

**ADOPTION OF PROCEDURES AND GUIDELINES FOR THE
RHODE ISLAND INTERGOVERNMENTAL REVIEW PROCESS**

The State Planning Council proposes to adopt, although not as a “rule”, *Procedures and Guidelines for the Rhode Island Intergovernmental Review Process* which would provide guidance to staff, State agencies, and the public on the procedures and operation of the Rhode Island Intergovernmental Review Process.

Copies of the proposed Procedures and Guidelines are available for review at the Rhode Island Division of Planning, Third Floor, One Capitol Hill, Providence, RI between 8:30 a.m. and 4:00 p.m., Monday through Friday. All interested parties are invited to submit written comments concerning the proposed *Procedures and Guidelines for the Rhode Island Intergovernmental Review Process* by November 21, 2013 to Kevin Flynn, Secretary of the State Planning Council at:

R.I. Department of Administration
William Powers Building
One Capitol Hill
Providence, RI 02908

In addition, oral or written comments on the proposed *Procedures and Guidelines for the Rhode Island Intergovernmental Review Process* will be accepted at the close of the Council’s public hearings on adopting new *Rules and Standards of the State Planning Council*. The Council will be conducting two public hearings on Thursday, November 21, 2013. The first will be held at 10:30 a.m. in Conference Room C, Second Floor; the second will be held at 5:00 p.m. in Conference Room A, Second Floor, both at the above address. At these hearings, all persons may present their comments in person or by providing a written statement.

The proposed Rules and the proposed Procedures and Guidelines will be considered for adoption by the State Planning Council at its meeting scheduled for:

Thursday, December 12, 2013 at 9:00 a.m.
Conference Room A, Second Floor
R.I. Department of Administration
William Powers Building
One Capitol Hill
Providence, RI

If you have any questions, please contact Kevin Nelson at 222-2093 or kevin.nelson@doa.ri.gov.

DRAFT

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

STATE PLANNING COUNCIL

Department of Administration
Division of Planning
Statewide Planning Program
One Capitol Hill
Providence, Rhode Island 02908-5870

**STATEWIDE PLANNING PROGRAM PROCEDURES AND GUIDELINES
FOR THE
RHODE ISLAND INTERGOVERNMENTAL REVIEW PROCESS**

_____ 2013

DRAFT 8/8/13

DRAFT

INTRODUCTION

The purpose of this document is to provide guidance to staff, State agencies, and the public on the procedures and operation of certain planning consistency reviews not covered by the *Rules and Standards of the State Planning Council*. Unlike consistency reviews contained in the *Rules and Standards*, the consistency reviews covered by these guidelines relate to the coordination between Federal activities and state and local planning. As such, many of the procedures discussed are based on requirements established by Federal law or regulation.

1. CONTEXT

The Intergovernmental Review Process provides State and local representatives with an opportunity to review and comment on projects or programs covered by Presidential Executive Order 12372 (see Applicability). The intent is to assure consistency with the State Guide Plan, conformance to local comprehensive plans, and to facilitate coordination of activities within the state. It was initially established by Governor's Executive Order Number 83-11, which charges the State Planning Council with formulating rules and overseeing the process and names the Chief of the Statewide Planning Program as the state Single Point of Contact (SPOC).

2. APPLICABILITY

The following are subject to the Intergovernmental Review process:

- (a) Applications for Federal grants, loans, or technical assistance identified in the Catalog of Federal Domestic Assistance as eligible for review under Executive Order 12372, unless waived from review (see Waivers from Review).
- (b) Direct Federal Activities subject to Executive Order 12372. These include but are not limited to, Federal construction projects, Army Corps of Engineers permits, and environmental impact statements or assessments.
- (c) Plans submitted by the State for the purpose of acquiring or maintaining eligibility for Federal financial assistance or participation.

3. WAIVERS FROM REVIEW

The SPOC shall maintain a list, to be updated no less than semi-annually, of Catalog of Federal Domestic Assistance programs that have been waived from the Intergovernmental Review Process. The basis for such waivers is a determination that the program is not relevant to Rhode Island or that it is highly unlikely that an application under said program would result in a finding of non-conformance.

4. SUBMISSION FOR REVIEW

4.1 Applications for Federal Grants, Loans, or Technical Assistance

Any State agency, local government, or private organization that is seeking Federal financial or technical assistance to implement an activity within the State of Rhode Island must submit the grant application for Intergovernmental Review unless the program is specifically exempted from the review process by the Federal government or waived from review by the State (see

DRAFT

Waivers from Review). Failure to do so could result in the denial of the application by the Federal funding agency.

Applicants should submit to the SPOC a project narrative, Form SF 424 and/or other such forms as instructed by www.grants.gov at least thirty (30) days in advance of its planned submission to the Federal funding source. (Although not preferred, simultaneous submissions to the Division and Federal agency are permissible). Construction projects must also include a site map.

If the application is incomplete, the applicant will be notified with a statement of the information needed to commence the review. If an applicant fails to provide the required information the SPOC will recommend that the Federal funding source not fund the proposal.

4.2 Direct Federal Actions

Federal agencies should identify the Federal office proposing the action, the nature of the action, the contact person for additional information, the start date for the sixty (60) day comment period, and submit at least one (1) copy of the entire document describing the action to the SPOC.

4.3 Plans Submitted by the State

State agencies should submit a full copy of a draft plan to the SPOC for review at least sixty (60) days in advance of its planned submission the Federal agency in order to allow sufficient time for the SPOC to conduct a review and submit recommendations prior to the final adoption of the plan. The submission should include a summary of the plan, identification of the appropriate Federal agency and/or contact person to be notified of the SPOC recommendation.

5. REVIEW CRITERIA

The SPOC shall utilize the following criteria established by Executive Order 83-11 in the consideration of Intergovernmental Reviews:

- (a) consistency with state, local, and other officially adopted plans;
- (b) the need for coordination with other projects or related activities;
- (c) the avoidance of duplication of effort or ineffective or inefficient activities;
- (d) utilization of available resources such as, but not limited to, water availability and energy production in accordance with state and local priorities;
- (e) consistency with the protection of human and natural environments;
- (f) equality of opportunity and nondiscrimination; and
- (g) the displacement of people or businesses.

6. PUBLIC REVIEW

For Direct Federal Activities and grant requests involving significant construction activities, the SPOC shall notify State, local, and other agencies and organizations that might be significantly affected. The notice shall offer those agencies and groups a minimum of fifteen (15) days to provide comment. At a minimum, the SPOC shall notify or contact the following:

- (a) the chief elected officials of local governments or their designees whose jurisdiction may be directly affected by the proposal;

DRAFT

- (b) the Rhode Island Coastal Resources Management Council if the proposal is located in or significantly affects the coastal zone;
- (c) appropriate state and local agencies which are authorized to develop and enforce environmental standards in cases where the proposal may have a significant impact on the environment;
- (d) public agencies which have expressed an interest in the program area under review; and
- (e) any individual who, or agency or group which, in the judgment of the SPOC, may offer a significant contribution to the review process.

Federal regulations allow the state up to sixty (60) days to review new, competitive grant applications or up to thirty (30) days to review non-competitive or continuation grants.

7. EXPEDITED REVIEW

If, in the determination of the SPOC, an application for a Federal grant, loan, or technical assistance, or an environmental impact statement or assessment, does not involve significant construction activities and is unlikely to conflict with State or local plans, an expedited review may be conducted by staff of the Statewide Planning Program and shall not be subject to the Public Notification process.

8. COMPLETION OF THE REVIEW

At the close of the comment period, the SPOC shall prepare a finding and recommendation. The Council reserves the authority to review and comment on any draft environmental impact statement or assessment. A finding that results in a positive recommendation or no objection shall be forwarded directly to the applicant. However, if the finding results in a negative recommendation or objection, the applicant shall be notified and afforded an opportunity to meet with the SPOC, appropriate divisional staff, and the agencies or individuals who had submitted substantive comments to the SPOC to discuss the recommendation. A final finding and recommendation shall be prepared within ten (10) days of the above meeting and forwarded to all appropriate parties, including appropriate Federal agencies.