

ETHICS COMMITTEE MEETING

January 23, 2014

ITEM 6: Annual Benefit and Loan Review – AS 24.60.050(b)

2013 Review for 2014 Listing in the Standards of Conduct Handbook

- Pursuant to AS 24.60.050, State Programs and Loans. All state departments were contacted and asked if any state benefit or loan program in their department had been deleted, added, or changed.
 - Updates received were applied to the annual list of reportable state benefit or loan programs for 2014, and also attached for your reference.
 - Reportable programs are those awarded on a discretionary basis or those not generally available to members of the public.
 - Participation in any listed program must be disclosed within 30 days.
- Included in the Packet:
 - AS 24.60.050
 - "Sample" letter and evaluation form that was mailed to each department on October 30, 2013. All fourteen departments responded.
 - 2014 Benefit or Loan Review Form from Department of Commerce, Community, and Economic Development, adding the Development Finance Program through AIDEA (Alaska Industrial Development and Export Authority).
 - 2014 Benefit or Loan Review Form from Department of Health & Social Services, Finance and Management Services, deleting the Construction License program.
 - January 8, 2014 letter from Sana Efird, Assistant Commissioner, Department of Health and Social Services, Finance and Management Services, recommending deletion of three listed benefit and loan programs.
 - Additional information from 1993 and 1995 on file in the Ethics Office.

The following items listed below are proposed changes for 2014:

- The Department of Commerce, Community, and Economic Development "added" a new loan program under the **AIDEA (Alaska Industrial Development and Export Authority & Alaska Energy Authority) Agency**:
 - **Development Finance Program**

RECOMMENDATION and ACTION: Approve addition

- The Department of Health and Social Services has "removed" the following program from their administration:
 - **Construction License**

RECOMMENDATION and ACTION: Approve deleting the program as it no longer exists.

- The Department of Health and Social Services recommends “deletion” of the following two programs:

1. **Health Facilities Operating License.** Attached letter dated January 8, 2014, from Sana Efird, Assistant Commissioner, explains the reasoning for the deletion.
1. **Certificate of Need.** Attached letter dated January 8, 2014, from Sana Efird Assistant Commissioner, explains the reasoning for the deletion.

RECOMMENDATION: Delete both programs from the required list of programs that require disclosure. (Note: Ms. Efird will be available to answer questions.)

Historical Information: Ethics records indicate the three programs have been listed as requiring disclosure since 1993. In 1993 a major effort was undertaken by the Ethics Office, based on new legislation, to audit all state departments to determine what state benefit and loan programs did not meet certain criteria and therefore participation would require disclosure. The final decision to add/delete a state benefit and loan program was determined by the Ethics Committee. Attached is paperwork from 1993 and 1995 from the Department of Health and Social Services.

ACTION: Determine if the two programs should remain on the list or be deleted.

APPENDIX C

2014 Alaska State Benefit and Loan Programs under AS 24.60.050(c)

Participation in the following State Benefit and Loan Programs during the *preceding* year and for the *current* year must be reported. Disclosure forms are available in Appendix B.

Department of Administration Programs

Violent Crimes Compensation Board:

Violent Crimes Compensation (please reference Advisory Opinion 94-07 for an explanation of disclosure requirements)

Department of Commerce, Community and Economic Development Loans

Division of Economic Development:

Alaska Capstone Avionics Revolving Loan Fund
Commercial Fishing Revolving Loan Fund
Fisheries Enhancement Revolving Loan Fund
Rural Development Initiative Fund
Small Business Economic Development Revolving Loan Fund
Mariculture Loan Fund
Community Quota Entity Loan Fund
Microloan Loan Fund
Alternative Energy Conservation Loan Fund
Commercial Charter Fisheries Loan Fund

Alaska Industrial Development and Export Authority and Alaska Energy Authority:

AIDEA Loans

ASSETS (Alaska Sustainable Strategy for Energy Transmission & Supply) Loan Program

Development Finance Program

Department of Commerce, Community & Economic Development Programs

Alcoholic Beverage Control Board:

Liquor License

Alaska Railroad Corporation:

Real Estate Lease - Negotiated
Sale of Surplus Property - Negotiated
Railroad Permit
Rail Transportation Contract – Negotiated

Division of Banking and Securities:

Deferred Deposit Advances

Approval of Articles of Incorporation, Bank Charters, and Certificates of Authority
for: State Chartered Banks, Mutual Savings Banks,
Savings Associations, and Credit Unions
License to Engage in the Business of Making Loans
Premium Finance Company License
Business Industrial Development Corporation License

Department of Environmental Conservation

Alaska Clean Water Revolving Loan Fund
Alaska Drinking Water Revolving Loan Fund

Department of Health and Social Services Programs

Various Divisions:

Licensing of Health Care Facilities
[Health Facilities Operating License]
[Construction License]
[Certificate of Need]

Department of Military and Veterans Affairs

Alaska Aerospace Development Corporation:
Scholarship Program

Department of Natural Resources Programs

Division of Forestry:

Timber Sales – Negotiated
Personal Use Permits

Division of Mining, Land and Water:

Preference Right Land Sales AS 38.05
Agricultural Land Lottery Sale Program
Additional Non-competitive Land Leases - Negotiated
Approving Easement Vacations in the Unorganized Borough and Certain
Other Areas
Exchange of State Land
Homesite Entry Program
Homestead Entry Program
Land Use Permit
Material Sale - Negotiated
Upland, Tideland, or Grazing Lease - Negotiated
Right-of-Way or Easement
Water Authorizations
Trapping Cabin Permit
Offshore Prospecting Permit
Coal Prospecting Permit
Mining Reclamation Plan Approval
Coal Surface Mining Reclamation Program
Mineral Discovery Bonus
Exploration Incentive Credits

Substantial Compliance Determination (re: Mining Locations)
State Pipeline Coordinator's Office:
 Pipeline Right-of-Way Lease
Division of Oil and Gas:
 In-Kind Royalty Gas or Oil Sale
 Exploration Incentive Credits
Division of Parks and Outdoor Recreation:
 Free Disabled Veterans State Park Camping Permit

Department of Natural Resources Loans

Division of Agriculture:
 Agricultural Revolving Loan Fund

Department of Transportation and Public Facilities Programs

Division of Design and Engineering:
 Disposal of Excess Right-of-Way Land
 Right-of-Way Acquisition
 Right-of-Way Permit
 Encroachment, Driveway or Airspace Permit
 Utility Permit on State Right-of-Way
 Right-of-Way Rental

University of Alaska

Land Management Division
 Real Property Transactions – Negotiated Non-Competitive

Alaska State Legislature

Select Committee on Legislative Ethics

425 G Street, Suite 711
Anchorage, AK 99501
PH (907) 269-0150
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Email: ethics.committee@akleg.gov

Mailing Address:
P. O. Box 101468
Anchorage, AK 99510-1468

October 30, 2013

Becky Hultberg, Commissioner
Department of Administration
P. O. Box 110200
Juneau, AK 99811-0200

RE: STATE BENEFIT AND LOAN PROGRAMS under AS 24.60.050

Dear Commissioner Hultberg:

The Select Committee on Legislative Ethics is required to review the state of Alaska Benefit Programs and Loan programs, under AS 24.60.050, for disclosure of participation by legislators, legislative employees, and others affected by the Legislative Ethics Act. Participation in state programs which do not meet certain standards and have a certain degree of discretion in the awarding process must be disclosed.

Attached is a list of benefit and loan programs which were previously determined as "not meeting the standards":

1. generally available to members of the public;
2. subject to fixed, objective eligibility standards; and
3. minimal in discretion in determining qualification

Please review the list. If you have a new program to add or have changes to make to an existing program, please fill out the enclosed 2014 BENEFIT OR LOAN REVIEW FORM and return to us in the enclosed envelope.

If you *do not* have a new program to add or do not have changes to make, simply send us an e-mail stating just that. Our email address is ethics.committee@akleg.gov.

Becky Hultberg, Commissioner
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October 30, 2013

If you wish to *remove* a program from the list, please fill out the enclosed 2014 BENEFIT OR LOAN REVIEW FORM and return to us in the enclosed envelope. Also, if you are removing a program you must provide documentation showing us one of the following:

1. The standards have changed; or
2. The program no longer exists; or
3. The program has been transferred to another department

Remember, this is to protect your employees from any potential undue legislative influence.

Regardless of the type of action you are taking, please respond to us by
NOVEMBER 29, 2013.

This will allow us ample time to update the list for distribution to legislators and legislative staff on January 2, 2014.

If you have any questions, please contact the Ethics Committee office.

Thank you for your cooperation in this matter.

Sincerely,

Joyce Anderson
Administrator

Enclosures: 2013 State Benefit and Loan Programs
2014 Benefit or Loan Review Form & Return Envelope

cc: Cheri Lowenstein, Director
Department of Administration/Administrative Services

Alaska State Legislature
Select Committee on Legislative Ethics
P. O. Box 101468, Anchorage, AK 99510-1468
(907) 269-0150***FAX (907) 269-0152
ethics.committee@akleg.gov

2014 BENEFIT OR LOAN REVIEW FORM
AS 24.60.050

DEPARTMENT: DCCED DIVISION: _____
AGENCY: Alaska Industrial Development and Export Authority - AIDEA
Contact person: Mark Davis, Deputy Director Infrastructure Development Phone : 907-771-3080

NAME OF (NEW or EXISTING) STATE BENEFIT OR LOAN PROGRAM (ADDING or CHANGING):

Development Finance Program

PURPOSE: Provide financing for development projects

METHOD FOR APPLICATION TO RECEIVE BENEFIT OR LOAN: formal application submitted to AIDEA. Application approved through underwriting program based on project.

ELIGIBILITY REQUIREMENTS: Project must be eligible under project definitions under AS 44.88.900

TERMS: (minimum/maximum amounts, interest rates, assumable loan, collateral required, maximum term, fees, etc.) Terms are project specific and based on economic impact, risk, and projected cash flows.

The (New or Existing) Program does not meet one or more of the following standards: (Check all that apply)

- ☐ The benefit program or loan is generally available to members of the public; OR
- ☒ Is subject to fixed, objective eligibility standard; OR
- ☐ Requires minimal discretion in determining qualification

NAME OF STATE BENEFIT OR LOAN PROGRAM YOU ARE REMOVING (if applicable):

If removing a program, please check applicable reason:

- ☐ The standards have changed. EXPLAIN & PROVIDE DOCUMENTATION: _____; OR
- ☐ The program no longer exists; OR
- ☐ The program has been transferred to another department. PLEASE PROVIDE NAME OF DEPT: _____

Ted Leonard  Executive Director 11/7/2013
NAME TITLE DATE

Alaska State Legislature
Select Committee on Legislative Ethics
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2014 BENEFIT OR LOAN REVIEW FORM
AS 24.60.050

DEPARTMENT: HrSS DIVISION: Health Care Services
AGENCY: Finance & Mgmt Services
Contact person: Sana EFird Phone: 415-1630

NAME OF (NEW or EXISTING) STATE BENEFIT OR LOAN PROGRAM (ADDING or CHANGING):

PURPOSE: _____

METHOD FOR APPLICATION TO RECEIVE BENEFIT OR LOAN: _____

ELIGIBILITY REQUIREMENTS: _____

TERMS: (minimum/maximum amounts, interest rates, assumable loan, collateral required, maximum term, fees, etc.) _____

The (New or Existing) Program does not meet one or more of the following standards: (Check all that apply)

- ☐ The benefit program or loan is generally available to members of the public; OR
- ☐ Is subject to fixed, objective eligibility standard; OR
- ☐ Requires minimal discretion in determining qualification

NAME OF STATE BENEFIT OR LOAN PROGRAM YOU ARE REMOVING (if applicable):

Construction License

If removing a program, please check applicable reason:

☐ The standards have changed. EXPLAIN & PROVIDE DOCUMENTATION: _____

☒ The program no longer exists; OR

☐ The program has been transferred to another department. PLEASE PROVIDE
NAME OF DEPT: _____

Sana P. Efird
NAME

Assistant Commissioner
TITLE

11/29/13
DATE



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of
Health and Social Services

FINANCE AND MANAGEMENT SERVICES
Juneau Office

P.O. Box 110630
Juneau, Alaska 99811-0650
Main: 907.465.3062
Fax: 907.465.2499

January 8, 2014

Mr. H. Conner Thomas, Chair
Select Committee on Legislative Ethics
P.O. Box 101468
Anchorage, AK 99510-1468

Dear Mr. Thomas,

With regard to the request for the Department of Health and Social Services to review our Benefit and Loan Programs, the Department contends that the following programs do meet the standards under AS 24.60.050 and should be removed from the list.

Certificate of Need program is a review process used to promote responsive health facility and service development, rational health planning, health care quality, access to health care, and health care cost containment. Certificate of Need is a regulatory requirement for engaging in certain activities in this state; not a benefit or loan program. It appears the Certificate of Need program does meet the three standards delineated in the ethics memo. Certificate of Need determinations and the ability to apply for Certificate of Need approval are generally available to members of the public. Applications for a Certificate of Need are reviewed under fixed review standards that are adopted by regulation. Many of the standards are expressly objective since they are formula driven. Finally, there is minimal discretion in determining qualification since a reviewer must apply the regulations and review standards to the Certificate of Need application.

Health Facilities Licensing and Certification is a section in the Division of Health Care Services that is responsible for Medicare certification functions created by section 1864 of the Social Security Act. Like the Certificate of Need program, these are regulatory requirements not a benefit or loan program. Health Facilities Licensing and Certification issues federal certification and state licenses to health care facilities that are in compliance with Medicare and/or Medicaid regulatory and State licensure requirements. The section conducts initial surveys (inspections), annual recertification surveys, and complaint investigations for 17 different types of healthcare providers in the State of Alaska. The primary purpose of Health Facilities Licensing and Certification is to verify health care facilities in our state are in compliance with federal and state regulations and ensure vulnerable Alaskans are provided quality healthcare and protected from potential incidents of abuse and neglect.

Mr. H. Conner Thomas, Chair
January 8, 2014
Page 2

Please contact me if you need additional information.

Sincerely,

A handwritten signature in blue ink, reading "Sana P. Efirid". The signature is fluid and cursive, with the first name "Sana" being the most prominent.

Sana P. Efirid
Assistant Commissioner

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES**

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

THEODORE A. MALA, COMMISSIONER

**P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030**

November 1, 1993

**Mr. Joseph P. Donahue, Chair
Select Committee on Legislative Ethics
P.O. Box 101468
Anchorage, AK 99510**

Dear Mr. Donahue:

With regard to your request of October 1, the Department of Health and Social Services has no changes to your list of benefit and loan programs reportable by legislators and staff.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ted Mala', with a long horizontal flourish extending to the right.

**Theodore A. Mala, MD, MPH
Commissioner**

DEPT. OF HEALTH AND SOCIAL SERVICES


DIVISION OF ADMINISTRATIVE SERVICES

P.O. BOX 110660
JUNEAU, ALASKA 99811-0660
PHONE: (907) 465-3082
FAX: (907) 465-2499

MEMORANDUM

DATE: April 14, 1995

TO: Susan Barnett
Select Committee on Legislative Ethics
Alaska State Legislature

FROM: Janet Clarke 
Director
Division of Administrative Services

SUBJECT: Program & State Loan Review

Commissioner Perdue has ask me to respond to your letter dated March 15, 1995 regarding program and State loan review.

My office has solicited responses from all divisions of Health and Social Services. All divisions polled responded that they have no programs which meet the criteria under AS 24.60.050 with the exception of the Division of Administrative Service (DAS). The DAS Facilities and Planning Section which handles the Licensing of Health Care Facilities has completed Benefit of Loan Review forms, which have been enclosed for your review.

If i can answer any questions or provide additional information. Please call me at 465-3082.

Enclosures

SELECT COMMITTEE ON LEGISLATIVE ETHICS

P.O. Box 101488, Anchorage, AK 99510

258-8172***FAX:258-2106

BENEFIT OR LOAN REVIEW FORM

DEPARTMENT: Health and Social Services
DIVISION: Division of Administrative Services
AGENCY: State Health Planning and Development Agency (SHPDA)

NAME OF STATE BENEFIT OR LOAN PROGRAM:
Certificate of Need Program

PURPOSE:

To ensure that health care facility construction and equipment costs over \$1 million are needed, that the public is able to comment on these costs, and that unplanned duplicate services are not built - to control Medicaid costs.

METHOD FOR APPLICATION TO RECEIVE BENEFIT OR LOAN:

Must fill out state forms and apply directly to this office.

There is no loan or direct financial benefit to the applicant. They apply for approval from the Commissioner of Health and Social Services for permission to proceed on a project. Forms and details are contained in a CON packet provided.

ELIGIBILITY REQUIREMENTS:

Must be a Health Care facility, project must be over \$1 million. Also, required for conversion of residential beds to long-term care. Federal projects do not require a CON. Must meet need criteria as defined in the application packet.

TERMS: (Minimum/maximum amounts, interest rates, assumable loan, collateral required, maximum term, fees)

This does not apply to this program.

CURRENT STATUS: (active/inactive)

Active

DEPARTMENT'S RECOMMENDATION:

Certificate of Need Program
(Name of benefit or loan program)

meets/does not meet
(circle one)

the following standards:

1. It is generally available to members of the public.
2. It is subject to fixed, objective eligibility standards.
3. It requires minimal discretion in determining qualification.

Donna [Signature]
NAME, TITLE

4/10/95
DATE

SELECT COMMITTEE ON LEGISLATIVE ETHICS

P.O. Box 101488, Anchorage, AK 99510
258-8172***FAX:258-2108

BENEFIT OR LOAN REVIEW FORM

DEPARTMENT: Health and Social Services

DIVISION: Administrative Services

AGENCY: Facilities and Planning Section

NAME OF STATE BENEFIT OR LOAN PROGRAM:

Health Facilities Construction License Program

PURPOSE:

To promote health and safety for the general public by enforcing standards for the construction of hospitals and other health facilities in the state of Alaska.

METHOD FOR APPLICATION TO RECEIVE BENEFIT OR LOAN:

Application plus \$10 fee.

ELIGIBILITY REQUIREMENTS:

Anyone planning on constructing a new health facility, adding to or remodeling an existing facility or converting another.

TERMS: (Minimum/maximum amounts, interest rates, assumable loan, collateral required, maximum term, fees)

Permit to construct health facility is final outcome.

CURRENT STATUS: (active/inactive)

Active

DEPARTMENT'S RECOMMENDATION:

Health Facilities Construction License Program meets/does not meet

(Name of benefit or loan program)

(circle one)

the following standards:

1. It is generally available to members of the public.
2. It is subject to fixed, objective eligibility standards.
3. It requires minimal discretion in determining qualification.

Tom Lane, Facilities Manager
NAME, TITLE

April 7, 1995
DATE

SELECT COMMITTEE ON LEGISLATIVE ETHICS
P.O. Box 101468, Anchorage, AK 99510
258-8172***FAX:258-2108

BENEFIT OR LOAN REVIEW FORM

DEPARTMENT: Health and Social Services

DIVISION: Administrative Services

AGENCY: Facilities and Planning Section

NAME OF STATE BENEFIT OR LOAN PROGRAM: See Attached

PURPOSE:

METHOD FOR APPLICATION TO RECEIVE BENEFIT OR LOAN:

ELIGIBILITY REQUIREMENTS:

TERMS: (Minimum/maximum amounts, interest rates, assumable loan, collateral required, maximum term, fees)

CURRENT STATUS: (active/inactive)

DEPARTMENT'S RECOMMENDATION:

(Name of benefit or loan program) meets/does not meet
the following standards: (circle one)

1. It is generally available to members of the public.
2. It is subject to fixed, objective eligibility standards.
3. It requires minimal discretion in determining qualification.

Robert J. Sylvester Research Analyst III
NAME, TITLE

4-14-95
DATE

Robert J. Sylvester

Attachment to Benefit or Loan Review Form

The Planning group of the Facilities and Planning Section manages small (under \$25,000) Requests For Proposals (RFP) that occur infrequently. The two most recent RFP's were: 1) to investigate the feasibility of implementing a Statewide Health Care Facility Data Base and 2) a feasibility study of a Unique Client Identifier for Departmental databases. We seem to manage about one RFP per year.

The Planning group follows State of Alaska and Department of Health and Social Services Policies and Procedures when developing the RFP's. A Proposal Evaluation Committee of Department employees (between 4-6 persons) uses a predetermined evaluation form to grade the Proposals. The award is made to the Proposer that scores highest on the evaluation (all factors are included i.e. cost, Alaskan's with Disabilities Preference, Alaska Bidder Preference, and other statutory preferences).

Information provided —
Not recommended
for inclusion on list

Not
added to
list