

INFRASTRUCTURE AND FACILITIES IMPROVEMENT PROGRAM

Program Guidelines | December 2017

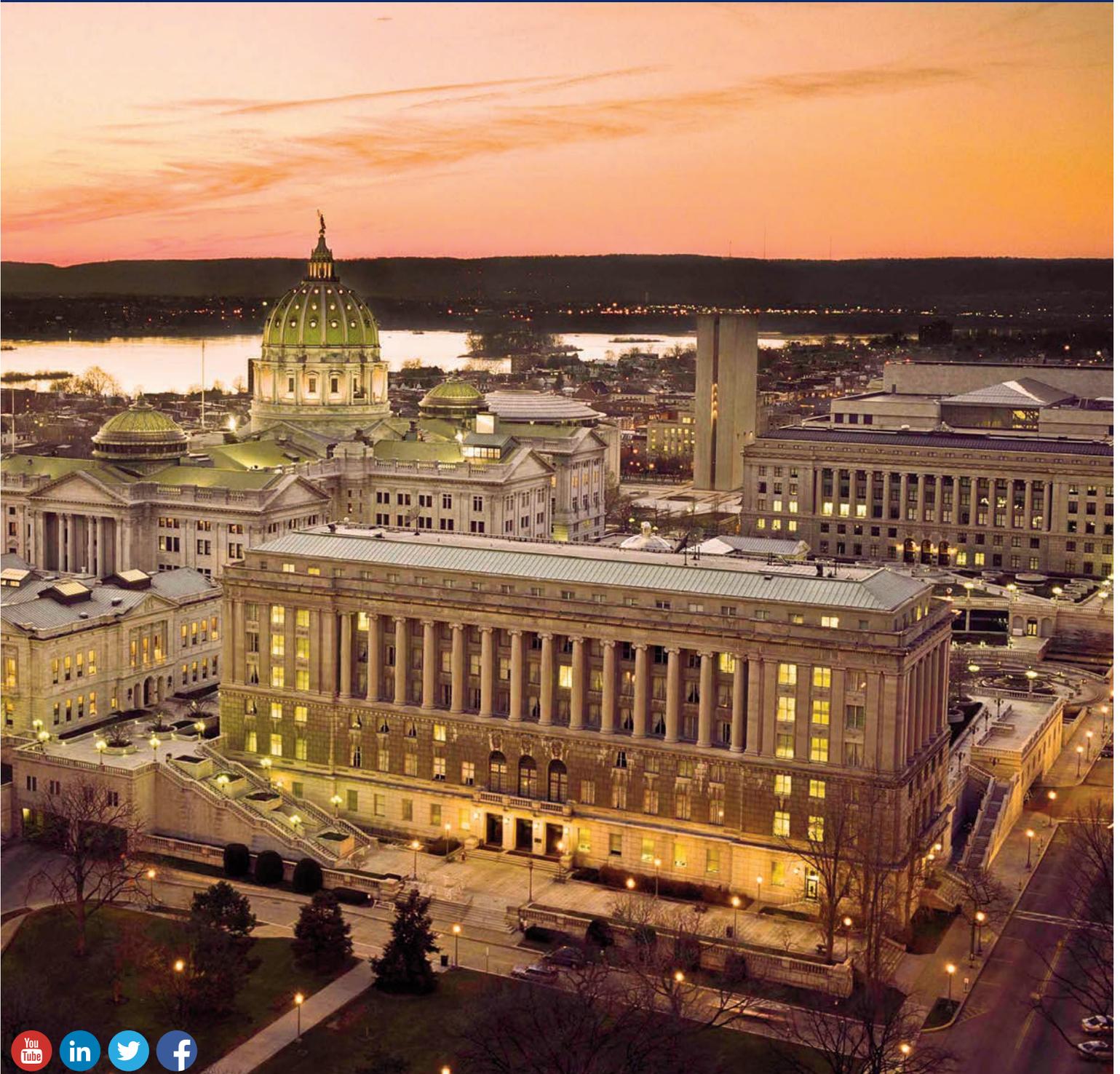


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Section I – Statement of Purpose

The Infrastructure and Facilities Improvement Program ("IFIP") provides financial assistance in the form of multiyear grants that will be used by eligible applicants to service debt that was incurred to pay the costs of certain infrastructure and facilities improvement projects which enhance the economic development of the commonwealth is administered by the Department of Community and Economic Development ("DCED").

Section II – Eligible Applicants

Any of the following entities which have or will issue debt to pay for the costs of an eligible project may apply for financial assistance under IFIP:

1. Industrial and commercial development authority
2. Municipal authority
3. Pennsylvania Economic Development Financing Authority (PEDFA)
4. Pennsylvania Convention Center Authority
5. Sports and exhibition authority
6. Third-class county convention center authority
7. Redevelopment authority

Section III – Eligible Projects

A. Eligible Project Users

Only projects which will be owned, leased, or used in total or in part by one of the following types of entities (the "project user") will be eligible for financial assistance:

1. **Convention center** – a facility owned or leased by a Convention Center Authority and suitable for large public assemblies such as conventions, conferences, trade exhibitions and other business, social, cultural, scientific, and public interest events.
2. **Hospital** – an entity licensed to provide inpatient care and services under either the Public Welfare Code or the Health Care Facilities Act.
3. **Hotel** – an establishment providing overnight accommodations that is associated with a convention center.

4. **Industrial enterprise** – an enterprise other than a mercantile, commercial, or retail enterprise which requires substantial capital and will create significant employment opportunities. This includes but is not limited to office buildings utilized as national or regional headquarters or computer or clerical operations centers.
5. **Manufacturer** – an entity engaged in the giving of new shapes, qualities, or combinations to matter by the application of skill and labor.
6. **Retail enterprise** – an entity or entities, engaged in retail sales, which created or will create at least 200 full-time jobs and which occupies or will occupy at least a 200,000 square foot facility at the project site.
7. **Research and development enterprise** – a for-profit business engaged in the discovery of new, and the refinement of known, substances, processes, products, theories and ideas.

B. Eligible Project Costs

For any project user as defined above, debt service payments on the following project costs are eligible:

1. Infrastructure including: drainage and storm water systems; energy facilities which distribute power; wastewater systems; transportation facilities including roads, parking facilities, sidewalks, bridges, rails, ports, waterways, and airports; pipelines for transporting natural gas; facilities for the transmission of information including telecommunications and cable; water supply facilities; interests in land necessary to construct eligible infrastructure improvements; and engineering, design, and inspection costs associated with the construction of eligible infrastructure.
2. Remediation of existing environmental hazards on lands where the project is or will be located which were not caused or contributed to by the applicant or the project user.
3. Financing charges and other costs and expenses incurred in financing and issuing bonds for the project.
4. Administrative expenses and professional services, including the costs of engineering, financial services, accounting and legal services, rendered in completing the project.
5. Preparation of plans, specifications, studies, and surveys, necessary or incidental to determining the feasibility or practicability of constructing the project.

In addition to the above, if the project user is a manufacturer, hospital, convention center, hotel establishment, or a research and development enterprise the following project costs are also eligible:

- a. Acquisition
- b. Construction, reconstruction, expansion, extension, demolition, improvement or rehabilitation
- c. Remodeling of interests in land, buildings, structures, improvements
- d. Infrastructure costs related to the project.

Section IV – Program Limitations

The following limitations apply to projects utilizing IFIP grant funds:

1. Grants may not be used to pay debt service for projects directly related to gaming.
2. Maximum annual grant amount for any given project cannot exceed \$1,000,000.
3. If sufficient funds are not appropriated to cover the anticipated cost of the grants awarded in any given fiscal year, DCED shall prorate payments among the grant recipients.
4. Grants renewed beyond an initial four-year period may not exceed the incremental growth in sales tax, hotel occupancy tax, and personal income tax revenues realized by the commonwealth as a result of the project. To measure the incremental growth, a baseline will be established by looking at the tax remittances for the tax year in which the project was approved.
5. If the project user is an industrial enterprise, a retail enterprise, a research and development enterprise, or a manufacturer, the grant term may not exceed ten years. If the project user is a hospital, convention center, or hotel, the grant term may not exceed twenty years.
6. Grant funds may only be used to pay debt service related to the permanent financing on eligible projects, and the annual amount of the grant in any one year may not exceed the annual amount of the debt service on the project for that year.
7. Projects that were completed prior to July 1, 2004 are not eligible to receive assistance under IFIP except when the project user is a retail enterprise.
8. Financing for projects receiving IFIP funds may not pledge the full faith and credit of the commonwealth as security for the issued debt.
9. Annual IFIP grants are subject to an appropriation being approved by the General Assembly that is sufficient to pay all of the approved IFIP grants. Therefore, applicants must be able to demonstrate that the project can support the necessary debt without the IFIP grant.

Section V – Application Process

A. Application Procedures

To apply for funding, the applicant must submit the electronic on-line DCED Single Application for Assistance located at dced.pa.gov/programs-funding/. Once submitted, please print 2 copies of the application, and send via US Mail to DCED with the required supplemental information (please see Appendix I of these guidelines) along with the signature page. Please reference the Web ID number on any documents sent with the signature page, or sent via e-mail.

B. Application Evaluation

Upon being satisfied that all application requirements have been met, DCED will forward the application to the Office of the Budget and the Department of Revenue. Those bodies will review the application with particular reference to the sales tax, hotel occupancy tax, and personal income tax withholdings expected to

be generated as a result of the project. As part of this review, the Department of Revenue may supply DCED and the Office of the Budget with information concerning taxes owed or paid by a project user or for which a project user may otherwise be liable, or with respect to any other aspect of an applicant's and project user's tax liability. Based on this review, the Office of the Budget may accept, reject or adjust the estimate of the amount of tax remitted or to be remitted to the commonwealth by the project user from activities resulting from the project as stated in the application. Based on the expected tax revenues and the annual debt service of the project financing, the Office of the Budget will establish a maximum annual amount for the IFIP grant.

After the Office of the Budget has established a maximum annual amount for the grant, DCED will complete its evaluation of the application and may, at its discretion, approve the application and award the applicant a grant in an annual amount not to exceed the maximum annual amount established by the Office of the Budget. In evaluating the application, DCED will consider the following factors:

1. The feasibility of the project
2. The tax revenues to be generated by the project
3. The quality of the jobs to be created or preserved by the project
4. The level of private sector investment in the project
5. Whether the project is located in an area with a particular need for economic development, as shown by high unemployment, declining population, a significant inventory of brownfields or vacant housing, low to moderate household income, or other indicators established by DCED
6. Project readiness
7. Whether or not the project follows key principles of the Commonwealth of Pennsylvania Principles for Growth, Investment and Resource Conservation, such as supporting local government planning.

C. Procedures for Accessing Funds

Upon approval of an application by DCED, a commitment letter and grant agreement will be sent to the applicant explaining the terms and conditions of the grant. The commitment letter and grant agreement must be signed and returned to DCED within 45 days of the date of the commitment letter or the offer may be withdrawn by DCED.

Following the acceptance of an offer by the applicant, a grant agreement will be sent to the applicant for execution. The grant agreement will include provisions which do all of the following:

1. Specify the base amount of the grant per year for the first four years.
2. Specify the total number of years that grant funds may be provided to the grant recipient. If the project user is an industrial enterprise, retail enterprise, research and development enterprise, or a manufacturer, the number of years may not exceed ten years. If the project user is a hospital, convention center or hotel, the number of years may not exceed twenty years.
3. If the base grant amount will be awarded for more than four years, require the grant recipient and/or project user, at least 120 days before the end of the fourth year and each year thereafter, to demonstrate to the satisfaction of DCED, the Secretary of the Budget, and the Department of Revenue that the anticipated tax revenues are equal to or exceed the amount of the grant awarded for the previous year. If DCED, the Secretary of the Budget, and the Department of Revenue determine that the tax revenues will not equal or exceed the base grant amount, the applicant shall be awarded a grant in the amount equal to the amount of anticipated tax revenues for that year.

4. Require the grant recipient to use the grant to pay debt service for the project and to repay all or any portion of a grant if the grant recipient fails to use the grant to pay debt service.
5. Specify that the annual amount of the grant in any one year may not exceed the annual amount of the debt service on the project for that year.
6. If the grant in any one year exceeds the annual payment on debt service in that year, require the grant recipient to repay the amount of the grant for that year which exceeds the payment on debt service for that year.
7. Require the grant recipient to enter into a binding contract with the project user requiring the project user to pay to the grant recipient a sum equal to any payments received by the project user from third parties for infrastructure which is part of the project during the period which the grant recipient is receiving an IFIP grant. Any payment received by the grant recipient under this paragraph must be applied to payment of the debt service for the project.
8. Require the grant recipient to insure that the full amount of annual debt service is paid for the project, regardless of the amount of the grant received.
9. Require the grant recipient to enter into a binding contract with the project user requiring the project user to use the project for the period of time the grant recipient is receiving grants; the grant recipient shall be required to repay all or any portion of a grant if the project user fails to use the project for the period of time the grant recipient is receiving grants.
10. Require the grant recipient to obtain DCED's prior written consent to any change of use of a project during the period in which the grant recipient is receiving a grant from the department, and specify that DCED will not unreasonably withhold its consent to a change of use.
11. Require DCED to prorate payments among all grant recipients if sufficient funds are not appropriated to cover the anticipated cost of the grants awarded in any given fiscal year.
12. Require the project user to timely pay all commonwealth and local taxes and fees that are then due and owing. A local government unit as defined under 53 Pa. C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) or an issuing authority may enter into an agreement or adopt an ordinance or resolution to permit the local government unit or issuing authority to pay, waive, abate, settle, compromise or reimburse any local tax, fee, or other imposition applicable to a project user imposed by any local government unit or issuing authority. The agreement, ordinance, or resolution shall not affect the eligibility of an applicant or a project to receive a grant under this chapter.

Section VI – Miscellaneous Program Requirements

A. Conflict of Interest Provision

An officer, director, or employee of an applicant who is a party to, or who has a private interest in, a project shall disclose the nature and extent of the interest to the governing body of the applicant, and may not vote on action of the applicant concerning the project, nor participate in the deliberations of the applicant concerning the project.

B. Nondiscrimination

No assistance may be awarded to an applicant and the project user under this program unless the applicant and project user certifies to DCED that the applicant and project user shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws. All contracts for work to be paid with Infrastructure and Facilities Improvement assistance must contain the commonwealth's official nondiscrimination clause.

C. Project Records

The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over related parties in the project. DCED requires access to such records, as well as the ability to inspect all work, invoices, materials, and other relevant records at reasonable times and places. Upon request of DCED, the applicant must furnish all data, reports, contracts, documents, and other information relevant to the project.

D. Pennsylvania Prevailing Wage Act

All or a portion of the construction work associated with the project may be subject to the Pennsylvania Prevailing Wage Act, as determined by the Pennsylvania Department of Labor & Industry.

E. Proof of Notification

The applicant must provide proof that the county and host municipality or municipalities have been notified about the intended project.

F. Project Audit

For projects receiving grant funds in excess of \$100,000 an audit from a Certified Public Accountant (CPA) licensed in Pennsylvania listing all project costs must be submitted to DCED within 90 days after expiration of the grant. In the opinion section of the audit, a statement shall be made certifying that commonwealth funds were disbursed in accordance with the terms of the grant agreement.

G. Guideline Provisions

The Infrastructure and Facilities Improvement guideline provisions may be modified or waived by DCED unless otherwise required by law.

H. Accountability of Use of Funds

DCED is required to monitor use of grant and loan funds to ensure compliance with program performance requirements including, but not limited to: job creation and retention, private capital investment, revenue generated, economic development impact, energy efficiency and conservation and job training. Project monitoring and compliance requirements will be set forth in the commitment letter, contract and/or these guidelines.

Section VII – Program Inquiries

Program inquiries should be directed to:

PA Department of Community and Economic Development
Center for Business Financing
The PA Infrastructure and Facilities Improvement Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: (717) 787-6245

These guidelines can also be accessed online at dced.pa.gov.

Appendix I – Supplemental Information

The following supplemental information must be submitted in conjunction with the Single Application for assistance. Remember that if the application is completed online this information must be mailed to DCED. Please be sure to reference the identification number for the application submitted online if you are mailing supplemental information.

- Exhibit 1:** Provide a description of the project and project user which discusses all of the following:
a.) the specific location of the site and project characteristics such as the total acreage and/or square footage of the project; b.) any characteristics of the area in which the site is located that demonstrate a need for economic development; c.) the historical and proposed use of the site; d.) the specific costs and improvements to be paid for with the IFIP grant; e.) current owner of the site; f.) the experience of the project user, including a discussion of previous projects completed; g.) the estimated start and end dates of construction; h.) the number of net new full-time jobs to be created by the project and the number of existing full-time jobs to be preserved by the project.
- Exhibit 2:** A statement of the amount and type of permanent sources of debt being used to finance the project, the identity of the party responsible for repayment of the debt, and the collateral or security to be provided.
- Exhibit 3:** A statement of the amount of grant funds being requested per year including the number of years for which the grant is being requested. If the applicant is requesting a grant for a project of a project user that is an industrial enterprise, a retail enterprise, a research development enterprise, or a manufacturer, the request may not exceed ten years. If the applicant is requesting a grant for a project of a project user that is a hospital, convention center, or hotel establishment, the request may not exceed twenty years.
- Exhibit 4:** Provide the name, address, contact information, and the state tax identification numbers of the Project User, including sales tax, employer account #, and FEIN #. The Project User must be the entity(ies) generating the applicable tax increment.
- Exhibit 5:** Please provide funding commitments for all sources of financing in the project.
- Exhibit 6:** A project cash flow analysis which includes all expenses and revenues covering the period of time from project commencement through stabilization to the full repayment of the debt.
- Exhibit 7:** Attach financials of the Project User, Parent Company, and any other proposed guarantors. Financial statement shall include: Balance sheet, income statement, cash flow statements, and notes to financials.
- Exhibit 8:** Provide financial information from the Project User prepared or reported by an independent certified public accountant projecting for the next four years all of the following: the sales or expected sales tax collected or to be collected by the project user from activities as a result of the project; the expected hotel occupancy tax to be collected by the project user from activities as a result of the project; the expected net increase in personal income tax withheld by the project user as an employer pursuant to Article III of the act of March 4, 1971 (P.L. .6, No.2), known as the Tax Reform Code of 1971, from activities as a result of the project. Include the number of employees per year for the initial 4 years in your assumptions.
- Exhibit 9:** Letter evidencing a firm commitment from the Project User to use the project upon completion.

- Exhibit 10:** A statement as to the estimated cost of the project. The estimate must be prepared by an engineer, architect, or other qualified professional and should be accompanied where appropriate by copies of the signed bids/quotations, contractor estimates, or sales agreements that verify project cost estimates.
- Exhibit 11:** A letter from the appropriate planning agency certifying that the proposed project is in compliance with the comprehensive land use plans and zoning and subdivision codes.
- Exhibit 12:** Provide evidence that the county and host municipality or municipalities have been notified about the intended project.
- Exhibit 13:** A resolution duly adopted by the applicant's governing board formally requesting the grant/loan, designating an official to execute all documents, describing briefly the project scope, and identifying the grant amount requested per year. (*see Appendix II for a Sample Resolution*).
- Exhibit 14:** A copy of the applicant's most recent year-end audit.

Appendix II – Authorized Official Resolution

Be it RESOLVED, that the _____ (Name of Applicant) of _____ (Name of County) hereby request(s) an Infrastructure and Facilities Improvement Program grant of \$ _____ for _____ years from the Department of Community and Economic Development of the Commonwealth of Pennsylvania to be used for _____.

Be it FURTHER RESOLVED, that the Applicant does hereby designate _____ (Name and Title) and _____ (Name and Title) as the official(s) to execute all documents and agreements between the _____ (Name of Applicant) and the Pennsylvania Department of Community and Economic Development to facilitate and assist in obtaining the requested grant.

I, _____, duly qualified Secretary of the _____ (Name of Applicant), _____ (Name of County), PA, hereby certify that the forgoing is a true and correct copy of a Resolution duly adopted by a majority vote of the _____ (Governing Body) at a regular meeting held _____ (Date) and said Resolution has been recorded in the Minutes of the _____ (Applicant) and remains in effect as of this date.

IN WITNESS THEREOF, I affix my hand and attach the seal of the _____ (Applicant), this _____ day of _____, 20____.

Name of Applicant

County

Secretary