the project; and

(7) no more than five points for its rating of the proposed project's nexus with oil and gas development on the outer continental shelf; the committee shall give a higher score to proposals that address informational needs related to, or the potential effects of, oil and gas development on the outer continental shelf.

(b) Once all its members have completed their individual scores for a proposal, the proposal review committee shall average those individual scores to calculate a final score for that proposal. After it completes scoring the proposal, the proposal review committee shall rank them by score. The department shall forward the results of the scored and ranked applications to the following individuals for comment:

(1) the commissioner of environmental conservation, or the commissioner's designee;

- (2) the commissioner of fish and game, or the commissioner's designee;
- (3) the commissioner of natural resources, or the commissioner's designee;
- (4) the fisheries policy advisor in the Office of the Governor.

(c) The department may modify the scoring calculations and ranking of the project review advisory committee as a result of comments received, if any, from the individuals in (b)(1) - (4) of this section. The department will make final proposal selections based on the final scoring calculations and project rankings.

(d) The department will select two tiers of projects. For Tier 1, the department will select the highest-ranked projects, and will allocate to those projects all of the money available. For Tier 2, the department will rank and select projects for which grants will be awarded if money previously allocated to a Tier 1 project becomes available.

(e) The department will recommend a grant amount smaller than the amount sought if the department considers a reduced amount to be

(2) necessary to increase the amount supplied to the project by the recipient if the department considers the recipient to have additional resources available;

(3) necessary to eliminate money for inefficient or excessive components of the proposed project; or

(4) warranted by the merits of the project.

(g) The department will send an applicant written notification

(1) whether the applicant's project has been selected as a Tier 1 project;

(2) of the department's recommended amount of any grant; and

Register ____, ____ 2009 COMMERCE, COMMUNITY, AND EC. DEV.

(3) whether the project is assigned to Tier 2, and the project's ranking within Tier 2, if the project has not been selected as a Tier 1 project;

(4) of the department's recommended amount of any grant. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.090. Reconsideration. (a) Within 10 days after receiving the department's written notification under 3 AAC 196.060(g), the applicant may make a request for reconsideration to the commissioner. The request must be in writing and must identify each part of the decision to which the applicant objects.

(b) Within 15 days after receiving a request for reconsideration, the commissioner will review the request, the application, and any relevant supplemental material and may issue a written decision. If a written decision is not issued within 15 days after a request for reconsideration is received, the request is considered denied. The commissioner's decision on a request for reconsideration constitutes the final determination of the department.

(c) If the applicant fails to request reconsideration within the time set out in (a) of this section, the department's decision constitutes the final determination of the department. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.100. Integration into state Coastal Impact Assistance Plan. The department will forward its project selections and rankings, recommended grant amounts, and

Register ____, ____ 2009 COMMERCE, COMMUNITY, AND EC. DEV.

identification of projects as Tier 1 or Tier 2 to the division within the Department of Natural Resources designated as the official state contact for the Minerals Management Service, Coastal Impact Assistance Program, in accordance with 43 U.S.C. 1356a (c)(2)(B)(ii)(I), for integration into an amendment to the state's coastal impact assistance plan, solicitation of public comment consistent with 43 U.S.C. 1356a(c)(1) on the plan amendment, and submission of the amended plan for approval under 43 U.S.C. 1356a(c)(3) - (4) by the United States Secretary of the Interior. (Eff. __/__/__, Register ____)

Authority: AS 44.33.020

3 AAC 196.110. Acceptance of grant offer; grant conditions. (a) After federal approval under 43 U.S.C. 1356a(c)(3) - (4) of the state's amended coastal impact assistance plan, issuance of federal grant awards, and subject to the availability of appropriations, the department will negotiate with the recipient a grant agreement. A recipient of a final award determination does not have a vested right or other entitlement to a grant until a mutually acceptable definitive written agreement is negotiated and is executed by the department.

(b) In a grant agreement, the department will incorporate any audit requirements made applicable by 2 AAC 45.010.

(c) In a grant agreement, the department may require applicants to procure, maintain, and demonstrate liability, hazard, or workers' compensation insurance, may designate required policy limits, and may provide that the state will be an additional insured under a policy.

(d) During the term of a grant agreement, the grantee shall maintain and provide, at the department's request, all grant-related records, reports, invoices, documents, or other information

Register ____, ____ 2009 COMMERCE, COMMUNITY, AND EC. DEV.

required under the grant agreement.

(e) The department may withhold payment under the grant for the grantee's failure to comply with this chapter or the grant agreement. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.120. Waiver of sovereign immunity. The department will not pay a grant award under this chapter to a governing body or a governmental agency of any Indian tribe, band, nation, or other organized group of community (including any Native village as defined in section 3 of the Alaska Native Claims settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the bureau of Indian Affairs unless the department receives, on a form approved by the Department of Law, a waiver of sovereign immunity from suit adopted by the entity for claims related to the grant award. (Eff. ___/___/___, Register ____)

Authority: AS 44.33.020

3 AAC 196.900. Definitions. In this chapter, unless the context requires otherwise,

- (1) "coastal area" has the meaning given in 43 U.S.C. § 1356a(d)(1));
- (2) "coastal impact assistance plan" means the plan that the state submits under 43 U.S.C. 1356a(c) for approval by the United States Secretary of the Interior;
- (3) "coastal resource district" has the meaning given in AS 46.40.210;
- (4) "commissioner" means the commissioner of commerce, community, and economic development;

Register ____, ____ 2009 COMMERCE, COMMUNITY, AND EC. DEV.

(5) "department" means the Department of Commerce, Community, and Economic Development;

(6) "municipality" has the meaning given in AS 29.71.800(13);

(7) "instrumentality of a government" means an organization that:

(A) is used for a governmental purpose and performs a governmental function;

(B) performs functions on behalf of a local government; and

(C) is organized, controlled, and supervised by a public authority or authorities. (Eff. __/__/____, Register ____)

Authority: AS 44.33.020