

# **ALASKA LNG PROJECT MUNICIPAL IMPACT GRANT PROGRAM**

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## I. INTRODUCTION

The Municipal Advisory Gas Project Review Board (MAG board) is tasked with, among other things, providing recommendations concerning the financial and other impacts on Alaska communities from the development and construction of the Alaska liquefied natural gas (Alaska LNG) project, which will include construction of a 56-mile gas pipeline from Point Thomson to Prudhoe Bay, a gas treatment plant at Prudhoe Bay, an 806-mile pipeline from Prudhoe Bay to Nikiski, and a gas liquefaction plant and storage tanks and marine terminal at Nikiski.<sup>1</sup> The parties to the Alaska LNG project have agreed that the project participants should make impact payments during construction to offset costs borne by state and local government in lieu of property taxation under AS 43.56 and AS 29.45.<sup>2</sup> The MAG board proposes that impact funds be placed in a nonlapsing capitalized fund. The fund should be divided into two subfunds, one for the purpose of addressing the project's impact on statewide and unincorporated communities and the other to fund a grant program to distribute funds to affected municipalities. The municipal program should be administered by the Department of Commerce, Community and Economic Development (DCCED). The proposed municipal grant process and a brief discussion of its rationale are set out below.

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<sup>1</sup> Section 74, ch. 14, SLA 2014 (28<sup>th</sup> Legislature's SB 138, enacted May 8, 2014); Administrative Order No. 269 (March 25, 2014).

<sup>2</sup> See "Heads of Agreement" at 15, par. 9.3.1(b) (January 14, 2014).

## II. GRANT PROCESS

### 1. General objective.

The primary objective of the municipal impact grant program is to provide financial assistance to municipalities to address the impacts of the development and construction of a natural gas pipeline, liquefaction plant and associated infrastructure for the Alaska LNG project as described above.

### 2. Administration.

(a) The Department of Commerce, Community and Economic Development, will receive, review, and evaluate applications for grants from eligible municipalities.

(b) Grant awards shall be made from a nonlapsing fund consisting of negotiated payment in lieu of property taxes for the purpose from the entities participating in the development and construction of the Alaska LNG project.<sup>3</sup>

(c) If the total amount of money requested by eligible municipalities exceeds the amount in the fund, the department will allocate the available funds in accordance with the criteria set out in paragraph II.8 below.

### 3. Eligibility.

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<sup>3</sup> The creation of the fund, a municipal grant program, and the initial assignment of a department to administer the grant program will require statutory changes.

(a) To be eligible to receive assistance under the municipal impact aid grant program, an applicant must

(1) be a municipality under AS 29;

(2) demonstrate that the construction of infrastructure for the Alaska LNG project has a direct impact on the applicant or the applicant's residents;

(3) have the legal authority to exercise the powers necessary to carry out the work to be funded by the grant.

(b) To be eligible for funding, the applicant's project must be for the purpose of addressing the Alaska LNG project's impact on the applicant municipality and for the purpose of

(1) planning;

(2) construction, maintenance, and operation of essential public facilities; or

(3) the provision of necessary public services.

#### 4. Submission of applications; technical assistance to applicants.

(a) Applications must be made on forms provided by the department.

(b) The department shall provide all municipalities with technical assistance in completing the application, including written step-by-step instructions and training and information sessions and materials.

#### 5. Evaluation of applications.

(a) In determining the merit of an application, the department shall consider the impact of the development and construction of the Alaska LNG project on

(1) the applicant's ability to provide essential public services and prevent the degradation of existing services, including health care, social services, public safety, housing, education, transportation, utilities, and government administration;

(2) the applicant's population, finances, or employment;

(3) the alleviation or mitigation of adverse economic, social, or cultural impacts on the applicant or the application's residents; or

(4) other facilities, services and functions of demonstrable importance to the applicant or the applicant's residents that are or will be affected by the development and construction of the Alaska LNG project.

(b) Examples of impacts that eligible projects may address include, but are not limited to, the following:

(1) increased public safety needs: police protection, search and rescue, fire protection, and emergency medical services;

(2) increased public health and social services needs: hospitals, clinics, emergency medical facilities, alcohol and drug abuse facilities, mental health facilities, homeless shelters, waste disposal systems, and water distribution systems;

(3) increased burdens on municipally owned utilities: electric generating plants and distribution systems, waste disposal, water supply systems, telephone systems, and any fuel distribution systems;

(4) increased need for housing, educational and other public services and facilities: educational institutions, recreational facilities activities, daycare centers, affordable housing and related infrastructure, and local and regional roads and transportation systems;

(5) planning, design, and engineering activities related to an eligible project.

(c) A project is not eligible for funding if it is

(1) made necessary by the applicant's failure to maintain existing infrastructure, services and facilities rather than by the impact of the Alaska LNG project;

(2) for a new infrastructure, service, facility, or enterprise the need for which is not the result of the development and construction of the Alaska LNG project.

(d) The department shall issue decisions on grant applications within 60 days after submission of a complete application and all necessary backup requested of the applicant.

#### 6. Award and payment of grants; reports and records.

(a) The department may accept applications and award grants on a continuous basis except that if there are insufficient funds under section II.8, below, the department may set a deadline for applications.

(b) The department may

(1) pay a grant award of under \$100,000 in a lump sum;

(2) for grant awards of \$100,000 or more, make periodic payments for the anticipated expenses of a project based on the municipality grantee's anticipated expenses for the period and, after the initial payment, based on progress reports submitted by the grantee;

(c) The department shall not require a grantee to obtain funding on a reimbursable basis.

(d) A grantee shall retain records related to the grant and shall make them available to the department at the department's request.

(e) The department may require a grantee to make reports to the department on its use of grant funds, but shall not require a grantee to obtain a grant-specific audit.

(f) A grantee may make amendments to a project with notice to and the consent of the department.

(g) If a project revision is not approved, or if the project as it was originally funded is not feasible or is discontinued, the grantee shall return any remaining funds to the department.

(h) If a grantee misuses or mismanages grant funds awarded under this section, the department shall cease payment and recover misspent payments; recovered payments shall be returned to the fund.

#### 7. Priority for award of grants.

If the total amount of money requested by eligible applicants for eligible projects in meritorious applications exceeds the amount available for grants, the department shall

(a) give notice to the commissioners of revenue and natural resources and to the Legislature of the insufficiency of funds and seek additional funding for grants under this program.

(b) and until or unless such additional monies are deposited into the municipal grant program fund, the department shall rank applications for the purpose of establishing priority for funding based on

(1) the relative degree of the impact of the Alaska LNG project on the municipality in comparison with other applicants;

(2) the degree to which the project proposed in the grant application alleviates the impact caused by development of the Alaska LNG project; and

(3) the ability of the applicant to accommodate or absorb the impacts through existing facilities or programs.

#### 8. Reconsideration.

An applicant aggrieved by a decision made under this chapter may within 45 days of the decision request reconsideration by the commissioner of commerce, community and economic development.

#### 8. Definitions.

(a) “Alaska liquefied natural gas project” has the meaning given in AS 31.25.390.

(b) “Direct impact” means an effect that is clearly attributable to the development and construction of the Alaska LNG project.

### III. DISCUSSION

#### 1. Considerations.

(a) The MAG board has requested that DCCED administer the program because it has a long history of administering municipal grant programs.<sup>4</sup> The impact aid fund will pay for projects made necessary by the impact of construction of the Alaska LNG project in lieu of affected municipalities' ability to assess and collect property taxes during construction. Because the fund will cover the expenses of municipal operations rather than the development of new energy-related projects, the expansion of businesses, or the state's participation in a commercial enterprise, DCCED seems a better choice than the Alaska Energy Authority, the Alaska Industrial Development and Export Authority or the Alaska Gasline Development Corporation to operate the program.

(b) The grant program should to be simple enough that municipalities do not have to hire grant writers, and rationally operated so that municipalities receive what they need but are accountable for their expenditures.

(c) As reflected in paragraph II.6, the MAG board recommends that once a project is approved, grant funds be provided promptly, without requiring the grantee municipality to advance its own funds to initiate the project. This aim will also be served by awarding (or denying) grants on a rolling basis.

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<sup>4</sup> Several such programs are administered by DCCED's division of community and regional affairs. *See, e.g.*, AS 29.60.450 (fisheries business tax allocation); the National Petroleum Reserve – Alaska special revenue fund (AS 37.05.530(c)); community development block grants (AS 44.33.020, administering 42 U.S.C. 5301 ff.).

(d) Grantees should not be required to incur audit expenses. For smaller projects, and in smaller municipalities, the cost of an independent audit or audited financial statement can be prohibitive. The need for accountability can be served with adequate recordkeeping and reporting requirements, and, in any case, municipal expenditure of any grant program funds would be subject to review in the annual audit or statement required of a municipality under AS 29.35.120.

(e) The program should be funded from a non-lapsing capital fund to assure the availability of the Alaska LNG project's impact payments over the multi-year life of its construction.<sup>5</sup>

(f) Payments for projects in communities that are not municipalities should be made from the state's portion of the impact funds.

## 2. Anticipated impacts.

Paragraph II.5.b. sets out, by way of example, but not limitation, examples of the types of projects that might be funded by the program. In the Alaska LNG project's first draft resource reports submitted February 2, 2015, to the Federal Energy Regulatory Commission, the parties to the project indicate that they anticipate impacts in the areas of "population, employment, housing, public services, construction payroll and material purchase, tax revenue, land use, transportation and traffic management, subsistence, health impacts, and environmental justice."<sup>6</sup> In the

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<sup>5</sup> Enabling legislation will be necessary to authorize such a fund. For examples of nonlapsing funds, see AS 18.08.085 (trauma care fund); AS 37.06.010 (municipal capital project matching grant program); AS 43.90.400 (Alaska Gasline Inducement Act reimbursement fund).

<sup>6</sup> "Draft Resource Report No. 5, Socioeconomics," Docket No. PF14-21-000; Doc No: USAI-EX-SRREG-00-0005 at 5-3, par. 5.1.1( February 2, 2015) (Public Version), a component of the environmental impact statement required for an application governed by the federal Natural Gas Act under 18 C.F.R. 380.12(g).

submission, the project participants set out the facilities it anticipates the project will use, where they may be located, and a general indication of what impact might occur.<sup>7</sup> The examples provided above fall generally within the categories already identified. A municipality applying for grant fund under this program may find it useful to examine the subsequent, more detailed versions of the project's resource reports as it considers what its needs might be, with the understanding that this grant program is limited to the construction phase of the Alaska LNG project.

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<sup>7</sup> Draft Resource Report No. 5 at 5-7 – 5-11 (identifying potentially affected communities); at 5-84, par. 5.3 (setting out indicators of potential construction and operations impacts, and potential mitigation measures). In Report No. 4, Cultural Resources, the project identifies in greater detail the anticipated impact of particular activities on air and marine navigation, water, waste disposal, the use of public land, the environment for similar projects. Docket No. PF14-21-000, Doc. No. USAI-EX-SRREG-00-0004 at Appendix F,