**Chapter 2: Eligibility and Rules**

**Eligible Applicants and Other Qualifying Criteria**

**Introduction:**  The purpose of the Rural Community Block Grant (RCBG) funding is to help fund improvements to public infrastructure, publicly regulated utilities, or publicly owned real estate needed to support a business’s development, relocation, or expansion. In order to qualify for RCBG funds the business’s development, relocation or expansion must create jobs, retain jobs, or both.

1. **Eligible Applicants** for the RCBG are:

**Cities** with a population generally less than twenty-five thousand (25,000) or for projects that have a measurable rural benefit and the sole beneficiary of the project cannot be a large city.

**Counties** may apply for countywide projects that have a measurable rural benefit and the sole beneficiary of the project cannot be a large city.

**Indian tribes** may apply if the project site is located on reservation land and within a community of less than 25,000 or the project has a measurable rural benefit and the sole beneficiary of the project cannot be a larger city.

The three eligible applicants may sub-grant RCBG funds to an eligible and the Idaho Department of Commerce (Commerce) approved sub-recipient. Eligible sub-recipients are identified at paragraph “G”.

1. **Threshold factors.** In order for an application to be eligible six threshold factors must be met.
2. the applicant must be eligible,
3. the project must consist of eligible activities,
4. administrative capacity
5. a public hearing on the project must be held.
6. business job commitment (agreement or letter)
7. business’s ability to finance their portion of the project

C. **Boundary Requirements.** Applicants shall only apply for an infrastructure project that lies within their jurisdictional or impact area boundary.

D. **Application Cycle Requirements.** Applicants may apply for one RCBG in any quarterly application cycle. If applicants have an existing RCBG, it must be under contract prior to submitting a new RCBG application. A county or a city shall not be eligible to apply for a grant if it has unresolved audit findings, unresolved disallowed costs, or unresolved prior performance problems from any current or previous Community Development Block Grant, RCBG or Idaho Gem Grant.

E. **Joint Applications.** A city, county or tribe may apply jointly when solving a shared opportunity requires mutual action. A shared opportunity must lie in areas of contiguous or overlapping jurisdiction, and must be documented in the application. For administrative purposes, one key applicant must be designated as the responsible unit for the project. Written cooperation agreements must also be submitted. The cooperation agreement must cover the entire project from application to operation and maintenance.

F. **Sub grants to Eligible Sub-Recipients.** A Grantee (city, county, or tribe) may sub-grant RCBG funds to an eligible, and Commerce approved, sub-recipient that is carrying out an eligible activity. Typical eligible and approved sub-recipients include Idaho’s council of governments, urban renewal districts, or economic development districts.

Grantees are responsible for ensuring that RCBG funds are utilized by the sub-recipient in a manner

that is compliant with the requirements of these RCBG rules and other applicable state or local laws.

Grantees remain responsible for carrying out environmental protection responsibilities. The sub

recipient agreements will need to be executed and should be drafted and included in the application.

**Eligible and Ineligible Project Activities**

A Business Assistance project may consist of one or more eligible activities which are to be undertaken with the RCBG funds and any other funds committed to the project. The principal activity which directly addresses the business needs shall represent a majority of funds requested; other activities must be incidental to, and in support of, the principal business’ need.

A. **Eligible business assistance activities are**:

1. Projects designed to construct or expand public infrastructure, such as water, wastewater, transportation, power, telecommunication, or other infrastructure systems that are necessary for a specific business development, relocation or expansion. The project assisted business must document the creation or retention of jobs.

2. Projects designed to construct or expand publicly regulated utilities or infrastructure, such as natural gas, electrical systems or railroads that are necessary for a specific businesses development, relocation, or expansion. The project assisted business must document the creation or retention of jobs.

1. Acquisition of land or real estate by an eligible grantee or sub-recipient for purpose of leasing to a business. The project assisted business must document the creation or retention of jobs. In order to be eligible the following conditions and documentation must be completed and met:

a. If required by Commerce, a fair market rent analysis must be prepared to demonstrate the rents are comparable to similar land or real estate in the area. Typically, rent payment must be at fair market value for the locality.

1. An ASTM Phase I Environmental Assessment or 3rd party real estate inspection
2. An Appraisal Report
3. Commitment to Title Insurance Policy
4. Real Estate Purchase Agreement
5. Copy of the Lease Agreement

g. A Program Income Re-use Commitment Letter shall be developed and included in the application.

h. Grant assisted construction must be general in nature and not specific to the business’ criteria. Leasehold improvements are not an allowable RCBG expense.

i. If required by Commerce, a deed restriction or restrictive covenants may be placed on the land or real estate to ensure the continued ownership and use of property remain RCBG eligible.

Note: The sale of RCBG assisted or improved land or real estate cannot occur without Commerce approval. If approved the sale of the land or real estate must be at the appraised value and monies received are considered program income and are subject to the terms of the grant contract/property agreement.

j. Written property management policies and practices shall be included in the application.

1. New construction, reconditioning or remodeling of an industrial or commercial building owned by an eligible grantee or sub-recipient for which the building will be leased to a business. The project assisted business must document the creation or retention of jobs. In order to be eligible the following conditions and documentation must be completed and met:

a. If required by Commerce, a fair market rent analysis must be prepared to demonstrate the rents are comparable to similar land or real estate in the area. Typically, rent payment must be at fair market value for the locality.

* 1. An ASTM Phase I Environmental Assessment or 3rd party real estate inspection.
  2. Proof of Ownership of Record for the real estate.

1. Title Insurance Policy
2. Warranty Deed (or other Deed form)
3. Deed of Trust (when trustee involved)
   1. Copy of the Lease Agreement.

e. A Program Income Re-use Commitment Letter shall be developed and included in the application.

f. Grant assisted construction must be general in nature and not specific to the business’ criteria. Leasehold improvements are not an allowable RCBG expense.

g. If required by Commerce, a deed restriction or restrictive covenants may be placed on the land or real estate to ensure the continued ownership and use of property remain RCBG eligible.

Note: The sale of RCBG assisted or improved land or real estate cannot occur without Commerce approval. Sale of the property must be at the appraised value and monies received are considered program income and are subject to the terms of the grant contract/property agreement.

h. Written property management policies and practices shall be included in the application.

5.Administrative Activities.Payment of reasonable administrative costs related to the planning and implementation of grant activities, including the management, coordination and monitoring of activities necessary for the completion of successful grant projects. This shall not exceed five percent of the RCBG.

6. Design Professional Services. Payment of reasonable design professional services related to a construction project that meets all RCBG requirements.

7. Mixing Eligible and Ineligible Activities. A public facility eligible for RCBG assistance may be funded even if it is part of a multiple‑use building containing ineligible uses if:

a. The eligible portion of the building is a designated area of the building;

b. The applicant can determine the costs attributable to the eligible use or eligible portion of the facility as distinct from the overall costs of the facility;

8. Allowable Costs in Application. An applicant who is submitting an application in any grant category may be reimbursed for some of the administrative or engineering costs incurred after the submission of the RCBG grant application. No such expenses incurred will be reimbursed unless a grant is awarded. Such expenses are the responsibility of the applicant if a grant is not awarded. Any such administrative costs become part of and cannot exceed the five percent limitation on administrative costs of the grant.

B. **Ineligible Activities**

As a general rule, any activity not authorized in these rules is ineligible to receive RCBG funds. This section identifies two areas that are ineligible and provides guidance in determining eligibility of other activities frequently associated with economic development. The following activities may not be carried out using RCBG funds:

1. General Conduct of Government**.** Assistance to buildings, or portions thereof, used predominantly for the general conduct of government. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body of the recipient meets regularly, courthouses, jails, police stations, and other state or local government office buildings. Also ineligible are school buildings, school offices, and university and college vocational-technology facilities.

2. Local Government Expenses. Operating and maintenance expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with RCBG funds.

3. Political Purposes. RCBG funds shall not be used to finance facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.

4. Churches. Assistance may not be used for construction, rehabilitation, and removal of architectural barriers for the operation of active churches or structures used for religious purposes.

5. Equipment. The purchase of equipment with RCBG funds is generally ineligible. The purchase of equipment, fixtures, motor vehicles, furnishings or other personal property, which is not an integral structural fixture, is generally ineligible. RCBG funds may not be used to purchase such items for use by a grantee or its sub-recipients in the administration of activities assisted with RCBG funds.

6. Operation and Maintenance Expenses. Payment of operating and maintenance expenses. As a general rule, any expense associated with repairing, operating, or maintaining public facilities and services is ineligible. Examples of ineligible operating and maintenance expenses are maintenance and repair of streets, water and sewer facilities are ineligible costs. Examples of maintenance and repair activities for which RCBG funds include: the filling of pot holes in streets, repairing of cracks in sidewalks, payment of salaries for staff, utility costs.

C. Change Use of Real Property

1. A grantee shall not change the use or beneficiaries of real property, without the approval of Commerce. These standards shall apply from the date of closing on the real property (when title and funds are transferred) until ten years after grant closeout.

2. The grantee shall follow a citizen participation process to provide affected citizens reasonable notice and opportunity to comment on any proposed changes. If, after consultation with affected citizens, the grantee determines to change the use of the real property to a use which is an Ineligible Use, the grantee shall reimburse Commerce’s RCBG program the fair market value of the property. The reimbursement shall be the prorated share of the RCBG funds initially paid for the property plus any RCBG funding improvements. The fair market value shall be established by an appraisal. After receipt of the reimbursement to the RCBG program, the real property is no longer subject to RCBG.

D. Conflict of Interest

The RCBG Program is subject to Idaho Code 59-701 – 705, as amended. It is the policy of the RCBG Program that the grant management shall be conducted in an equitable manner and those public funds shall be expended in a fair, efficient and effective manner. Therefore every effort should be made to assure the public that no conflicts of interest exist in the management of the program funds and that those cases that do occur from time to time shall be disclosed and that appropriate actions have been taken to avoid and abstain from conflict of interest situations.

E. Grant Closeout and Audit Requirements

Grant closeout will be in accordance with the state requirements and shall be completed using the forms contained in this handbook. Grantees may require sub‑recipients to provide audits conducted according to applicable state laws, regulations and standards.

F. Sanctions Involving Grantees

Commerce is responsible for determining when a RCBG grantee has or has not complied with all appropriate requirements of this rule.

Commerce will evaluate the appropriateness of sanctions on a case by case basis. However, Commerce will endeavor to allow the grantee the opportunity to propose a workable and timely resolution of matters found to be in non-compliance. In determining the level of sanctions, Commerce may decide to use any one or a combination of the following sanctions:

1. Letter of warning to the grantee requiring immediate corrective actions;

2. Withholding of unexpended grant funds until compliance is achieved;

3. Cancellation of unexpended grant funds and termination of the grant contract;

4. Require all accumulated or future program income to be reimbursed to Commerce;

5. Require the grantee to pursue appropriate legal remedies;

6. Require the grantee to reimburse the state an appropriate amount with funds recovered from appropriate legal remedies;

7. Require all accumulated or future program income to be transferred to another approved activity or project;

8. Prohibit a grantee from participating in the RCBG program for a period of time determined by Commerce;

9. Prohibit a grantee from participating in certain activities with RCBG funds or program income; and

10. Require a grantee to reimburse Commerce the full amount of the RCBG funds that are not in compliance with RCBG rules, the grant contract and the assurances.