

**218-RICR-70-00-12**

## **TITLE 218 – DEPARTMENT OF HUMAN SERVICES**

### **CHAPTER 70 – OFFICE OF CHILD CARE LICENSING**

#### **SUBCHAPTER 00 – N/A**

PART 12 – Rules and Regulations Governing the Early Childhood Care and Education Capital Fund

### **12.1 Purpose**

- A. The purpose of these Rules and Regulations is to govern the Rhode Island Early Childhood Care and Education Capital Fund Program (the "Program"). The primary purpose of the Program is to increase the State's supply of quality early learning facilities by providing resources to fund:
  - 1. The improvement of existing early learning facilities;
  - 2. The expansion of existing early learning facilities;
  - 3. The development of new early learning facilities; and
  - 4. The provision of technical assistance to Early Childhood Care and Education providers in matters related to early learning facility planning.
- B. The Department of Human Services (the "Department") shall provide grants for the improvement of existing early learning facilities, the expansion of existing early learning facilities, and the creation of new early learning facilities. These Regulations set forth criteria established by the Department for Program funding.
- C. Approval of proposals seeking grant awards under this Program is subject to the availability of funds.

### **12.2 Application and Authority**

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of State law, goals, and policies. R.I. Gen. Laws § 42-12-23 designates the Department as the lead agency of the State responsible for the planning and coordination of State involvement in the area of child care in Rhode Island, including administration and enforcement, and, therefore, these Rules and Regulations are promulgated pursuant to that Chapter and also in accordance with R.I. Gen. Laws Chapter 42-35.

## 12.3 Definitions

A. For the purposes of these Rules and Regulations, the following terms shall have the following meanings:

1. "CCAP" means the Rhode Island Child Care Assistance Program administered by the Department with program Rules found in Chapter 20 of this Title.
3. "Department" means the Rhode Island Department of Human Services.
4. "Director" means the Director of the Rhode Island Department of Human Services.
5. "Early childhood care and education" refers to programs that are State licensed to provide child care and serve children from birth through age six (6).
6. "Early learning facility" means the physical structure, and/or the dedicated single-purpose space within said structure, in which Early Childhood Care and Education is provided.
7. "Eligible facility" means a building, structure, or site that is, or will be, owned, leased, or otherwise occupied by one (1) or more "Eligible Organizations" and licensed by the Department or a Local Education Agency (LEA); provided that the facility shall serve or have a commitment to serve low-income families; provided further that any leased facilities shall have a lease term that is consistent with the scale of capital investment involved but shall not, under any circumstance, be less than twenty (20) years inclusive of options; and provided further that any municipally-owned buildings shall have a dedicated single-purpose space for licensed Early Childhood Care and Education.
8. "Eligible organization" means a provider of Early Childhood Care and Education, or an entity seeking licensure to provide Early Childhood Care and Education, that is, at the time of initial program application, providing, or has demonstrated a commitment to provide, Early Childhood Care and Education for low-income families with a public subsidy, has a Data Universal Numbering System (DUNS) number, and is in good standing with the State of Rhode Island or a real estate developer who is partnered with, or has a demonstrable commitment to partner with, a provider of Early Childhood Care and Education and/or an entity seeking licensure to provide Early Childhood Care and Education for low-income families with a public subsidy.
9. "Eligible project" means the acquisition, design, construction, repair, renovation, rehabilitation, and/or other capital improvement of an Eligible

Facility, including, but not necessarily limited to, remediation of deferred maintenance.

10. "Improvement" means any small capital projects intended to address urgent health/safety issues, any small capital project intended to increase the quality of the Early Childhood Care and Education programming offered at the facility in question, and/or any small capital project intended to increase capacity either through net new seats for children or reconfiguration of existing space to serve more children in quality early learning experiences.
11. "Low-income family" means those families determined eligible for program participation under CCAP eligibility provisions.
12. "Public subsidy" means the Rhode Island CCAP program, the Federal Head Start program, or any other materially similar child care subsidy program offered by a Federal, State, municipal, or quasi-public entity.
13. "Program" means the Rhode Island Early Childhood Care and Education Capital Fund.
14. "Qualified community partner organization" means a certified community development financial intermediary operating in Rhode Island, specifically supporting the early learning sector, possessing demonstrable fund management capabilities, and having expertise informing early learning facilities best practice through assessment, training, and technical support.
15. "Reimbursable basis" means that Program funds will only be released for project costs that have been incurred and paid prior to requisitioning.
16. "Scope of work" means a set of project costs or cost categories tied to performance deliverables as specified in the respective program grant contract(s) deemed eligible for Program funding by the Department.

## **12.4 Allocation of Funds**

### **12.4.1 Program Funding and Use of Funds**

- A. The Program shall be funded from the proceeds of a general obligation bond issuance dedicated to this purpose and approved by voters at the March 2, 2021 Special Election in addition to any charitable contributions received by the Department as may occur. Program funds shall be used to pay for the following purposes:
  1. Grants to Eligible Organizations pursuing Eligible Projects at eligible facilities.

2. Technical assistance to Early Childhood Care and Education providers in matters related to capital planning for Eligible Projects and/or assistance with preparing Program applications.
3. Costs associated with administration of the Program.

#### **12.4.2 Funding for Eligible Projects**

- A. For Eligible Projects involving improvements, Program funds will be available via a rolling application process and will be awarded in the form of a grant.
- B. For Eligible Projects involving the expansion of existing early learning facilities, Program funds will be made available through a Request for Proposals issued by the Department and will be awarded in the form of a grant.
- C. For Eligible Projects involving the development of new early learning facilities, Program funds will be made available through a Request for Proposals issued by the Department and will be awarded in the form of a grant.

#### **12.4.3 Funding Priorities**

The Program represents a limited resource with a large mandate. To ensure that resources are expended in the most efficient and manner that most positively impacts the intended beneficiaries, the Department will establish a list of Program funding priorities. These funding priorities may include, but are not limited to, the level to which the project improves access to Early Childhood Care and Education in underserved communities, space for infants/toddlers, commitment to serving families with public subsidy, evidence of matching funds, inclusion of businesses certified by the State Office of Diversity, Equity and Opportunity. These funding priorities will be published with each Request for Proposals (RFP) and will be factored in the assessment of applications.

#### **12.4.4 Leveraging**

- A. Eligible Projects involving the Improvement of existing early learning facilities should leverage funds in addition to Program funds. Program funding shall be the minimum amount necessary for the feasibility of the Eligible Project proposed.
- B. Eligible Projects involving the expansion of existing early learning facilities and/or the creation of new early learning facilities must leverage funds in addition to Program funds. Priority will be given to proposals that leverage a diverse source of funds for project completion. Program funding shall be the minimum amount necessary for the feasibility of the Eligible Project proposed.

#### **12.4.5 Disbursement of Award Proceeds**

Funding awarded under the Program shall be distributed on a reimbursable basis. The Department may, at its sole discretion, approve the earlier release of Program funds at the request of an awardee demonstrating financial need.

## **12.5 Eligible Costs**

- A. The Department will, at its discretion, approve a Scope of Work for each Eligible Project selected for funding under this Program. Each approved Scope of Work shall be limited to eligible cost items.
- B. Per Rhode Island Public Law 080 (2020), "An Act Relating to Making Appropriations in Support of FY2021," the following project costs are deemed eligible under this Program:
  - 1. Acquisition of land or other real property.
  - 2. Preparation of reports, plans, engineering, specifications, design, and /or inspections.
  - 3. Costs of construction, rehabilitation, expansion, demolition, site work, the provision of utilities, and/or the upgrading or conversion of building systems.
  - 4. Costs of furniture, fixtures, and/or equipment.

## **12.6 Program Administration**

- A. The Department shall establish, administer, and oversee the Rhode Island Early Childhood and Education Capital Fund provided, however, that the Department may contract with a Qualified Community Partner Organization to administer the Program.
- B. To ensure compliance with Program requirements as set forth in these Regulations and/or in contract documents issued pursuant to Program awards, the Department may request, and Eligible Organizations receiving Program funding shall provide, information and reports on Eligible Projects funded hereunder. The Department may conduct unannounced site visits and inspections as it may deem necessary.
- C. If approved for Program funding, the Eligible Organization will execute grant documents which shall set forth, among other things, certain terms and conditions of participation in the Program.

## **12.7 Application Process**

### **12.7.1 Submission of Proposals for Funding**

- A. All parties seeking Program funding shall submit an application to the Department. As described in §§ 12.7.3 and 12.7.4 of this Part, the Department shall create a set of applications specific to the types of Program funding available. All application forms created shall, at a minimum, require applicants to demonstrate conformance with threshold eligibility and to provide a narrative statement of need as described below.
1. **Threshold Eligibility:** To be considered for funding under the Program, all applicants must be Eligible Organizations seeking to advance Eligible Projects at Eligible Facilities as defined in § 12.3 of this Part.
  2. **Narrative Statement of Need:** To be considered for funding under the Program, all applicants must provide a narrative statement that demonstrates:
    - a. The need for such project;
    - b. A financial need for the requested Program funding;
    - c. The benefits of the project to low-income families, regardless of whether those families are enrolled in CCAP and/or another Public Subsidy program;
    - d. The benefits of the project to the community in which it is located; and
    - e. Local support for the project.

### **12.7.2 Application Contents**

Applications for Program funding shall include, but not be limited to, the name, address, telephone number, email address, and taxpayer identification number of the applicant together with such other information as the Department may request.

### **12.7.3 Application Format(s) for Eligible Projects**

- A. The Department shall create a standard application form for Eligible Projects for parties seeking Program funding to make Improvements to an existing early learning facility. This application will be available on an on-going basis.
- B. Once each fiscal year, at a minimum, the Department shall issue a Request for Proposals (RFP) for Eligible Projects seeking Program funding to expand an existing early learning facility and/or to create a new early learning facility. The RFP will specify Program funding priorities as determined by the Department, will indicate the amount of funding available in the RFP round, will specify the deadline for and method of submission, and will provide an estimated timeframe for review. A submitted proposal shall be deemed received as of the date the

Department determines that the submitted proposal is complete (i.e. contains all documentation required by the RFP and all the information required in § 12.7.1 of this Part).

#### **12.7.4 Applications for Technical Assistance**

The Department shall create a standard application form for Eligible Organizations seeking technical assistance related to capital projects. This application will be available on an on-going basis.

### **12.8 Review of Applications**

- A. Each early learning facility project is unique. Each Eligible Project submitted for funding consideration under this Program will be reviewed independently and with flexibility. With this approach in mind, the Department reserves the right to work with Eligible Organizations, both prior to application submission and after the submission of a completed application, to determine the amount of financing appropriate through this Program and from other financing sources as may be available.
- B. Applications seeking Program funding for Eligible Projects will be reviewed by the Department to confirm completeness of the submission and to determine conformance with the threshold eligibility criteria found in § 12.7.1 of this Part. Any application determined to be incomplete as of the close of the Request for Proposals deadline shall be eliminated from consideration.
- C. Applications determined by the Department to be complete and filed by Eligible Organizations will be further reviewed by a program review committee and said committee will make recommendations for approval or denial of Program funding to the Director. The committee's recommendations will be based on the funding priorities specified in the Request for Proposals and the level project leveraging. All reviewed projects will be ranked by the committee. Scoring criteria may include: project readiness, project sustainability, local support, identified slots of care for low-income families, accuracy of costs, demonstrated financial need for assistance, space for infants/toddlers, matching funds, participation of business certified by the State Office of Diversity, Equity & Opportunity.
- D. The Director will approve Eligible Projects for funding based on ranking and subject to the availability of Program funding.

### **12.9 Form and Terms of Program Awards**

#### **12.9.1 Form of Awards**

- A. Program funds approved by the Director, pursuant to § 12.8 of this Part, will be awarded to Eligible Organizations pursuing Eligible Projects at Eligible Facilities in the following forms:

1. For Eligible Projects involving improvements to Eligible Facilities, the Program award shall be in the form of a grant;
2. For Eligible Projects involving the expansion of existing early learning facilities and/or the creation of new early learning facilities, the Program award shall be in the form of a grant.

### **12.9.2 Recapture and Repayments**

- A. Grant contracts issued pursuant to Program awards shall specify that any Eligible Facility purchased, renovated, or improved with Program funds shall remain under the ownership or lease of the grantee and shall remain in use as an early learning facility operated by an Eligible Organization for not less than twenty (20) years from the date of contract execution unless approved by the Department and agreed to by the grantee in writing.
- B. Grant contracts issued pursuant to Program awards shall stipulate recapture provisions obligating the return of Program funds to the Department if it is determined that the grantee has not complied with the Rules and Regulations governing the Early Childhood Care and Education Capital Fund.
- C. Funding repaid to the Program per any compliance-related provisions contained within the grant contract documents associated with an award of Program funds shall be reallocated to Eligible Projects in accordance with these Regulations.

### **12.10 Right to Waive Regulations**

- A. Upon a determination and finding by the Department of "Good Cause" shown, the Director may waive any provision of these Regulations.
  1. "Good Cause" shall include facts, determinations, or circumstances where the granting of a specific case-based waiver:
    - a. Is necessary to permit an otherwise Eligible Project to proceed;
    - b. Is necessary to carry out the purposes of the Program with regard to the otherwise Eligible Project in question; and
    - c. Is consistent with the mission of the Department with regard to Early Childhood Care and Education.
- B. Each waiver request made to the Director must be in writing and must be supported by documentation of the pertinent facts and circumstances. A determination and finding of Good Cause shown shall, upon thorough review of the request and supporting documentation, be affirmed by the Director in writing.



## **12.11 Severability**

If any provision of these Rules and Regulations, or any application thereof to any purpose or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of these Rules and Regulations shall not be affected thereby.

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**SUBCHAPTER 00 -**

**PART 12 - RULES AND REGULATIONS GOVERNING THE EARLY CHILDHOOD CARE AND EDUCATION CAPITAL FUND**

Type of Filing: Adoption

**Agency Signature**

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Agency Head Signature

Agency Signing Date

**Department of State**

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Regulation Effective Date

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Department of State Initials

Department of State Date