

(b) The Authority shall give notice of any hearing at least 15 days before the date of the hearing by publication in a newspaper of general circulation in the municipality in which the project will be located, by posting a notice at the Authority's office and by delivering a copy of the notice to the clerk of the municipality in which the project will be located, the applicant and any other interested party. The notice shall include the time and place of the hearing, the names and addresses of the parties involved in the project and a brief description of the project. The Authority shall not be obligated to provide notice of any adjournment or adjournments of any scheduled hearing so long as it gives notice, as provided by these rules, of the new hearing date.

Recodified from 19:65-2.8 by R.1992 d.383, effective October 5, 1992.
See: 24 N.J.R. 1692(b), 24 N.J.R. 3535(a).
Adopted Concurrent Proposal, R.1993 d.605, effective October 29, 1993.
See: 25 N.J.R. 4514(a), 25 N.J.R. 5523(a).

19:65-2.8 Approval of projects which constitute equivalent investments

(a) The Authority may permit, in its sole discretion, a licensee to make equivalent investments in projects in lieu of purchasing bonds. In such instance, the licensee shall make an Application in the same manner as other applicants under these rules.

(b) The Authority may waive the requirement of a licensee to purchase bonds only after the licensee has provided the Authority with sufficient information to show good cause.

(c) In determining the amount of an equivalent investment to be permitted as a tax credit in lieu of purchasing bonds, the Authority shall review all information provided by the licensee and permit credit only for costs of the project actually incurred by the licensee and, in the case of the acquisition of land or other property, the acquisition value approved by the Authority.

(d) The licensee shall be required to provide the Authority with information sufficient for the Authority to make a determination of the amount of costs actually incurred, including a certification of such costs by a certified public accountant, licensed engineer or architect or other person or firm in a similar capacity independent of the licensee and acceptable to the Authority. The Authority shall have the right to retain the services of its own certified public accountant, licensed engineer or architect or other consultant at the cost and expense of the licensee, whenever it deems it necessary to do so to appropriately discharge its obligations.

(e) In the event the licensee requests credit for an equivalent investment pursuant to these rules which includes as part of the investment a donation of realty, the amount of such investment shall include, in addition to the actual costs incurred, the amount of the donation of the realty determined in accordance with N.J.A.C. 19:65-2.9.

(f) In the event that a licensee requests to make an equivalent investment in a project the amount of which is in

excess of the licensee's current tax obligation, the Authority shall provide that such excess amount be applied against such licensee's tax obligations of future years, which annual amount of obligation shall be reduced by the Authority taking into account a current market discount rate (as determined from time to time by resolution of the Authority) from the date of the investment to the date on which the obligation would have been incurred.

(g) Notwithstanding anything in this Section to the contrary, the Authority shall not permit the licensee to make equivalent investments in lieu of purchasing bonds if it would result in:

1. The violation of any agreement or covenant, or the impairment of any contractual or financial obligation, of the Authority; or
2. The impairment of the set aside for the SBMWE Authority as provided in N.J.S.A. 5:12-181; or
3. The reduction or impairment of the allocation to be made pursuant to N.J.S.A. 5:12-144.1f relating to Atlantic City, South Jersey and North Jersey, and the portions thereof to be used to finance housing facilities for persons or families of low through middle income.

(h) In addition to the provisions of this section, the Authority shall require that, in order to permit a licensee to make an equivalent investment in a project in lieu of purchasing bonds, all the other requirements of this subchapter be met, including, in particular, the priorities set forth in N.J.A.C. 19:65-2.6; provided, that the provisions of N.J.A.C. 19:65-2.6(a)2 and 3 need not be met.

New Rule R.1987 d.213, effective May 4, 1987.
See: 19 N.J.R. 404(a), 19 N.J.R. 775(a).
Recodified from 19:65-2.9 by R.1992 d.383, effective October 5, 1992.
See: 24 N.J.R. 1692(b), 24 N.J.R. 3535(a).
Amended by R.1997 d.136, effective March 17, 1997.
See: 29 N.J.R. 115(a), 29 N.J.R. 934(a).

In (d) added the right of the Authority to retain professional services at the expense of the licensee to discharge its obligations; and amended N.J.A.C. references in (e) and (h).

19:65-2.9 Approval of projects which constitute donation of money or realty

(a) The Authority may permit, in its sole discretion, a licensee to make a donation of money or realty to projects in lieu of purchasing bonds. In such instance, the licensee shall make an application in the same manner as other applicants under these rules.

(b) With respect to a donation of realty, in determining the amount of the donation to be permitted as a tax credit in lieu of purchasing bonds, the Authority shall require the licensee to provide information relating to its acquisition value.

(c) Notwithstanding anything in this Section to the contrary, the Authority shall not permit the licensee to make donations in lieu of purchasing bonds if it would result in:

1. The violation of any agreement or covenant, or the impairment of any contractual or financial obligation, of the Authority; or

2. The impairment of the set aside for the SBMWE Authority as provided in N.J.S.A. 5:12-181; or

3. The reduction or impairment of the allocation to be made pursuant to N.J.S.A. 5:12-144.1f relating to Atlantic City, South Jersey and North Jersey and the portions thereof to be used to finance housing facilities for persons or families of low through middle income.

New Rule R.1987 d.213, effective May 4, 1987.

See: 19 N.J.R. 404(a), 19 N.J.R. 775(a).

Recodified from 19:65-2.10 by R.1992 d.383, effective October 5, 1992.
See: 24 N.J.R. 1692(b), 24 N.J.R. 3535(a).

19:65-2.10 Approval of hotel development projects and allocation of investment credit

(a) With respect to allocating the \$75,000,000 set aside under P.L. 1996, c.118, the Authority shall proceed as follows:

1. With respect to hotel development projects approved on or prior to September 16, 1996, the Authority shall determine the amount of investment credit which would have been provided to each licensee had there been sufficient investment funds available to fund such projects at the maximum amount of investment and shall allocate to each respective licensee, subject to compliance by the licensee with the terms and conditions set forth in N.J.A.C. 19:65-2.4(d)1, the difference between the investment amount actually allocated to the licensee and the maximum amount of investment it would have received had there been sufficient funds.

i. In the event that the aggregate additional amount of investment credit required to bring each licensee to the maximum amount of investment it would have received had there been sufficient funds is equal to or less than \$75,000,000, the Authority shall allocate that amount of funds to raise each respective licensee's original allocation to the amount each licensee would have received had there been sufficient funds.

ii. In the event that the aggregate additional amount of investment credit required to bring each licensee to the maximum amount of investment it would have received had there been sufficient funds is in excess of \$75,000,000, the Authority shall allocate the \$75,000,000 proportionately among the respective licensees based upon a formula pursuant to which the amount of investment credit allocated to each licensee bears the same relationship to \$75,000,000 as the amount of funds necessary to raise each licensee's original allocation to the amount each licensee would have received had there been sufficient funds bears to the aggregate additional amount of investment credit required to bring each licensee to the maximum amount of investment it would have received had there been sufficient funds.

(b) If an approved hotel development project is abandoned or terminated or any funds set aside for such projects are not invested by the Authority as the result of the failure of a licensee to comply with the provisions of the Act, as amended by P.L. 1996, c.118, or the rules contained in this chapter, the Authority shall recapture the investment credit with respect to such hotel development project and allocate such amount in accordance with the provisions of (a) above.

(c) Notwithstanding anything in these rules to the contrary, the Authority shall not permit a licensee, granted a license following September 16, 1996, during the first 10 years of its operations to satisfy its investment tax obligations or to credit future tax obligations through investment in a hotel development project or to transfer or exchange present or future investment tax obligations in connection with a hotel development project.

Emergency New Rule, R.1993 d.478, effective August 30, 1993 (expires October 29, 1993).

See: 25 N.J.R. 4514(a).

Adopted Concurrent Proposal, R.1993 d.605, effective October 29, 1993.

See: 25 N.J.R. 4514(a), 25 N.J.R. 5523(a).

Amended by R.1997 d.136, effective March 17, 1997.

See: 29 N.J.R. 115(a), 29 N.J.R. 934(a).

Substantially amended the section.

19:65-2.11 Cost certification

All hotel development project applicants shall be required to provide the Authority with information sufficient for the Authority to make a determination of the amount of costs actually incurred, including a certification of such costs by a certified public accountant, licensed engineer or architect or other person or firm in a similar capacity independent of the applicant and acceptable to the Authority. The Authority shall have the right to retain the services of its own certified public accountant, licensed engineer or architect or other consultant at the cost and expense of the hotel development project applicant, whenever it deems it necessary to do so to appropriately discharge its obligations.

New Rule R.1987 d.213, effective May 4, 1987.

See: 19 N.J.R. 404(a), 19 N.J.R. 775(a).

Recodified from 19:65-2.11 by R.1992 d.383, effective October 5, 1992.

See: 24 N.J.R. 1692(b), 24 N.J.R. 3535(a).

Recodified from 19:65-2.10 by R.1993 d.478, effective August 30, 1993.

See: 25 N.J.R. 4514(a), 25 N.J.R. 5523(a).

Amended by R.1997 d.136, effective March 17, 1997.

See: 29 N.J.R. 115(a), 29 N.J.R. 934(a).

Added the right of the Authority to retain professional services at the expense of the licensee to discharge its obligations.