

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND COMMERCE CORPORATION
NOTICE OF RULE-MAKING

Pursuant to the provisions of R.I. Gen. Laws § 42-35-3, as amended, the Rhode Island Commerce Corporation (the "Corporation") hereby gives notice of its intent to adopt rules and regulations, entitled **Rules and Regulations for the Industry Cluster Grants Program** (the "Rules").

The Rules implement the newly-enacted Industry Cluster Grant program, which is designed to provide grants that improve the effectiveness of industry clusters in Rhode Island. A cluster is defined as a concentration of companies and/or industries that share common supply chains, markets, technology competencies or knowledge, and/or workforce needs. There are two types of grants: an implementation grant, which provides between \$100,000 and \$500,000 for a well-defined program to improve a cluster's effectiveness in one or more specific areas, including, but not limited to, research and development, technology transfer, workforce development, or cluster marketing; and technical assistance grants, which provide between \$75,000 and \$250,000, for a project that (i) builds an organization with the purpose of improving a cluster's effectiveness or (ii) consists of planning or feasibility studies for projects that could provide a benefit to a cluster. An applicant can be a trade association, nonprofit entity, or research center. An applicant can also be a for-profit entity, provided that the applicant is acting on behalf of the cluster and demonstrates that the benefits of its project will be widespread within the cluster.

The Rules are available for public inspection at www.sos.ri.gov/ProposedRules/, www.commerceri.com, in person at the Rhode Island Commerce Corporation, 315 Iron Horse Way, Suite 101, Providence, Rhode Island 02908, or by request by e-mail to sherri.carrera@commerceri.com, or by calling Sherri Carrera at (401) 278-9100.

In development of the proposed Rules consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) economic impact on small businesses. Based upon available information, the Corporation has determined that there is no alternative approach that would be as effective and less burdensome nor any overlap or duplication with any other state regulation.

All interested parties are invited to submit written or oral comments concerning the proposed regulation from September 9, 2015 through no later than 4:00pm on October 9, 2015 to Sherri Carrera, Rules Coordinator, Rhode Island Commerce Corporation 315 Iron Horse Way Ste. 101 Providence, RI 02908, 401-278-9174 or sherri.carrera@commerceri.com.

In accordance with R.I. Gen. Laws §42-35-3 an oral hearing will be granted if requested by twenty five (25) persons, or by an agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice. Requests made must be made through Sherri Carrera, Rules Coordinator, Rhode Island Commerce Corporation 315 Iron Horse Way Ste. 101 Providence, RI 02908, 401-278-9174 or sherri.carrera@commerceri.com.

Date of Notice September 9, 2015



Rhode Island Commerce Corporation

Rules and Regulations for the Industry Cluster Grants Program

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Rule 1. Purpose.

These rules and regulations (the “Rules”) are promulgated to set forth the principles, policies, and practices of the Rhode Island Commerce Corporation (the “Corporation”) in implementing and administering Chapter 64.29 of Title 42 of the Rhode Island General Laws, the Industry Cluster Grants act (the “Act”).

Rule 2. Authority.

These Rules are promulgated pursuant to Chapter 64.29 of Title 42 of the General Laws. These Rules have been prepared in accordance with the requirements of the Rhode Island Administrative Procedures Act, Chapter 35 of Title 42 of the General Laws.

Rule 3. Scope.

These Rules shall apply to any application received by the Corporation for a grant under the Act. Notwithstanding anything contained in these Rules to the contrary, the Corporation shall have and may exercise all general powers set forth in the Act that are necessary or convenient to effect its purposes and these Rules shall be liberally construed so as to permit the Corporation to effectuate the purposes of the Act and other applicable state laws and regulations. The Corporation may provide exemption from the application of such portion of these Rules as may be warranted by extenuating circumstances arising from such application.

Rule 4. Severability.

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

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Rule 5. Definitions.

The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) **“Act”** means Chapter 64.29 of Title 42 known as the Innovation Initiative.
- (2) **“Applicant”** means an entity that applies for a Grant under the Act and these Rules.
- (3) **“Cluster”** means a concentration of companies and/or industries that share common supply chains, markets, technology competencies or knowledge, and/or workforce needs; a Cluster is often, though not necessarily, supported by common organizations such as specialized suppliers, industry-knowledgeable universities, trade associations, legal and financial experts, funding sources, and/or government agencies; typically, a collective competitive advantage can come from a range of activities and knowledge-sharing within the Cluster (e.g. supply-chain development, market intelligence, incubator services, attraction of capital, management training and education, joint research and development, or technical standard setting).
- (4) **“Corporation”** means the Rhode Island Commerce Corporation established pursuant to Chapter 64 of Title 42 of the General Laws.
- (5) **“Grant”** means an Implementation Grant or Technical Assistance Grant.
- (6) **“Grant Agreement”** means a contract between the Applicant and the Corporation under which a Grant is awarded.
- (7) **“Implementation Grant Application”** means the application, promulgated by the Corporation, which must be completed and submitted by an Applicant in order for the Applicant to qualify for an Implementation Grant pursuant to the requirements of the Act and

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these Rules.

(8) **“Implementation Grant”** means a monetary award to an Applicant from the Corporation granted under Section 42-64.29-4 of the Act and these Rules for the purpose of implementing a well-defined program to improve a Cluster’s effectiveness in one or more specific areas, including, but not limited to, research and development, technology transfer, workforce development, or Cluster marketing.

(9) **“State”** means the State of Rhode Island and Providence Plantations.

(10) **“Technical Assistance Grant Application”** means the application, promulgated by the Corporation, which must be completed and submitted by an Applicant in order for the Applicant to qualify for a Technical Assistance Grant pursuant to the requirements of the Act and these Rules.

(11) **“Technical Assistance Grant”** means a monetary award to an Applicant from the Corporation granted under Section 42-64.29-3 of the Act and these Rules for the purpose of (i) building an organization with the purpose of improving a Cluster’s effectiveness or (ii) for planning or feasibility studies for projects that could provide a benefit to a Cluster.

Rule 6. Eligibility for a Technical Assistance Grant.

The following conditions must be met for an Applicant to be eligible for a Technical Assistance Grant under the Act:

(a) the Applicant must be an entity with the credibility within the relevant Cluster and the organizational capacity to provide leadership on initiatives that benefit the entire Cluster; the Applicant may, for example, be an existing or potential trade association, nonprofit institution, or research center; an Applicant may also be a for-profit entity, provided that such entity’s

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Application is on behalf of the Cluster and demonstrates that the benefits of its project will be widespread within the Cluster;

(b) the Applicant must be registered to do business in the State;

(c) the project for which the Applicant seeks a Technical Assistance Grant must primarily benefit companies within the State;

(d) the Technical Assistance Grant sought must be between \$75,000 and \$250,000 inclusive and shall be used for (i) building an organization with the purpose of improving Cluster effectiveness or (ii) for planning or feasibility studies for projects that could provide a benefit to the Cluster; and

(e) the Applicant must have demonstrated support from the businesses and other stakeholders in the relevant Cluster.

Rule 7. Technical Assistance Grant Application.

(a) An Applicant for a Technical Assistance Grant shall file a Technical Assistance Grant Application in the form prescribed by the Corporation and available on the Corporation's website. The Technical Assistance Grant Application shall require, at a minimum, that the Applicant provide the following information:

(1) the name of the Applicant and contact information for the individual(s) primarily responsible for oversight and management of the Technical Assistance Grant Application;

(2) the Applicant's federal and State tax identification numbers;

(3) the requested Technical Assistance Grant amount;

(4) a description of the relevant Cluster, a demonstration of its importance to the State's economy, and description of the geography in which the Cluster operates;

(5) a cluster diagram schematically depicting the Cluster served, showing current

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businesses, suppliers, markets, and supporting institutions and organizations that comprise the Cluster; the current state of collaboration within the Cluster; any new collaboration or other linkages that will result from receipt of a Technical Assistance Grant;

(6) a description of the project for which the Applicant seeks a Technical Assistance Grant, including a description of the need that the project seeks to address; the intended result of the project; and a discussion of the project's importance to the Cluster and how the entities operating within the Cluster will benefit from the project;

(7) a statement of the work for the project for which the Applicant seeks a Technical Assistance Grant, including a detailed discussion of the approach to the project and an identification or project deliverables, milestones, and timelines;

(8) a financial narrative that explains why the requested Technical Assistance Grant is necessary and a description of a plan for securing additional funds necessary to complete the project (if necessary) and for sustaining the impact of the project after the Grant is exhausted;

(9) biographies of key individuals who will implement the Project for which the Technical Assistance Grant is sought, including a description of any relevant experience;

(10) descriptions of any external organizations or industry participants that will participate in the project for which it seeks a Technical Assistance Grant, including a description of the commitment made by the external entity or entities and any relevant expertise contributed by the external entity or entities;

(11) letters of support for the project from businesses operating in the Cluster;

(12) a description of how the Applicant will monitor the effectiveness and impact of the project;

(13) a delineation of any other federal, State or municipal incentives, grants, tax

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credits, or other aid that will or may be received or requested by the Applicant in relation to the Project;

(14) and such other information as the Corporation deems appropriate.

(b) An Applicant may be charged a one-time, non-refundable application fee by the Corporation. The Corporation shall annually publish a fee schedule on its website commencing on or before December 31, 2015.

Rule 8. Eligibility for an Implementation Grant.

The following conditions must be met for an Applicant to be eligible for an Implementation Grant under the Act:

(a) the Applicant must be an entity with the credibility within the relevant Cluster and the organizational capacity to provide leadership on initiatives that benefit the entire Cluster; the Applicant may, for example, be a trade association, nonprofit institution, or research center; an Applicant may also be a for-profit entity, provided that such entity's Application is on behalf of the Cluster and demonstrates that the benefits of its project will be widespread within the Cluster;

(b) the Applicant must be registered to do business in the State;

(c) the project for which the Applicant seeks an Implementation Grant must primarily benefit companies within the State;

(d) the Implementation Grant sought must be between \$100,000 and \$500,000, inclusive, and shall be used to implementing a well-defined program to improve the relevant Cluster's effectiveness in one or more specific areas, including, but not limited to, research and development, technology transfer, workforce development, or Cluster marketing; and

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(e) the Applicant must have demonstrated support from the businesses and other stakeholders in the relevant Cluster.

Rule 9. Implementation Grant Application.

(a) An Applicant for an Implementation Grant shall file an Implementation Grant Application in the form prescribed by the Corporation and available on the Corporation's website. The Implementation Grant Application shall require, at a minimum, that the Applicant provide the following information:

(1) the name of the Applicant and contact information for the individual(s) primarily responsible for oversight and management of the Technical Assistance Grant Application;

(2) the Applicant's federal and State tax identification numbers;

(3) the requested Implementation Grant amount;

(4) a description of the relevant Cluster (including data on the types and numbers of companies and level of employment within the cluster), a demonstration of its importance to the State's economy, and description of the geography in which the Cluster operates;

(5) a cluster diagram schematically depicting the Cluster, showing current businesses, suppliers, markets, and supporting institutions and organizations that comprise the Cluster; the current state of collaboration within the Cluster; any new collaboration or other linkages that will result from receipt of the Implementation Grant;

(6) a description of the project for which the Applicant seeks an Implementation Grant, including a description of the need that the project seeks to address; the intended result of the project, including how it will advance the Cluster in the State in the form of, for example, benefits to companies in the State, job creation or retention in the State, or business attraction to the State; and a discussion of the project's importance to the Cluster and how the entities

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operating within the Cluster will benefit from the project;

(7) a statement of the work for the project for which the Applicant seeks an Implementation Grant, including a detailed discussion of the approach to the project and an identification of project deliverables, milestones, and timelines;

(8) a financial narrative that explains why the requested Implementation Grant is necessary and a description of a plan for securing additional funds necessary to complete the project (if necessary) and for sustaining the impact of the project after the Grant is exhausted;

(9) a description of the concrete steps to be taken to ensure that the businesses within the Cluster benefit from the results of the project;

(10) biographies of key individuals who will implement the Project for which the Implementation Grant is sought, including a description of any relevant experience;

(11) descriptions of any external organizations or industry participants that will participate in the project for which it seeks an Implementation Grant, including a description of the commitment made by the external entity or entities and any relevant expertise contributed by the external entity or entities;

(12) letters of support for the project from businesses operating in the Cluster;

(13) a description of how the Applicant will monitor the effectiveness and impact of the project;

(14) a delineation of any other federal, State or municipal incentives, grants, tax credits, or other aid that will or may be received or requested by the Applicant in relation to the Project;

(15) and such other information as the Corporation deems appropriate.

(b) An Applicant may be charged a one-time, non-refundable application fee by the

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Corporation. The Corporation shall annually publish a fee schedule on its website commencing on or before December 31, 2015.

Rule 10. Application Review and Approval.

(a) The Corporation shall conduct a review of the applications for Technical Assistance Grants and Implementation Grants received on a rolling basis in order of receipt until such time as all available funds under the Act have been committed, at which point the Corporation will cease reviewing applications until such time as additional funding becomes available. The Corporation may set periodic application deadlines that will be published on the Corporation's web site from time to time.

(b) Each application shall be reviewed to confirm compliance with the Act and these Rules, and the Corporation may reject any incomplete or deficient application.

(c) The Corporation may require the submission of additional information in connection with any application or the revision of an application, and may permit the resubmission of an application rejected as being incomplete or deficient.

(d) After submission of a complete application and review by the Corporation in accordance with the requirements of the Act and these Rules, the Corporation will determine whether to award a Technical Assistance Grant or Implementation Grant to the Applicant. In selecting Applicants to receive Grants, the Corporation will prioritize those Applicants with demonstrated commitments of matching funds or in-kind services contributed to the project.

(e) In determining whether to approve a Technical Assistance Grant or Implementation Grant, factors the Corporation may consider include, but are not limited to, the following:

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- (1) strength of the Cluster, its stage of development, and its importance to the State's economy;
 - (2) quality and clarity of information on the project, including need, timelines, and deliverables;
 - (3) the degree of support from the businesses operating in the Cluster;
 - (4) caliber and experience of the personnel involved in the project;
 - (5) scale, breadth, and sustainability of the project;
 - (6) the strength of the Applicant's methodology for evaluation impacts of the Project;
- and
- (7) the Project's potential for catalytic impact.
 - (f) If the Corporation determines that it will not approve a Grant for an Applicant, it shall notify the Applicant in writing of such decision.

Rule 11. Grant Agreement.

(a) Upon approval of a Grant for an Applicant, the Corporation and the Applicant will enter into a Grant Agreement before any Grant amount can be provided to the Applicant. The Corporation, in its sole discretion, may cancel an approval if mutually agreeable terms cannot be met within 30 days of notification of the approval.

(b) In order to safeguard the expenditure of public funds and ensure that the disbursement of funds further the objectives of the Act, the Grant Agreement shall include, among others, the following terms:

- (1) the maximum Grant amount;
- (2) a description of the project for which the Grant has been awarded and a requirement that the Grant can only be used for work outlined in that description;

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(3) a provision that Grant payments shall be made in installments upon the completion of specific milestones and the Corporation's receipt of evidence demonstrating that such milestones have been achieved and, if applicable, evidence of actual project costs;

(4) an indemnification provision;

(5) reporting and program evaluation requirements;

(6) a provision prohibiting transfer of the Grant; and

(7) any other provisions that the Corporation determines are appropriate.

Rule 12. Revocation.

(a) In the event that any information provided by the Applicant in its Application is found to be willfully false, the Corporation shall deny the issuance of or revoke any Grant in whole or in part, which revocation shall be in addition to any other criminal or civil penalties that the Applicant and/or the relevant officials of the Applicant may be subject to under applicable law.

(b) The Corporation shall deny the issuance of or revoke any Grant if an Applicant or its successor-in-interest is convicted of bribery, fraud, theft, embezzlement, misappropriation, and/or extortion involving the State, any state agency or political subdivision of the state.

(c) The Corporation may provide for additional rights and remedies in any Grant Agreement, which will be in addition to the rights provided under this Rule.

Rule 13. Discretion and Judicial Review.

(a) The Corporation shall not have any obligation to issue any Grant or make any other award or grant any benefits under the Act or these Rules, and may decline to issue a Grant

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to any Applicant, including those who have submitted a completed Application that meets the eligibility requirements of Rule 6 and/or Rule 8.

(b) A review of an Application shall not constitute a “contested case” under the Administrative Procedures Act, Section 42-35-9 of the General Laws, and no opportunity to object to an Application shall be afforded, nor shall judicial review be available from a decision rendered by the Corporation in connection with any Application.

Rule 14. Administration and Examination of Records.

The Corporation may examine any books, paper, records or memoranda bearing upon the approval of incentives awarded under the Act, and may require the attendance of any person executing any Application, report or other statement, or of any officer or employee of any taxpayer, or the attendance of any other person, and may examine such person under oath respecting any matter which the Corporation deems pertinent or material in determining eligibility for incentives claimed under the Act.

Rule 15. Inspection Rights.

The Corporation shall have the right at reasonable times to make an inspection and to enter upon any property that is the subject of an Application during the term of a Grant Agreement to verify compliance with the Act, the Rules and such other conditions imposed by the Corporation.