

CHAPTER 56**AIRPORT SAFETY FUND PROGRAM****Authority**

N.J.S.A. 6:1-29, 6:1-44, 27:1A-5, and 27:1A-6; and "Airport Safety Act of 1983" P.L. 1983, c. 264, effective July 11, 1983 (N.J.S.A. 6:1-89 et seq.).

Source and Effective Date

R.2006 d.306, effective September 5, 2006.
See: 38 N.J.R. 1168(a), 38 N.J.R. 3627(c)

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 56, Airport Safety Fund Program, expires on March 4, 2014. See: 45 N.J.R. 2191(a).

Chapter Historical Note

Chapter 56, Aircraft Registration, was adopted prior to September 1, 1969.

Subchapter 3, Aircraft Registry Log, was repealed by R.1981 d.341, effective September 10, 1983. See: 13 N.J.R. 457(b), 13 N.J.R. 616(b).

Chapter 56, Aircraft Registration, was repealed by R.1983 d.476, effective June 4, 1984.

Chapter 56, Airport Safety Improvement Aid, was adopted as new rules by R.1984 d.207, effective June 4, 1984. See: 16 N.J.R. 694(a), 16 N.J.R. 1372(a). Pursuant to Executive Order No. 66(1978), Chapter 56 expired on June 4, 1989.

Chapter 56, Airport Safety Improvement Aid, was adopted as new rules by R.1989 d.413, effective August 7, 1989. See: 21 N.J.R. 1502(a), 21 N.J.R. 2299(b).

Pursuant to Executive Order No. 66(1978), Chapter 56, Airport Safety Improvement Aid, was readopted as R.1994 d.372, effective June 22, 1994. See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

Pursuant to Executive Order No. 66(1978), Chapter 56, Airport Safety Improvement Aid, was readopted as R.1999 d.207, effective June 10, 1999. See: 31 N.J.R. 928(a), 31 N.J.R. 1820(a).

Chapter 56, Airport Safety Improvement Aid, was readopted as R.2004 d.412, effective October 7, 2004. See: 36 N.J.R. 3340(a), 36 N.J.R. 4952(b).

Chapter 56, Airport Safety Improvement Aid, was repealed and Chapter 56, Airport Safety Fund Program, was adopted as new rules by R.2006 d.306, effective September 5, 2006. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 56, Airport Safety Fund Program, was scheduled to expire on September 5, 2013. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. PURPOSE AND DEFINITIONS**16:56-1.1 Purpose**

These rules govern disbursements from the Airport Safety Fund Program to promote aviation safety, education, and aeronautics, and to preserve and rehabilitate the State general aviation airport system.

16:56-1.2 Definitions

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

"Airport" means any facility, or area of land, water, or both, either publicly or privately owned, which is licensed for the landing or takeoff of aircraft, and open to the public for aeronautical operations, that does not have a restrictive covenant on operational use by the general public for reasons other than safety, and is not an international airport.

"Airport Safety Fund Program" means a program established pursuant to the Airport Safety Act of 1983, N.J.S.A. 6:1-89 et seq.

"Aviation enterprise" means any business or enterprise that is principally located within a New Jersey unrestricted public use general aviation airport where the Commissioner has determined such business or enterprise has a direct economic or operational benefit to the airport.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation.

“Department” means the New Jersey Department of Transportation.

“Division” means the Division of Aeronautics in the New Jersey Department of Transportation.

“Director” means the Director of the Division of Aeronautics.

“International airport” means the official name of an airport contains the words “international airport”, the airport is served by scheduled or charter international airline service, and U.S. Customs Service and Border Patrol service is available for arriving flights.

“State” means the State of New Jersey or a department of the State of New Jersey as the context may indicate or require.

SUBCHAPTER 2. GRANTS AND LOANS

16:56-2.1 Airport improvement grants

(a) An airport may apply for an improvement grant to obtain financial assistance for airport improvement projects, consistent with the purposes of this chapter.

(b) Projects eligible for grants under this chapter may include, but are not limited to, the following:

1. Runway, taxiway and aircraft parking apron construction, reconstruction, overlay, rehabilitation, preventive maintenance, lighting and marking;
2. Development, redevelopment, rehabilitation, improvement, lighting and marking of turf and natural surface runways, taxiways and aircraft parking aprons;
3. Airport beacons, approach lighting, and electronic and visual navigation aids;
4. Airport security equipment and security projects;
5. Permanently installed above ground aircraft fueling equipment;
6. Airport and runway obstruction removal, mitigation and marking; and
7. Airport equipment dedicated to aircraft crash, fire and rescue purposes.

(c) Financial assistance for airport improvement grants shall not exceed 95 percent of the total project cost, and the recipient’s share shall not be less than five percent of the total project cost.

16:56-2.2 Matching grants

(a) An airport may apply for a matching grant to obtain financial assistance from Federal sources of funding for air-

port improvement projects consistent with the purposes of this chapter.

(b) Matching grants may not exceed five percent of an airport’s total project cost.

(c) In an emergency, a matching grant may be up to 100 percent of the airport’s required match.

(d) The Department may enter into individual matching grant agreements for individual projects. The Department may also enter into multi-year matching grant agreements of up to seven years for multiple eligible projects requiring matching funds, when receiving Federal assistance during the term of the agreement.

(e) Matching grants will be paid in a single lump sum at the completion of the project.

Petition for Rulemaking.
See: 44 N.J.R. 2074(b), 2254(d).

16:56-2.3 Airport acquisition grants

(a) Publicly owned airports, counties and municipalities may apply for an airport acquisition grant to obtain financial assistance for the acquisition of airports or lands, rights in land and easements, including aviation easements necessary for clear zones or clear areas.

(b) The airport to be acquired or for which the proposed acquisition will be made must be owned, controlled or operated, or to be owned, controlled or operated by a municipality, county or other political subdivision of the State.

(c) The acquired property or interest in property shall not be sold or used for any non-aviation purpose without the prior written approval of the Commissioner, and may be subject to contractual limitations or conditions established within the acquisition grant agreement.

(d) Financial assistance for airport acquisition grants shall not exceed 95 percent of the total project cost, and the recipient’s share shall not be less than five percent of the total project cost.

16:56-2.4 Aviation studies grants

(a) An airport, the State, or any political subdivision of the State, may apply for financial assistance to conduct a study associated with a safety project, including, but not limited to, feasibility, system plan, master plan, airport layout plan, facility siting, engineering, environmental or aviation economic study.

(b) Financial assistance, for aviation studies grants, shall not exceed 95 percent of the total project cost, and the recipient’s share shall not be less than five percent of the total project cost.

16:56-2.5 Aviation education, safety and aeronautics promotion programs

(a) A person or entity may apply for financial assistance to conduct a program or activity that promotes aviation safety, aviation education, or aeronautics. An applicant must demonstrate the ability and capacity to effectively conduct the proposed program.

(b) Programs eligible for financial assistance include, but are not limited to, the following:

1. Public and private school programs;
2. Non-profit pilot education flight safety programs; and
3. Public information and promotional programs which further the public understanding of and appreciation for aviation and aviation benefits.

(c) In no fiscal year shall the amount of moneys expended for aviation education, safety and promotion programs exceed 10 percent of the total amount of moneys appropriated in that fiscal year to the Airport Safety Fund Program.

16:56-2.6 Funding for emergencies

An airport may request from the Commissioner, funding in response to an emergency. Funding may be granted if the Commissioner determines that a condition at or near an airport substantially endangers the health, safety or welfare of persons or property and must be addressed expeditiously. A request for funding may be processed in an expedited manner.

16:56-2.7 Aviation loans

(a) An airport or an aviation enterprise may apply for a loan to be used for such specific purposes and on such terms and conditions as determined by the Commissioner, consistent with the purposes of N.J.S.A. 6:1-1 et seq.

(b) Loan proceeds may be used for revenue or nonrevenue generating capital construction, capital development, or equipment acquisition purposes.

(c) Loans shall not fund an expansion, the preparation for an expansion or completion of an expansion of the physical capabilities of the airport, including, but not limited to, expansion of the runways, to support a greater number of flights or larger aircraft than that which the airport was able to handle safely at the time of the loan application.

(d) Loans may fund the restoration of the physical capabilities of an airport to a state of full repair and maintenance.

(e) Limitations on loans are as follows:

1. A recipient cannot receive more than one aviation loan in a State fiscal year.

2. A loan shall have a four percent annual interest rate, and not exceed \$200,000. The maximum loan period is 10 years.

3. A loan shall be repaid in a time proportional to the useful life of the project improvement, as determined by the Director.

4. A loan must be fully secured by property equity or other assets satisfactory to the Commissioner.

(f) Recipients shall repay loans as provided in the loan agreement.

SUBCHAPTER 3. APPLICATION AND SELECTION**16:56-3.1 Applications**

(a) The Division will solicit from airports, applications for financial assistance under this chapter.

(b) An applicant for financial assistance under this chapter may obtain an application form directly from the Division of Aeronautics by mail request to:

Division of Aeronautics
N.J. Department of Transportation
PO Box 610
Trenton, New Jersey 08625-0610

(c) Applicants may submit more than one application.

(d) Completed applications must be mailed to the Division of Aeronautics at the address in N.J.A.C. 16:56-3.1(b) above.

(e) An applicant must submit an application by the close of business on the last business day of September or February.

16:56-3.2 Application evaluation criteria and standards

(a) The Division of Aeronautics will evaluate applications for financial assistance under this chapter, based on the following criteria:

1. The scope and cost of the improvement required;
2. Availability of local funds for airport development;
3. The capture of Federal funds;
4. The relative value of that improvement to the other needs of the particular airport;
5. The present and future public service levels in regard to operations, based aircraft, passenger service, freight service, Statewide distribution of services, and local and State economic development;
6. The impact on the area surrounding the airport;

7. The extent to which the improvement will contribute to the welfare of the citizens of the State and the local area;

8. The relative value to the State airport system as a whole; and

9. The preservation and rehabilitation of the State general aviation airport system.

(b) The Division will consider the criteria found in (a) above in light of the availability of funds, priorities for development of the air transportation infrastructure, the purposes of this chapter, and other significant factors, including environmental or economic factors, existing at the time of application.

(c) The Division may determine the amount of financial assistance to be allocated among the programs identified in this chapter so as to insure the availability of funds for other programs identified in this chapter, or to meet future or anticipated funding requirements.

16:56-3.3 Evaluation and selection process

(a) Applications for financial assistance under this chapter are considered twice a year. The deadline for submission of an application is the close of business on the last business day of September and February.

(b) Each application will be reviewed for completeness. If additional information is necessary to make a determination of eligibility, the applicant will be notified in writing. The application will not be considered complete until the applicant submits the additional information.

(c) After the application is deemed complete, the Division will review the proposed project based upon the criteria and standards found in this chapter.

(d) The Director will provide the Commissioner or the Commissioner's designee within 90 days of the deadline for the filing of an application, a list of proposed projects eligible for funding, and a funding recommendation for each proposed project.

16:56-3.4 Offer

(a) The Department will make a written offer of financial assistance to applicants for financial assistance under this chapter, as directed by the Commissioner or the Commissioner's designee.

(b) An applicant who receives an offer of financial assistance has 14 days from the date of receipt to accept the offer. Acceptance may be made by mail or faxed letter. Failure to respond will be considered a rejection of the offer. Acceptance is nonbinding until an agreement is signed by the State and the applicant.

(c) The Department may withdraw an offer of financial assistance at any time prior to the signing of the agreement.

(d) Upon the receipt of an acceptance of an offer, the Division may require the submission of a proposal as set forth in N.J.A.C. 16:56-3.5.

16:56-3.5 Proposal requirements

(a) The Division may require an applicant for financial assistance under this chapter to submit a proposal, to include any of the following:

1. A detailed description of the project or program scope. A project description shall include detailed construction plans, specifications, schedules, and cost sheets prepared and signed by a professional engineer registered in the State of New Jersey;

2. An Application for New Aeronautical Facility License or Alteration, as required under N.J.A.C. 16:54;

3. A copy of the approved Airport Layout Plan;

4. A legal deed or instrument verifying ownership including a narrative legal description of the metes and bounds of the airport property certified as accurate by a New Jersey registered land surveyor or professional engineer;

5. A statement or certificate from the appropriate governing body that the proposed project is not contrary to zoning codes or ordinances. If the proposed project fails to meet a zoning code or ordinance, the applicant shall describe and explain the reason for failing to meet the code or ordinance, and the need for the project. The applicant shall include copies of the relevant zoning laws and ordinances, and the zoning approval application;

6. A completed copy of Notice of Landing Area Proposal or Notice of Proposed Construction or Alteration (FAA Forms 7480-1 or 7460-1 as it may be amended or superseded); and/or

7. Any other materials or information deemed necessary by the Division.

SUBCHAPTER 4. AGREEMENTS

16:56-4.1 Agreement

Upon the review and approval of a written acceptance, the Division will prepare an agreement. The agreement may contain such terms and conditions as deemed necessary to protect the public interest.

16:56-4.2 Certification

(a) A recipient of financial assistance under this chapter shall certify that:

1. The airport will be owned or effectively controlled, operated, repaired and maintained adequately during an improvement's useful life, for the benefit of the public;
2. In connection with the operation of the airport, during an improvement's useful life, the public will not be deprived of its rightful, fair, equal and uniform use of the airport; and
3. The airport will adhere to State and Federal laws and regulations.

16:56-4.3 Specification standards, methods, techniques, and designs

The Department, in order to control project costs, may utilize value engineering methods, including, but not limited to, the use of non-standard specifications and the use of on-hand or low cost materials or techniques.

SUBCHAPTER 5. AUDIT, RECORDKEEPING, AND INSPECTION

16:56-5.1 Audit requirements

(a) A recipient of financial assistance under this chapter shall comply with the State of New Jersey single audit policy for recipients of Federal grants, State grants, and State aid defined by the Department of Treasury, Office of Management and Budget and the Single Audit Act of 1984 (Federal OMB Circular A-133), incorporated herein by reference, as amended and supplemented. Copies of these circulars can be obtained from the New Jersey Department of the Treasury, Office of Management and Budget at www.state.nj.us/infobank/circular/circindex.htm and www.whitehouse.gov/OMB or by mail from:

N.J. Department of Treasury
Office of Management & Budget
PO Box 221
Trenton, NJ 08625-0221

(b) The Department shall direct that an audit of the recipient be performed by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with State audit policy.

(c) Audit costs incurred by recipients to comply with this subchapter are not reimbursable.

16:56-5.2 Recordkeeping requirements

(a) A recipient shall keep records as the Department may prescribe, including records that disclose the amount and the disposition of the financial assistance, the total cost of the project or program, and the amount and nature of that portion of the cost of the project or program paid from sources other

than financial assistance, and records as will facilitate an effective audit.

(b) The Department, or any authorized representatives, shall have access to any books, documents, papers, and records that are pertinent to the project or program, for the purpose of audit and examination.

(c) A recipient shall establish and maintain an accounting record for each individual project or program that identifies the project or program costs.

(d) A recipient shall maintain effective control over and accountability for all project or program funds, property, and other assets allocated for project or program use. Recipients shall adequately safeguard all project or program assets and shall assure that they are used solely for authorized purposes.

(e) The recipient shall include in each contract with a project or program subcontractor or provider of services to the project or program, a clause that allows the Department access to the subcontractor's or provider's records for purposes of accounting and audit.

16:56-5.3 Retention of records

(a) A recipient shall obtain and retain, for a period of three years after the date the recipient submits to the Department the recipient's single or last expenditure report for that funding period, documentary evidence such as invoices, cost estimates, appraisal reports and negotiation documents relating to each item of project or program cost. These documents typically include, but are not limited to: vendor's invoices, applicable purchase orders, receiving reports, inventory records, method of pricing, returns, production cost reports, weight tickets, physical inventories, production cost accounts, final inspection report showing acceptance of the airport development performed under the project or program, and a record of disposition or correction of all unsatisfactory work, if any.

(b) A recipient shall retain, for a period of three years after the recipient submits to the Department the recipient's single or last expenditure report for that funding period, evidence of all payments for items of project or program costs including vouchers, cancelled checks or warrants, and receipts for cash payments.

(c) If audit findings have not been resolved, records shall be retained until the findings have been resolved.

16:56-5.4 Inspection

(a) The Commissioner, Director, or any other person designated or authorized by the Commissioner, may inspect, without notice, the sites, proposed sites, records, construction or materials related to a project or program.

(b) An inspection may include, but is not limited to, the reproduction and examination of records, the taking of

samples applicable to site evaluation or project or program quantity control, the validation of metes and bounds, the recipient's use of a site or project or program, or the assessment of any factor relevant to a project or program, application, or contracts and terms related to the project or program.

(c) Any denial of access to records, failure to produce records, or obstruction with an inspection by a recipient may result in the withdrawal of financial assistance, disqualification from current or future consideration for State aid, or the declaration of a recipient to be in default of the terms of an agreement. The denial of access to records, failure to produce records, or obstruction with an inspection may result in further legal actions by the State as applicable under the laws of New Jersey.

16:56-5.5 Payment procedures

(a) Disbursements are made on a reimbursement basis.

(b) All requests for the approval, payment and transfer of funds shall be made on the forms provided and as prescribed by the Department.

(c) Prior to any disbursement of funds, the State may conduct site inspections, tests, or review and audit records or accounts to determine that the recipient meets the requisite conditions for the disbursement of funds.

(d) Recipients shall request disbursement of State aid on the forms provided and as prescribed by the Department. Requests shall include copies of vendor invoices. Invoices shall be certified as accurate and proper by the recipient or project engineer, as required by the Department.

16:56-5.6 Liability and penalties

(a) Any failure by a recipient to meet the conditions or performance criteria or obligations under an agreement may result in the withdrawal of financial assistance, disqualification from current or future consideration for financial assistance, or the declaration that a recipient is in default of the terms of an agreement.

(b) If a recipient fails to comply with the terms of the agreement before the end of the useful life of an improvement or the completion of a program, the State shall be reimbursed for the unused portion of the useful life and, if not fully reimbursed, the State will have a first lien to the extent of the unreimbursed portion of the improvement or the program.

(c) Any person who knowingly or willfully makes a misrepresentation or false statement in an application or violates the provisions of this chapter may be subject to the fines and penalties as provided by Title 6 of the Revised Statutes.

SUBCHAPTER 6. FUELS

16:56-6.1 Aircraft and turbine fuels

(a) Under the taxation purposes of the Airport Safety Act of 1983, P.L. 1983 c. 264, (N.J.S.A. 6:1-89 et seq.) approved July 11, 1983, it is hereby determined that "aircraft" and "turbine fuels" are fuels distributed to general aviation airports for the purpose of propulsion of aircraft through the air including, without limitation thereto, fuels known or sold as:

1. Grade 80 gasoline (Red);
2. Grade 100 gasoline (Green);
3. Grade 100 LL Gasoline (Low Lead) (Blue);
4. Grade 115 gasoline;
5. Jet A—kerosene, freeze point -40 degrees Celsius;
6. Jet A-1—kerosene, with icing inhibitor, freeze point -50 degrees Celsius;
7. Jet B—Wide-cut turbine fuel, freeze point -50 degrees Celsius; and
8. Jet B—Wide-cut turbine fuel with icing inhibitor, freeze point -50 degrees Celsius.