



**FY2024**

## Instructions for completing the Harbor Facility Grant Application

*Use these instructions with Alaska Department of Transportation & Public Facilities  
Form #DOT&PF H-26267, Application for a Harbor Facility Grant*

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### A. INTRODUCTION

The Harbor Facility Grant Program ([AS 29.60.800](#) et seq.) provides financial assistance in the form of a 50/50 matching grant to municipally or regional housing authority owned small boat harbor facilities in the State of Alaska. The Department of Transportation and Public Facilities administers the Harbor Facility Grant Program. Port or barge facilities are not eligible for the grant program.

This grant program is funded on an annual basis at the discretion of the Alaska Legislature and consists of two tiers, Tier I and II.

- The first tier has priority and consists of “Major Maintenance and Repair” of a harbor facility that was previously owned by the state and now is municipally or regional housing authority owned. A harbor facility may only receive one Tier I grant regardless if

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it is for all or only a portion of that harbor facility. The boundaries of a Tier I harbor facility will be based on the Department's 1995 Alaska Harbor Directory or as determined by the Department. Once a Tier I eligible harbor facility receives a Tier I grant, the status of that harbor facility changes from Tier I to Tier II henceforth. After all eligible Tier I projects have been selected, the Department will consider Tier II projects.

- The second tier consists of all other municipally or regional housing authority owned harbor facilities, including construction of a new harbor facility. Harbor facilities which have already received a Tier I grant can only compete for Tier II grants. Tier II grants may comprise "New Construction, Expansion, or Major Maintenance and Repair" of a harbor facility. A harbor facility is eligible for multiple Tier II grants.

### **B. APPLICATION SUBMITTAL PROCEDURES**

1. **Application Deadline.** Applications for Harbor Facility Grant funding year 2024 must be delivered to: the Statewide Program Development, Juneau Field Office, 6860 Glacier Highway, Juneau, Alaska, 99811-2506 **on or before the close of business on Friday, August 5, 2022**. Alternatively, applications may be submitted by mail to: P.O. Box 112506, Juneau, Alaska, 99811-2506 but application packages must be **postmarked no later than Monday, August 8, 2022** and sent by certified mail, return receipt requested.
2. **Copies of Applications and Supporting Documentation.** The applicant is to provide an original and **two (2) legible copies (a total of THREE sets) of ALL application materials, and one "USB thumb drive" (other names: flash drive, memory stick) with the same information.** This includes plans (11" by 17" size is preferred), drawings, reports, maps, and the like. Because of the potential volume of material supplied in support of an application, each document must be clearly identified with the applicant's name, the identification or name of the project and the phrase, "document in support of Block No. \_\_\_\_." Block numbers are described in Section D.
3. To the extent possible, application material should:
  - Use 12 point type.
  - Be "loose leaf" bound to provide secure binding and to facilitate ease of handling.
  - Clearly identify bulky items such as harbor 11" by 17" plans or blueprints which cannot reasonably be bound with other items.
  - Contain an index or other device for referencing attachments and supplemental materials to the form data.
  - Use page numbers and dividers labeled to correspond to "Block" numbers matching the application instructions to ease referencing.

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The Department's contact for the Harbor Facility Grant program is:

Juneau Field Office – Planning  
Statewide Program Development  
Alaska DOT&PF  
P.O. Box 112506  
Juneau, Alaska 99811-2506  
Phone: (907) 465-1776  
Email: [dot.harborgrants@alaska.gov](mailto:dot.harborgrants@alaska.gov)

## C. KEY PROVISIONS OF THE PROGRAM

1. ***The intent of the Harbor Facility Grant Program funding is to assist municipalities or regional housing authorities with only the construction phase of small boat harbor facilities.*** It may not be used to fund the development of the planning and engineering studies, land acquisition or bidding documents, i.e. plans and specifications. Keep in mind that this is a competitive matching grant program with limited annual funding. Do not request funding for a construction ready project that the municipality or regional housing authority cannot reasonably expect to construct within 18 months after all parties sign the grant agreement.
2. The applicant is responsible for making sure that he has read these instructions fully and has determined that the proposed construction items of work are eligible for matching state funding. **The list of eligible and non-eligible items of work for the grant program is found under the phrase “harbor facility” in Section J.**
3. If after signing the grant agreement, the grant recipient has not awarded a construction project for the grant agreement's named harbor facility within six (6) months, the Department may terminate the grant agreement and deduct those grant funds that are not expended or the unobligated portion of the authorized balance from the grant recipient.
4. Projects may be denied funding for various reasons, including:
  - Application criteria in these instructions and AS 29.60.800 et seq. not satisfied
  - There are inadequate Harbor Facility Grant Program funds
  - Application receives lower priority than other applications during the evaluation cycle
  - Application submitted after the application deadline
  - Application was submitted electronically (facsimile or e-mail)
  - Application is incomplete or unsigned
  - An ineligible person signs the Certification Statement on the application
  - Applicant has not met the program planning requirements, i.e. preparation of finance plan and preventive maintenance plan
  - The application is for a harbor facility project that is speculative; for example, the applicant has no firm financial commitment for a proposed harbor fee increase, income from a potential harbor lessee or operator, or bonds have not received voter authorization. Each of these items could cloud the validity of the finance plan and the future operation and maintenance of the harbor facility.

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- The applicant cannot demonstrate that it has ownership or long term management control of the tidelands and uplands required for the capital improvement project, including public access to the site. The grant program cannot be used for acquiring land.
  - Applicant proposes to use force account or “in-kind” services to make the local match
  - Proposed project inconsistent with applicable local harbor development plans or comprehensive plans
  - Proposed project inconsistent with AS 29.60.800 et seq.
5. In all cases, the Department will determine the final eligibility of any portion of a project for funding under this program.
  6. Projects selected for funding require formal agreements between the Department and the eligible applicant.
  7. All grant recipients will be required to maintain open project books and records and to make timely periodic progress reports to the Department.
  8. No grant funds will be committed to an eligible applicant until a grant agreement is negotiated and signed by the Department and the eligible applicant.
  9. Prior harbor grants must be completed and closed-out before another harbor grant application will be accepted for the same harbor facility.

### **D. APPLICATION INSTRUCTIONS (see Form DOT&PF H-26267)**

**Block 1.** Write a brief project description and statement of need. Note that Block 4 requires a detailed scope, schedule and budget (see below). Prepare a separate application for each harbor facility even if the municipality or regional housing authority owns multiple harbor facilities. Each application must be independently justified.

**Block 2.** Decide if this application is for a Tier I or a Tier II harbor grant. Check the box or boxes to indicate the type of project and list the estimated percentage of overall cost for major repair, major maintenance, replacement, expansion or new construction.

**Block 3.** Indicate the total state funding requested for the harbor facility project in this grant application. The state will contribute 50% of the project cost up to a maximum of \$5 million per state fiscal year under this program. Since this grant program was not intended to address preventive maintenance or regular custodial care issues, there is a minimum harbor facility grant application amount of \$50,000.

Describe the source(s) for the local 50% matching grant amount. Municipalities or regional housing authorities must submit evidence of local government action authorizing the project, where the local funds are coming from, and when the local funds will be available. Bonds requiring local voter approval must be approved by the voters prior to submission of the grant application to count as evidence of ability to finance the local share of the project. Submit a narrative or other support documentation, e.g. federal grant award letters, concerning the timing

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of available non-grant financing and known or expected prerequisites for, or limitations on, that financing, i.e. bond issue, budget appropriation, bank loan approval, other grant, etc. ***Force account and “in-kind” contribution of services will not be accepted to make any portion of the local match.***

**Line 3a.** Enter the requested amount of state matching Harbor Facility Grant funds (\$50,000 minimum). The total of Lines 3b through 3e must equal or exceed the amount on Line 3a to satisfy the 50% local matching share contribution per AS 29.60.800 et seq. *Note, if the municipality or regional housing authority is making more than one harbor grant application, then be aware that the maximum amount of harbor grant(s) to a municipality or regional housing authority per state fiscal year is \$5 million per AS 29.60.820(a).*

**Line 3b.** Indicate the source of the local funds, for example, municipal cash on hand or funds in a Harbor enterprise account. Bond funds must be from bonds already voted on and passed by the municipality or regional housing authority before the application deadline date.

**Line 3c.** If applicable, list state sources for the local match requirement. *Designated Legislative Grants and Grants to Municipalities by the Alaska Legislature are not eligible state sources for the local match requirement.* The only eligible state sources for the local share of the match are:

- a) [AS 29.60.850](#) - 29.60.879 (community revenue sharing program); and
- b) [AS 29.60.450](#), [AS 43.75.130](#), and 43.75.137 (shared fisheries business taxes);
- c) [AS 43.52.200](#) - 43.52.295 (excise tax on overnight accommodations on commercial passenger vessels); and
- d) a transfer agreement between the state and a municipality pursuant to a sale under [AS 35.10.120](#);

**Line 3d.** If applicable, list the federal sources for the local match requirement. Include copies of grant awards from federal agencies participating in the project funding. Federal grants from the Denali Commission, EDA, USDA, BIA, etc., are acceptable sources to fulfill the local match requirement. Funds from one of the federal Community Development Quota groups are also eligible.

**Line 3e.** Include copies of grants or letters of award, or its equivalent, from private donors, banks, corporations, etc.

Note: The sum of lines 3b through 3e must equal to or be greater than line 3a.

**Line 3f.** The total estimated cost of the project.

**Line 3g.** Determine ICAP amount. Purpose is to increase Line 3f so the Grantee doesn't have to pay for the Department's ICAP amount out of a Grantee's successful harbor grant.

**Line 3h.** The total cost of the grant's application. This is the amount that will be presented to the Alaska Legislature and the Governor's Office for funding.

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**Block 4.** Attach a detailed project scope, schedule and cost estimate that includes the following elements:

- a) An 11” by 17” plan view drawing (preferably overlaid on an aerial photo) clearly identifying the elements and limits of the project.
- b) A detailed description of the scope or extent of the project and that clearly identifies what will be accomplished.
- c) A cost estimate in sufficient detail to support a meaningful evaluation of the project costs and the reasonableness of the estimate. Estimated quantities may include items such as the number of piling and square feet of floats along with materials or vendors you propose to use. For all applications, cost estimates must be based on the municipality or regional housing authority’s most recent information and must address the project requested. If there are special requirements or considerations, a detailed explanation and justification must be provided in the project description and scope of work. A contingency percentage may be added to account for inflation, project location, increased material costs, and bidding uncertainty.
- d) For the project schedule, describe the project duration and list the project start and completion dates, anticipating that grant funds are available after **July 01, 2023**.

Documentation of the existing harbor facility’s condition is optional; however, it may be useful to the Department in evaluating the overall merits of a project request. Condition surveys (it may be helpful to include photographic documentation of the deficiencies that will be corrected as a result of the proposed project) can be prepared by the owner or a consultant. Portions of the harbor facility condition survey, such as utilities, may require the services of a licensed professional engineer or journeyman electrician. The Department may have historical data and condition assessments from a survey completed in the early 1990’s of Department owned harbors that may be useful for a comparative analysis.

**Block 5.** List all previous harbor facility grants received at this harbor facility under this grant program. ***If the harbor facility has not received a previous harbor grant, then the applicant should leave this blank or put down “N/A”.***

A Grantee is ineligible to apply for a second grant for work at the same harbor facility until after the prior grant agreement has been closed out in accordance with the prior grant’s close-out procedures. The Department will reject a new grant application for work at a harbor facility which has previously been awarded a harbor facility grant if the previous grant agreement has not been officially closed out before the harbor grant program’s application deadline. For an applicant with multiple harbor facilities, this requirement does not apply to those harbor facilities which have not been awarded a prior harbor grant.

**Block 6.** Attach documentation proving ownership of existing harbor facilities associated with the project. This may include upland and tideland information, in addition to the bill of sale for the harbor facilities.

**Block 7.** Attach documentation demonstrating that the project is a Capital Improvement Project (CIP) and not part of a preventive maintenance program or regular custodial care program.

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Provide evidence that the project is included in the municipal capital improvement program and indicate its rank amongst other capital improvement projects.

**Block 8.** Attach a detailed description how the municipality or regional housing authority will fund the 50% match required for the grant. Submit supportive backup documentation that demonstrates that loans and grants from eligible federal and private sources have been approved. General Obligation or Revenue Bond funding not yet approved by municipal voters or the municipal government will not be considered valid. State funds may not be used for the match except those as specifically allowed under AS 29.60.800 *et seq.*

**Block 9.** Attach proof that municipality or regional housing authority has secured and will maintain adequate property loss insurance for the replacement cost of the harbor facility or has an adequate program of insurance.

**Block 10.** Attach a copy of the municipality or regional housing authority's preventive maintenance plan (PMP) for the harbor facility. The PMP will be reviewed for completeness, reasonableness, and must be adequately supported by the finance plan.

For a successful applicant, specific detailed information is expected concerning the preventive maintenance plan. For example, the preventive maintenance plan must demonstrate that the municipality or regional housing authority understands the operational costs of owning and maintaining their harbor facility, has developed a daily process to address maintenance items, and is maintaining the harbor in a safe and prudent manner.

**Block 11.** For the first grant application, an adequate finance plan is sufficient documentation that the municipality or regional housing authority will adhere adequately to the PMP after completion of the proposed project. Subsequent grant applications will require a demonstration that the municipality or regional housing authority is managing the harbor facility consistent with the finance and preventive maintenance plans.

**Block 12.** For Tier I applications, provide evidence that the harbor facility was transferred from the state to the municipality or regional housing authority.

**Block 13.** Attach a detailed finance plan that indicates how the municipality or regional housing authority will fund the construction and maintenance of the harbor facility in accordance with the PMP. The finance plan will be evaluated based on the level of detail and adequacy, including the current harbor fee structure or schedule. Provide adequate documentation that substantiates the amount and sources of municipal and non-municipal funds. The municipality or regional housing authority may contribute funds from their general fund or harbor enterprise account. To be considered, bonds must have been sold before the grant program's application deadline. For non-municipal funds, document the amount and the sources of those funds by providing copies of Letters of Award, grant agreements, loans, etc. that show the applicant has sufficient funds for the project. Funds from federal agencies, private corporations or donors, and non-state groups are eligible to contribute towards the applicant's matching requirement. State funds, including deferred maintenance and transfer funds from the Department, cannot be used to make the match except for rare exceptions described in AS 29.60.810. Projected future revenues based on harbor rate and fee structures not yet approved will not be considered valid.

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Be careful not to present a financial plan that is speculative. Examples of speculative funding would be income or revenue from a source that would require a mutually executed contract or agreement to establish the level of funding or on city bonds yet to be approved by ballot measure. Speculative items are any funds that could cloud the validity of the finance plan and the municipality or regional housing authority's ability to build and maintenance the harbor facility now and in the future.

For a successful applicant, specific detailed information is expected concerning the finance plans. The financial plan would show that there is a written rationale to income and expenditures. The plan may also include the last date user fees were adjusted and why. It may show how user fees are adjusted to balance the cost of operating the harbor. Also, it may show how future costs are adequately supported by previous expenditures and adjusted for inflation. The plan must include a contingency fund for major repair and replacement. Further the finance plan would be augmented by proof that there is a dedicated harbor fund.

**Block 14.** Identify all safety issues with the current harbor facility and describe how the project will address them. Provide evidence of a public safety or emergency factor that will be corrected by the proposed capital improvement project. Acceptable evidence includes accident reports by the municipality or regional housing authority or other government agency (state trooper, US Coast Guard, etc.), lawsuits, formal emergency response plans (municipal, state or federal) or similar documentation. The municipality or regional housing authority must explain how the proposed project alleviates the public safety concern or enhances other emergency factors. If this project is an emergency, provide the following information:

- Nature of the emergency
- Harbor facility condition related to the emergency
- Potential threat to harbor users or the public
- Consequence of continued use of the harbor facility
- Individuals or groups affected by the condition
- Action taken by the municipality or regional housing authority to mitigate the emergency conditions
- Eligibility of all portions of the project for insurance reimbursement or emergency funding from state or federal agencies

**Block 15.** Provide documentation concerning past maintenance expenditures and include a narrative describing the nature of the maintenance performed to the extent practical. These costs must be substantiated and documented by providing a detailed description and cost breakdown of maintenance efforts expended at this harbor facility. For applicants with multiple harbor facilities, a separate maintenance breakdown is required for each harbor facility.

**Block 16.** Provide documentation concerning the full range of options the municipality or regional housing authority evaluated that would reduce or eliminate the need for the proposed project. A municipality or regional housing authority must provide evidence that other options were evaluated and the proposed harbor capital improvement project is fully justified. Acceptable evidence may include planning documents from a Capital Improvement Program,



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harbor board minutes, or council/assembly meeting minutes discussing harbor options considered. Please explain how the options were evaluated, and if not, why.

**Block 17.** A checklist is provided for your convenience to help the applicant make sure that the application is complete. Please verify that all required and any additional attachments are properly numbered (see Section B, number 2). That will greatly assist the Department when evaluating your application.

**Block 18.** Read the Certification Statement and be sure the application is signed by an official authorized to represent the municipality or regional housing authority. Typically, the municipality or regional housing authority's manager/administrator or the mayor will sign the Certification Statement. Unsigned applications may be rejected. A resolution that shows support for the proposed small boat harbor project is encouraged as it will increase an applicant's score, but a resolution is not required.

### E. APPLICATION REVIEW PROCESS

1. The Commissioner will appoint a panel of reviewers consisting of a minimum of four Department staff members. This panel is called a harbor panel or the Harbor Project Evaluation Board (PEB). The Harbor PEB will review all eligible grant proposals. Applications will be scored independently using the instructions and scoring criteria (Form DOT&PF H-27269) for this grant program. The reviewers' total scores will be averaged to determine the priority by which applications will be considered for funding.
2. The proposal having the highest average score will be allocated funding unless the available Harbor Facility Grant funds appropriated by the Alaska Legislature for that fiscal year are less than the proposal; in which case, the next highest proposal that can be fully funded will be awarded the next grant and so on. The harbor panel will work its way down the priority ranking until at least 50% of available funds are awarded in that fiscal year or until proposal cost estimates exceed the remaining grant funds.
3. The harbor panel will conduct its work in a timely fashion following the application deadline. The Department will issue a letter of award the harbor facility grant to the entity(s) whose application it has selected for further action.
4. Minimum Award per Grant: \$50,000.
5. Maximum Award per Grant: \$5,000,000.
6. Applicants who don't receive a Harbor Facility grant award this year will need to reapply for consideration in the next evaluation cycle. Preferential consideration will not be afforded previous applicants.

### F. CONDITIONS OF THE GRANT

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1. Neither the solicitation of grant applications nor issuance of a notice of intent to award obligates the Department to award grant monies. As a prerequisite to any award, the selected applicant must properly ratify and execute a mutually agreeable grant agreement within six (6) months of the Notice to Award to the municipality or regional housing authority. If a selected applicant fails to promptly do so, the Department may deny the award and select the next highest scoring proposal or award the funds in subsequent years.
2. For project construction work that is competitively bid by the Grantee, the original bid result amount received by the Grantee may come in lower than the estimated bid amount in the grant application. In this case, and in this case only, the amount in the grant agreement will be decreased such that the Department will award a grant for 50% of the Grantee's original bid result amount. This difference between the estimated amount on the grant application and the original bid amount is considered a project cost savings to be shared equally between the Grantee and the Department. When there is a cost savings, the public benefits because there is a shared benefit to the Grantee and the Department. Just as the construction cost expenses are shared 50/50 with the Grantee, so are cost saving benefits shared 50/50 between the Department and the Grantee.
3. The grant period is eighteen (18) months. The Department will reimburse the Grantee for eligible harbor facility expenses, described in the grant agreement, for the construction of a harbor facility.
4. Harbor facilities not eligible under this program are ones that lease the majority of its slip space to large commercial or tourist marine vessels (greater than 125 feet LOA) or ones that are not available to the general public.
5. Port or barge facilities are not eligible for the grant program.
6. Force account and "in-kind" contribution of services are not eligible activities under the definition of a harbor facility.
7. Grantee may not alter the grant agreement (including modifications to goals and/or objectives) without prior written approval of the grant officer.
8. In all cases, the Department will determine final award and eligibility of any portion of a project for funding under this program.
9. Grantee shall comply with all provisions of the grant agreement. It is responsible for managing the day-to-day operations of grant-supported activities. However, as program steward, the Department monitors grants and Grantee's performance through review of retained records, reports and correspondence from Grantee, audit reports, site visits, and other means available to the Department.
10. Grantee shall be responsible for preparing and administering all contracts and projects undertaken in connection with a grant award. Grantee shall ensure all contracts and work financed in connection with a grant award comply with applicable federal, state, and local statutes, regulations, ordinances, and laws. Grantee shall defend, indemnify, and hold the State harmless from all claims arising in connection with such contracts and related work.

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Third party contracts, engineering and construction project overruns, and construction contract claims shall be the sole responsibility of Grantee.

11. Grantees must retain financial and program records, supporting documents, electronic data, and all other records required by the terms of a grant for a period of six (6) years from the date when the final financial status report is submitted to the Department. The Department shall have full access to these records for purposes of audits or other inquiries regarding Grantee's compliance.
12. Periodically, Grantee must submit financial and progress reports. Reporting deadlines are addressed in the grant agreement. Failure to submit complete, accurate, and timely reports may result in the need for closer monitoring or enforcement action by the Department.
13. The grant program is subject to Alaska Legislature appropriations and may be reduced or terminated based on state appropriated funds in any given fiscal year. In such case, the Department shall have no liability to Grantee if it is unable to fund, in whole or in part, a grant award.
14. The Department retains the right to refrain from making any awards if it determines that to be in the State's best interest.

### G. ENFORCEMENT

1. The grant officer may take one or more actions in the event the Grantee fails to comply with the terms of the award. Upon written notification explaining the basis of the action, the grant officer may suspend the grant pending corrective action or terminate the grant for cause. The grant officer may impose conditions requiring correction of noncompliance or deficiency, e.g., temporarily withholding grant payment or conversion from an advance payment method to a reimbursement method. If conditions are imposed, the grant officer will notify the Grantee in writing as to the nature of the conditions, the reason for imposition, the nature of the corrective action needed, the time allowed for completing corrective actions, and the method for protesting/requesting reconsideration of this action.
2. The grant officer may recover funds paid to a Grantee in excess of its entitlement, including misspent funds, unallowable costs incurred, or unobligated balances. If the Grantee does not remit the funds in response to a demand, the grant officer or the Department may collect the debt by:
  - a) Making an administrative offset against payments that would be due under other grant awards or appropriations,
  - b) Withholding advance payments that would otherwise be due,
  - c) Instituting civil action, or
  - d) Taking any other action permitted by law.
3. Grantee may contest enforcement action implemented by the grant officer through the protest procedure identified below.

## H. PROTEST

1. A grant applicant contesting the evaluation of applications under AS 29.60.800 *et seq.* may file a protest with the grant officer within 10 days of the issuance date of the Department's Notice of Intent to Award. The grant officer will deny as untimely any protest filed after the 10 day period. The protest must include the name, address, and telephone number of the protester, the signature of the protester or the protester's representative, a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and the form of relief requested.
2. The grant officer shall immediately provide a copy of the protest to the entity(s) identified in the Notice of Intent to Award (If no notice was issued, the officer will copy all grant applicants). In the event of a protest, the grant officer may proceed with the grant award unless he/she makes a written determination that a reasonable probability exists the protest will be sustained or a stay of the award is not contrary to the best interests of the State.
3. Within 15 days of receipt of the protest, the grant officer will issue a decision. The grant officer may extend this deadline for up to 30 days, in which case he/she shall notify the protester in writing of the date of the extended deadline.
  - a) If the officer sustains an applicant's protest to the evaluation process, he/she shall implement an appropriate remedy. In no case, however, is an applicant entitled to recover more than its reasonable application preparation costs.
  - b) In determining an appropriate remedy, the officer shall consider the circumstances surrounding the grant evaluation which may include: the seriousness of the alleged deficiencies; the degree of prejudice to other interested parties or to the integrity of the grant program; the good faith of the parties; and the costs to or impacts on the program or Department regarding a proposed remedy.

## I. APPEAL

1. Within 15 days of the date of the grant officer's decision, the protester may file an appeal with the Commissioner and file a duplicate copy with the grant officer. The Commissioner shall dismiss an appeal if it is untimely. The appeal must include the information required under paragraph (1) of the previous section labeled "Protest", a copy of the decision from which the appeal is taken, and identification of the factual or legal errors in the decision forming the basis for the appeal.
2. The grant officer shall file a complete report on the protest and decision with the Commissioner within 10 days after a protest appeal is filed. The grant officer shall furnish a copy of the report to the protester.

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3. The protester may file comments on the protest report with the Commissioner within 10 days of the date of the report. The protester shall provide copies of the comments to the grant officer.
4. The grant officer and the protester may make a written request to the Commissioner for an extension of time to submit their respective filings. The Commissioner shall respond to any such request in writing. If an extension is granted, the Commissioner shall notify both parties of the new filing deadline.
5. The Commissioner may issue a decision on an appeal without a hearing if the appeal involves questions of law without genuine issues of material fact.
6. If a hearing on a protest appeal is required, it shall be conducted in accordance with [AS 36.30.670](#).

### J. DEFINITIONS

As used in these instructions and the accompanying application, the terms identified below are defined as follows:

An “*adequate program of insurance*” is a property self-insurance retention program which is financially capable of paying the actual replacement cost in the event of damage to or loss of harbor facility component(s) for which the municipality or regional housing authority is seeking a grant under AS 29.60.800 *et seq.* The grant officer will determine whether a municipality or regional housing authority's program fulfills the foregoing requirement. In so doing, the grant officer will review the adequacy of declared value of the harbor facility, provisions of the self-insurance retention program, and the municipality or regional housing authority's annual financial reports. In reviewing the reports, the grant officer will consider the following:

- a) Property loss history, outstanding claims liability, and proposed excess insurance coverage;
- b) Obligations under all other self-insured programs including their self-insured retention levels;
- c) Funding of the insurance program; and
- d) Bonded indebtedness.

“*Adequate property loss insurance*” is property insurance underwritten by an insurer acceptable to the grant officer or procured and administered through a joint insurance arrangement authorized by [AS 21.76.010](#) *et seq.*, which:

- a) Provides coverage for actual replacement cost in the event of damage to or loss of harbor facility component(s) for which the municipality or regional housing authority is seeking a grant under AS 29.60.800 *et seq.*, and
- b) Imposes no more than a customary deductible percentage of actual replacement cost for a municipality or regional housing authority of applicant's size.

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An “*audit*” is a systematic review or appraisal of a grant recipient’s internal accounting and other control systems to provide reasonable assurance the entity:

- Properly conducts financial operations;
- Presents financial reports fairly, accurately and in a timely manner;
- Complies with applicable laws, regulations, and other grant terms;
- Manages and uses resources in an economical and efficient manner; and
- Achieves desired results and objectives in an effective manner

“*Capital improvement program*” is a planning document that identifies the capital needs of a municipality or regional housing authority and indicates how these needs will be funded over a multi-year period. A Capital Improvement Program contains the descriptions and cost estimates for capital improvement projects.

“*Capital improvement project*” or “*project*” is a public harbor facility, building or other structure, public works, or other facility, highway, or local service road; the term includes an allocation or appropriation item for a public asset with an anticipated life exceeding one year and a cost exceeding \$25,000 and may include construction, structural improvement, engineering and design for the project, and equipment and repair costs.

“*Commissioner*” means the Commissioner of the Department of Transportation and Public Facilities.

“*Custodial care program*” is a set of organized and methodical acts to ensure that a harbor facility is operated in a prudent and reasonable fashion for the maximum benefit of owners, users and other stakeholders.

“*Department*” means the Department of Transportation and Public Facilities.

“*Expansion*” of an existing harbor facility is any capital improvement that results in an increase in capacity including moorage or dock enhancements.

“*Fiscal year*” means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year

“*Force account*” means the use of the applicant’s own labor force and equipment.

“*Grant*” is an award of monies to a municipality or regional housing authority under the Harbor facility grant program, AS 29.60.800 *et seq.*

“*Grant agreement*” is a contract containing the terms under which the Department agrees to provide a Harbor facility grant to a recipient.

“*Grant applicant*” or “*applicant*” is a municipality or regional housing authority seeking a Harbor facility grant under AS 29.60.800 *et seq.*

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“Grant officer” or “officer” is the Departmental representative administering the grant application process or a recipient’s grant.

“Grant program” or “program” is the Harbor Facility Grant Program, AS 29.60.800 *et seq.*

“Grant recipient” or “Grantee” is a municipality or regional housing authority to which the Department has awarded a Harbor facility grant under AS 29.60.800 *et seq.*

“Harbor” is a sheltered arm of the sea, bounded by natural features, manmade structures, or a combination of both, in which small boats may seek refuge, transfer cargo, embark and disembark passengers, and/or undergo repair.

“Harbor facility” is a system of floats, piers, ramps, pilings, and associated upland appurtenances within a harbor that provide for the moorage, movement, launching, hauling, and maintenance of small boats. A harbor facility differs from a port in that a harbor facility does not handle large passenger ships or cargo from freighters

**a) ELIGIBLE Items of work for the grant program include:**

- Approach structures
- Pilings and anchors
- Access ramps and gangways
- Float systems for permanent and transient moorage
- Floating breakwaters
- Utility systems integral to the float systems (specifically power, lights, fresh water, sewage pump out, and fire protection)
- Launch ramps
- Seaplane floats
- Portable/trailer mounted equipment for firefighting, sewage pump out, bilge water, etc.
- Other appurtenances necessary for the basic operation of the harbor facility
- Third-party contracts for construction management and inspection services

**b) INELIGIBLE items of work for the grant program include:**

- Dredging, blasting or mechanical removal of harbor basin materials
- Rubble-mound breakwaters and revetments
- Dikes, groins, and jetties
- Wharfs and docks for large commercial or passenger tourist marine vessels (greater than 125 feet LOA)
- Seawalls, bulkheads, sheet pile walls, gabions, and quays
- Access roads and upland improvements
- Boat houses
- Commercial or privately owned utility systems on the float systems
- Fuel and oil distribution systems
- Platform floats for small buildings, restrooms, or commercial retail space
- Landscaping and facility amenities, e.g., trash receptacles, used oil collection tanks, storage/locker boxes, etc.
- Security or close circuit television video (CCTV) systems

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- Utility system improvements beyond the harbor facility limits, e.g., electrical and water/sewer line extensions to bring those services to the harbor facility
  - Harbormaster offices, buildings, offices, shops, boat yards or storage structures
  - Marine vessel hoisting machinery and small boat haul-out systems
- c) For purposes of this program, each named harbor facility in an agreement that transfers ownership from the state to a municipal or regional housing authority, constitutes a harbor facility for which the municipal or regional housing authority is eligible to receive only one grant with a Tier I status. There may be more than one named harbor facility in a Harbor Transfer Agreement or Bill of Sale.

*“In-kind contribution”* means a contribution of equipment, supplies, property or other non-cash item in lieu of a dollar contribution.

*“Length-over-all (LOA)”* is the linear distance, in feet, from the forward most part at the stem to the aftermost part of the stern of the marine vessel, measured parallel to the base line of the marine vessel.

*“Major maintenance and/or major repair”* is a project to extend the life of an existing harbor facility by ten or more years including reconstruction and/or rehabilitation with a total cost exceeding \$50,000.

*“Municipality”* means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality.

*“New construction”* means construction of a harbor facility at a new harbor.

*“Preparation costs,”* when used in the context of application or protest preparation costs, are limited to reasonable clerical, copying, and postage costs incurred in preparing and submitting grant application forms or documentation in support of a protest. They do not include costs incurred in connection with planning and formulating facility preliminary or layout drawings, engineering designs (comprising plans, estimates and specifications for a project), preventive maintenance plans, financial plans, schedules, budgets, legal costs or fees, or the like.

*“Preventive maintenance”* is the planned strategy of cost-effective treatments to an existing harbor system and its appurtenances that preserves the system, retards future deterioration, and maintains or improves the functional condition of the system (without substantially increasing structural capacity).

*“Preventive maintenance program”* is a systematic approach to extending the life of harbor components by applying low-cost preventive maintenance treatments.

*“Regional housing authority”* means a regional housing authority established under [AS 18.55.996](#)

*“Small Boat”* means a recreational, pleasure or commercial fishing marine vessel with a LOA of equal to or less than 125 feet.



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“*Small Boat Harbor*” means a harbor facility where the majority of the marine vessels are small boats. A harbor facility may have berths or transient spaces for a few vessels over 125 feet long.

“*Unobligated balance*” means the portion of the funds authorized by the Department that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

### K. ALASKA STATUTE REFERENCE

The following are excerpts from Alaska Statutes 2015, Title 29. MUNICIPAL GOVERNMENT, Chapter 29.60. STATE PROGRAMS.

#### Article 07. HARBOR FACILITY GRANT PROGRAM

##### Sec. 29.60.800. Harbor facility grant fund.

- a) There is established the harbor facility grant fund consisting of money appropriated to the fund. Each fiscal year, the legislature may appropriate money to the fund from the watercraft fuel tax account ([AS 43.40.010 \(f\)](#)) and from the fisheries business tax collected under [AS 43.75.015](#) after payments to municipalities are made under [AS 43.75.130](#). The legislature may make other appropriations to the fund. The legislature may appropriate to the fund income earned on money in the fund.
- b) Money appropriated to the harbor facility grant fund may be expended by the Department of Transportation and Public Facilities for harbor facility grants without further appropriation. Money in the fund does not lapse and remains available for expenditure in successive fiscal years.
- c) Each fiscal year, the Department of Transportation and Public Facilities shall use an amount equal to at least 50 percent of the balance of the harbor facility grant fund on June 30 of the preceding fiscal year for harbor facility grants.

##### Sec. 29.60.810. Grant applications.

A municipality or regional housing authority that owns a harbor facility may submit to the Department of Transportation and Public Facilities an application for an harbor facility grant to be used for construction, expansion, major repair, or major maintenance of a harbor facility. The application must include information about the project requested by the Department. For a proposed project to be eligible for a grant, the municipality or regional housing authority must provide evidence acceptable to the Department that the:

- a) Proposed project is a capital improvement project and not part of a preventive maintenance program or regular custodial care program;
- b) Municipality or regional housing authority will provide 50 percent of the total project cost as matching funds for the state grant and that money received by the municipality or

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regional housing authority from the state will not be used for the matching funds except money received under

- 1) [AS 29.60.850](#) - 29.60.879 (community revenue sharing program);
  - 2) [AS 29.60.450](#), [AS 43.75.130](#), and 43.75.137 (shared fisheries business taxes);
  - 3) [AS 43.52.200](#) - 43.52.295 (excise tax on overnight accommodations on commercial passenger vessels); and
  - 4) a transfer agreement between the state and a municipality pursuant to a sale under [AS 35.10.120](#);
- c) Municipality or regional housing authority has secured and will maintain adequate property loss insurance for the replacement cost of the harbor facility or has an adequate program of insurance;
- d) Municipality or regional housing authority has a preventive maintenance plan for the harbor facility and will be adequately adhering to the preventive maintenance plan after completion of the proposed project.

### **Sec. 29.60.820. Award of grants.**

- a) The Department of Transportation and Public Facilities may award a harbor facility grant during a fiscal year only for a proposed project eligible under [AS 29.60.810](#) based on a grant application filed during the immediately preceding fiscal year before February 1. The total amount of grant money made available to a municipality or regional housing authority during a fiscal year may not exceed \$5,000,000.
- b) The Department of Transportation and Public Facilities shall award a grant for every proposed project eligible under [AS 29.60.810](#) that is for repair and major maintenance of a harbor facility that was transferred by the state to a municipality or regional housing authority before grants may be made for other proposed harbor facility projects during a fiscal year. However, after the Department makes a grant for the repair and major maintenance of a harbor facility under this subsection, no other grants for the repair and major maintenance of that facility may be made during the same or any other fiscal year.
- c) The Department of Transportation and Public Facilities shall establish priorities for the award of grants for proposed harbor facility projects under (b) of this section and priorities for the award of grants for other proposed harbor facility projects, with new construction projects having the lowest priority. The Department shall award grants in the order of priority established. In establishing priorities, the Department shall include at least the following, in the order listed:
- 1) The extent to which the municipality or regional housing authority can demonstrate that it will have sufficient revenue to operate and maintain the harbor facility in the future without state aid;
  - 2) Public safety and emergency factors;
  - 3) The amount spent by the municipality or regional housing authority on maintenance of the harbor facility;

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- 4) Other options that would reduce or eliminate the need for the proposed project;  
and
  - 5) Whether alternative harbor projects would better serve the public interest.
- d) The Department of Transportation and Public Facilities may suggest modifications to a project request to achieve cost savings or to better serve the public interest and, if the municipality or regional housing authority agrees, award the harbor facility grant for the proposed project as modified.

### **Sec. 29.60.830. Definition.**

- (a) In [AS 29.60.800](#) - 29.60.830, "regional housing authority" means a regional housing authority established under [AS 18.55.996](#).