

**DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION**



**18 AAC 54**

**Requirements for the Distribution and Receipt of Financial Assistance**

*As amended through September 17, 2010*

**Chapter 54. Requirements for the Distribution and Receipt of Financial Assistance.**

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**18 AAC 54.010. Applicability.** Subject to the availability of appropriations, and except as provided in 18 AAC 54.200, this chapter applies to the award, allocation, and distribution of money that is disbursed to the department for the control of emissions or the development or administration of air quality control programs in the state, including the award, allocation, and distribution of money

(1) from the diesel emissions reduction program under 42 U.S.C. 16133 (Energy Policy Act of 2005);

(2) appropriated to the diesel emissions reduction program by, and subject to the provisions of, P.L. 111-5, div. A, title VII, 123 Stat. 115, 170 (American Recovery and Reinvestment Act of 2009);

(3) from the state and tribal assistance grant program under 42 U.S.C. 7403 and 7405 (Clean Air Act secs. 103 and 105). (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.020. Eligible entities.** The following entities are eligible for a subgrant under this chapter:

(1) as allowed under 42 U.S.C. 7403 and 7405 (Clean Air Act secs. 103 and 105), an air pollution control agency, a public or nonprofit agency, an institution, an organization, or an individual;

(2) as allowed under 42 U.S.C. 16133 (Energy Policy Act of 2005; diesel emissions reduction program),

(A) a regional, state, local, or tribal agency or port authority with jurisdiction over transportation or air quality; or

(B) a nonprofit organization or institution that

(i) represents or provides pollution reduction or educational services to persons or organizations that own or operate diesel fleets; or

(ii) has, as its principal purpose, the promotion of transportation or air quality. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.530 AS 46.14.535

**18 AAC 54.030. Eligible proposals.** To be eligible under this chapter, a proposal must address the control of air emissions or the development or administration of air quality control programs in the state for the purpose of reducing air pollution. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.040. Solicitation process.** (a) The department will solicit proposals for subgrants 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.

(b) In a solicitation, the department will describe

(1) the purpose or activity for which subgrants are available;

(2) criteria for applicant eligibility;

- (3) eligible activities;
- (4) proposal procedures, including required submissions and timeframes;
- (5) amounts of grant money available; and
- (6) any specific criteria that will be used to evaluate applications. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.050. Proposal requirements.** A proposal submitted in response to a solicitation under 18 AAC 54.040 must be

- (1) complete and on forms provided by the department; to meet the requirements of this paragraph, the proposal must include a project narrative;
- (2) submitted by an eligible entity as described in 18 AAC 54.020; and
- (3) for a project that is eligible under 18 AAC 54.030. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.060. Preliminary proposal review.** The department will conduct a preliminary review of a proposal to ensure that it meets the requirements of 18 AAC 54.050. At any time during the review under this section, the department may request additional information if it considers that information necessary to a complete review of the proposal. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.070. Proposal review committee.** The department will assemble a proposal review committee consisting of department employees to review the subgrant proposals. If the department determines that the proposal meets the requirements of 18 AAC 54.050, the proposal review committee shall accept, score, and rank the proposal. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.080. Proposal scoring process, criteria, and subgrant offers.** (a) Each member of the proposal review committee shall score a proposed project on a scale of 0 - 100 total points, and shall award

(1) no more than 15 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 proposed project that meets at least one of the following criteria:

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

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

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

(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 proposed project that

(A) addresses a demonstrated need for addressing air pollution;

(B) will likely result in a lasting benefit for a community, 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; or

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

(3) no more than five points for its rating of a proposed project's ability to achieve the purposes of the grant program;

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

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

(B) 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 proposed project that

(A) is well thought out and ready to be implemented;

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

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

(6) no more than 20 points for its rating of the applicant's capability to manage and implement the subgrant; the committee shall give a higher score to a proposal that demonstrates that

(A) the applicant has the capability to manage the administration of the subgrant, including the maintenance of an accurate accounting and reporting system; or

(B) demonstrates that key individuals have the experience, qualifications, and technical ability to successfully complete the project to the department's satisfaction; and

(7) no more than 20 points for its rating of a proposed project's expected benefits to human health or the environment; the committee shall give a higher score to a proposed project that

(A) provides benefits to human health by addressing an identified air pollution problem; or

(B) will likely result in a lasting human health or environmental benefit for a community, a region, or the state.

(b) Once all its members have completed their individual scores for a proposed project, the proposal review committee shall average the individual scores to calculate a final score for that proposed project. After it completes scoring each proposed project, the proposal review committee shall rank the proposed projects by score.

(c) Based on the final scoring calculations and project rankings, the department will make final selections of proposed projects.

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

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

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

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

(3) warranted by the merits of the proposed project.

(f) The department will send an applicant written notification

(1) whether the proposed project has been selected as a Tier 1 project, and if so, the department's recommended amount of any subgrant; or

(2) whether the proposed project is assigned to Tier 2, and if so, the project's ranking within Tier 2 and the department's recommended amount of any subgrant. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.090. Reconsideration.** (a) No later than 10 days after receiving the department's written notification under 18 AAC 54.080(f), the applicant may make a request for reconsideration to the director. The request for reconsideration must be in writing and must identify each part of the decision to which the applicant objects.

(b) No later than 15 days after receiving a request for reconsideration, the director shall review the request, the proposal, and any relevant supplemental material and may issue a written decision. If a written decision is not issued during the 15 days after a request for reconsideration is received, the request is considered denied. The director's decision on a request for reconsideration constitutes the final determination of the department.

(c) If the applicant fails to request reconsideration during the time set out in (a) of this section, the department's decision constitutes the final determination of the department. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.100. Acceptance of subgrant offer; subgrant conditions.** (a) Subject to the availability of appropriations, the department will negotiate a subgrant agreement with the recipient. A recipient of a final award determination does not have a vested right or other entitlement to a subgrant until a mutually acceptable definitive written subgrant agreement is negotiated and is executed by the department and the recipient.

(b) The department will incorporate any audit requirements made applicable by 2 AAC 45.010 in a subgrant agreement.

(c) As part of a subgrant agreement the department may require a subgrantee 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 subgrant agreement, the subgrantee shall maintain and provide, at the department's request, all subgrant-related records, reports, invoices, documents, or other information required under the subgrant agreement.

(e) As a condition of the subgrant agreement, the subgrantee must agree to comply with federal law and requirements applicable to the subgrant or imposed on the subgrantee as conditions for the state to receive federal money.

(f) The department may withhold payment under the subgrant for the subgrantee's failure to comply with this chapter or the subgrant agreement. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.110. Waiver of sovereign immunity.** If the subgrantee is an entity that possesses sovereign immunity, the subgrantee must agree as a condition of receiving a subgrant that the subgrantee irrevocably waives its sovereign immunity with respect to enforcement of the subgrant agreement or claims related to the subgrant agreement. The waiver of sovereign immunity must be on a form approved by the Department of Law. (Eff. 9/17/2010, Register 195)

**Authority:** AS 46.14.535



**18 AAC 54.200. Joint application grants.** Joint application grants may be awarded to subgrantees directly if they were included or specifically named within an original grant application or work plan submitted by the department. Joint application grants are exempt from the solicitation requirements outlined in 18 AAC 54.040 - 18 AAC 54.090. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535

**18 AAC 54.900. Definitions.** In this chapter, unless the context requires otherwise,

(1) "department" means the Department of Environmental Conservation;

(2) "director" means the director of the division responsible within the department for air quality;

(3) "proposal review committee" means the group assembled under 18 AAC 54.070. (Eff. 9/17/2010, Register 195)

**Authority:** AS 44.46.020 AS 46.14.535