

**CHAPTER 138b. AGRICULTURAL  
ENTREPRENEUR DEVELOPMENT PROGRAM—  
STATEMENT OF POLICY**

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**Authority**

The provisions of this Chapter 138b issued under section 208 of the act of July 3, 1987 (P. L. 459, No. 9A), unless otherwise noted.

**Source**

The provisions of this Chapter 138b adopted October 2, 1987, the Department will accept applications beginning October 1, 1987. The Department will not accept an application received after March 1, 1988, 17 Pa.B. 3904, unless otherwise noted.

**§ 138b.1. Program objectives.**

Under section 208 of the General Appropriation Act of 1987, the act of July 3, 1987 (P. L. 459, No. 9A), the legislature appropriated \$1 million to the Department for agricultural development for the 1987-88 Fiscal Year. A portion of these monies has been used to create the Agricultural Entrepreneur Development Program. The program matches dollar-for-dollar private sector monies for projects that locate or expand processing facilities in this Commonwealth which utilize and add value to Commonwealth-grown farm commodities.

**§ 138b.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the contents clearly indicates otherwise:

*Agricultural processor*—A person or entity that subjects one or more farm commodities to a process of manufacturing, development or preparation for market, or a person or entity that converts a farm product into a marketable form, such as livestock by slaughtering, fruits and vegetables by sorting and repacking, manure by composting and bagging and hardwood by milling.

*Applicant*—An individual, partnership, association, cooperative or corporation applying for a grant.

*Department*—The Department of Agriculture of the Commonwealth.

*Farm commodity*—A Commonwealth-grown agricultural, horticultural, aquacultural, vegetable, fruit and floricultural product of the soil, livestock and meats, wools, hides, furs, poultry, eggs, dairy products, manure products, nuts, mushrooms, honey products and hardwoods.

*Secretary*—The Secretary of Agriculture of the Commonwealth.

*Value added*—The increase in the fair market value of a farm commodity resulting from its processing.

### § 138b.3. Grant Committee.

(a) *Purpose.* The Grant Committee will review grant proposals and supporting documentation and forward recommendations of approval or rejection to the Secretary, along with the rationale for its decision, and other information requested by the Secretary. The Grant Committee will forward to the Secretary restrictions or special conditions it recommends to be placed on the grant.

(b) *Majority requirement.* The Grant Committee will not recommend the approval of a grant unless a majority of the quorum present at the meeting votes in favor of the grant. A quorum shall consist of four members.

(c) *Membership.* The Secretary will appoint seven persons as members of the Grant Committee and will include among those appointed a rural sociologist, an agricultural engineer, an agricultural economist, a business finance professional, a processing technology expert and a member of the Governor's Economic Development Partnership. The Secretary or a designee will be the Chairperson of the Committee.

(d) *Reimbursement.* A member of the Grant Committee is not entitled to compensation for service as a member, but is entitled to reimbursement at the current rates set by the Commonwealth for necessary expenses incurred in connection with the performance of the member's duties as a member of the Grant Committee.

### § 138b.4. Eligibility.

(a) *Citizenship.* To be eligible for a grant, the applicant, if an individual or a member of a partnership, shall be a citizen of the United States on or before the date of filing an application for a loan under this chapter.

(b) *Corporations.* If the applicant is a corporation, the applicant shall be incorporated or registered in this Commonwealth to be eligible.

(c) *Eligible uses.* A grant shall be used by the applicant for the purposes of constructing, expanding, or both, the applicant's agricultural processing operation. Grant proceeds shall be used for any of the following purposes:

(1) Purchase of an existing building to be used primarily for processing operations.

- (2) Construction of a new building to be used primarily for processing operations.
- (3) Purchase of equipment to be used for the processing operation.

**§ 138b.5. Submission of proposal.**

An agricultural processor that wishes to be considered for a grant under this program shall submit an application to the Department in the form of a proposal, addressing the criteria in § 138b.7 (relating to criteria for awarding grants) and the following information:

- (1) Name, address and telephone number, using the official name without abbreviations unless the abbreviation is part of the official name. For an individual, partnership or corporation, the names and trade name used shall be indicated, a copy of the partnership agreement or articles of incorporation shall be attached and a contact person shall be indicated.
- (2) Grant amount requested.
- (3) Detailed project description, including, but not limited to:
  - (i) Identity and source of farm commodity to be processed.
  - (ii) Potential for job creation.
  - (iii) Total project cost estimates.
  - (iv) Experience and credentials of the applicant.
  - (v) If applicable, explanation of how new technology will be used in connection with the project.
  - (vi) Market demand for final product of the processing operation.
- (4) Financial data including the following:
  - (i) Net worth statements and balance sheets.
  - (ii) Income statements for the past 3 years.
  - (iii) Five-year income projections.
  - (iv) Source of matching funds. The applicant shall provide evidence that matching funds are available on a cash basis.
- (5) Other information that the Secretary or the Grant Committee may request in order to review the proposal.

**§ 138b.6. Processing proposals.**

Upon receiving a proposal and the required supporting documentation, the Department will review the information for the completeness and accuracy. If the information is found to be incomplete or inaccurate, additional data will be requested and final processing of the application will be discontinued until requested data is supplied by the applicant. The Department may terminate the processing of an incomplete application if additional data is not supplied to the Department within a reasonable time after a written request.

**§ 138b.7. Criteria for awarding grants.**

Grants will be awarded by the Secretary only after consideration of the Grant Committee's recommendation. In making its recommendation to the Secretary, the Grant Committee will consider:

(1) *The applicant.* A prerequisite for a grant is an applicant who has demonstrated achievement as an agricultural processor. Accordingly, the following factors will be considered:

- (i) The capital needs of the applicant in light of available funds.
- (ii) The payment to date of tax obligations due and owed by the applicant to the Commonwealth or a political subdivision.
- (iii) The experience and credentials of the applicant.
- (iv) The credit history and rating of the applicant as determined from credit reporting services and other sources.
- (v) The applicant's total assets controlled, equity owned, contingent liabilities and history of earnings to date.

(2) *The project.* In addition to the information required to be submitted in the proposal according to § 138b.5 (relating to submission of proposal), the following factors relating to the project for which a grant is sought will be considered:

- (i) The potential for success for the project, given the proximity to consumers, involved costs and other relevant information.
- (ii) The existing level of similar processing operation in the geographic area in which the project is located.
- (iii) The impact upon the Commonwealth's agriculture and the rural poor.
- (iv) The amount and nature of farm commodities developed into value added products.

(3) *Special consideration.* Special consideration will be given to projects that:

- (i) Would create an increase in the market demand of a particular farm commodity.
- (ii) Locate processing operations in rural areas and using rural labor.
- (iii) Involve small business which show a potential for growth.

(4) *Geographic distribution.* The Committee will consider other grant awards in an attempt to make an equitable geographic distribution of grants throughout this Commonwealth giving priority to agricultural areas.

**Cross References**

This section cited in 7 Pa. Code § 138b.5 (relating to submission of proposal).

**§ 138b.8. Award of grant.**

(a) The amount of the grant is determined on the basis of the viability of the project, financial need of the applicant, funds available for grants and the number

of eligible applicants. No proposal will be accepted for a grant of less than \$10,000 nor for a grant that exceeds \$100,000. The amount of the grant will not exceed the amount of matching funds. Prior to receiving the grant proceeds, the applicant shall give evidence that matching funds—excluding in-kind services, plant and equipment—for the project were utilized.

(b) The award of the grant is contingent upon the applicant's signing of a grant agreement provided by the Department.

**§ 138b.9. Certification of completion.**

Within 30 days of the completion of the project or by October 1, 1988, whichever comes first, the applicant shall file with the Department a certification of completion on a form provided by the Department, signed by the applicant's president or treasurer, stating that the project outlined in the proposal has been completed.

**§ 138b.10. Inspection and payment.**

Upon receipt of the certificate of completion, the Department will inspect the project to determine if it is complete. If the Department is satisfied that the project is complete, payment of the grant will be made in accordance with the grant agreement and this chapter.

**§ 138b.11. Right of recovery.**

The Department has the right to make a claim for and receive from the applicant monies not expended in accordance with the grant agreement or this chapter.

**§ 138b.12. Deficits.**

The Department's financial obligation is limited to the amount of the grant. The Department is not responsible for funding cost overruns incurred by an applicant.

**§ 138b.13. Records.**

(a) The applicant shall maintain books, records and other evidence pertinent to costs incurred in connection with the project. The books and records shall be maintained according to generally accepted accounting principles.

(b) Financial records, supporting documents, statistical records and other records pertaining to the grant shall be retained by the applicant for 7 years following the date payment is made. The records and documents shall be available for inspection or audit by the Commonwealth, its agencies and instrumentalities.

**§ 138b.14. Conflict of interest prohibited.**

No member of the Grant Committee, employe of the Department or a person in the immediate family or household of a member of the Grant Committee or employe of the Department may be a party to or have an interest in a contract, agreement or grant made under this chapter. If a contract, agreement or grant is

made in violation of this section, the agreement or grant is null and void and without effect and no action may be maintained thereon by a person or entity against the Commonwealth. If a contract, agreement or grant is made in violation of this section, the Commonwealth may maintain an action.

**§ 138b.15. Termination clause.**

The Department will not accept an application received after March 1, 1988.

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