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RULE ADOPTIONS

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

45 N.J.R. 1139(d)

Adopted Repeal and New Rule: *N.J.A.C. 19:31-9.15*

Adopted Amendment: *N.J.A.C. 19:31-10.2*

Urban Transit Hub Tax Credit Program

Approval Process

Business Employment Incentive Program

Base Employment Number

Proposed: January 22, 2013 at *45 N.J.R. 110(a)*.

Adopted: April 5, 2013 by the New Jersey Economic Development Authority, Michele Brown, Chief Executive Officer.

Filed: April 5, 2013 as R.2013 d.076, **without change**.

Authority: *N.J.S.A. 34:1B-204* et seq. and *34:1B-124* et seq.

Effective Date: May 6, 2013.

Expiration Date: November 9, 2017.

Summary of Public Comment and Agency Response:

No public comments were received.

Federal Standards Statement

The adopted amendment, repeal, and new rule are not subject to any Federal standards or requirements; therefore, a Federal standards analysis is not required.

Full text of the adoption follows:

SUBCHAPTER 9. URBAN TRANSIT HUB TAX CREDIT PROGRAM

19:31-9.15 Approval process

(a) All completed applications for eligibility in the program shall be presented to the Board for approval or denial.

(b) When the members act to approve or deny a request, the minutes of the public meeting at which such determination occurs are submitted to the Governor.

(c) The Board's action shall be effective 10 working days after the Governor's receipt of the minutes, provided no veto has been issued.

(d) An applicant may challenge the Board's action by submitting in writing to the Authority, within 20 calendar days from the date of the Board's action, an explanation as to how the applicant has met the program criteria. Such challenges are not contested cases subject to the requirements of the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*.

(e) Challenges that are timely submitted in accordance with (d) above shall be handled by the Authority as follows:

1. The chief executive officer shall designate an employee of the Authority to serve as a hearing officer for the challenge and to make a recommendation on the merits of the challenge to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer shall have sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the challenge. In the case of an application submitted in response to a competitive solicitation, the Authority shall not consider any new evidence or information about the project, but must consider only evidence or information submitted as of the solicitation submission deadline. In the case of an application submitted other than in response to a competitive solicitation, the Authority may consider new evidence or information that would demonstrate that the applicant meets all of the application criteria.

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his or her finding(s) and recommendation(s) on the merits of the challenge. The hearing officer's report shall be advisory in nature. The chief executive officer, or equivalent officer, of the Authority may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report within a reasonable amount of time from receipt of such report.

3. The Board shall consider the hearing officer's report, the recommendation of the chief executive officer, or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the challenge. Such decision shall become effective 10 working days after the Governor's receipt of the minutes of the public meeting at which such decision occurs, provided no veto has been issued. The applicant shall have the opportunity to attend the public meeting at which the Board considers its challenge.

4. Final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

SUBCHAPTER 10. BUSINESS EMPLOYMENT INCENTIVE PROGRAM

19:31-10.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Base employment number" shall mean the number of full-time employees the business has employed in the State of New Jersey at the time of application for the grant, including all full-time employees at entities under the business's direct control, defined as 50 percent or greater ownership, and excluding employees of any related affiliate(s) and parent business and employees at any point-of-final purchase retail facilities.

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