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RULE ADOPTIONS

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

43 N.J.R. 1602(b)

Adopted Amendments: *N.J.A.C. 19:30-6.1, 6.2 and 6.3; and 19:31-3.1, 3.2 and 3.5*

Administrative Rules; Fees

Authority Assistance Programs; Direct Loan Program

Proposed: April 18, 2011 at *43 N.J.R. 955(a)*.

Adopted: June 23, 2011 by the New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Filed: June 23, 2011 as R.2011 d.195, **without change**.

Authority: *N.J.S.A. 34:1B-1* et seq.

Effective Date: July 18, 2011.

Expiration Date: November 9, 2017.

Summary of Public Comments and Agency Response:

No public comments were received.

Federal Standards Statement

The adopted amendments are not subject to any Federal standards or requirements; therefore, a Federal standards analysis is not required.

Full text of the adoption follows:

CHAPTER 30 ADMINISTRATIVE RULES

SUBCHAPTER 6. FEES

19:30-6.1 Application fee

(a) Except as set forth in (c) and (d) below, a non-refundable fee of \$ 1,000 shall accompany every application for Authority assistance, except for:

1. An application under the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund, for which the fee is \$ 2,500;

2.-4. (No change.)

(b)-(d) (No change.)

19:30-6.2 Commitment fees

(a) (No change.)

(b) A non-refundable fee of .75 percent of the loan amount is charged with the acceptance by an applicant of a direct loan commitment under the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund.

(c)-(g) (No change.)

19:30-6.3 Closing fees

(a)-(c) (No change.)

(d) For direct loans from the Authority, other than loans under the Statewide Loan Pool, Preferred Lender Program and the New Jersey Business Growth Fund, the fee, to be paid at closing, is .875 percent of the loan amount. For direct loans under the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund, the fee to be paid at closing is .75 percent of the loan amount. For direct loans under the Small Business Fund, the fee to be paid at closing is .5 percent of the loan amount. For direct loans under *N.J.S.A. 34:1B-47 et seq.*, the fee to be paid at closing is one-half of one percent of the total amount of the direct loan.

(e)-(i) (No change.)

CHAPTER 31 AUTHORITY ASSISTANCE PROGRAMS

SUBCHAPTER 3. DIRECT LOAN PROGRAM

19:31-3.1 Program description

(a) (No change.)

(b) Except as otherwise provided in this subsection, direct loans are available in a maximum amount of \$ 1,250,000 for fixed asset financing and \$ 750,000 for working capital.

1.-5. (No change.)

6. For the Edison Innovation Angel Growth Fund, the Authority may award up to \$ 250,000 in convertible debt financing to leverage private angel investments, on a two to one angel matching fund requirement, to a business that has generated a minimum of \$ 500,000 in prior 12-month commercial revenues; for the Edison Innovation VC Growth Fund, the Authority may award up to \$ 500,000 in convertible debt financing to leverage institutional venture backed investments, on a one to one matching fund requirement, to a business that has generated a minimum of \$ 500,000 in prior 12-month commercial revenues; and, for the Edison Innovation Growth Stars Fund, the Authority may award up to \$ 500,000 in convertible debt financing, on a one to one matching fund requirement, to a business that has generated a minimum of \$ 2 million in prior 12-month commercial revenues.

7. (No change.)

(c)-(g) (No change.)

(h) The Authority shall determine the term, and fixed and/or variable rates of interest, including interest rate floors, to be charged for each loan product through consideration and official action of the Members at a public hearing. The applicant shall elect in writing, at or prior to the time of closing, a fixed interest rate or a variable interest rate.

1. Fixed Rate Interest: Interest on fixed asset or working capital loans will be fixed at the time of closing, with a floor that shall be indexed to a nationally recognized financial index, such as the five-year United States Treasury Bond of like term, plus or minus any additional basis points to be determined by the Authority. During the term of any loan, a scheduled rate reset shall not result in an increase of more than five percentage points greater than the original calculated interest rate.

2.-4. (No change.)

5. In addition to any interest charged on an Edison Innovation Angel Growth Fund loan, an Edison Innovation VC Growth Fund loan, and an Edison Innovation Growth Stars Fund loan, the Authority may also require the payment of additional fees and charges, including, but not limited to, warrants, stock, stock options, a percentage of royalties, and a percentage of sales proceeds.

6. (No change.)

(i)-(m) (No change.)

19:31-3.2 Eligibility standards

(a)-(e) (No change.)

(f) For Edison Innovation Fund loans, projects will be considered eligible if they have the following characteristics:

1. A commercially available product which meets the Authority's programmatic requirements in revenue thresholds, that is, for the Edison Innovation Angel Growth Fund and the Edison Innovation VC Growth Fund, a minimum \$ 500,000 in prior 12-month commercial revenues; and, for the Edison Innovation Growth Stars Fund, a minimum of \$ 2 million in prior 12-month commercial revenues;

2.-5. (No change.)

6. A clear record of specific operational and research milestones achieved to date and proposed schedule and means to achieve future milestones; and

7. A current and complete business plan including a detailed financial model.

(g) For Edison Innovation Fund loans, a business shall not be eligible as follows:

1. A business that has received assistance under the Edison Innovation Fund from the Authority or similar assistance provided by any other State agency, shall not be eligible for the Edison Innovation Angel Growth Fund.

2. A business shall not be eligible for assistance under the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, or the Edison Innovation Growth Stars Fund, if:

i. The business has received assistance under the New Jersey Board of Public Utilities' Edison Clean Energy Manufacturing Fund and/or the Edison Innovation Green Growth Fund; or

ii. The total amount of assistance to be received from the fund(s), when combined with all total assistance received under the Edison Innovation Fund from the Authority or similar assistance provided by any other State agency, exceeds \$ 1 million.

19:31-3.5 Approval process

(a)-(c) (No change.)

(d) If there has been no veto, a formal commitment letter is issued to the applicant.

1. (No change.)

2. With the exception of the New Jersey Growth Fund, the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund, usually, life insurance on the applicant's principal officer(s) is required in an amount equal to the Authority's guarantee. The life insurance must name the Authority as a collateral assignee.

3. With the exception of the New Jersey Growth Fund, the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund, personal guarantees of owners of 10 percent or more of the applicant are usually required, and there may be a requirement for collateral apart from the applicant's collateral to secure the personal guarantees.

(e)-(f) (No change.)