

164-1-21

**Project agreement.**

- (A) The chief executive officer ~~or officers~~ of the project applicant shall execute ~~an~~ project agreement with the director pursuant to division (A)(1) of section 164.05 of the Revised Code or with the administrator pursuant to division (B)(1) of section 164.051 of the Revised Code for the purpose of implementing any project application approved pursuant to this chapter of the Administrative Code and Chapter 164. of the Revised Code.
- (B) The project agreement ~~referred to in paragraph (A) of this rule~~ shall be based upon all representations made by the applicant in the project application as approved and shall contain, at a minimum, the following provisions:
- (1) A designation of a single office or official within the applicant's jurisdiction who shall serve as project manager;
  - (2) A designation of a single office or official within the applicant's jurisdiction who shall serve as chief fiscal officer of the applicant;
  - (3) A designation of a single office or official within the applicant's jurisdiction who shall serve as chief executive officer of the applicant for purposes of the project;
  - (4) A designation of the grant funding percentage or percentages applicable to the project or to various elements of the project, which may not exceed the percentages specified in division (D) of section 164.05 of the Revised Code for repair and replacement of existing infrastructure and for new or expanded infrastructure; which the commission shall pay for as a reimbursement to the applicant or direct payment to a vendor, in amounts determined by the director, up to the total grant funding provided;
  - (5) A designation of the timing, manner or mechanisms whereby the project applicant shall provide the local share of the estimated project cost in compliance with division (D) of section 164.05 of the Revised Code;
  - (6) An assurance that the applicant and all contractors and subcontractors involved with the project will, to the extent practicable, use Ohio products, materials, services, and labor in the implementation of the project;
  - (7) An assurance that the applicant and all contractors involved with the project will comply with the minority business enterprise requirements of rule 164-1-32 of the Administrative Code and division (A) of section 164.07 of the Revised Code;

(8) An assurance that the applicant and all contractors and subcontractors involved with the project will comply with the prevailing wage requirements of Chapter 4115. of the Revised Code and division (B) of section 164.07 of the Revised Code;

(9) Provisions setting forth the scope of work for the project;

~~(9)~~(10) Any other provision that the director considers necessary in order to ensure that the project's implementation will comply with the requirements of Chapter 164. of the Revised Code and Chapter 164-1 of the Administrative Code.

(C) ~~The agreement required by paragraph (A) of this rule shall be executed prior to the payment or disbursement of any funds authorized by the director under division (A) (2) of section 164.05 of the Revised Code or the administrator under division (B)(2) of section 164.051 of the Revised Code~~A project agreement based upon an application for grants submitted under sections 164.01-164.19 of the Revised Code shall be signed and returned within forty-five days of the date it was issued by the commission, if the project agreement is not signed and returned to the commission within forty-five days the director may rescind the offer to fund the project. With respect to any project approved in connection with funds that the director allocates under division (B) of section 164.08 of the Revised Code for the second annual allocation, and for each annual allocation thereafter, ~~the agreement required by paragraph (A) of this rule shall be executed prior to any project applicant's formal certification of funds availability regarding financing the full construction of the project or the commencement of any construction activities on the project~~applicant shall formally certify the availability of funds regarding financing the full construction of the project with submission of the project application. ~~In the event that~~If the project agreement required by paragraph (A) of this rule relates to the provision of supplemental financial assistance pursuant to paragraph (B) of rule 164-1-23 of the Administrative Code, the director or the administrator may waive the provisions of this paragraph.

(D) If a project agreement provides for grant funding and loan funding, the commission has discretion regarding the order of payment of funds from either the grant or the loan, but will generally pay out grant funds first, unless the combination exceeds statutory limits for grants (i.e., ninety per cent for repair/replacement and fifty per cent for new/expansion). If a combination of grant/loan funding exceeds grant statutory limits, then with each disbursement request the commission may draw on the loan for that portion exceeding the statutory grant limit to ensure that the local match is met.

Effective: 2/15/2024

Five Year Review (FYR) Dates: 10/26/2023 and 02/15/2029

CERTIFIED ELECTRONICALLY

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Certification

02/05/2024

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Date

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Statutory Authority: 164.05, Chap. 119  
Rule Amplifies: 164.05, 164.051  
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