

NEW JERSEY REGISTER
Copyright © 2009 by the New Jersey Office of Administrative Law

VOLUME 41, ISSUE 2

ISSUE DATE: JANUARY 20, 2009

RULE ADOPTIONS

OTHER AGENCIES
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

41 N.J.R. 638(a)

Adopted Amendments: *N.J.A.C. 19:30-6.1, 6.2 and 6.3; and N.J.A.C. 19:31-2.1, 2.5, 7.3 and N.J.A.C. 10.12*

Adopted Repeals: *N.J.A.C. 19:30-6.6 and 19:31-4*

Administrative Rules/Authority Assistance Programs

Fees on Loan and Guarantee Products and the Business Employment Incentive Program (BEIP)

Proposed: October 20, 2008 at *40 N.J.R. 5954(a)*.

Adopted: December 22, 2008 by the New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Filed: December 22, 2008 as R.2009 d.38, **without change**.

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

Effective Date: January 20, 2009.

Expiration Date: July 22, 2010.

Summary of Public Comment and Agency Response:

No public comments were received.

Federal Standards Statement

The adopted amendments and repeals 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 (b) and (c) below, a non-refundable fee of \$ 1,000 shall accompany every application for Authority assistance, except for an application under the Edison Innovation Growth Fund, for which the fee is .25 percent

of the loan amount, not to exceed \$ 2,500. The non-refundable application fee of \$ 1,000 for a guarantee of a bond issued by the Authority is in addition to the bond application fee.

(b) For applicants filing concurrent applications for Authority assistance for multiple products of equivalent type, for example all loans, the application fee for the subsequent application shall be reduced by 50 percent.

(c) For applicants filing application(s) for Authority assistance within 12 months of closing a previous financing, a non-refundable application fee in an amount equaling 50 percent of the regular application fee shall be paid.

19:30-6.2 Commitment fees

(a) A non-refundable commitment fee of .875 percent of the guarantee or direct loan amount is charged with the acceptance by an applicant of a guarantee or direct loan commitment from the Authority, except for the Statewide Loan Pool, Preferred Lender Program and the New Jersey Business Growth Fund, wherein a non-refundable commitment fee of \$ 750.00 shall be charged with the acceptance by an applicant of a guarantee or direct loan commitment from the Authority.

(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 Growth Fund. If closing occurs, up to \$ 1,500 of the application fee will be applied toward the commitment fee. A non-refundable fee of .5 percent of the loan amount is charged with the acceptance by an applicant of a direct loan commitment under the Edison Innovation Commercialization Fund.

(c) A non-refundable commitment fee of .875 percent of the loan amount is charged with the acceptance by an applicant of any direct loan commitment other than as described in (a) or (b) above.

(d) (No change.)

19:30-6.3 Closing fees

(a) (No change.)

(b) For guaranteed Authority-issued bonds or guaranteed conventional financing other than Authority issued bonds, the guarantee fee, to be paid at closing, is .875 percent of the initial amount of the guaranteed portion of the financing multiplied by the number of years the guarantee is to be in effect. This fee is in addition to the fee described in (a) above if the Authority's guarantee relates to repayment of a bond issued by the Authority.

(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 Growth Fund, the fee to be paid at closing is .75 percent of the loan amount; and, for the Edison Innovation Commercialization Fund, the fee to be paid at closing is .5 percent of the loan amount.

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

CHAPTER 31 AUTHORITY ASSISTANCE PROGRAMS

SUBCHAPTER 2. LOAN GUARANTEE PROGRAMS

19:31-2.1 Program description

(a)-(b) (No change.)

(c) There are five types of guarantees available: Fixed Asset Guarantees, Working Capital Guarantees, Special Guarantees, Film Production Program Assistance Guarantees and Smart Growth Pre-development Guarantees.

1.-5. (No change.)

(d) (No change.)

19:31-2.5 Approval process

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

(d) If there has been no veto, a formal commitment letter is issued to the applicant and the bank which will be providing the loan.

1. (No change.)

2. Except for the Structured Finance Program, 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 collateral assignee.

3. Except for the Structured Finance Program, 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.)

SUBCHAPTER 7. LOCAL DEVELOPMENT FINANCING FUND

19:31-7.3 Application for financial assistance

(a) Each application for financial assistance from the Fund shall be accompanied by a non-refundable application fee of \$ 1,000. A non-refundable commitment fee of .875 percent of the loan amount is charged with the acceptance by an applicant of a direct loan commitment under the Local Development Financing Fund. The fee to be paid at closing is .875 percent of the loan amount.

(b)-(f) (No change.)

SUBCHAPTER 10. BUSINESS EMPLOYMENT INCENTIVE PROGRAM

19:31-10.12 Fees

(a) A non-refundable application fee of \$ 1,000 shall accompany every application for grant assistance.

(b) A non-refundable commitment fee of \$ 1,000 is charged with the acceptance by an applicant for a BEIP grant.

(c) A non-refundable Commitment Letter extension fee of \$ 1,000 shall be paid for every extension of a Commitment letter expiration date beyond the initial expiration date.

(d) A non-refundable fee of \$ 1,000 shall be paid at closing.

(e) A non-refundable fee of \$ 750.00 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$ 1,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.

(f) A non-refundable fee of \$ 750.00 shall be paid for any extension to the expiration date of a grant.

(g) An annual servicing fee shall be paid to the Authority by the business and shall be deducted from the annual grant payment to the business. The servicing fee shall be two percent of the annual grant disbursement with an annual cap of \$ 75,000.

(h) A non-refundable post-benefit retention equaling 20 percent of the final award shall be deducted at the time of disbursement for costs associated with monitoring annual job creation reports which, if all post award reporting is done pursuant to the grant agreement, shall be refunded at the end of the required reporting period with EDA retaining one percent per year for servicing costs.