

DRAFT FOR PUBLIC COMMENT

94-457

FINANCE AUTHORITY OF MAINE

CHAPTER 322: MAINE FOOD PROCESSING GRANT PROGRAM

Summary: This rule establishes the procedures and standards applicable to applicants and recipients participating in the Authority's statewide program awarding grants for food processing for fishing, agricultural, and dairy enterprises within Maine.

SECTION I. DEFINITIONS

1. "Act" means the Finance Authority of Maine Act.
2. "Agricultural enterprise" means the growing or raising of plants or animals, harvesting plants or growing or obtaining plant or animal by-products, including aquaculture but excluding forestry, as well as the storing or packaging of such products.
3. "Applicant" means any for-profit business that meets the eligibility requirements set forth in Section 3 and Section 4 of this Rule, and includes a prospective applicant where the context requires.
4. "Authority" means the Finance Authority of Maine.
5. "Chief Executive Officer" means the Authority's Chief Executive Officer or a person acting under the direction of the Chief Executive Officer.
6. "Dairy enterprise" means producing and treating milk and cream, and the manufacture of butter, cheese, and other products processed from milk.
7. "Fishing enterprise" means catching or growing fish, including shellfish, in fresh or salt water, including aquaculture.
8. "Food processor" means an enterprise engaged primarily in changing the form of or adding value to a food product, including packaging, derived from Maine's fishing, agricultural, and dairy enterprises through the application of labor or materials or both.
9. "Grant" means money awarded by the Authority for the limited purposes and pursuant to the terms contained in this Rule.
10. "Grant Recipient" means an eligible enterprise that is awarded a grant.

11. “Members” means the members of the Finance Authority of Maine.
12. “Program” means the Maine Food Processing Grant Program.
13. “Project” means the use to which grant proceeds are to be put, as approved by the Chief Executive Officer, including the purchase, design, construction, expansion or improvement of processing and packaging facilities; and equipment located in Maine and used in connection with food processing. Grant proceeds may not be used for marketing, research and development, or working capital.
14. “State” means the state of Maine.

SECTION II. PROGRAM IMPLEMENTATION

The Program shall be administered by and is delegated to the Chief Executive Officer. The Authority may provide financial assistance in the form of a grant to an eligible recipient on such terms and conditions as the Chief Executive Officer may require or approve.

SECTION III. ELIGIBILITY

To be eligible for a grant under the Program, an applicant must demonstrate each of the following:

1. It is a food processor located in Maine.
2. It has submitted an acceptable business plan to the Authority demonstrating how the funds will be used to benefit the borrower, the food processing industry, and the community at large.
3. It has submitted all requested application materials by a date to be determined by the Authority.

SECTION IV. APPLICATION PROCEDURE

1. The grant applicant shall complete and return to the Authority by a date specified by the Authority a Food Processing Grant application, including supporting schedules. No application will be approved unless the Chief Executive Officer determines that the application is complete, and the borrower is eligible on the date due. The Authority may extend the date or reopen application submissions should extra funds remain.
2. The Authority will prioritize applications from eligible applicants based on the following:

- (a) The economic feasibility and viability of the project;
 - (b) The likely benefit of the grant to the financial success of the business;
 - (c) The likely benefit of the grant toward the goal of creating and/or retaining Maine jobs;
 - (d) The likely benefit to areas of the state having high rates of unemployment;
 - (e) Highest priority shall be given to projects that:
 - (1) seek to redevelop recently closed facilities and lead to the re-employment of workers recently laid off as a result of such closures;
 - (2) are likely to benefit more than one enterprise;
 - (3) are likely to have a positive regional impact;
 - (4) contribute additional resources to the project.
3. The Authority will issue a commitment for grants to all approved applicants for which there are sufficient funds. The Authority may award an applicant a grant amount less than the original amount requested.

SECTION V. GRANT TERMS AND CONDITIONS

- 1. A recipient shall be eligible for a grant up to \$300,000.00. Grants will be disbursed directly to the applicant.
- 2. Upon approval of an application by the Authority, the Authority shall notify the applicant of the amount of the grant in a grant award notification letter, which shall contain the general terms and conditions of the grant.
- 3. Prior to disbursement of any Maine Food Processing Grant, the applicant shall enter into a Grant Agreement with the Authority, specifying the amount of the grant, conditions precedent to disbursement, responsibilities of each party, and a schedule of disbursement by the Authority.
- 4. If a grant recipient fails to complete the project for which funds were provided within two years of receipt of the grant, fails to create or retain jobs, or ceases to do business in Maine, all monies awarded shall be repaid and returned to the Authority immediately.

5. In the event an application is not funded, the Authority shall notify the applicant in writing with a reason for the determination. The notice shall include a statement of the applicant's right to appeal the Chief Executive Officer's decision to the members.
6. The grant recipient will be required to provide and execute such documentation as the Chief Executive Officer deems necessary to ensure the grant is being put to good and appropriate use. Such reporting shall include a report to be filed March 1, 2012 and again March 1, 2013 detailing the uses and benefits of the monies received. A recipient also shall provide such other reports and information as may from time to time be required by the Authority in order to review the application, monitor disbursement of a grant, and evaluate the success of the Program.

SECTION VI. WAIVER OF RULE

The Chief Executive Officer may waive any requirement of this rule, except to the extent that the requirement is mandated by the Act, in cases where the deviation from the rule is insubstantial and is not contrary to the purposes of the Program.

SECTION VII. APPEAL TO THE MEMBERS:

In the event that an application is rejected by the Chief Executive Officer, the applicant shall have the right to appeal the decision of the Chief Executive Officer to the members, provided that such appeal shall not affect processing of other applications. Notice of the appeal, together with a statement of the reasons the Chief Executive Officer's decision should be reversed or modified, shall be given to the Chief Executive Officer in writing within 20 days after the date the Chief Executive Officer mailed the notice of rejection to the applicant. The appeal shall be heard at a meeting of the members. The applicant must be present to support the appeal. The appeal shall be based on the record before the Chief Executive Officer on the date of the denial. The decision of the Chief Executive Officer shall be final unless the members determine that the rejection by the Chief Executive Officer was arbitrary, capricious or an abuse of discretion, in which even the members may overturn or modify the decision of the Chief Executive Officer and may direct the Chief Executive Officer to take further action with respect to the application. Priority of any application with respect to which the Chief Executive Officer's rejection has been overturned or modified shall be determined as of the date and time of receipt of the notice of appeal.

Basis Statement

This rule provides a mechanism to make grants from the Maine Food Processing Grant Fund created by P.L. 2009, chap. 645, and approved by Maine voters at the June 8, 2010 bond

referendum election. The rule is structured so that priority will be given to grants that will assist most in achieving the goals of supporting Maine businesses that engage in food processing related to fishing, agriculture, and dairy enterprises. The maximum grant amount and grant terms have been set in a manner which will best use the limited one-time funds available.

[A public hearing was held DATE, at which time [no] verbal or written comments were received.]

The members believe that the benefits of this rule outweigh any potential costs, which include the cost of administering the Program. The rule maximizes social benefits by supporting the sustainability and/or growth of Maine enterprises that process food. Grants will presumably assist in the creation and retention of Maine jobs. There do not appear to be any viable alternatives to the provisions set forth which would involve less cost to society.

Economic Impact Analysis Statement/Fiscal Impact Note:

1. The cost of this rule will be minimal. Costs associated with the implementation and administration of the Program's one-time monies will be absorbed by the Authority under existing resources and be partially defrayed by a portion of the funds approved by Maine voters as part of the referendum question. FAME may charge an administrative fee of up to 2.5% of funds disbursed.
2. The Program will provide economic benefits to grant recipients that process food as part of Maine's fishing, agricultural, and dairy enterprises. The cost of participation is free.
3. The rule would affect competition and the employment market only to the extent that the grants offered under the Program are less expensive than commercially available loans. Accordingly, grant recipients under the Program may gain a cost advantage over businesses that borrow from traditional sources.
4. The above statements are made based on the experience of the Authority in administering other similar programs.
5. The rule will not impose any costs on municipalities or counties.

Authority: P.L. 2009, chap. 645; 5 M.R.S.A. § 8052; 10 M.R.S.A. § 969-A(14).

Effective Date: