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RULE ADOPTIONS

OTHER AGENCIES
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

40 N.J.R. 5247(a)

Adopted Amendments: N.J.A.C. 19:31-3.1, 3.2, 4.1 and 7.5

Authority Assistance Programs

Terms and Interest Rates for Direct Loan Participations

Proposed: June 2, 2008 at *40 N.J.R. 2659(a)*.

Adopted: August 15, 2008 by the New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Filed: August 18, 2008 as R.2008 d.271, **with technical changes** not requiring additional public notice and comment (see *N.J.A.C. 1:30-6.3*).

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

Effective Date: September 15, 2008.

Expiration Date: July 22, 2010.

Summary of Public Comment 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:

SUBCHAPTER 3. DIRECT LOAN PROGRAM

19:31-3.1 Program description

(a)-(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 at a variable interest rate.

1. Fixed Rate Interest:

i. 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.

ii. The amount of interest to be charged on the convertible debt portion of the Edison Innovation R&D Fund shall be capitalized during the first five years of the financing, during which time no principal or interest payments are required. The principal and capitalized interest shall be automatically converted into equity in the event that a qualified financing in the minimum amount of \$ 500,000 shall occur during such five-year period. If no such qualified financing shall occur during that time, the principal and capitalized interest shall be amortized over the next five-year period and shall be payable monthly, with interest.

2. Variable Rate Interest: Interest on fixed asset and working capital loans will be set with a floor that shall be indexed to a nationally recognized rate, such as the Prime Rate as published in the Wall Street Journal at the time of closing, plus or minus any basis points to be determined by the Authority. The interest rate will be variable, adjusted on the first business day of each calendar quarter in accordance with the relationship of the original calculated interest rate. The maximum increase in the variable interest rate during the term of the loan will be no more than five percentage points greater than the original calculated interest rate.

3. For fixed and variable rate loans, factors to be considered in establishing additional interest rate basis points above the floor previously established by the Board may include, among others:

- i. An applicant's creditworthiness;
- ii. The quality of collateral;
- iii. The number of jobs maintained or expanded in New Jersey;
- iv. The location/municipality of project;
- v. The industry type;
- vi. The increase in tax ratable values;
- vii. Leveraging of total project costs to public dollars;
- viii. Whether the business is new to the State or expanding operation in the State; and
- ix. Whether the applicant is locating to a former brownfield site.

4. For loans offered under the Edison Innovation Fund, the criteria for determining the rate of interest and additional basis points above the floor previously established by the Board may include the eligibility standards contained in *N.J.A.C. 19:31-3.2(f)*.

5. In addition to any interest charged on an Edison Innovation R&D 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. The Authority shall provide public notice of the loan terms and interest rates, including interest rate floors, to be charged for all loan products as authorized by the Members through, among other methods, listing on the agency's website at www.njeda.com.

(i) (No change in text.)

(j) Notwithstanding (i) above, an existing New Jersey company that is not targeted by the Authority as set forth in N.J.A.C. 19:30-5, but can meet the criteria set forth in (i)2 above shall be eligible for a direct loan in *[excess]* ***excess*** of \$ 1,250,000 if it can demonstrate that at least 400 permanent full-time jobs shall be maintained in New Jersey and the Authority's exposure shall not exceed \$ 50,000 per job maintained.

(k) *[for]* ***For*** purposes of (i) and (j) above, the direct loan term shall not exceed 10 years.

(l) For New Markets Loans:

1. (No change.)

2. For New Market *[loans]* ***Loans***, the projects must be located within areas designated for smart growth land use development and designated by the New Jersey Development and Redevelopment Plan as in Planning Areas One or Two or *[is]* ***in*** a designated center or endorsed plan. Additionally, projects must be located in communities and census *[tracks]* ***tracts*** as approved by the Community Development Financial Institutions Fund (CDFI) as described in (l)2i through iii below and must have at least one of the characteristics described in (l)3 below.

i.-iii. (No change.)

Recodify existing 5. and 6. as 3. and 4. (No change in text.)

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.-9. (No change.)

SUBCHAPTER 4. DOWNTOWN BEAUTIFICATION PROGRAM

19:31-4.1 Program description

(a) The Authority is empowered to make direct loans to owners and operators of retail and commercial businesses located in downtown urban areas who are unable to obtain funding from conventional sources to upgrade their properties and to remain in such areas.

(b)-(c) (No change.)

(d) The Authority shall determine the term and the interest rate, including the interest rate floor, to be charged on a loan from the fund through consideration and official action of the Members at a public hearing.

(e) Factors to be considered in establishing additional interest rate basis points above the floor previously established by the Board may include, among others:

[i.] ***1.*** The applicant's creditworthiness;

[ii.] ***2.*** The quality of collateral;

[iii.] ***3.*** The number of jobs maintained or expanded in New Jersey;

[iv.] ***4.*** The location/municipality of project;

[v.] ***5.*** The industry type;

- *[vi.]* ***6.*** The increase in tax ratable values;
- *[vii.]* ***7.*** Leveraging of total project costs to public dollars;
- *[viii.]* ***8.*** Whether the business is new to the State or expanding operation in the State; and
- *[ix.]* ***9.*** Whether the applicant is locating to a former brownfield site.

(f) The Authority shall provide public notice of the loan term and interest rate, including the interest rate floor, to be charged for the Downtown Beautification Program as authorized by the Members through, among other methods, listing on the agency's website at www.njeda.com.

SUBCHAPTER 7. LOCAL DEVELOPMENT FINANCING FUND

19:31-7.5 Terms of financial assistance

(a) The minimum loan amount from the Fund shall be \$ 50,000 and the maximum loan amount from the Fund shall be \$ 2,000,000.

(b) The Authority shall determine the term and the interest rate to be charged on a loan from the fund through consideration and official action of the Members at a public hearing.

(c) Factors to be considered in establishing additional interest rate basis points above the floor previously established by the Board may include, among others:

- *[i.]* ***1.*** The applicant's creditworthiness;
- *[ii.]* ***2.*** The quality of collateral;
- *[iii.]* ***3.*** The number of jobs maintained or expanded in New Jersey;
- *[iv.]* ***4.*** The location/municipality of project;
- *[v.]* ***5.*** The industry type;
- *[vi.]* ***6.*** The increase in tax ratable values;
- *[vii.]* ***7.*** Leveraging of total project costs to public dollars;
- *[viii.]* ***8.*** Whether the business is new to the State or expanding operation in the State; and
- *[ix.]* ***9.*** Whether the applicant is locating to a former brownfield site.

(d) The Authority shall provide public notice of the loan term and interest rate, including the interest rate floor, to be charged for the Local Development Financing Fund as authorized by the Members through, among other methods, listing on the agency's website at www.njeda.com.