

CHAPTER 31
AUTHORITY ASSISTANCE PROGRAMS

Authority

N.J.S.A. 34:1B-1 et seq.; and P.L. 2009, c. 90.

Source and Effective Date

R.2010 d.285, effective November 9, 2010.
See: 42 N.J.R. 2019(a), 42 N.J.R. 2969(a).

Chapter Expiration Date

Chapter 31, Authority Assistance Programs, expires on November 9, 2015.

Subchapter 4, Economic Redevelopment and Growth Program, expires on May 3, 2012.

Chapter Historical Note

Chapter 31, Authority Assistance Programs, was adopted as R.1990 d.410, effective August 20, 1990. See: 22 N.J.R. 1545(a), 22 N.J.R. 2536(a).

Subchapter 7, Local Development Financing Fund, was adopted as R.1992 d.421, effective October 19, 1992. See: 24 N.J.R. 2534(a), 24 N.J.R. 3735(a).

Subchapter 8, Hazardous Discharge Site Remediation Fund, was adopted as R.1994 d.192, effective April 18, 1994. See: 25 N.J.R. 4468(a), 26 N.J.R. 1706(c).

Subchapter 9, New Jersey Boat Industry Loan Guarantee Fund, was adopted as R.1994 d.376, effective July 18, 1994. See: 26 N.J.R. 1613(a), 26 N.J.R. 2919(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Authority Assistance Programs, was readopted as R.1995 d.435, effective July 20, 1995. See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Subchapter 10, Business Employment Incentive Program, was adopted as R.1996 d.470, effective October 7, 1996. See: 28 N.J.R. 3058(a), 28 N.J.R. 4510(b).

Subchapter 11, Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund, was adopted as R.1998 d.151, effective March 16, 1998. See: 29 N.J.R. 5236(b), 30 N.J.R. 1054(a).

Subchapter 12, Technology Business Tax Certificate Transfer Program, was adopted as R.1999 d.381, effective November 1, 1999. See: 31 N.J.R. 2522(a), 31 N.J.R. 3525(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Authority Assistance Programs, was readopted as R.2000 d.297, effective June 16, 2000. See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Chapter 31, Authority Assistance Programs, was readopted as R.2005 d.274, effective July 22, 2005. As a part of R.2005 d.274, Subchapter 5, Export Revolving Line of Credit; Subchapter 6, New Jersey Trade Adjustment Assistance Center; Subchapter 9, New Jersey Boat Industry Loan Guarantee Fund and Subchapter 13, Rules for Implementation of an Act Concerning the Restructuring of Certain Solid Waste Facility Bonds, and Providing for the Financing Thereof through the New Jersey Economic Development Authority, P.L.2001, c.401 were repealed, effective August 15, 2005. See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Subchapter 4, Downtown Beautification Program, was repealed by R.2009 d.38, effective January 20, 2009. See: 40 N.J.R. 5954(a), 41 N.J.R. 638(a).

Subchapter 9, Urban Transit Hub Tax Credit Program, was adopted as new rules by R.2009 d.53, effective February 2, 2009. See: 40 N.J.R. 6426(a), 41 N.J.R. 807(a).

Pursuant to P.L. 2008, c.27, §10 (N.J.S.A. 34:1B-219) and by notice of administrative change, Subchapter 3, Energy Sales Tax Exemption Program, of Chapter 121 of Title 12A was recodified as Subchapter 13 of Chapter 31 of Title 19, effective January 29, 2009. See: 41 N.J.R. 1102(a).

Subchapter 5, InvestNJ Business Grant Program, and Subchapter 6, Main Street Business Assistance Program, were adopted as special new rules by R.2009 d.73, effective February 2, 2009. See: 41 N.J.R. 1103(a). Subchapter 5, InvestNJ Business Grant Program, and Subchapter 6, Main Street Business Assistance Program, were adopted as concurrent new rules by R.2009 d.181, effective May 4, 2009. See: 41 N.J.R. 2338(a).

Subchapter 14, Business Retention and Relocation Assistance Grant Program, was recodified from Subchapter 1 of N.J.A.C. 12A:2; Subchapter 15, Tax Credit Certificate Transfer Program, was recodified from Subchapter 1 of N.J.A.C. 12A:2A; Subchapter 16, Sales and Use Tax Exemption Program, was recodified from Subchapter 2 of N.J.A.C. 12A:2A; and Subchapter 17, Energy Sales Tax Exemption Program for Certain Counties, was recodified from Subchapter 4 of N.J.A.C. 12A:2A by R.2010 d.231, effective October 18, 2010. See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

Chapter 31, Authority Assistance Programs, was readopted as R.2010 d.285, effective November 9, 2010. As a part of R.2010 d.285, Subchapter 5, InvestNJ Business Grant Program, was repealed, effective December 6, 2010. See: Source and Effective Date. See, also, section annotations.

Subchapter 4, Economic Redevelopment and Growth Program, was adopted as special new rules by R.2011 d.152, effective May 3, 2011. See: 43 N.J.R. 1372(a).

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SUBCHAPTER 3. DIRECT LOAN PROGRAM

19:31-3.1 Program description

(a) The Authority is empowered to make direct loans to applicants which are unable to obtain funding from conventional sources even with the help of an Authority guarantee.

(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. For the Smart Growth Pre-development Loan Program, the maximum loan amount will be \$1 million.

2. For the Brownfields Redevelopment Loan Program, the maximum loan amount will be \$750,000.

3. The maximum amount of combined total financing under the Smart Growth Pre-development and Brownfield Redevelopment loan program(s) is \$1.0 million.

4. The maximum amount of total financing for the New Jersey Growth Fund Program shall be \$1 million per transaction.

5. For the urban loan product, the maximum loan amount will be \$3 million, not to exceed 50 percent of the total project costs, for those projects wherein the tenant or owner will provide from non-Authority sources a capital investment of under \$70 million; and \$5 million for those projects wherein the tenant or owner will provide from non-Authority sources a capital investment of over \$70 million.

6. For companies awarded financing under the Edison Innovation R&D Fund by the New Jersey Commission on Science and Technology (NJ CST), the Authority may award up to 20 percent of the approved NJ CST grant, not to exceed \$100,000 in convertible debt financing for non-research and development related costs.

7. For the Loans to Lenders component of the Fund for Community Economic Development, the maximum loan amount will not exceed \$500,000, except that Loans to Lenders may be used to develop grocery stores and supermarkets with a maximum loan amount of \$3 million, provided that no more than \$4 million will be used for this purpose. For the pre-development assistance component of the Fund for Community Economic Development, the maximum loan amount will not exceed \$50,000 per project.

(c) Proceeds of fixed asset loans can be used for the acquisition of land, buildings, machinery and equipment, the expansion of an existing building or the renovation of machinery, equipment, and buildings.

(d) Proceeds of working capital loans can be used for refinancing of existing debt, purchase of inventory, or operating expenses.

(e) Proceeds of Smart Growth Pre-development loans shall be used for the purposes of pre-development site preparation costs to be determined by the Authority. Such costs may include, but are not limited to, land assemblage, demolition, removal of materials and debris and engineering costs.

(f) Proceeds of Brownfield Redevelopment loans shall be used for financing those remediation costs deemed eligible by the New Jersey Department of Environmental Protection pursuant to the Municipal Landfill Site Closure, Remediation and Redevelopment Agreement that has been entered into by the applicant with the New Jersey Department(s) of Environmental Protection and Treasury, and the New Jersey Commerce and Economic Growth Commission.

(g) Proceeds of urban loans shall be used for fixed asset financing as set forth in (c) above, not to exceed 50 percent of total project costs, in the nine urban centers designated in the New Jersey State Development and Redevelopment Plan (Atlantic City, Camden, East Orange, Elizabeth, Jersey City, New Brunswick, Newark, Paterson and Trenton).

(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. Amortization schedules;
- iii. The quality of collateral;
- iv. The number of jobs maintained or expanded in New Jersey;
- v. The location/municipality of project;
- vi. The industry type;
- vii. The increase in tax ratable values;
- viii. Leveraging of total project costs to public dollars;
- ix. Whether the business is new to the State or expanding operation in the State; and
- x. 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) The Authority may make direct loans in excess of \$1,250,000 and up to \$2 million for fixed assets. An applicant for a direct loan in excess of \$1,250,000 shall:

1. Be in an industry or municipality that is targeted by the Authority as set forth in N.J.A.C. 19:30-5 or located in the Port District;
2. Demonstrate to the Authority that it has viable options to vacate the State, has been offered economic incentives by the competing state and, without the special guar-

antee, the applicant shall not undertake the relocation or expansion in the State; and

3. Create or maintain a minimum of 200 permanent full-time jobs in the State. The Authority's assistance shall not exceed \$50,000 per job created and/or maintained.

(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 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 purposes of (i) and (j) above, the direct loan term shall not exceed 10 years.

(l) For New Markets Loans:

1. The maximum amount of total financing for a New Markets loan is \$10 million, except for projects that provide extraordinary economic development benefits when the maximum amount of total financing for a New Markets loan is \$25 million.

2. For New Market 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 in a designated center or endorsed plan. Additionally, projects must be located in communities and census 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. A poverty rate of at least 20 percent;
- ii. In the case of a tract not located within a Metropolitan area as defined by the United States Census, where the median income family income for such tract does not exceed 80 percent of the Statewide median family income; or
- iii. In the case of a tract located within a Metropolitan area, where the median family income for such tract does not exceed 80 percent of the greater of Statewide median income or the Metropolitan area median family income.

3. Additionally, New Markets loans must be located in at least one of the following types of designated areas:

- i. CDFI Hot Zone, Empowerment Zone, Renewal Community, HOPE VI Redevelopment area or Small Business Administration HUB Zone;
- ii. A brownfield redevelopment area, locally designated redevelopment area, or New Jersey Urban Enterprise Zone;

iii. A census tract with an unemployment rate of 1.5 times the national average; or

iv. A census area with a poverty rate greater than 30 percent or with median incomes of less than 60 percent of the area median income.

4. In addition to any interest charges on a New Markets loan, the Authority shall also require the payment of additional fees, including a one-time monitoring fee of \$1,000 and a management fee of five percent of the loan amount, with the exception of non-profit borrowers that will be charged a 3.5 percent management fee.

(m) For Small Businesses, Minorities' and Women's Enterprises loans:

1. Of the financial assistance allocated by the Authority from the funds made available pursuant to the provisions of N.J.S.A. 5:12-181, 50 percent shall be made available to women, and 50 percent shall be made available to minorities and all such funds shall be invested in accordance with the geographic restrictions established by N.J.S.A. 5:12-181;

2. Of the financial assistance allocated by the Authority from sources other than those funds made available pursuant to the provisions of N.J.S.A. 5:12-181, 50 percent shall be made available to small businesses, 25 percent shall be made available to minorities, and 25 percent shall be made available to women;

3. For the purposes of financial assistance provided by the Authority pursuant to this subsection:

i. A small business is a business which has its principal place of business in the State, is independently owned and operated, has 100 or fewer full-time employees, and at least 51 percent of the beneficial ownership of the business is held by persons other than minorities or women and the majority of the management of which is other than minorities or women;

ii. A minority business is a business in which at least 51 percent of the beneficial ownership of the business is held by minorities and the majority of the management are minorities; and

iii. A women's business is a business in which at least 51 percent of the beneficial ownership of the business is held by women, and the majority of the management are women; and

4. Each application for a loan shall be accompanied by any proof of certification by a public entity which certifies that the business is beneficially owned by, and that the majority of the management are, minorities or women.

Amended by R.1992 d.126, effective March 16, 1992.

See: 24 N.J.R. 177(b), 24 N.J.R. 970(b).

Revised (e).

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

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

Amended by R.1997 d.270, effective July 7, 1997.

See: 29 N.J.R. 1485(b), 29 N.J.R. 2844(b).

Added (g) through (i).

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (g)1, substituted "or" for "and" following "industry".

Amended by R.2001 d.242, effective July 16, 2001.

See: 33 N.J.R. 1567(a), 33 N.J.R. 2495(b).

In (b), substituted "\$750,000" for "\$500,000" and "\$500,000" for "\$250,000"; in (g) and (h), substituted "\$750,000" for "\$500,000".

Amended by R.2002 d.223, effective July 15, 2002.

See: 34 N.J.R. 1247(a), 34 N.J.R. 2469(a).

Rewrote (e).

Amended by R.2002 d.333, effective October 7, 2002.

See: 34 N.J.R. 2412(a), 34 N.J.R. 3531(a).

Rewrote (e).

Amended by R.2004 d.94, effective March 1, 2004.

See: 35 N.J.R. 5047(a), 35 N.J.R. 5369(a), 36 N.J.R. 1198(b).

Rewrote (e).

Amended by R.2004 d.346, effective September 20, 2004.

See: 36 N.J.R. 2305(a), 36 N.J.R. 4321(a).

Rewrote the section.

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

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

In (b), added 4; rewrote (g) and (h).

Amended by R.2005 d.319, effective September 19, 2005.

See: 37 N.J.R. 2153(a), 37 N.J.R. 3722(a).

In (b), added 4; in (g)1 added iv.

Amended by R.2006 d.242, effective July 3, 2006.

See: 38 N.J.R. 1563(a), 38 N.J.R. 2887(c).

Inserted "at least the first seven years of" in (g)1iv.

Amended by R.2006 d.369, effective October 16, 2006.

See: 38 N.J.R. 3001(a), 38 N.J.R. 4503(a).

Deleted (b)5 and (g)1iv; deleted the last sentence of (h); and added (l).

Amended by R.2008 d.89, effective April 7, 2008.

See: 39 N.J.R. 5071(a), 40 N.J.R. 1927(b).

In the introductory paragraph of (b), substituted "\$1,250,000" for "\$750,000" and "\$750,000" for "\$500,000"; in the introductory paragraph of (i), substituted "\$1,250,000" for "\$750,000" twice; and in (j), substituted "\$1,250,000" for "\$750,000".

Amended by R.2008 d.90, effective April 7, 2008.

See: 40 N.J.R. 110(a), 40 N.J.R. 1928(a).

Added (b)5 and (b)6; added new (g); recodified former (g) through (l) as (h) through (m); in the introductory paragraph of (h), substituted "(h)1" for "(g)1" and "(h)2" for "(g)2"; added (h)1iv and (h)1v; in (h)2, substituted "(h)1" for "(g)1"; in (h)3, inserted "or Edison Innovation R&D Fund" and "and incentives"; in (i), substituted "amortization may be" for "repayment schedule is usually" and "longer" for "shorter", and inserted "the use of proceeds and"; in (k), substituted "(j)" for "(i)" and "(j)2" for "(i)2"; in (l), substituted "(j) and (k)" for "(i) and (j)"; and in the introductory paragraph of (m)4, substituted "(m)4i" for "(l)4i" and "(m)5" for "(l)5".

Amended by R.2008 d.271, effective September 15, 2008.

See: 40 N.J.R. 2659(a), 40 N.J.R. 5247(a).

Rewrote (h); deleted former (i); recodified former (j) through (m) as (i) through (l); in (j), substituted "(i)" for "(j)" and "(i)2" for "(j)2"; in (k), substituted "(i) and (j)" for "(j) and (k)"; deleted (l)2 and (l)3 and recodified former (l)4 through (l)6 as (l)2 through (l)4; in the introductory paragraph of (l)2, substituted "Loans" for "loans", "in" for "is" following "Two or", "tracts" for "tracks", "(l)2i" for "(m)4i" and "(l)3" for "(m)5".

Amended by R.2008 d.294, effective October 6, 2008.

See: 40 N.J.R. 3980(a), 40 N.J.R. 5845(c).

Rewrote (b)5.

Amended by R.2009 d.139, effective April 20, 2009.

See: 41 N.J.R. 394(a), 41 N.J.R. 1891(a).

Added (b)7.

Amended by R.2010 d.178, effective August 16, 2010.

See: 42 N.J.R. 904(a), 42 N.J.R. 1900(b).

Added new (h)3ii; and recodified former (h)3ii through (h)3ix as (h)3iii through (h)3x.

Amended by R.2010 d.285, effective December 6, 2010.

See: 42 N.J.R. 2019(a), 42 N.J.R. 2969(a).

Added (m).

19:31-3.2 Eligibility standards

(a) Generally, preference for direct loans is given to projects which:

1. Are job intensive;
2. Will create or maintain tax ratables;
3. Are located in an economically-distressed area; and/or
4. Represent an important economic sector of the State.

(b) For fixed asset loans, the applicant will be required to invest at least 10 percent equity into the project.

(c) The applicant must demonstrate to the Authority that it is unable to obtain conventional, affordable financing on its own or with the availability of an Authority guarantee.

(d) For Smart Growth Pre-development loans, projects must be located in Planning Areas 1 and 2, designated centers or in municipalities with endorsed plans as defined by the State Redevelopment Plan, must evidence municipal support and be part of a local redevelopment plan.

(e) For Brownfield Redevelopment Loans, project sites must be the subject of a Municipal Landfill Site Closure, Remediation and Redevelopment Agreement that has been entered into by the applicant with the New Jersey Departments of Environmental Protection, Treasury and the New Jersey Commerce, Economic Growth and Tourism Commission.

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

1. Technology that has a strong likelihood and clear timeline to achieve commercialization;
2. A meaningful and defined market and customer base for the technology;
3. A management team possessing appropriate skill sets, capacity and financial resources and willingness to strengthen management through other means such as advisory or consultant services;
4. A meaningful customer base, partners, strategic alliances and professional relationships;
5. An ability to leverage the Authority's resources by evidence of other fund raising and need for future capital requirements;
6. A clear record of specific operational and research milestones achieved to date and proposed schedule and means to achieve future milestones;
7. A current and complete business plan including a detailed financial model; and
8. Location of the business in either an Innovation Zone, Urban Enterprise Zone or area targeted for smart

growth redevelopment as determined by the New Jersey Development and Redevelopment Plan; or

9. A Business that is located in a targeted industry.

Amended by R.2004 d.346, effective September 20, 2004.

See: 36 N.J.R. 2305(a), 36 N.J.R. 4321(a).

Added (d) and (e).

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

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

In (e) substituted “,” for “and” following “Commerce”, added “and Tourism” following “Growth”; added (f).

Amended by R.2005 d.319, effective September 19, 2005.

See: 37 N.J.R. 2153(a), 37 N.J.R. 3722(a).

Added (g) and (h).

Amended by R.2006 d.369, effective October 16, 2006.

See: 38 N.J.R. 3001(a), 38 N.J.R. 4503(a).

Deleted (g) and (h).

Amended by R.2008 d.271, effective September 15, 2008.

See: 40 N.J.R. 2659(a), 40 N.J.R. 5247(a).

In the introductory paragraph of (f), substituted “Edison Innovation” for “New Jersey Growth”.

19:31-3.3 Application procedures

(a) The prospective applicant should consult with the Authority to determine if the project is eligible for consideration.

(b) To apply, a completed Application for Financial Assistance (Application) concerning the project must be submitted to the Authority for review, together with the Application fee.

(c) A completed Application includes:

1. A history and description of the applicant's business;
2. A description of the proposed project and a detailed breakdown of the use of the loan proceeds;
3. Annual financial statements for the three most recent years, including the balance sheets, operating statements and reconciliations of the source and application of funds;
4. A current interim statement, if the most recent annual financial statement is more than six months old;
5. Three years of projections, including the balance sheets, operating statements, reconciliation of the source and application of funds, and a detailing of the assumptions used in preparing the projections;
6. A list of the applicant's five largest customers, including the customer name, address, telephone number, and contact person;
7. A list of the applicant's five largest suppliers, including the supplier name, address, telephone number, and contact person; and
8. A schedule of all officers, directors and stockholders (owning 10 percent or more of the stock), including resumes and signed, dated personal financial statements.

(d) The Authority may also require:

1. Appraisal(s) on real property and/or machinery and equipment;

2. Aging of accounts receivable;
3. Aging of accounts payable; and/or
4. Any additional information deemed necessary to evaluate the Application.

(e) Applications are processed through several layers of staff review, and may then be recommended for consideration and official action of the Members at a public meeting. The applicant has no right to have its Application presented to the Members.

19:31-3.4 Evaluation process

(a) When all of the required information is received, the Authority will perform its own credit evaluation based on the following:

1. Visitation to the applicant's place of business, which may take place prior to the Application as part of the meeting to determine eligibility;
2. An analysis of historic and projected financial statements and a comparison to industry peers;
3. An independent industry study using source material such as the U.S. Department of Commerce's Industrial Outlook and the Standard & Poor's Industry survey, comparing the applicant's projections to the study, and considering the short term and long term outlook for the industry;
4. Contact with applicant's customers to ascertain the quality of the product or service provided, the competitiveness of the pricing, reliability and timeliness of delivery, length of the relationship, likelihood of the relationship being continued, and the customers' opinions of the applicant's management;
5. Contact with applicant's suppliers to ascertain the length of the relationship, the amount of credit extended, the amount of purchases, payment history, the likelihood of the relationship being continued, and possibly an opinion of applicant's management;
6. Contact with applicant's bank(s) to ascertain credit history and an opinion of the applicant's management;
7. An analysis of collateral available to secure the requested financing as to adequacy of amount, quality, condition and marketability; and
8. Independent credit investigations of the applicant and its principals, which may include real estate searches, financing statement searches, and judgment and lien searches.

(b) After completing (a) above, a determination is made as to the merits of the request, the likelihood of repayment, and the adequacy of the collateral available to secure the requested financing.

(c) If a positive determination is made, the requested financing is presented to the Members for approval.

19:31-3.5 Approval process

(a) Only the Members can approve a direct loan, either directly or through delegation.

(b) When the Members approve a request, the minutes of the meeting at which such approval occurs are submitted to the Governor.

(c) The Members' approval is effective 10 working days after the Governor's receipt of the minutes, provided no gubernatorial veto of this action has occurred.

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

1. The commitment letter contains all terms, conditions and collateral required by the Authority.

2. With the exception of the New Jersey Growth Fund and the Edison Innovation R&D 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 and the Edison Innovation R&D 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) When the commitment letter has been accepted by the applicant and returned to the Authority, a list of closing instructions is mailed to the attorney for the applicant.

(f) When all required documentation is prepared, in form and content satisfactory to the Authority, a loan closing is scheduled and the funds are made available to the applicant.

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

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

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

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

Rewrote (a) and (d)2 and 3.

Amended by R.2008 d.90, effective April 7, 2008.

See: 40 N.J.R. 110(a), 40 N.J.R. 1928(a).

In (d)2 and (d)3, inserted "and the Edison Innovation R&D Fund".

19:31-3.6 Attorney General review

All financing documents, including the Application, are subject to review by the Attorney General's Office.

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

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

SUBCHAPTER 4 ECONOMIC REDEVELOPMENT
AND GROWTH PROGRAM

19:31-4.1 Applicability and scope

(a) The EDA and the State Treasurer may enter into a redevelopment incentive grant agreement with a developer for any qualifying redevelopment project located in an economic redevelopment and growth grant incentive area, except an area that qualifies solely by virtue of being a transit village. Up to 75 percent of the incremental increase in approved State revenues that are directly realized from businesses operating on the redevelopment project premises may be paid to the developer in the form of a grant derived from the realized revenues. The term of each approved State redevelopment incentive grant agreement may extend for up to 20 years; however, except for a redevelopment incentive grant agreement with a municipal redeveloper, the combined amount of reimbursements from State and local grants cannot exceed 20 percent of the eligible cost of the project; and, a developer seeking an incentive grant is required to make an equity participation for at least 20 percent of the project's eligible cost.

(b) The Authority will conduct a fiscal analysis to determine redevelopment project costs, evaluate and validate the project financing gap estimated by the developer and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project will result in net positive economic benefit to the State where each proposed project is located. The State Treasurer will approve or disapprove such analysis.

(c) In order to ensure compliance with the "Appropriations clause" of the New Jersey State Constitution (N.J. Const. Art. VIII, Sect. II, para.2), this subchapter provides that payments under State incentive grant agreements are subject to annual appropriations and availability of funds.

(d) Upon notice to and consent by the EDA and the State Treasurer, a redevelopment incentive grant agreement may be pledged and assigned by a developer.

19:31-4.2 Definitions

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

"Ancillary infrastructure project" means public structures or improvements that are located in the public right-of-way outside the project area of a redevelopment project, provided a developer or municipal redeveloper has demonstrated that the redevelopment project would not be economically viable without such improvements.

"Applicant" means a developer proposing to enter into a redevelopment incentive grant agreement.

"Authority" means the New Jersey Economic Development Authority established under section 4 of P.L. 1974, c. 80 (N.J.S.A. 34:1B-4).

"Cash on cash yield" means total revenues less operating expenses divided by eligible project costs.

"Developer" means any person who enters or proposes to enter into a redevelopment incentive grant agreement pursuant to the provisions of section 9 of P.L. 2009, c. 90 (N.J.S.A. 52:27D-489i and k).

"Developer contributed capital" means equity.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Eligible project costs" means total costs incurred until the issuance of a permanent certificate of occupancy for a specific work or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including leaseholds discounted to present value, including lands under water, riparian rights, space rights and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, and any environmental remediation costs, plus soft costs and capitalized interest paid to third parties, ancillary infrastructure projects and infrastructure improvements in the public right-of-way unless funded by the municipality, and excluding any costs for which the project has received State grant funding.

"Eligible revenue" means any of the incremental revenues set forth in section 6 of P.L. 2009, c. 90 (N.J.S.A. 52:27D-489f).

"Equity" means cash, development fees, costs for project feasibility incurred within the 12 months prior to application, Federal or local grants, Federal tax credits, property value less any mortgages, and any other investment by the developer in the project deemed acceptable by the Authority in its sole discretion. Property value shall equal either the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application, or the value as determined by a current appraisal acceptable to the Authority.

"Fiscal impact analysis" means the analysis to be undertaken by the Authority to determine if the project meets the requirement of providing a net positive economic benefit to the State. For the purposes of determining if the applicant fulfills the net positive economic benefit requirement, the analysis needs to demonstrate that the project's net positive economic benefit equals at least 110 percent of the amount of grant assistance. The analysis will be an econometric model that uses project data provided by the developer, including, but not limited to: new and retained jobs, amount of capital investment, type of project, occupancy characteristics and location; and by using this information, shall generate an estimate of direct and indirect economic output, as deemed reasonable by the Authority, and projected eligible revenues.