

writing by the person to the Attorney General and the Executive Commission on Ethical Standards.

iii. No person may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such person to, any Authority officer or employee or special Authority officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Authority, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this subsection shall be reported in writing to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the Authority officer or employee or special Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

iv. No person shall influence, or attempt to influence or cause to be influenced, any Authority officer or employee or special Authority officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of the officer or employee.

v. No person shall cause or influence, or attempt to cause or influence, any Authority officer or employee or special Authority officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the person or any other person.

(b) The provisions in (a)11 above shall not be construed to prohibit an Authority officer or employee or special Authority officer or employee from receiving gifts from or contracting with persons under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

Amended by R.1989 d.207, effective April 17, 1989.

See: 21 N.J.R. 129(a), 21 N.J.R. 1022(a).

(a)11 and (b) added, prohibitions on vendor activities representing conflicts of interest.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section recodified from 5.2.

Tenancy or other disqualification/debarment may be denied based on any cause in (a), including failure to report solicitation.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Amended citations in (a)3.

CROSS REFERENCES

Applicability to business employment incentive program grants, see N.J.A.C. 19:31-10.8.

19:30-2.3 Conditions affecting the disqualification/debarment of a person(s)

(a) The following conditions shall apply concerning disqualification/debarment:

1. The existence of any of the causes set forth in N.J.A.C. 19:30-2.2(a) shall not necessarily require that a person be disqualified/debarred. In each instance, the decision to disqualify/debar shall be made within the discretion of the Authority unless otherwise required by law, and shall be rendered in the best interests of the Authority.

2. All mitigating factors shall be considered in determining the seriousness of the offense or inadequacy of performance, and in deciding whether disqualification/debarment is warranted.

3. The existence of a cause set forth in N.J.A.C. 19:30-2.2(a)1 through 8 shall be established upon the rendering of a final judgment or conviction including a guilty plea or a plea of nolo contendere by a court of competent jurisdiction or by an administrative agency empowered to render such judgment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the disqualification/debarment shall be removed upon the request of the disqualified/debarred person unless other cause for disqualification/debarment exists.

4. The existence of a cause set forth in N.J.A.C. 19:30-2.2(a)9 and 11 shall be established by evidence which the Authority determines to be clear and convincing in nature.

5. Debarment for the cause set forth in N.J.A.C. 19:30-2.2(a)10 shall be proper, provided that one of the causes set forth in N.J.A.C. 19:30-2.2(a)1 through 8 was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Disqualification provisions added. Section recodified from 5.3.

19:30-2.4 Procedures; period of disqualification/debarment

(a) When the Authority seeks to disqualify/debar a person or his affiliates, the person or persons shall be furnished with a written notice stating that:

1. Disqualification/debarment is being considered;
2. The reasons for the proposed disqualification/debarment; and
3. An opportunity for a hearing will be afforded to such person or persons if the hearing is requested in writing and the request is received by the Authority within seven days from the date of personal delivery or the date of receipt of the mailing of such disqualification/debarment notice.

(b) All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act (N.J.S.A. 54:14B-1 et seq.). Where any Federal or State department, agency or instrumentality has already imposed debarment upon a party, the Authority may also impose a similar debarment without affording an opportunity for a hearing, provided the Authority furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in his behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

(c) Disqualification/debarment shall be a reasonable, definitely stated period of time which as a general rule shall not exceed five years. Disqualification/debarment for an additional period shall be permitted provided that notice thereof is furnished and the party is afforded an opportunity to present information in his behalf to explain why the additional period of disqualification/debarment should not be imposed.

(d) Except as otherwise provided by law, a disqualification/debarment may be removed or the period thereof may be reduced in the discretion of the Authority, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction or judgment, actual change of ownership, management or control, or the elimination of the cause or causes for which the disqualification/debarment was imposed.

(e) A disqualification/debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances.

(f) The offense or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effected by him with the knowledge or approval of such person.

Amended by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Disqualification and hearing request provisions added; debarment may extend to affiliates. Section recodified from 5.4.

19:30-2.5 Notice to Attorney General and Treasurer

Insofar as practicable, prior notice of any proposed debarment shall be given to the Attorney General and the State Treasurer. The Authority shall supply to the State Treasurer a list of all persons having been debarred in accordance with the procedures prescribed herein.

Recodified by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section recodified from 5.5.

19:30-2.6 Authority discretion

Nothing contained in this subchapter is intended to limit the discretion of the Authority or the members in determining eligibility for financial assistance or eligibility of tenants, or in refraining from contracting with any person. The purpose of this subchapter is to provide notice of certain offenses or failures which may result in disqualification for assistance or debarment. Project applicants, tenants, and contractors must meet any other applicable standards and policies.

Amended by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Authority includes staff members; eligibility for tenancy included. Section recodified from 5.6.

19:30-2.7 Chief Executive Officer to implement regulation

The Chief Executive Officer is authorized to take all necessary action to implement and administer the provisions of this subchapter.

Recodified by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Recodified from 5.7.

Amended by R.2000 d.297, effective July 17, 2000.
See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Amended by R.2005 d.274, effective August 15, 2005.
See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Substituted "Chief Executive Officer" for "Executive Director" throughout.

SUBCHAPTER 3. AFFIRMATIVE ACTION IN AUTHORITY-FINANCED CONSTRUCTION PROJECTS

19:30-3.1 Definitions

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

"Authority" means the New Jersey Economic Development Authority.

"AA Officer" means the officer or employee designated by the Authority to monitor affirmative action in Authority funded projects.

"Construction project" means the construction, reconstruction, demolition, alteration, repair work, maintenance work, or construction related to installation of equipment that is subject of a construction contract.

"Construction contract" means any contract, subcontract, or agreement, whether written or oral, for construction, reconstruction, demolition, alteration, repair work, maintenance work, or construction related to installation of equipment, undertaken in connection with a project receiving Authority

“Prevailing wage rate” means the prevailing wage rate established by the Commissioner of New Jersey Department of Labor and Workforce Development from time to time in accordance with the provisions of N.J.S.A. 34:11-56:30 for the locality in which the project is located.

Amended by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Definitions of Authority and Executive Director deleted; construction contract includes installation of equipment and any agreement, whether oral or written. Section recodified from 3.1.

Amended by R.2000 d.482, effective December 4, 2000.

See: 32 N.J.R. 3555(a), 32 N.J.R. 4275(b).

In “Construction contract”, substituted “receiving” for “that has received final approval for”.

Amended by R.2005 d.274, effective August 15, 2005.

See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Added “and Workforce Development” following “Department of Labor” to “Prevailing wage rate” definition.

19:30-4.2 Payments of prevailing wages in projects receiving assistance

Recipients of assistance from the Authority for Projects, as defined in N.J.S.A. 34:1B-3, as a condition for receipt of such assistance, shall in all construction contracts in the amount of \$2,000 or more, require that wages paid to workers employed in the performance of the construction contracts be not less than the prevailing wage rate for such work.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Stylistic changes. Section recodified from 3.2.

19:30-4.3 Assurances required

(a) Recipients of assistance for construction contracts shall deliver a certificate to the Authority (or designated agent for the Authority), upon completion of the project, signed by an authorized representative of the recipient, representing and confirming that:

1. It has complied and has caused its contractors and subcontractors to comply with the requirements of N.J.A.C. 19:30-4.2 and attaching true copies of all such construction contracts with contractors and subcontractors; or

2. It has not entered into any construction contracts subject to the provisions of N.J.A.C. 19:30-4.2.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Correction of citation. Section recodified from 3.3.

19:30-4.4 Contract provisions required

(a) Each recipient of assistance from the Authority shall in all construction contracts in the amount of \$2,000 or more require that:

1. Contractors and subcontractors permit the Authority, or its designated agent, complete access to payroll records and other records for purposes of determining compliance with the provisions of this subchapter.

2. Contractors and subcontractors keep accurate records showing the name, craft or trade, and actual hourly rate of wages paid to each worker employed in connection with the performance of the contract and to preserve such records for two years from the completion date of the project.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Stylistic change. Section recodified from 3.4.

19:30-4.5 Violation

A violation of the provisions of this subchapter shall be deemed a violation of N.J.S.A. 34:11-56.25 et seq.

Repeal and New Rule R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section 3.5, Executive Director to enforce compliance, was repealed and recodified from 4.5.

19:30-4.6 (Reserved)

Repealed by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section was 3.6, Effective date.

SUBCHAPTER 5. TARGETING OF AUTHORITY ASSISTANCE

19:30-5.1 Priority consideration of projects in economically distressed localities

(a) Subject to Federal tax law compliance and certain other legal restraints, any project located anywhere in the State of New Jersey may qualify for assistance from the Authority if it meets certain economic needs. Nevertheless, the Authority recognizes the special needs of certain municipalities and, accordingly, affords them priority consideration in offering its assistance. Such municipalities are eligible locations for a period of one year or longer.

(b) Qualification under this subchapter is not tantamount to project approval; it merely identifies certain municipalities for priority consideration. Projects must meet eligibility standards set forth in N.J.A.C. 19:31.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

19:30-5.2 Municipalities eligible for priority consideration

(a) Municipalities meeting either of the following criteria are considered eligible locations:

1. Constituting a “qualifying municipality” as defined in N.J.S.A. 52:27D-178, which designates certain municipalities as “New Jersey Urban Aid Municipalities” based on a formula including, but not limited to:

- i. At least one publicly financed dwelling unit for low income families in municipalities with populations in excess of 15,000;
 - ii. The number of children receiving "Aid to Dependent Children" exceeds 250;
 - iii. The municipality's equalized tax rate exceeds the State equalized tax rate; and
 - iv. The municipality's equalized valuation per capita is less than the State equalized valuation per capita.
2. Eligibility under the Authority's formula requires that a municipality meet three of the four following standards:
- i. Unemployment rate above the State average;
 - ii. Per capita income lower than the State average;
 - iii. Ratables per capita less than the State average;
 - iv. A total number of unemployed persons of 1,000 or more.

(b) A municipality shall remain on the list of eligible locations for a period of one year after the municipality ceases to meet the criteria in (a)1 and 2 above.

Amended by R.1995 d.435, effective August 21, 1995.
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

19:30-5.3 Special eligibility list

The Chief Executive Officer shall, from time to time, establish a list of municipalities and activities by Standard Industrial Classification Number, eligible for Authority assistance, not withstanding the requirements of N.J.A.C. 19:30-5.2 and 19:31, based on the Authority's objectives as indicated in N.J.A.C. 19:30-1.1.

Amended by R.2005 d.274, effective August 15, 2005.
See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Substituted "Chief Executive Officer" for "Executive Director".

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.

Amended by R.1987 d.318, effective August 3, 1987.
See: 19 N.J.R. 922(a), 19 N.J.R. 1456(b).

Changed non-refundable fee of \$250.00 to \$500.00. Added text "except for an . . ."

Amended by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Exception for Trade Adjustment Assistance Center added. Section recodified from 2.1.

Amended by R.2005 d.274, effective August 15, 2005.
See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Rewrote the section.

Amended by R.2009 d.38, effective January 20, 2009.
See: 40 N.J.R. 5954(a), 41 N.J.R. 638(a).

Inserted designation (a); rewrote (a); and added (b) and (c).

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) A non-refundable extension fee of \$750.00, per extension requested by the borrower, shall be charged for the granting of an extension of the commitment letter beyond the original expiration date.

Recodified by R.1990 d.411, effective August 20, 1990.
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section was 2.2.

Amended by R.1995 d.435, effective August 21, 1995.
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Raised commitment fee and added direct participation commitment in (a); added (d) regarding extension fee.

Amended by R.2005 d.274, effective August 15, 2005.
See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

In (a), deleted "loan" preceding "guarantee"; in (b), substituted "Downtown Beautification" for "Urban Centers Small Loan".

Amended by R.2009 d.38, effective January 20, 2009.
See: 40 N.J.R. 5954(a), 41 N.J.R. 638(a).

Rewrote (a) and (b); and in (c), substituted ".875 percent" for "\$500.00, or one-half of one percent," deleted " , whichever is greater," following "amount"; and inserted "(a) or".