

DELAWARE ECONOMIC DEVELOPMENT OFFICE

OFFICE OF THE DIRECTOR

Statutory Authority: 29 Delaware Code, Section 5005(11) (29 **Del.C.** §5005(11))

FINAL

ORDER

Guidelines Governing the Administration of the Neighborhood Building Blocks Fund

Pursuant to 29 **Del.C.** §10113(b)(5) and the authority granted to the Director of the Delaware Economic Development Office ("DEDO") by 29 **Del.C.** §5005(11), and in accordance with the Allocation Plan and §39 of the FY2015 Budget Act (79 **Del. Laws**, c. 290), the Neighborhood Building Blocks Fund Board ("Board") adopts the attached Guidelines published in the October edition of the Delaware *Register of Regulations*.

SUMMARY OF THE EVIDENCE

1. On November 19, 2013, the Delaware Department of Justice ("DOJ"), together with the United States and five other attorneys general, entered into a Settlement Agreement with JP Morgan Chase & Co. resolving certain claims related to the securitization of residential mortgage loans (the "Settlement"). Under the Settlement Agreement, the settlement funds received by the State of Delaware in connection therewith must be used to remediate harms to the State resulting from the conduct giving rise to the Settlement.

2. The Delaware General Assembly has approved the use of the Settlement Funds in accordance with § 39 of the FY2015 Budget Act (79 **Del. Laws**, c. 290) and that certain Allocation Plan approved by the Joint Finance Committee. The Allocation Plan provides that \$1,000,000 of the Settlement Funds (the "Initial Allocation") shall be used to create the Neighborhood Building Blocks Fund ("Fund") within DEDO to "support neighborhood revitalization programs, neighborhood associations and other community groups, law enforcement, [and] local governments, including grants to or other stakeholders for community development, public protection, urban beautification, or any other purposes that have the effect of reducing crime or otherwise strengthen neighborhoods."

3. To the extent that additional monies are added to the Fund from any source, these Guidelines shall govern the process of applying for grants of such funds, except as otherwise set forth herein or unless otherwise determined by the Board.

4. The Board held a public meeting on September 15, 2014, duly noticed in accordance with 29 **Del.C.** ch. 100, and enacted the Guidelines.

5. The purpose of these Guidelines is to establish (a) procedures governing the administration of the Fund by the Board; (b) the process for applying to the Board for Grants or other assistance; (c) pre-approval and post-approval procedures in connection with the issuance of Grants or other assistance; and (d) criteria for the Board's approval or disapproval of an application for Grants or other assistance under the Fund.

6. The Guidelines were published in the *Register of Regulations* on October 1, 2014. Following publication a period of thirty (30) days was held open for written comment from the public.

7. No written comments were received by the Board during the public comment period.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The public was given notice and an opportunity to provide the Board with comments in writing on the proposed Guidelines.

2. There were no public comments provided to the Board during the public comment period.

3. The purpose of the Neighborhood Building Blocks Fund is to support neighborhood revitalization programs, neighborhood associations and other community groups, law enforcement and local governments, including grants to or other stakeholders for community development, public protection, urban beautification, or any other purposes. The programs supported by the Board will have the effect of reducing crime or otherwise strengthening neighborhoods.

4. The proposed Guidelines establish a procedure to efficiently administer applications while providing for diversity of community input and effective use of resources to enhance neighborhoods and reduce crime.

5. These Guidelines are promulgated under the authority granted to the Director of DEDO by 29 **Del.C.** §5005(11), and in accordance with the Allocation Plan and § 39 of the FY2015 Budget Act (79 **Del. Laws**, c. 290) and the Delaware Administrative Procedures Act, 29 **Del.C.** §10113(b)(5).

DECISION AND ORDER CONCERNING THE REGULATIONS

Having found that the proposed changes to the regulations are necessary as outlined herein, the Board finds that the regulations shall be adopted as final in the form as proposed. The exact text of the regulations as appeared in the Delaware *Register of Regulations* is attached to this order. These changes will become effective ten days following publication of this order in the Delaware *Register of Regulations* on December 1, 2014.

IT IS SO ORDERED this 3rd day of November, 2014 by the Neighborhood Building Blocks Fund Board.

Anas Ben Addi
Constance C. Holland
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Guidelines Governing the Administration of the Neighborhood Building Blocks Fund

1.0 Introduction

- 1.1 Improving the quality and availability of housing is an essential component of any strategy to build and maintain strong neighborhoods. However, building and maintaining strong neighborhoods requires more than improving housing opportunities for residents. It also requires thoughtful and coordinated efforts of state and local governments, neighborhood associations, nonprofit and community organizations, and other stakeholders to enhance economic development, reduce crime, and otherwise improve the quality of life of residents in our communities.
- 1.2 The Neighborhood Building Blocks Fund is intended to support crime reduction, neighborhood revitalization, and economic development programs statewide, including without limitation programs in and around Downtown Development Districts and communities that are part of DOJ's Building Blocks Initiative.

2.0 Background and Authorization

- 2.1 On November 19, 2013, DOJ, together with the United States and five other attorneys general, entered into a Settlement Agreement with JP Morgan Chase & Co. resolving certain claims related to the securitization of residential mortgage loans (the "Settlement"). Under the Settlement Agreement, the settlement funds received by the State of Delaware in connection therewith must be used to remediate harms to the State resulting from the conduct giving rise to the Settlement.
- 2.2 The Delaware General Assembly has approved the use of the Settlement Funds in accordance with §39 of the FY2015 Budget Act (79 **Del. Laws** Ch. 290) and that certain Allocation Plan approved by the Joint Finance Committee. Among other things, the Allocation Plan provides that \$1,000,000 of the Settlement Funds (the "Initial Allocation") shall be used to create the Neighborhood Building Blocks Fund within the Delaware Economic Development Office ("DEDO") to "support neighborhood revitalization programs, neighborhood associations and other community groups, law enforcement, [and] local governments, including grants to or other stakeholders for community development, public protection, urban beautification, or any other purposes that have the effect of reducing crime or otherwise strengthen neighborhoods."
- 2.3 These Guidelines are promulgated under the authority granted to the Director of DEDO by 29 **Del.C.** §5005(11), and in accordance with the Allocation Plan and §39 of the FY2015 Budget Act (79 **Del. Laws** Ch. 290).
- 2.4 To the extent that additional monies are added to the Fund from any source, these Guidelines shall govern the process of applying for grants of such funds, except as otherwise set forth herein or unless otherwise determined by the Board.

3.0 Purpose

The purpose of these Guidelines is to establish (a) procedures governing the administration of the Fund by the Board of the Neighborhood Building Blocks Fund (the "Board"); (b) the process for applying to the Board for Grants or other assistance; (c) pre-approval and post-approval procedures in connection with the issuance of Grants or other assistance; and (d) criteria for the Board's approval or disapproval of an application for Grants or other assistance under the Fund.

4.0 Definitions

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

"Applicant" shall have the meaning set forth in subsection 6.1.

"Application" means an application made to the Board on such form or forms, together with all relevant attachments, as the Board may, in its sole discretion, require in connection with the administration of the Fund.

“Board” means the Board of the Neighborhood Building Blocks Fund.

“Building Blocks Initiative” means the DOJ initiative to support crime reduction and neighborhood revitalization programs statewide, through the use of criminal nuisance abatement in combination with community outreach and community support. The Building Blocks Initiative is led by the Crime Strategies Unit of the Criminal Division.

“Crime Strategies Unit” is the unit within DOJ created to focus on crime prevention in communities and neighborhoods.

“DEDO” means the Delaware Economic Development Office.

“DOJ” means the Delaware Department of Justice.

“DOJ Board Members” means the members of the Board appointed by the Attorney General.

“Downtown Development District,” “District,” and “DDD” means any district created in accordance with the Downtown Development Districts Act, 22 **Del.C.** §1901 *et seq.*

“DSHA” means the Delaware State Housing Authority.

“Final Approval” means the final approval of an Application by the Board in accordance with the procedures set forth herein.

“Fund” means the Neighborhood Building Blocks Fund.

“Grant” means a grant allocated in accordance with these Guidelines.

“Initial Allocation” means the \$1,000,000 allocated to the Fund by the Delaware General Assembly in accordance with §39 of the FY2015 Budget Act (79 **Del. Laws** Ch. 290).

“OSPC” means the Office of State Planning Coordination.

“Project” means the specific intended use of the proceeds from the Fund.

“Public Sponsor” shall mean the State of Delaware or any agency or instrumentality thereof, or County, Municipality, local political subdivision, instrumentality, agency, body politic, or similar entity, within the State of Delaware.

“Reviewing Agency” means the agency responsible for conducting an initial review of an Application and making a written recommendation to the Board in connection therewith, in accordance with the procedures set forth in subsection 7.3 herein.

“State Agency” means any department or agency of the Executive Branch, as well as OSPC.

“State Agency Members” means the DEDO Director and the members of the Board appointed by the DEDO Director in accordance with subsection 5.1.2 herein.

5.0 Board of the Neighborhood Building Blocks Fund

5.1 Composition. The Fund shall be governed by the Board, which shall consist of seven (7) members as follows:

5.1.1 The Director of DEDO or his designee, who shall serve as Chair;

5.1.2 Two (2) additional State Agency members appointed by the DEDO Director;

5.1.3 Three (3) members appointed by the Attorney General; and

5.1.4 One (1) member appointed by the DEDO Director, upon the concurrence of all of the foregoing members.

5.2 Powers. The Board shall have the power:

5.2.1 To solicit proposals for the use of the Fund from any person or entity, or through public notices;

5.2.2 To review and prioritize any applications or proposals for grants in a manner that is coordinated to the greatest degree possible with DOJ's Building Blocks Initiative and with the successful implementation of DDDs throughout the State;

5.2.3 To authorize DEDO to grant funds from the Fund; and

5.2.4 To establish committees, to enlist the assistance of state agencies to review grant applications, to contract for consultation or expert services in connection with the effectuation of its mission, and to have such other powers as are necessary to conduct the affairs of the Fund in accordance with the purposes set forth herein.

5.3 Meetings.

5.3.1 Meetings of the Board shall occur at least quarterly.

5.3.2 All meetings of the Board shall be noticed and conducted in accordance with Delaware's Freedom of Information Act (“FOIA”), 29 **Del.C.** §10001 *et seq.*

5.3.3 Regular meetings of the Board shall be held at the date, time, and location designated by the Chair, or in the absence of action by the Chair, by at least four (4) members of the Board. Members may attend meetings in person or via phone or teleconference.

- 5.3.4 If any member is unable to attend a meeting of the Board, such member, by written notice to the Chair no later than three (3) business days before such meeting, may designate another Board member as a proxy or send another person as a substitute. Any substitute designated in accordance with subsection 5.3.4 shall have all powers at such meeting, including the power to vote, as the member of the Board for whom such substitute is acting.
- 5.3.5 A quorum shall consist of a majority of the members of the Board, so long as at least one (1) DOJ Member and one (1) State Agency Member are present. At any noticed meeting at which a quorum is present, any power of the Board may be exercised, including the power to vote upon proposed grants or other uses of the Fund. If at any meeting, less than a quorum is present in person or by phone or teleconference, the Board may adjourn the meeting and re-notice it at such time as a quorum may participate.
- 5.3.6 The consent of a majority of the Board members present shall be required for approval on any vote.
- 5.3.7 The Chair shall appoint a person to keep minutes of all meetings. DEDO shall maintain such minutes in accordance with 29 Del.C. §10004(f). A copy of the minutes shall be circulated to each Board member within two weeks after each meeting.
- 5.4 Coordination with Downtown Development Districts and DOJ Crime Strategies Unit.
 - 5.4.1 To the greatest extent possible, the Board shall work to coordinate with the efforts of the Downtown Development District initiative and the DOJ's Crime Strategies Unit.
 - 5.4.2 The Board will support the implementation and ongoing success of DDDs throughout the State by inviting representatives from each municipality with a DDD to present to the Board information about the DDD, and identify any actions that would enhance community development, public protection, urban beautification, or any other actions that would have the effect of reducing crime or otherwise strengthening the neighborhoods within the DDD.
 - 5.4.3 Among other strategies, the Crime Strategies Unit shall be working to weed out nuisance properties in high crime areas throughout the State. The Fund is designed to play a key role in the "seeding" component of a "weed and seed" strategy that will be the focus of the DOJ Building Blocks Initiative. Accordingly, the head of the DOJ Crime Strategies Unit shall attend each meeting of the Board, and shall present to the Board at such meetings a summary of the current efforts of the DOJ Crime Strategies Unit.
- 5.5 Vacancies.
 - 5.5.1 Any Board member may resign at any time, and such resignation is effective immediately upon notice to the Chair, copied to all other Board members.
 - 5.5.2 Any agency appointing a member to the Board may withdraw such appointment at any time and appoint another member, effective immediately upon notice to the Chair, copied to all other Board members.
 - 5.5.3 Any vacancy occurring in the Board shall be filled by the agency or agencies that appointed such member.
 - 5.5.4 If DOJ or any of the State Agency members withdraw their support for the Board member appointed by DEDO with the concurrence of the foregoing agencies, such member shall no longer serve on the Board, effective immediately upon notice by such agency to the Chair and all other Board members.

6.0 Grants

- 6.1 Applicants. Any natural person, community organization or neighborhood association, not-for-profit, for profit, or governmental entity (or subdivision thereof) are eligible to apply for Grant funding.
- 6.2 Eligible Projects. Monies from the Fund shall support neighborhood revitalization programs, including Grants to Applicants for community development, public protection, urban beautification, or any other purposes that have the effect of reducing crime or otherwise strengthening neighborhoods within the State of Delaware. Examples of Projects that may be eligible for Grant funding include, but are not limited to:
 - 6.2.1 Planning activities, as set forth in subsection 6.3;
 - 6.2.2 Pilot nuisance/law enforcement programs, including without limitation pilot initiatives relating to liquor stores in or adjacent to DDDs or areas that are the focus of the DOJ Building Blocks Initiative;
 - 6.2.3 Neighborhood crime detection cameras and associated software and hardware;
 - 6.2.4 Neighborhood lighting and/or streetscape improvements;
 - 6.2.5 Neighborhood beautification programs;
 - 6.2.6 Urban gardens or other projects that create, expand, or renovate urban parks or streetscapes.
 - 6.2.7 Playground equipment, recreational equipment or other materials that enhance communities and serve to reduce crime.
 - 6.2.8 Other Projects designed to reduce crime or revitalize neighborhoods that are sustainable without future grants from the Fund.
- 6.3 Initial Allocation Set-Aside for Planning Activities.

- 6.3.1 Of the Initial Allocation, up to \$350,000 shall be allocated to support or reimburse local governments for the development of neighborhood-specific or city-wide strategic plans, comprehensive plans, or other plans focused on economic development, crime reduction, residential development or other similar revitalization efforts.
- 6.3.2 Of such funds, priority shall be given to requests by cities, towns, and unincorporated areas for reimbursement of the costs of generating applications for DDD designation. Effective June 15, 2015, any unused balance of the foregoing allocation shall be available for any qualified project as determined by the Board.

7.0 Application Procedures

7.1 Obtaining and Submitting Applications.

7.1.1 Applicants may obtain Application forms by:

- 7.1.1.1 Downloading the Application from the DEDO website at <http://dedo.delaware.gov/>;
- 7.1.1.2 Requesting an Application by contacting the Delaware Economic Development Office by phone (302) 739-4271, or by fax at (302) 577-8499; or
- 7.1.1.3 Mailing a request for Application to the Delaware Economic Development Office, Attention: Diane Laird; Carvel State Building, 820 North French Street, 10th Floor, Wilmington DE 19801.

7.1.2 Completed Applications, along with any required documentation, may be submitted online, via email, or by mail in accordance with procedures adopted by DEDO.

7.2 Confidentiality. Applicants may designate certain information as law enforcement sensitive, proprietary or otherwise confidential pursuant to FOIA. Consistent with FOIA, DEDO and the Reviewing Agency will take such measures as are appropriate to limit disclosure of such information to the Board and to the Reviewing Agency.

7.3 Initial Review and Recommendation.

7.3.1 Upon receipt of an Application for a Grant seeking funds from the Initial Allocation, DEDO shall forward same to the appropriate Reviewing Agency for initial review and recommendations in accordance with the following procedure:

- 7.3.1.1 Applications for funding for Projects having a principal purpose of neighborhood revitalization shall be reviewed by DEDO. Examples include Applications having a significant economic development component; Applications for funding for murals or other neighborhood beautification programs; and applications for funding for programs within the general purview of DEDO's Main Street program.
- 7.3.1.2 Applications for funding for planning activities, as set forth in subsection 6.3, shall be reviewed by OSPC. In addition, OSPC shall review applications that involve significant land use components or potential land use impact, such as support for urban parks, urban gardening, streetscape design and similar applications.
- 7.3.1.3 Applications for funding for projects or programs having a principal purpose of crime reduction shall be reviewed by DOJ. Examples include applications for funding for neighborhood crime detection cameras and pilot nuisance abatement programs.
- 7.3.1.4 Notwithstanding the foregoing, the Board Chair, DEDO Director and/or any Reviewing Agency hereunder is authorized to forward any Application to another State Agency (including but not limited to DSHA or DSHS), or DOJ, or any other entity with expertise relevant to the consideration of the application, for additional review and recommendations, if the Board Chair, DEDO Director or Reviewing Agency determines that it is necessary or desirable to do so.

7.4 Written Recommendations by Reviewing Agency.

7.4.1 Following the review of any Application and any supporting materials, but in all cases no later than fourteen (14) days prior to the next regularly scheduled meeting of the Board, the Reviewing Agency shall forward its written recommendation for each Application to (a) the Board Chair, and (b) any DEDO staff person designated by the Chair to receive such recommendations. The Reviewing Agency shall make one of the following recommendations:

- 7.4.1.1 Approve the Application for the Grant in the amount requested by the Applicant;
- 7.4.1.2 Approve the Application, but for an amount less than requested by the Applicant;
- 7.4.1.3 Deny the Application; or
- 7.4.1.4 That the Application be held for further evaluation.

- 7.4.2 In all instances, the Reviewing Agency shall specify in writing the reasons underlying its recommendation. The Reviewing Agency is authorized to request additional information from the Applicant to the extent such information is necessary make a recommendation hereunder.
- 7.4.3 No later than ten (10) days prior to the date of the next scheduled Board meeting, the designated DEDO staff person shall forward to members of the Board all recommendations received from Reviewing Agencies.
- 7.5 Consideration of Applications by Board.
- 7.5.1 At the next scheduled Board meeting, the Reviewing Agency shall present its recommendations to the Board. The Board shall give due consideration to the recommendation of the Reviewing Agency, but shall not be bound thereby.
- 7.5.2 Following the presentation set forth in subsection 7.5.1, the Board shall:
- 7.5.2.1 Approve the Application in the amount recommended by the Reviewing Agency;
- 7.5.2.2 Approve the Application, but for an amount other than that which was recommended by the Reviewing Agency;
- 7.5.2.3 Deny the Application; or
- 7.5.2.4 Request that the Reviewing Agency reconsider its recommendation in light of evidence or information presented in connection with the Board's review. In such instance, the reviewing agency shall present its revised recommendations at the next scheduled meeting of the Board.
- 7.5.3 The Board shall determine, in its sole discretion, appropriate clawback provisions for each Applicant under which the Applicant may be required to repay some or all of the Grant.
- 7.6 Criteria for Review of Applications. In connection with the review, recommendation, and approval or denial of any Application, Reviewing Agencies and the Board shall consider:
- 7.6.1 The Applicant's ability to meet the objectives of the Fund, including the potential of the proposed project to reduce crime, provide support for the community, enhance economic development, or revitalize neighborhoods;
- 7.6.2 The level of community and local government support for the proposed project. Projects that have a Public Sponsor are generally preferred, and a Public Sponsor is required for any project that involves any form of licensing or permitting approval;
- 7.6.3 Whether the proposed project leverages charitable contributions or other public or private funds to provide a greater overall impact;
- 7.6.4 The ability of the proposed project to demonstrate success through objective, measurable criteria;
- 7.6.5 A demonstration that resources other than future grants from the Fund will be available to sustain any ongoing costs associated with a proposed project; and
- 7.6.6 Such other criteria that, in the discretion of the Board or Reviewing Agency, are relevant to the consideration of such Application.
- 7.7 In the event the Board approves an Application, the Applicant shall be issued a commitment letter outlining the terms and conditions of the Final Approval. The commitment letter must then be accepted by the Applicant and returned to the Board. The Applicant shall be bound by the terms and conditions set forth therein.
- 7.8 In the event the Board denies an Application, DEDO will advise the Applicant of the Board's action in writing. The notice of denial to the Applicant will inform the Applicant that the denial does not preclude the Applicant from applying to the Board with respect to the same project after six months from the notice of denial, or requesting the consideration of other unrelated projects.
- 7.9 Unless waived or amended by the Board in its sole discretion, the Applicant shall, for a period of five (5) years following the award of Grant, submit to DEDO, on an annual basis, financial statements in a form acceptable to the Board, a progress report on the status of the Project, including, but not limited to, objective measurement data associated with each Project and the impact of the finding and any other information required by the Board. Each Applicant shall report to DEDO no later than June 30 of each of the years for which the report is required.