

RULES AND REGULATIONS

Title 16—COMMUNITY AFFAIRS

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[16 PA. CODE CH. 15]

Neighborhood Assistance Program; Special Program Priorities; and Enterprise Zone Tax Credit Program

The Department of Community and Economic Development (Department), under the authority of Article XIX-A of the Neighborhood Assistance Act (act) (72 P. S. §§ 8901-A—8906-A) amends Chapter 15 (relating to neighborhood assistance program). The purpose of these amendments is to establish special program priorities for the Fiscal Year (FY) 1995-96.

Introduction

Under authority of the act, the Department administers the Neighborhood Assistance Tax Credit Program (NATCP) and the Enterprise Zone Tax Credit Program (EZTCP). The goal of NATCP is to encourage business firms to provide, either directly or indirectly through neighborhood organizations, neighborhood assistance and job training, education, crime prevention and community services. To meet this objective, the Department of Revenue grants tax credits, equivalent to 50% of the business firms' contributions, to business firms approved by the Department. The goal of the EZTCP is to encourage private companies to invest in the rehabilitation, expansion and improvement of buildings or land which promote community economic development and which occur in portions of impoverished areas which have been designated as enterprise zones. To meet this objective, the Department of Revenue grants tax credits, equivalent to 20% of the private companies' investments, to private companies approved by the Department.

Section 8905-A of the act directs the Secretary of the Department to promulgate, during the first month of each fiscal year, regulations establishing special program priorities. Under the special program priorities of § 15.41(b) (relating to special program priorities), contributors may earn an additional 20%, for an overall 70% tax credit. Under the special program priorities of § 15.49(a) (relating to enterprise zone tax credit program—special program priorities), contributors may earn a 30% tax credit.

Each year the Department begins this process in July by establishing the priorities. The priorities are then subject to review and approval by internal Department personnel and eventually the Governor. Approval to proceed with the amendments is usually not received until well into the fiscal year. This year the approval to proceed was not obtained until mid-December, due, in part, to questions concerning the demise of the Department of Community Affairs. The proposed amendments were prepared and sent to the Office of General Counsel in December. Review and approval by the Office of Attorney General, Office of General Counsel, the standing committees and the Independent Regulatory Review Commission (IRRC) was not received until July, 1996. Preparation of the final regulations was delayed, in part, because of the uncertainty regarding the eventual consolidation of the

Department's programs currently existing in Titles 13 and 16 (relating to commerce; and community affairs).

To improve the clarity of the amendments, IRRC has recommended that § 15.41b(4)(iv) be revised to delete the words "areas of concern" and insert the words "components and goals for." The Department has adopted IRRC's recommendation. With the exception of this change, the final regulations remain the same as originally proposed.

Analysis

Section 15.41(b)—NATCP—special program priorities. There were three special program priorities under this section for FY 1994—95. They were as follows: the Comprehensive Services Program, the Low Income Housing Program and the Enterprise Zone Program. Proposed priorities for FY 1995-96 will add a fourth priority entitled Comprehensive Service Program. With the addition of the fourth priority, it became necessary to rename the former Comprehensive Service Program priority to the Community Development Program priority. The Low-Income Housing Program was also renamed the Affordable Housing Program. The four special program priorities for FY 1995-96 under this section will be as follows: the Community Development Program, the Affordable Housing Program, the Enterprise Zone Program and the Comprehensive Service Program. The changes surrounding each special priority program are outlined as follows:

1. *Community Development Program.* The only changes to this program were the new program name and the replacement of the words "comprehensive plan" with the words "community development plan."

2. *Affordable Housing Program.* The only change to this program was the new program name.

3. *Enterprise Zone Program.* No changes have been made to this program.

4. *Comprehensive Service Program.* Unlike the Community Development Program (formerly known as the Comprehensive Services Program), which is based on a project type activity which is a component of an overall community development plan for the prevention or elimination of physical blight and for education, social and economical services to aid impoverished people within an urban neighborhood or rural community, the Comprehensive Service Program proposes to transform an entire distressed community into a healthy stable community through the long-term joint efforts of a neighborhood/community organization and a major corporate sponsor for the development and implementation of a Strategic Neighborhood Revitalization Plan over a minimum 5-year period.

In addition to the changes occurring within each special program priority, the Department has increased for FY 1995-96, the dollar cap of available tax credits for valuation at 70% from \$1 million to \$1.3 million. The amount of tax credits which can be allocated under the Community Development, Affordable Housing and Comprehensive Service Programs has also been capped. No more than \$1 million of tax credits will be allocated to the combined applicants for Community Development and Affordable Housing Projects, and no more than \$300,000 shall be awarded for Comprehensive Service Programs.

Section 15.49(a)—EZTCP—special program priorities. No changes were made to this section. Special program

priorities adopted for FY 1995-96 continue the priorities that have been in effect for several years.

Fiscal Impact

Commonwealth. The tax credits extended to corporations and businesses under these amendments represent a proportionate reduction in Commonwealth corporate tax revenues. The costs are substantially justified by the creation and retention of jobs and the amelioration of the factors which tend to cause poverty within this Commonwealth.

Political subdivisions. The amendments have no measurable cost-effect upon political subdivisions.

Public. The amendments continue the tax credits to eligible business firms and private companies.

Paperwork

Organizations interested in participating in the special program priorities for the NATCP shall submit an addendum to their original Neighborhood Assistance Program proposal. The original proposal is submitted on a NACTC form with supporting documentation.

Private companies and neighborhood organizations interested in participating in the special program priorities for the EZTCP shall submit an addendum to their original EZP project application proposal using the Bureau of Human Resources' proposal format.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 26 Pa.B. 2323 (May 18, 1996), to IRRC, the Chairperson of the House Committee on Urban Affairs and the Chairperson of the Senate Committee on Local Government for review and comment. In compliance with section 5(b.4) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House Committee on October 16, 1996, and were deemed approved by the Senate Committee on October 16, 1996. IRRC met on October 17, 1996, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

Effective Date/Sunset Date

(a) These amendments will become effective upon final publication in the *Pennsylvania Bulletin*.

(b) These amendments, by law, are monitored on an annual basis and updated as needed.

Contact Person

For an explanation of these amendments contact Jill B. Busch, Deputy Chief Counsel, Department of Community and Economic Development, 416 Forum Building, Harrisburg, PA 17120, (717) 783-8452.

Findings

The Department finds that:

(1) Public notice of intention to adopt the final-form regulations has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202).

(2) The regulations are necessary and appropriate for the Neighborhood Assistance Program.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 16 Pa. Code Chapter 15, are amended by amending § 15.49a to read as set forth at 26 Pa.B. 2323 (May 18, 1996) and by amending § 15.41b to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Department shall submit this order, 26 Pa.B. 2323 and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

THOMAS B. HAGEN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5289 (November 2, 1996).

The Community and Economic Enhancement Act (71 P. S. §§ 1709.101—1709.2106) transferred functions from the Department of Community Affairs into the Department of Community and Economic Development and other agencies. When these amendments were originally proposed, the Department of Community Affairs existed. The *Pennsylvania Code* title and chapter number will eventually change upon the codification of the regulations of the restructured agencies.)

Fiscal Note: Fiscal Note 5-61 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 16. COMMUNITY AFFAIRS

PART I. DEPARTMENT OF COMMUNITY AFFAIRS

CHAPTER 15. NEIGHBORHOOD ASSISTANCE PROGRAM

§ 15.41b. Special program priorities.

For Fiscal Year 1995-96, the special program priorities will be accepted in four categories: community development, comprehensive services, affordable housing programs and enterprise zone programs. Projects in each category shall relate to activities which will improve the physical and economic environment of low income neighborhoods or which will contribute to neighborhood stabilization by reversing patterns of deterioration and blight. The projects shall demonstrate the local commitment through partnerships of community based organizations, local government and the private sector. The following paragraphs set forth the requirements for the project to be eligible for tax credit valuation of 70%.

(1) *Community development program.* Required program characteristics include the following:

(i) Project activities are eligible for the 50% tax credit program.

(ii) Project activities shall be included in a community development plan for the prevention or elimination of physical blight and for educational, social and economic services to aid impoverished people within an urban neighborhood or rural community. A community development project shall include the components of clauses (A) and (B), and two of the remaining components in clauses (C)—(F).

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(2) *Affordable housing programs.* Applicants shall be limited to nonprofit neighborhood organizations who produce or preserve through renovation, repair, rehabilitation or new construction affordable housing for low-income persons meeting the following requirements:

* * * * *

(4) *Comprehensive service programs.* A program that proposes to transform a distressed community into a healthy stable community through the long-term joint efforts of a neighborhood/community organization and a major corporate sponsor for the development and implementation of a strategic neighborhood revitalization plan. Required program characteristics include the following:

(i) Program activities are eligible for the 50% tax credit program in § 15.22 (relating to submission of proposals).

(ii) Program activities shall benefit low income persons whose family income is no more than 125% of the official poverty line established by the Federal Office of Management and Budget or who are residents of an economically distressed community, or both. The distressed community shall be specified by geographic boundaries in the plan.

(iii) The program shall have a major corporate sponsor who makes a significant commitment of contributed cash as well as other in-kind services such as financial advice, legal counsel, public relations, architectural assistance, managerial advice or other expertise that may be available within its corporate structure.

(iv) The program shall include the following components and goals for the economically distressed neighborhood:

(A) *Housing.* To substantially improve housing for residents and provide for them both ownership and rental opportunities.

(B) *Education.* This component raises the educational and job readiness levels of community residents.

(C) *Health and social services.* This component builds capacity of community/neighborhood based organizations and to work creatively with county and State agencies so that social and health services are available for all residents including senior citizens and children.

(D) *Community development.* This component encourages and assists neighborhood based community development, particularly along the commercial districts, which will create jobs for area residents.

(E) *Job training.* This component creates job training and referral services for adults and young people, including summer job programs for "in-school" youth.

(F) *Crime prevention.* This component develops, in cooperation with State and local law enforcement agencies, local school districts, county and State health departments, an educational program for drug prevention and antiviolenace initiatives.

(G) *Community participation.* This component enhances volunteer recruitment, training, placement and recognition to support comprehensive service project coalitions so that every resident becomes an active and effective citizen.

(v) The program shall include a comprehensive service plan that contains four essential components for the revitalization of a distressed neighborhood.

(A) *Community partnerships.* This component explains how community/neighborhood based organizations will transform a distressed neighborhood into a healthy community by creating significant and lasting partnerships among community based organizations, the private sector, and local and State government and the respective resources available.

(B) *Strategic neighborhood revitalization plan.* This component is designed to provide a cohesive, coordinated plan of action, with strong community support for the project. The plan should include an assessment of needs, identification of resources, assignment of priorities and determination of appropriate course of action and be organized to support a plan of action over a minimum of a 5-year period.

(C) *Implementation of revitalization plan.* This component sets forth the neighborhood's/community's vision for the future and identifies specific activities and resources needed to accomplish the tasks.

(D) *Evaluation.* This component establishes an assessment mechanism for measuring the status and progress of proposed activities in meeting the overall comprehensive service goals for the revitalization of the distressed community.

(vi) The program shall include a detailed budget that is a coordinated plan of financial action that supports the development and implementation of the proposed revitalization plan for the community/neighborhood.

(5) *Limitations.* During Fiscal Year 1995-96, the Department will allocate no more than \$1.3 million of the available tax credits for valuation at 70%. No more than \$1 million dollars of the tax credits will be allocated to the combined applicants for community development and affordable housing projects, and no more than \$300,000 will be awarded for comprehensive service programs. Approval of projects under special program priorities will be contingent upon the availability of tax credits.

(6) *Applicability.* The special program priorities in this section are applicable to programs implemented during Fiscal Year 1995-96.

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