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HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 4

DIVISION OF MARKETING AND CONSUMER SERVICES

CHAPTER 61

FOOD HUB GRANT PROGRAM

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

**§4-61-1 Purpose.** The purpose of this chapter is to provide rules governing implementation of the Food Hub Grant Program authorized by Act 313, SLH 2022. [Eff. \_\_\_\_\_] (Auth: HRS §§XXX-XX) (Imp: HRS §§XXX-XX)

**§4-61-2 Definitions.** As used in this chapter, unless a different meaning clearly appears in context:

“Agricultural development division” means the division within the department responsible for this program;

“Auditor” means the state Office of the Auditor;

“Board” means the state Board of Agriculture;

“Chairperson” means the chairperson of the state Board of Agriculture;

“Department” means the state department of agriculture;

“Food hub” means the United States Department of Agriculture’s working definition of food hub, which means a centrally located facility with a business management structure facilitating the aggregation, storage, processing, distribution, and/or marketing of locally/regionally produced food products;

“Grant” means financial assistance provided to awardees under the terms and conditions provided in this chapter;

“HRS” means the Hawaii Revised Statutes;

“Locally produced food” means food grown, raised or sourced within the state of Hawaii;

“Program” means the food hub grant program;

“Recipient” means any awardee receiving a grant under this chapter;

“Small- to very small-sized” means producers with less than \$500,000 and \$250,000 respectively in annual farm sales;

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"SLH" means Session Laws of Hawaii;

"State" means the State of Hawaii; and

"USDA" means the United States Department of Agriculture;

"USFDA" means the United States Food and Drug Administration. [Eff. ]

(Auth: HRS §§ ) (Imp: HRS §§ )

**§4-61-3 Purpose of program.** The purpose of the food hub grant program is to provide funds to support the establishment of food hubs. By actively coordinating these activities along the value chain, food hubs may provide wider access to institutional and retail markets for small- to very small-sized producers and increase consumer access to fresh healthy food, including those consumers in underserved areas and food deserts. [Eff. ] (Auth: HRS §§ ) (Imp: HRS §§ )

**§4-61-4 Grants; purpose; use of.** (a) The department may provide grants in accordance with §141-2, HRS.

(b) Grants may be used by any recipient for any of the following purposes:

- (1) For the construction of critical infrastructure to establish and expand food hubs in each of the counties, including:
  - (A) Construction or improvement of facilities for aggregation, washing, processing, packaging, cold storage, and other value-additions; and
  - (B) Provision of technical assistance to develop in-state capacity to supply state institutions and other markets.
- (2) For the coordination and marketing of match-making activities in local or regional markets.

(c) Grant moneys shall not be used where the direct or indirect purpose or result of the grant would be for any of the following purposes:

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- (1) Repay a creditor or creditors of the recipient for any reason; or
- (2) Provide funds as a loan to owners, partners, or shareholders of the recipient;
- (3) Effect a change in ownership of the recipient;
- (4) Provide or make funds available for the acquisition of any kind of real property that is not related to a food hub;
- (5) Travel that is not related to a food hub;
- (6) Costs related to the general operation of the recipient's business that are not related to a food hub;
- (7) Wages, compensation, benefits or allowances for employees of the recipient that are not related to a food hub;
- (8) Insurance costs that are not related to a food hub;
- (9) Costs of vehicles and related vehicle expenses that are not related to a food hub;
- (10) Entertainment or lobbying activities; or
- (11) Payment for goods or services for which moneys were granted under another state or federal program. [Eff. \_\_\_\_\_ ] (Auth: HRS §§ \_\_\_\_\_ ) (Imp: HRS §§ \_\_\_\_\_ )

SUBCHAPTER 2

ELIGIBILITY AND SELECTION PROCESS

**§4-61-5 Eligibility requirements.** Qualifying applicants shall include corporations, limited liability companies, partnerships, sole proprietorships, non-profit organizations, and agricultural cooperatives. Any applicant shall meet all of the following qualifications:

(a) Meet necessary insurance requirements as determined by the state, including commercial general liability insurance and automobile liability insurance at specified levels, and provide along with

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the application or as specified by the department, a certificate of vendor compliance with Hawaii Compliance Express (HCE), or other similar requirements;

(b) Agree that if selected as a recipient, it will maintain its principal place of business and conduct a majority portion of its operations in the State;

(c) Either be incorporated under the laws of the State, or be registered to do business in the State, if applicable;

(d) Have bylaws or policies that describe the manner in which the activities or services for which the grant is awarded shall be conducted or provided;

(e) Be licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or provide the services for which the grant is awarded;

(f) If seeking to establish a new food hub where none currently exist, shall first secure a physical location for the food hub and draft a detailed plan for the food hub's operation, including activities in which the applicant intends to engage, such as serving as a marketplace for buying and selling, or providing certified kitchen space in which multiple farmers may share use of facilities for value-added product development;

(g) Explain the applicant's intended actions to increase access to locally produced food;

(h) Comply with all applicable federal, state, and county laws, rules, regulations, and ordinances, including the USFDA Food Safety Modernization Act, P.L. 111-353, and the Act's provisions on supplier verification, and any applicable tax laws;

(i) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability; and

(j) Allow the division, department and the auditor full access to its records, reports, files, and other related documents and information for

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purposes of monitoring, measuring the effectiveness, and ensuring the proper expenditures of the grant. [Eff. ] (Auth: HRS §§ ) (Imp: HRS §§ )

**§4-61-6 Application procedure.** Any entity applying for a grant shall, as applicable:

(a) Submit its response to the department's Request for Proposal;

(b) Provide an Internal Revenue Service EIN number, if applicable;

(c) Certify that all information and documents submitted in support of the application are correct and complete to the best of the applicant's knowledge;

(d) For the purchase of new manufacturing equipment, provide cost justification, proof of purchase, and financing documentation;

(e) For the purchase of used manufacturing equipment, provide cost justification, proof of purchase, and financing documentation;

(f) For the training of employees on the use of manufacturing equipment, provide cost justification, training curriculum details, hours, number of employees, third party instructors' biography, resume, or curriculum vitae, and proof of purchase;

(g) For the improvement of existing energy efficiency manufacturing equipment or the purchase of improved energy efficiency equipment in the manufacturing process, provide cost justification, analysis from a third party consultant proving the foregoing, and proof of purchase; or (h) For studying or planning the implementation of a new manufacturing facility, provide cost justification, contract for services of third party consultant, and proof of purchase; or

(i) Agree to and abide by any cap or maximum amount for equipment purchases required by the Request for Proposals. [Eff.

] (Auth: HRS §§ ) (Imp: HRS §§ )

**§4-61-7 Consideration and review of applications.**

(a) The department shall cause the review of the application and resolution of any questions relating to the application through contact with the primary grant applicant.

(b) Following such review and resolution, the evaluation committee appointed by the chairperson shall consider and make a recommendation on qualified applications.

(c) The department may submit the proposed awardees to the board for informational purposes, only. [Eff. \_\_\_\_\_ ] (Auth: HRS §§ \_\_\_\_\_ ) (Imp: HRS §§ \_\_\_\_\_ )

**§4-61-8 Preferences and priorities in making grants.**

(a) Preference shall be given to:

- (1) Organizations having demonstrated experience in aggregation, washing, minimal processing, packaging, cold storage, and other value-additions for delivering local produce to local markets;
- (2) Qualified applicants receiving their first award from the department, over multiple award grantees;
- (3) The department shall not grant more than one award in this program to any applicant in a fiscal year unless funding remains available in the last quarter of the fiscal year; and
- (4) The department shall be guided by the nature and economic significance of the activity of each grant application, the importance of the grant to the activity's success, and the potential economic advantage or job creation prospects offered to the State in determining the distribution of funds.

[Eff. \_\_\_\_\_ ]  
(Auth: HRS §§ \_\_\_\_\_ ) (Imp: HRS §§ \_\_\_\_\_ )

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**§4-61-9 Maximum grant amount; disbursement.**

(a) Maximum grant amounts shall be in accordance with the department's Request for Proposal.

(b) For awards greater than \$100,000, the grant amount shall be disbursed as payments based on milestones approved by the chairperson.

[Eff. \_\_\_\_\_ ] (Auth: HRS §§ \_\_\_\_\_ )  
(Imp: HRS §§ \_\_\_\_\_ )

**§4-61-10 Acknowledgement.**

(a) Recipients shall acknowledge the department in a proper and appropriate manner as a funder in all promotional publications, press releases, and other informational materials relating to the awards for a period of two years following the award. Recipients shall provide such materials to the department prior to their release to the public. [Eff.

] (Auth: HRS §§ \_\_\_\_\_ ) (Imp: HRS §§ \_\_\_\_\_ )

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DEPARTMENT OF AGRICULTURE

Adoption of chapter 61, title 4, Hawaii Administrative Rules, was adopted on \_\_\_\_\_, following public hearings held on \_\_\_\_\_, 2023, \_\_\_\_\_, 2023, and after public notice was given in the Honolulu Star Advertiser on \_\_\_\_\_, 2023.

It shall take effect ten days after filing with the Office of Lieutenant Governor.

\_\_\_\_\_  
Chairperson  
Board of Agriculture

\_\_\_\_\_  
JOSH GREEN  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
FILED