

# Public Notice of Proposed Rulemaking

## RHODE ISLAND GOVERNMENT REGISTER PUBLIC NOTICE OF PROPOSED RULEMAKING

### Rhode Island Department of Administration

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**AGENCY:** Department of Administration

**RULE IDENTIFIER:** ERLID# 3349

**REGULATION TITLE:** Regulations Governing the Awarding and Administration of Funds for Housing and Community Development by State Departments, Agencies, Boards and Commissions

**RULEMAKING ACTION:** Direct Final

**Direct Final:** If no formal objection is received on or before **July 10, 2018** Department of Administration will file the repeal without opportunity for public comment.

**TYPE OF FILING:** Repeal

#### **TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

**June 8, 2018** – Notice posted

**July 10, 2018** – End of Public Comment Period

#### **SUMMARY OF PROPOSED REPEAL:**

The authorizing statute, R.I. Gen Laws § R.I. Gen Laws § 45-53-4(e) was originally designed to cover multiple housing programs, not just the Office of Housing and Community Development. However, since the law was passed the prioritization of funds for low and moderate income housing has already been put into practice by the funding agencies so the regulation is no longer necessary.

#### **COMMENTS INVITED:**

All interested parties are invited to submit written or oral comments concerning the proposed repeal **by July 10, 2018**, to the addresses listed below.

#### **ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

RI Department of Administration  
Division of Legal Services  
One Capitol Hill, 4<sup>th</sup> Floor  
Providence, Rhode Island 02908

ATTN: Rules Coordinator

Or by email: [daniel.majcher@doa.ri.gov](mailto:daniel.majcher@doa.ri.gov)

**WHERE COMMENTS MAY BE INSPECTED:**

Same as above. Please call (401) 222-8880 to schedule an appointment.

**PUBLIC COMMENT HEARING INFORMATION:**

**Department of Administration expects Regulations Governing the Awarding and Administration of Funds for Housing and Community Development by State Departments, Agencies, Boards and Commissions to be non-controversial.**

**FOR FUTHER INFORMATION CONTACT:**

Mike Tondra, Department of Administration, Office of Housing and Community Development, One Capitol Hill Providence, RI 02908.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking:** DOA adopted regulations to implement the provisions of R.I. Gen Laws § 45-53-4(e) which provides: “In planning for, awarding and otherwise administering programs and funds for housing and for community development, state departments, agencies, boards and commissions, public corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of § 45-53-3(ii) give priority to the maximum extent allowable by law, to towns with an approved affordable housing plan. The director of administration shall adopt not later than January 31, 2005, regulations to implement the provisions of this section.”

The authorizing statute, R.I. Gen Laws § R.I. Gen Laws § 45-53-4(e) was originally designed to cover multiple housing programs, not just the Office of Housing and Community Development. However, since the law was passed the prioritization of funds for low and moderate income housing has already been put into practice by the funding agencies so the regulation is no longer necessary.

**Regulatory Findings:**

In the development of the proposed repeal consideration was given to:

- (1) alternative approaches;
- (2) overlap or duplication with other statutory and regulatory provisions; and
- (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

## The Proposed Repeal:

The Department of Administration proposes to repeal the Regulations Governing the Awarding and Administration of Funds for Housing and Community Development by State Departments, Agencies, Boards and Commissions, ERLID# 3349, in its entirety as follows:

### ~~REGULATIONS GOVERNING THE AWARDING AND ADMINISTRATION OF FUNDS FOR HOUSING AND COMMUNITY DEVELOPMENT BY STATE DEPARTMENTS, AGENCIES, BOARDS AND COMMISSIONS.~~

#### 1. Purpose

~~(a.) The purpose of these regulations is to implement, in part, amendments to R.I. General Laws, Chapter 45-53 entitled "Low and Moderate Income Housing" and;~~

~~(b.) Specifically to address subsection 45-53-4(e), Procedure for approval of construction of low or moderate income housing, that provides that:~~

~~*"In planning for, awarding and otherwise administering programs and funds for housing and for community development, state departments, agencies, boards and commissions, public corporations, as defined in chapter 35-18, shall among the towns subject to the provision of subsection 45-53-3(ii) give priority to the maximum extent allowable by law, to towns with an approved affordable housing plan. The director of administration shall adopt not later than January 31, 2005, regulations to implement the provision of this section."*~~

#### 2. Applicability

~~These regulations apply to any housing or community development grant or program funded in whole or part by state funds, or funds which, in accordance with federal grants or otherwise, a state agency expends or administers or in which a state agency is a signatory. The regulations apply to state departments, agencies, boards and commissions. Public corporations, as defined by R. I. General Laws, Section 35-18-2(10), such as, but not limited to, the Rhode Island Economic Development Corporation, the Rhode Island Housing and Mortgage Finance Corporation and the Rhode Island Water Resources Board are also subject to the requirements as described in these regulations.~~

#### 3. Definitions

~~(a) The terms or phrase "**programs and funds for housing and community development**" shall be defined and interpreted broadly, and shall include programs and funds that support housing and community development activities both directly and~~

indirectly. Direct support includes agency grants, loans and loan guarantees, tax credits, rental support payments to property owners, below market land sales, or other financial assistance designed to result in:

- ~~(1) the construction of new or rehabilitation or repair of existing housing units, and/or the assemblage, preparation, and/or remediation of sites for the production of housing units; or~~
- ~~(2) the provision of facilities, sites, or services intended to result in the improvement of the physical, social and/or economic conditions of the community, including, but not limited to the provision of new or enhanced water supply, wastewater treatment, transportation infrastructure, recreation facilities, open space preservation, school facility construction, brownfield remediation, industrial parks and/or other economic development activities.~~

Indirect support includes agency programs providing non-monetary assistance for housing or community development, including, but not limited to services such as permit expediting, technical assistance, or hazard abatement that are intended to support the activities and outcomes identified in subsections (1) or (2) above

~~**(b) Affordable housing plan** means a component of a housing element of a local comprehensive plan that is required by RI General Laws, Section 45-22.2-(6)(3) and that is prepared in accordance with guidelines adopted by the state planning council.~~

~~**(c) Agency** means state departments, agencies, boards and commissions, public corporations, as defined in RI General Laws, Chapter 35-18.~~

~~**(d) Approved affordable housing plan** means an affordable housing plan that has been approved by the director of administration pursuant to RI General Laws, Section 45-22.2-9 as meeting the guidelines for the local comprehensive plan as promulgated by the state planning council.~~

~~**(e) Director** means the director of the department of administration or any person whom he/she has designated to act for him/her.~~

~~**(f) Priority** means the documented qualitative and/or quantitative measure awarded to grants and/or programs from communities with approved affordable housing programs.~~

~~**(g) Program or Statewide Planning Program** means the planning program established by R.I General Laws, Section 42-11-10(b)(1) to prepare, adopt, and amend strategic plans for the physical, economic and social development of the~~

state.

#### 4. Program Identification

~~(a) Not later than March 31, 2005 agency directors shall provide to the director a listing of those programs and funds for housing and community development within their jurisdiction that comply with the definition of the same above. Agencies shall update this list as needed but not less than annually.~~

~~(b) Not later than May 30, 2005 the chief of the Statewide Planning Program shall compile a list of communities that have approved affordable housing plans and provide said list to those agencies that have provided the director with a listing of programs and funds for housing and community development. Said list shall be updated on a monthly basis for the balance of the calendar year 2005 and on an as needed basis thereafter.~~

~~(c) Not later than June 30, 2005 agencies shall amend their policies governing the administration of programs and the award of funds for housing and community development to provide for priority consideration of requests for said programs and funds from communities with approved affordable housing plans. The prioritization shall not be construed to prevent the awarding of funds to communities without approved affordable housing plans. Within five (5) business days of adoption and filing of amendments to their program policies, agencies shall report, in writing, to the chief of the Statewide Planning Program the quantitative and/or qualitative measure of said amendments, and shall similarly report any future changes to said quantitative and/or qualitative measure upon their adoption and filing~~

~~(d) Not later than August 31, 2005 the director shall provide communities with approved affordable housing plans a listing of those programs and funds for housing and community development that have been modified to give priority to those communities with approved affordable housing plans. Said listing shall be updated as necessary, but not less than annually.~~

#### CERTIFICATION

~~I certify that these regulations have been adopted on December 17, 2004 in accordance with Section 45-53-4(e) of the Rhode Island General Laws.~~

~~Beverly E. Najarian, Director~~