

In (c), inserted “from a start-up business” following “loan”, and substituted “, if available, and” for “including” following “plan”; and in (d), substituted a reference to existing businesses for a reference to businesses, and deleted a former second sentence.

12A:31-1.4 Allocation of direct loan assistance

(a) 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 that act.

(b) Of the financial assistance allocated by the Authority from sources other than those funds made available by 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.

(c) The Authority may provide direct loans to an eligible business for the purpose of fixed asset acquisition, working capital, or contract financing. The term of the direct loan shall not exceed 15 years. The maximum amount of the loan shall not exceed \$1,000,000. The interest rate shall be as described in (e) below.

(d) The interest rate on direct loans shall be fixed at a rate no less than five percent and no more than one percent below the highest prime rate as published in the Wall Street Journal, at the time of closing. Factors to be considered when establishing an interest rate may include the project's location—municipality, the leveraging of total project cost to public dollars, the employment impact to public dollars, whether the business is new to the State or expanding operations in the State, the amount of other public and private investment and whether or not the applicant has participated in the Entrepreneurial Training Institute or an equivalent program.

Amended by R.1991 d.393, effective August 5, 1991.

See: 23 N.J.R. 828(a), 23 N.J.R. 2313(a).

Stylistic revisions throughout (a) and (b).

Amended by R.1992 d.82, effective February 18, 1992.

See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).

Revised section.

Amended by R.1992 d.330, effective September 8, 1992.

See: 24 N.J.R. 2131(a), 24 N.J.R. 3093(b).

Revised (c)-(d); added (e).

Amended by R.1993 d.243, effective June 7, 1993 (operative July 1, 1993).

See: 25 N.J.R. 891(a), 25 N.J.R. 2484(b).

Amended by 1994 d.565, effective November 21, 1994.

See: 26 N.J.R. 5759(a), 26 N.J.R. 1434(a), 26 N.J.R. 4631(a).

Amended by R.1997 d.154, effective April 7, 1997.

See: 28 N.J.R. 4077(b), 29 N.J.R. 1340(a).

In (e), changed method of calculating interest rate.

Amended by R.1999 d.150, effective May 17, 1999.

See: 31 N.J.R. 739(a), 31 N.J.R. 1359(a).

Rewrote (e).

Amended by R.2000 d.268, effective July 3, 2000.

See: 32 N.J.R. 1490(a), 32 N.J.R. 2444(a).

In (a) and (b), deleted P.L. references; deleted a former (d); and recodified former (e) as (d).

12A:31-1.5 Time of application for a direct loan

An applicant may apply to the Authority at any time for a direct loan. However, the Authority may establish deadlines for receipt and approval of applications, as it deems necessary.

Amended by R.1992 d.82, effective February 18, 1992.

See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).

Revised text.

12A:31-1.6 Evaluation of applications for direct loans

(a) The Authority shall evaluate each application for a direct loan considering the following factors:

1. The debt to equity ratio of the applicant;
2. The general financial condition of the applicant;
3. The likelihood that the applicant will not default on the direct loan;
4. The credit history of the applicant, length of time the applicant has been in existence as well as the success and growth potential of the applicant;
5. The relevant business experience of the applicant and the character of the individuals who are principals of the applicant;
6. The viability of the proposed project and its contribution to the community and creation of jobs; and
7. The quality of the collateral to be offered to secure the loan.

(b) After evaluation of the application by the Authority staff, the application is considered by the Loan Review Committee for review. Final determination of a loan request can only be made by the members of the Authority.

(c) After evaluation of the application by the Loan Review Committee, the Loan Review Committee shall forward the application to the Board for their consideration.

(d) The Authority shall have 120 days in which to review the application and advise the applicant that:

1. The application has been approved;
2. The application has been approved contingent on modification;
3. The application has been rejected; or
4. The application is continuing to be considered pending receipt of additional information.

(e) No direct loan approved by the Authority shall be disbursed to an eligible business until that business has forwarded to the Authority a commitment fee of one-half of one percent of the total amount of the direct loan which has been approved by the Board or \$100.00, whichever is greater and a closing fee of one-half of one percent of the total amount of the direct loan which has been approved by the

Board. In the case of a line of credit, the fees shall be computed based on the maximum amount of the line of credit.

Amended by R.1991 d.393, effective August 5, 1991.

See: 23 N.J.R. 828(a), 23 N.J.R. 2313(a).

Added new (b), recodifying existing (b)-(d) as (c)-(e). Revised text to explain role of Loan Review Committee in the application evaluation procedure.

Amended by R.1992 d.82, effective February 18, 1992.

See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).

Revised text.

Amended by R.1992 d.330, effective September 8, 1992.

See: 24 N.J.R. 2131(a), 24 N.J.R. 3093(b).

Revised (b).

Amended by R.2000 d.268, effective July 3, 2000.

See: 32 N.J.R. 1490(a), 32 N.J.R. 2444(a).

Rewrote (a) and (b).

12A:31-1.7 Reporting and compliance

(a) Upon receipt of a direct loan from the Authority, the loan recipient shall be required to submit a report to the Authority every year which shall include the following:

1. The number of employees working for the loan recipient;
2. Any financial or technical assistance which the loan recipient has obtained;
3. Any substantive change in ownership or financial condition of the loan recipient; and
4. Any other information which the Authority and/or the Executive Director may, in the exercise of their discretion, require.

(b) Upon receipt of a direct loan from the Authority, the loan recipient shall be required to submit an annual financial statement prepared on a reviewed basis by a certified public accountant or a public accountant, except that recipients of a direct loan of \$50,000 or less shall be required to submit annual tax returns. The Authority shall accept financial statements prepared at standards higher than required in this subsection.

(c) Upon receipt of a direct loan, the direct loan recipient shall inform the Authority of any contemplated substantive changes in the business.

Amended by R.1991 d.393, effective August 5, 1991.

See: 23 N.J.R. 828(a), 23 N.J.R. 2313(a).

In (a), revised time requirement from three months to one year.

In (a)4, added Executive Director provision.

Amended by R.1992 d.82, effective February 18, 1992.

See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).

Revised text.

Amended by R.2000 d.268, effective July 3, 2000.

See: 32 N.J.R. 1490(a), 32 N.J.R. 2444(a).

Rewrote (b).

12A:31-1.8 Rescission of a direct loan

(a) The Authority may, at its discretion, rescind all or part of a direct loan commitment prior to closing when it has become reasonably evident that:

1. Other commitments of financial resources to the loan recipient have been withdrawn or have been amended in such a manner as to undermine the ability of the loan recipient to repay the direct loan;

2. The loan recipient is no longer capable of meeting any financial obligations made to the Authority;

3. The loan recipient has supplied false or incorrect information, or has misrepresented information of a material matter, whether oral or written, upon which the Authority relied when approving the direct loan; or

4. The loan recipient is not of good moral character. Lack of good moral character shall include, but is not limited to, convictions of offenses or crimes.

(b) Upon determination by the Authority that a direct loan shall be rescinded, the Authority shall send a certified letter, return receipt requested, to the loan recipient informing of the rescission.

Amended by R.1991 d.393, effective August 5, 1991.

See: 23 N.J.R. 828(a), 23 N.J.R. 2313(a).

In (a), added phrase: "commitment prior to closing" to text.

Stylistic revisions in rule text.

Amended by R.1992 d.82, effective February 18, 1992.

See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).

Revised section.

12A:31-1.9 Information confidentiality

(a) All records of the Authority such as minutes, annual reports, program guidelines, regulations, applications for financial assistance and other information not classified as nonpublic information shall be deemed public information available for examination and copying upon request. If the above information is requested by the public and is not readily available and must be photocopied or otherwise reproduced by the Authority, the Authority shall charge a fee of \$.75 each page for pages 1 to 10, \$.50 each page for pages 11 to 20 and \$.25 each page for pages 21 and above. The public may obtain general information concerning Authority programs by contacting the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises, PO Box 990, Trenton, New Jersey 08625-0990.

(b) The following shall not be deemed to be public records subject to inspection, examination and available for copying pursuant to N.J.S.A. 47:1A-1 et seq.:

1. All confidential reports, executive memoranda and evaluations submitted to the Authority, the directors, or to any other state agency or instrumentality;

2. All personnel records;

3. All records concerning applications for employment with the Authority;

4. All records concerning financial or proprietary information submitted by applicants for Authority assistance;