

CITY AND COUNTY OF HONOLULU
DEPARTMENT OF BUDGET AND FISCAL SERVICES
ADMINISTRATIVE RULES

Adoption of Title 3, Chapter 2

City and County of Honolulu Administrative Rules

August 8, 2024

SUMMARY

Title 3, Chapter 2, City and County of Honolulu
Administrative Rules, entitled "Transit Construction Mitigation
Fund Program" is adopted.

CITY AND COUNTY OF HONOLULU ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF BUDGET AND FISCAL SERVICES

CHAPTER 2

TRANSIT CONSTRUCTION MITIGATION FUND PROGRAM

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\$03-2-1 Purpose. The purpose of this chapter is to set the terms and application procedures for the transit construction mitigation fund established to receive and expend moneys to mitigate negative economic impacts from the construction of the Rail Project. [Eff. **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH §§ 6-55.2)

\$03-2-2 Definitions. The following definitions apply unless the context clearly indicates or requires a different meaning:

"Business" means any sole proprietorship, partnership, joint venture, business trust, limited liability company, corporation, or other business entity.

"City Block" means the smallest area designated on an official city map, bounded on all sides by intersecting public streets.

"Grant" means the transit construction mitigation fund grant.

"Rail Project" means the city Honolulu High-Capacity Transit Corridor Project.

[Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH §§ 6-55.2)

§03-2-3 Administration. The director of budget and fiscal services shall administer the transit construction mitigation fund. [Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.6)

§03-2-4 Grant Terms and Conditions. Grants may only be used to mitigate negative economic impacts on businesses from the Rail Project provided that:

- (1) Grants may not be used to mitigate negative economic impacts from beyond the construction of the Rail Project;
- (2) Grants per eligible business may not exceed \$10,000 per fiscal year;
- (3) No more than five per cent (5%) of the moneys deposited into the transit construction mitigation fund may be used to administer the grant by the director of budget and fiscal services;
- (4) No more than five per cent (5%) of the moneys deposited into the transit construction mitigation fund may be used to conduct business outreach activities by the agency designated by the mayor; and
- (5) Expenditures from the transit construction mitigation fund must be in accordance with prescribed laws and procedures applicable to the expenditure of city revenues.

[Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.4)

§03-2-5 Grant Eligibility. To be eligible for a grant, a business shall:

- (1) Be a business that is majority-owned by city residents;
- (2) Be a business that services customers primarily at the business's physical location, which is a permanent building, structure or unit, within a city block of active Rail Project construction as defined in the application (i.e., the street, avenue, highway, etc., on which the rail guideway construction is proceeding);

- (3) Generate no more than \$750,000 in annual revenue on a consolidated basis from all operations of the business;
- (4) Have fifteen (15) or fewer employees;
- (5) Has been opened for business before January 1, 2022, and is currently open for business;
- (6) Demonstrate a 10% reduction in business revenue as provided in the grant application.

[Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.5)

§03-2-6 Grant Application Procedure. (a) Completed grant applications must be submitted to the department of budget and fiscal services or its designated service provider by the application deadline. A completed grant application includes the following:

- (1) Documents providing tangible proof of business ownership and the identification of current business owners, such as the business's:
 - (A) state BB-1 basic business application form;
 - (B) articles of incorporation;
 - (C) partnership agreement;
 - (D) articles of organization for limited liability corporation; or
 - (E) other documents accepted by the department of budget and fiscal services as tangible proof of business ownership.
- (2) Documents providing tangible proof that a majority of business owners are city residents. Required documents for each business owner includes at least two (2) of the following documents, one of which must be a document from A, B, C or D:
 - (A) state driver's license;
 - (B) city real property tax bill;
 - (C) government-issued identification;
 - (D) voter registration;
 - (E) car registration;
 - (F) lease agreement;
 - (G) mortgage statement;
 - (H) utility bill for business owner's personal residence; or
 - (I) other documents accepted by the department of budget and fiscal services as tangible proof of residence.
- (3) Executed lease, license, or mortgage

document for the business property with a commencement date before January 1, 2022.

- (4) Department of commerce and consumer affairs certificate of vendor compliance that is 'compliant' (not over sixty (60) days old at the time of application).
- (5) For sole proprietors that are not registered with the department of commerce and consumer affairs, the business's state general excise tax license is required.
- (6) For sole proprietors that are not registered with the department of commerce and consumer affairs, copies of federal and state tax clearances (not over sixty (60) days old at the time of application).
- (7) Most recent Internal Revenue Service Form 941 to verify that the business has fifteen (15) or fewer employees.
- (8) Copies of filed business federal and state income tax returns with all supporting schedules for the prior three years from the date of the application.
- (9) Internal Revenue Service W-9 form with all fields completed and the form signed.
- (10) If the business owns real property, a printout from the city's department of budget and fiscal services real property assessment division to verify that business's real property tax payments are current.
- (11) Other documents or information the department of budget and fiscal services determines to be relevant to verify the eligibility of the business.

(b) Completed grant applications will be evaluated and approved on a first-come, first-served basis until funds are exhausted. Grant applications with missing, invalid or expired requirements or information will be deemed incomplete. Businesses with incomplete grant applications lose priority placement and will be required to resubmit their grant applications. Businesses have only one opportunity to resubmit an application. An application that has been resubmitted is considered a new application.

[Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.6)

§03-2-7 Outreach. The mayor shall designate an

agency to conduct outreach activities with businesses that may be eligible for grants. [Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.7)

§03-2-8 Grant Award Procedure. (a) The department of budget and fiscal Services or its designated service provider will evaluate each grant application based on the following criteria. Applications that meet criteria requirements will be recommended for award.

- (1) Applicant has met all eligibility and documentation requirements.
- (2) Applicant substantiated a business revenue decline of at least ten per cent (10%) due to rail construction activity.
- (3) Other criteria the director of budget and fiscal services determines to be relevant.

(b) The director of budget and fiscal services or the director's designee will review each grant award recommendation and issue a final award decision.

(c) Once a final award decision is made, the department of budget and fiscal services or its designated service provider will prepare a notice of award to include grant award terms and conditions and the award payment process. Each business selected for funding will be required to register a vendor account on the Honolulu Vendor Self Service online portal.

(d) A notice of award will be sent to each business selected for funding. Upon acceptance of the notice of award and compliance with payment requirements, a grant award payment will be issued to the business.

[Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.6)

§03-2-9 Use of Grant Funds. (a) Grant funds shall only be used for business expenses defined by the Internal Revenue Service as ordinary and necessary expenses incurred to operate the business. This includes advertising, payroll and benefits, utilities, insurance, rent/lease/mortgage and property taxes for the business.

(b) Grants funds cannot be used for non-business related expenses, including but not limited to government fines and penalties, illegal activities, lobbying expenses, and political contributions.

[Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.6)

§03-2-10 Grant Ineligibility. (a) A business that provides false or misleading information in the grant application or supporting documents (e.g., misrepresenting facts about revenue, facilities, personnel, etc.) will have its application rejected. The business will be ineligible to reapply for the grant.

(b) A business that has misused funds from a previous Transit Construction Mitigation Fund grant award will be ineligible to reapply for the grant.

[Eff **SEP 19 2024**] (Auth: HRS § 91-4; ROH § 6-55.6) (Imp: ROH § 6-55.6)

DEPARTMENT OF BUDGET AND FISCAL SERVICES

Title 3, Chapter 2, City and County of Honolulu Administrative Rules entitled "Transit Construction Mitigation Program" were adopted on August 8, 2024, following a public hearing held on August 1, 2024, after public notice was given on June 30, 2024, in the Honolulu Star-Advertiser and on the Department of Budget and Fiscal Services website.

The foregoing rulemaking action shall take effect ten days after filing with the Office of the City Clerk.



ANDREW KAWANO, Director

APPROVED AS TO FORM
AND LEGALITY:



Deputy Corporation Counsel
REID M. YAMASHIRO

APPROVED this 9 day of
September, 2024.



RICK BLANGIARDI, Mayor
City and County of Honolulu

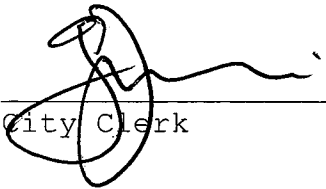
CERTIFICATION

I, ANDREW KAWANO, in my capacity as Director of the Department of Budget and Fiscal Services, do hereby certify that the foregoing is a full, true and correct copy of Title 3, Chapter 2, City and County of Honolulu Administrative Rules, entitled "Transit Construction Mitigation Fund Program" that were adopted on August 8, 2024, following a public hearing held on August 1, 2024, after public notice was given on June 30, 2024, in the Honolulu Star-Advertiser.



ANDREW KAWANO, Director

Received this 9th day of
September, 2024.



City Clerk