

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Section 3.5, Executive Director to enforce compliance, was repealed and recodified from 4.5.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Repealed by R.1990 d.411, effective August 20, 1990.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 Executive Director shall, from time to time, establish a list of municipalities and activities by Standard Industrial Classification Number, eligible for Authority assistance, notwithstanding 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.

SUBCHAPTER 6. FEES

19:30-6.1 Application fee

A non-refundable fee of \$500.00 shall accompany every application for Authority assistance, except for an application under the Urban Centers Small Loan Program for which the fee is \$250.00, and except for an application under the Trade Adjustment Assistance Center program for which there is no application fee. The non-refundable application fee of \$500.00 for a guarantee of a bond issued by the Authority is in addition to the bond application fee.

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.

19:30-6.2 Commitment fees

(a) A non-refundable commitment fee of \$750.00 is charged with the acceptance by an applicant of a loan guarantee or direct participation commitment from the Authority.

(b) A non-refundable commitment fee of \$300.00 is charged with the acceptance by an applicant of a direct loan commitment under the Urban Centers Small Loan Program.

(c) A non-refundable commitment fee of \$500.00, or one-half of one percent of the loan amount, whichever is greater, is charged with the acceptance by an applicant of any direct loan commitment other than as described in (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.

19:30-6.3 Closing fees

(a) Except as set forth in (a)1 below, for Authority-issued bonds, the fee to be paid at closing is one-half of one percent of the amount of the bond issue up to and including \$15,000,000; three-eighths of one percent of the amount in excess of the next \$10,000,000; and one-half of one percent of the bond amount in excess of \$25,000,000.

1. The fee to be paid at closing for Authority-issued bonds which benefit not-for-profit corporations, as defined by the Internal Revenue Code, shall be one-half of one percent of the amount of the bond issue, up to and including \$10,000,000 and one-quarter of one percent of the amount in excess of \$10,000,000.

(b) For guaranteed Authority-issued bonds or guaranteed conventional financing other than Authority issued bonds, the guarantee fee, to be paid at closing, is one-half of one percent of the initial amount of the guaranteed portion of the financing multiplied by the number of years the guarantee is to be in effect. This fee is in addition to the fee described in (a) above if the Authority's guarantee relates to repayment of a bond issued by the Authority.

(c) For direct loans from the Authority, other than loans under the Urban Centers Small Loan Program, the fee, to be paid at closing, is \$500.00, or one-half of one percent of the loan amount whichever is greater.

(d) For Authority issued taxable bonds, the fee to be paid at closing is one-half of the closing fee set forth in (a) above.

Amended by R.1987 d.318, effective August 3, 1987.

See: 19 N.J.R. 922(a), 19 N.J.R. 1456(b).

Raised "one-tenth" to "one-quarter".

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 2.3.

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

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

Amended fees.

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

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

In (b), substituted "guaranteed conventional financing other than Authority issued bonds" for "conventional loans"; and added (d).

19:30-6.4 Post-closing fees

(a) The fees in this section are due and payable upon closing of the bond amendment, approval of change of ownership, or signing of modification consent, waiver, or similar documents.

1. For refunding bonds issued to refinance or change the terms of outstanding Authority bonds, an amount equal to one-half of the closing fee (see N.J.A.C. 19:30-6.3(a)) shall be charged.

2. For combination refunding and new money bonds, an amount equal to one-half of the closing fee (see N.J.A.C. 19:30-6.3(a)) shall be charged on the refunding portion and the closing fee (see N.J.A.C. 19:30-6.3(a)) shall be charged on the new money portion.

3. For change of ownership of 50 percent or more of the project property or ownership interest in the borrower to an unrelated entity, or to a related entity not previously approved by the Authority for the project, a \$1,500 fee shall be charged.

4. For change of ownership of the project property or ownership interest in the borrower to a previously Authority-approved related entity, or for the transfer of less than 50 percent of the project property or ownership interest in the borrower to an unrelated entity (excluding a limited partner, or a shareholder holding or about to hold an ownership interest in the borrower of 10 percent or less), a \$750.00 fee shall be charged.

5. For changing project location or description, or changing loan document provisions on bond-financed projects, a \$750.00 fee shall be charged.

6. For review and execution of a document or the preparation of documents, or granting a consent or waiver related to an Authority-assisted project, a fee of \$250.00 shall be charged.

7. For executing (up to 10 bonds) or authorizing issuance of substitute bonds, a fee of \$100.00 per project, per occurrence shall be charged.

8. For modifying or restructuring payment terms for a direct loan or loan guarantee project a fee of \$1,000 shall be charged.

(b) When a transaction does not by its terms fall into one of the above categories, the Authority in its discretion shall determine the appropriate category based on the substance of the transaction. The categorization of the transaction on U.S. Department of the Treasury, Internal Revenue Service Form 8038 will be a significant factor in the determination of the fee.

Amended by R.1987 d.318, effective August 3, 1987.

See: 19 N.J.R. 922(a), 19 N.J.R. 1456(b).

Substantially amended.

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

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

Definitions for refunding bond, related and unrelated entities clarified; examples added at (a)5; scope broadened; limitation on execution of bonds. Section was recodified from 2.4.

Amended by R.1993 d.217, effective May 17, 1993.

See: 25 N.J.R. 916(a), 25 N.J.R. 1998(a).

Added new (a)8.

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

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

Raised fees.

19:30-6.5 Sign display

Applicants requesting financial assistance from the Authority, where part of the project consists of construction or renovation will be provided a sign upon granting of approval by the Members, which is to be visibly erected at the project site indicating that the financing was made available through the Authority.

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

Fee for sign increased from \$50.00 to \$75.00. Section was 2.5.
Amended by R.1995 d.435, effective August 21, 1995.
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Required project sign to be visibly erected at all construction or renovation sites.

19:30-6.6 Guarantee incentive fees

On a case-by-case basis, where the Authority's financial assistance consists of a loan guarantee, the Authority may charge an annual incentive fee for the term of the guarantee not to exceed, in the aggregate, 50 percent of the original guarantee amount. The annual incentive fee will be predetermined at approval based upon an analysis of the Authority's risk exposure and the financial benefit expected to be derived by the applicant resulting from the Authority's participation.

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

Historical Note

A former N.J.A.C. 19:30-6.6 was recodified as N.J.A.C. 19:30-2.6, effective August 20, 1990.

19:30-6.7 Fee waiver

The Executive Director may, with the approval of the members, waive certain fees as described in this subchapter, upon demonstration by the applicant that the imposition of the fee would impose an undue financial hardship. This provision shall be limited to loans under \$25,000.

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

SUBCHAPTER 7. DISABILITY DISCRIMINATION COMPLAINT PROCEDURE

19:30-7.1 Definitions

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

"ADA" means the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

"Authority" means the New Jersey Economic Development Authority.

"Designated decision maker" means the Executive Director of the Authority or his or her designee.

"Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such impairment.

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

19:30-7.2 Purpose

(a) These rules are adopted by the Authority in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. 35.107.

(b) The purpose of these rules is to establish a designated coordinator whose duties shall include assuring that the Authority complies with and carries out its responsibilities under the ADA. Those duties shall also include the investigation of any complaint filed with the Authority pursuant to N.J.A.C. 19:30-7.

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

19:30-7.3 Required ADA Notice

In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the Authority's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a Disability to receive services or participate in a program or activity provided by the Authority.

AUTHORITY NOTICE OF ADA PROCEDURE

The Authority has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 19:30-7. As those rules indicate, complaints should be addressed to the Authority's designated ADA

Coordinator, who has been designated to coordinate ADA compliance efforts, at the following address:

ADA Coordinator
New Jersey Economic Development Authority
CN 990
Trenton, New Jersey 08625

ADA Coordinator
New Jersey Economic Development Authority
200 South Warren Street
CN 990
Trenton, NJ 08625
(609) 292-1800

1. A complaint may be filed in writing or orally, by any individual (or that individual's authorized representative) who believes that s/he or a specific class of individuals has been subjected to discrimination on the basis of disability. The complaint should contain the name and address of the person filing the complaint and for whom the complaint is being filed, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator.

2. A complaint should be filed promptly within 20 days from the date of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)

3. An investigation, as may be appropriate, will follow the filing of a complaint. The investigation will be conducted by the Authority's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

4. In most cases a written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the Designated Decision Maker and a copy forwarded to the complainant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the Authority relating to the complaints filed.

6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of complainant to meet appropriate due process standards and to assure that the Authority complies with the ADA and implementing Federal rules.

(b) All inquiries regarding the Authority's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the Authority should be directed to the designated coordinator identified in (a) above.

(c) All complaints alleging that the Authority has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 19:30-7.5.

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

19:30-7.5 Complaint procedure

A complaint alleging that the Authority has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C. 19:30-7.4(a).

19:30-7.6 Complaint contents

(a) A complaint submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 19:30-7.7.

(b) A complaint submitted pursuant to this subchapter shall include the following information:

1. The name of the complainant, and/or alternate contact person designated by the complainant to receive communication or provide information for the complainant;
2. The address and telephone number of the complainant or alternate contact person; and
3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

19:30-7.7 Complaint form

The following form may be utilized for the submission of a complaint pursuant to this subchapter:

Americans with Disabilities Act Complaint Form

Date: _____

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

19:30-7.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the Authority is:

Name of complainant: _____

Address of complainant: _____

Telephone number of complainant: _____

Disability of complainant: _____

Name, address and telephone number of alternate contact person (if applicable): _____

Incident or barrier:

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of Authority employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident.

Proposed access or accommodation:

If you wish to describe the way in which you feel access may be had to the benefits described above, or what accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 19:30-7.4(a).

19:30-7.8 Investigation

(a) Upon receipt of a complaint submitted pursuant to this subchapter, the designated ADA coordinator will notify the complainant of the receipt of the complaint and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the complaint, unless a later date is agreed to by the complainant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the Designated Decision Maker for the Authority. The Designated Decision Maker shall render a written decision within 45 days of receipt of the complaint, unless a later date is agreed to by the complainant, which decision shall be transmitted to the complainant and/or the alternate contact person if so designated by the complainant.