

## CHAPTER 80

### NEW JERSEY URBAN DEVELOPMENT CORPORATION

#### Authority

N.J.S.A. 55:19-1 et seq., specifically 55:19-6(d).

#### Source and Effective Date

R.1995 d.411, effective June 30, 1995.  
See: 27 N.J.R. 1954(a), 27 N.J.R. 2956(b).

#### Executive Order No. 66(1978) Expiration Date

Chapter 80, New Jersey Urban Development Corporation, expires on June 30, 2000.

#### Chapter Historical Note

Chapter 80, formerly titled "Urban Small Business Incubator Program," was adopted as R.1989 d.91, effective February 6, 1989. See: 20 N.J.R. 2524(b), 21 N.J.R. 299(d). Chapter 80 was repealed and replaced by new rules by R.1990 d.334 effective July 2, 1990. See: 22 N.J.R. 780(a), 22 N.J.R. 2026(a). Under the new rules, the provisions of Chapters 80, 81 and 82, which were the rules of the economic development programs of the Urban Development Corporation, were consolidated as Chapter 80. Chapter 12A:80 was readopted as R.1995 d.411, effective June 30, 1995. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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#### SUBCHAPTER 1. URBAN DEVELOPMENT CORPORATION ECONOMIC DEVELOPMENT PROGRAMS

##### 12A:80-1.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the New Jersey Urban Development Corporation to implement

the Corporation's Urban Development Program, Urban Small Business Incubator Program, and Neighborhood Development Corporation Program.

(b) These programs provide for the Corporation to fund specific types of development projects in certain qualified municipalities. The Urban Development Program provides assistance for non-residential projects. The Urban Small Business Incubator Program provides assistance for the development of small business incubators. The Neighborhood Development Corporation Program provides assistance for the creation and development of neighborhood development corporations.

(c) Applications and questions regarding participation in this program should be directed to:

New Jersey Urban Development Corporation  
150 West State Street  
CN 834  
Trenton, New Jersey 08625

#### 12A:80-1.2 Definitions

The words and terms in this subchapter shall have the following meanings unless the context clearly indicates otherwise:

"Applicant" means an educational institution, local government unit, county government unit, economic development groups, private-for-profit business, non-profit corporation, neighborhood development corporation, or subsidiary of the Corporation.

"Board" or "Board of Directors" means the directors of the New Jersey Urban Development Corporation, pursuant to N.J.S.A. 55:19-4.

"Corporation" means the New Jersey Urban Development Corporation, established pursuant to N.J.S.A. 55:19-1 et seq.

"Educational institution" means a private college or university, or a state sponsored and supported college or university.

"Eligible project cost" means the cost of developing, executing and making operational a Board approved project when such costs are contained in a budget approved by the Board and amended from time to time. Eligible project cost includes the cost:

1. Of purchasing, leasing, condemning, or otherwise acquiring land and/or other property, or an interest therein, in the designated project or as necessary for a right-of-way or other easement to or from the project area;
2. Incurred for or in connection with or incidental to acquiring the land, property, or interest;

3. Incurred for or in connection with the relocation and moving of persons displaced by acquisition;

4. Of development or redevelopment, including:

i. The comprehensive renovation or rehabilitation of the land, property or interest;

ii. The cost of equipment and fixtures, which are part of the real estate, and the cost of production machinery and equipment necessary for the operation of the project; and

iii. The disposition of land or other property for these purposes.

5. Of demolishing, removing, relocating, renovating, altering, constructing, reconstructing, installing or repairing any land or any building, street, highway, alley, utility, service or other structure or improvement;

6. Of acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements necessary to the project;

7. Of planning and/or feasibility studies of proposed projects that are likely to result in UDC applications for financial assistance and appear reasonably likely to prove feasible prior to commencement of the study; and

8. Other incurred or incidental cost approved by the Board.

"Female business" means a female business as defined in N.J.A.C. 17:14-1.1.

"Financial assistance" includes, but is not limited to direct loans, loan guarantees, equity investment, and/or stock underwriting purchases provided by the Corporation.

"For-profit corporation" means a corporation, organized and incorporated for the purpose of making a profit and as defined by N.J.S.A. 14A:1-2(g).

"Minority business" means a minority business as defined in N.J.A.C. 17:14-1.1.

"Neighborhood" means an area designated within a qualified municipality and approved by the Board.

"Neighborhood Development Corporation" or "NDC" means a for-profit corporation formed for the sole purpose of owning, supervising, and/or managing one or more specific projects within the designated neighborhood area.

"Non-profit corporation" means a corporation organized and incorporated pursuant to N.J.S.A. 15A:1-2.

"Project" means a specific work or improvement including lands, buildings, improvements, real and personal property or any interest therein (including lands under water, riparian rights, space rights, and air rights) acquired, owned, constructed, reconstructed, rehabilitated, or improved by the Corporation, a subsidiary of the Corporation, or by any other person, firm, or corporate entity under agreement with the Corporation or subsidiary of the Corporation pursuant to the provisions of the Urban Development Corporation Act (N.J.S.A. 55:19-1 et seq.).

"Project Review Committee" means a committee of no more than four members of the Corporation's Board who review requests for Corporation assistance and make recommendations to the Board for approval.

"Qualified municipality" means any municipality which, at the time of the initiation of a project, was eligible to receive State aid under P.L.1977, c. 260, N.J.S.A. 52:27D-162 et seq.; or any other municipality which in any year subsequent to the enactment of P.L.1978, c. 14, N.J.S.A. 52:27D-178 et seq., was eligible to receive State aid pursuant to that Act; or any municipality which has a population of 15,000 or less, according to the most recent federal decennial census; a population density of 5,000 or more per square mile; 100 or more children enrolled in the Aid to Families with Dependent Children Program, according to the data available to and utilized by the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs to determine eligibility for State aid under the provisions of P.L.1978, c. 14; an equalized tax rate which exceeds the State equalized tax rate; and an equalized valuation per capita which is less than the State equalized valuation per capita.

"Small business" means a business duly approved pursuant to the New Jersey Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses, N.J.S.A. 52:32-17 (see also N.J.A.C. 12A:10-1).

"Small business incubator" means a facility owned and/or operated by an applicant with some type of financial assistance from the Corporation. The facility may provide any of the following services to tenants which are primarily new businesses, or any other services as approved by the Board:

1. Physical space in the incubator;
2. Business and management assistance, which may include access to experts in professional areas; and/or
3. Facility services.

"Subsidiary" means a corporation established by resolution of the Corporation, that has a majority of its outstanding voting shares owned by the Corporation or where the Corporation has the power to designate, and has so designated, a majority of the directors of such corporation.

"Technical assistance" means, but shall not be limited to, organizational development, incorporation, project feasibility, development and project administration.

"Time of the initiation of the project," means the date and time of physical receipt of a completed application by the Corporation.

### **12A:80-1.3 Application for Corporation financial assistance**

(a) Each application for financial assistance shall be on forms prescribed by the Corporation and be accompanied by, but not be limited to, the following:

1. A non-refundable application fee of \$500.00 for the Urban Development Program and the Urban Small Business Incubator Program. The non-refundable application fee for NDCs is \$250.00;

2. Evidence of support of the municipality in which the project is located. For purposes of these rules, evidence of municipal support shall include:

- i. A certified copy of a resolution of the governing body of the local municipality; and
- ii. A letter of support from the chief executive of the local municipality;

3. Evidence of private resources or other public sector funding commitments;

4. Evidence of all requisite federal and/or state environmental permits where necessary for the project;

5. A Small Business, Female Business, and Minority Business Set-Aside Plan pursuant to the rules concerning Minority and Female Subcontractor Participation in State Construction Contracts (N.J.A.C. 17:14);

6. Where applicable, a notarized letter from the local planning or zoning board which indicates that the project complies with local zoning requirements or has obtained the necessary variance;

7. A feasibility study or other information which demonstrates the feasibility of the proposed project; and

8. In the case of an NDC,

i. A copy of the NDC's by-laws and certificate of incorporation;

ii. A listing of all the principals in the NDC, which shall include: names, addresses, social security numbers, dates of birth, and resumes or statements as to their background and qualifications. For purposes of these rules, principal shall mean any officer, director, or individual who directly or indirectly holds any beneficial ownership of the securities or property of the NDC. It shall also mean any employee of the NDC who is empowered by title or by explicit assignment to authorize the procurement, purchase, or contracting of

equipment, goods, services or suppliers involving an expenditure of \$1,000 or greater for NDC use; and

iii. A listing of stockholders who own five percent or more of issued shares. The stockholders listing shall disclose the names, addresses, social security numbers, date of birth, class of stock owned, approximate voting power of stock owned, and number of shares owned.

### **12A:80-1.4 Time for application for financial assistance from the Corporation**

An applicant may apply to the Corporation at any time for financial assistance. However, the Corporation may establish deadlines for receipt and approval of applications. The Board shall notify all eligible municipalities in writing by certified mail at least 60 days prior to establishing deadlines.

### **12A:80-1.5 Financial assistance**

(a) No more than \$1 million shall be allocated to any one county from all of the Corporation's development programs during the period in which the Corporation is allocating any of the initial \$30 million provided by the Community Development Bond Act, P.L. 1981, c. 486.

(b) The Corporation may provide financial assistance to a project in any of the following manners:

1. Direct loans from the Corporation in the form of permanent financing for eligible project costs at Corporation designated interest rates. Terms of direct loans from the Corporation shall not exceed a period of 20 years;

2. Loan guarantees by the Corporation which guarantee loans for no more than 90 percent of the eligible project cost. Terms of a loan guarantee shall not be for more than 10 years;

3. Equity investments by the Corporation through joint ventures with private or public sector entities, by providing venture capital, purchase of stock, or other forms of equity investment as may be offered by the specific project or the sponsor in general. If the Corporation or its subsidiary assumes an equity interest in a project, the other owner, partner or other business entity shall be required to comply with all Corporation rules and requirements; or

4. Grants may be made by the Corporation to projects, when determined by the Board to be necessary and appropriate. The Corporation may convert such grants to loans consistent with conditions agreed to by the Corporation and the grant recipient.

(c) The applicant shall secure interim financing for all projects, unless the Corporation, by Board resolution, agrees otherwise. The interim lender shall assume full responsibility for monitoring the timely completion of a project.

(d) The maximum amount of financial assistance for any one project shall be \$3,000,000. The minimum amount of financial assistance from the Corporation shall be \$50,000 for development projects, and \$10,000 for feasibility studies.

(e) The applicant shall certify in writing that there is a compelling public need to undertake such project and insufficient responsible interest by the private financial or development community to undertake the project without the Corporation's assistance or involvement.

(f) The Corporation may provide financial assistance to a small business incubator through participation in a seed venture fund created for the purpose of investing in Corporation financed small business incubator tenant firms.

#### **12A:80-1.6 Evaluation of applications for financial assistance from the Corporation**

(a) The Corporation shall evaluate each application for the following factors:

1. The distress level of the municipality in which the project is to be located, as well as the immediate area of the project;
2. The ratio of total Corporation financing to permanent jobs created as a result of the financing;
3. The amount of new tax ratables created within the municipality where the project is located;
4. The amount of financing for the project from sources other than the Corporation;
5. The impact the project will have in stimulating investment and development in the municipality and the immediate areas in which the project is located;
6. The readiness of the project to proceed and the likely success of the project;
7. The return on the investment made by the Corporation in the project;
8. The degree of support for, participation in, and/or consultation with the community and municipality in which the project is to be located;
9. The experience and track record of the applicant;
10. If an NDC, whether the ownership of the NDC is representative of the neighborhood in which the project is to be located; and
11. In an NDC, the amount of technical assistance that will be needed by the NDC from the Corporation.

(b) After an evaluation of the project by the Executive Director and the Project Review Committee is completed, the project will be presented to the Board for consideration of granting preliminary approval in principle. Approved projects will then be reviewed again by the Executive Director and Project Review Committee prior to presentation to the Board for consideration of final approval.

(c) The Corporation shall have 120 days from receipt of a completed application in which to review a request for financial assistance and advise an applicant that:

1. The request has been approved;
2. The request has been approved contingent on modification;
3. The request has been rejected; or
4. The request is continuing to be considered pending additional information being received.

(d) An applicant may submit additional information and request that the Executive Director and the Project Review Committee reconsider the application if the Project Review Committee does not recommend approval of the application to the Board.

#### **12A:80-1.7 Small business, female business and minority business set-aside plans and requirements**

(a) Each project approved to receive financial assistance from the Corporation shall comply with the rules concerning Minority and Female Subcontractor Participation in State Construction Contracts, N.J.A.C. 17:14. These rules apply to projects involving construction-related work on public structures or facilities.

(b) The applicant shall identify the small businesses, female businesses and minority businesses that will participate, by construction trade, together with the contract sum to be paid to each small business, female business, and minority business.

(c) In determining compliance with these goals, an applicant may only utilize those small businesses, female businesses, and minority businesses duly approved and registered pursuant to the Set-Aside Act for Small Businesses, Female Businesses and Minority Businesses, N.J.S.A. 52:32-17 (see N.J.A.C. 12A:10-1).

#### **12A:80-1.8 Special NDC requirements**

(a) For the purposes of this subchapter:

1. No shareholder of an NDC, without prior Board approval, may, directly or indirectly, purchase, obtain or otherwise acquire more than 10 percent ownership of NDC issued stock;
2. No one individual, without prior Board approval, may directly or indirectly acquire more than 15 percent voting control of the NDC; and
3. No one family, without prior Board approval, may directly or indirectly purchase, obtain or otherwise acquire more than 30 percent ownership of NDC issued stock. A family shall be defined as relatives of husband, wife, father, mother, brother and sister whether or not residing in the same household.

**12A:80-1.9 Reporting and compliance**

(a) Upon the receipt of Corporation financial assistance, the applicant shall be required to submit an annual report to the Corporation which shall include:

1. An annual review or audit of the applicant prepared by a certified public accountant;
2. A report on the number of employees working at the project location and, if a small business incubator, the number of employees of each tenant;
3. Current and three-year projected budgets of the approved project;
4. Plans for capital investments;
5. Any other information that the Corporation may require; and
6. If an incubator:
  - i. Changes in any incubator policies or marketing plans affecting incubator occupancy of the financial viability of the incubator;
  - ii. The occupancy rate of the incubator; and
  - iii. A listing of all tenants in the incubator during the year.

**12A:80-1.10 Other Board action**

In the case of matters not covered by these rules, the Board may undertake any action which it deems appropriate and is consistent with the provisions of the Urban Development Corporation Act.

**SUBCHAPTER 2. INFORMATION****Source and Effective Date**

R.1991 d.257, effective May 20, 1991  
See: 23 N.J.R. 20(a), 23 N.J.R. 1682(a).

**12A:80-2.1 Public information**

(a) All records of the Corporation 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

and will be made available to the public for inspection, examination and copying upon request.

(b) If the information in (a) above is requested by the public and is not readily available and must be photocopied or otherwise reproduced by the Corporation, the Corporation shall charge a fee of \$.50 for pages 1 to 10, \$.25 for pages 11 to 20 and \$.10 for pages 21 and above.

(c) The public may obtain general information concerning Corporation programs by contacting the Executive Director of the New Jersey Urban Development Corporation, at the Mary G. Roebling Building, 20 West State Street, CN 834, Trenton, New Jersey 08625.

**12A:80-2.2 Nonpublic information**

(a) 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 Corporation, the directors, or to any other state agency or instrumentality;
2. All personnel records except those deemed public as required by an Executive Order;
3. All records concerning applications for employment with the Corporation;
4. All records concerning financial or proprietary information submitted by applicants for Corporation assistance;
5. All records concerning financial or proprietary information submitted by individuals, corporations, partnerships and other entities doing or seeking to do business with the Corporation;
6. All reports, correspondence and other documents or data provided or discussed at the Executive Session of the meetings held by the Board of Directors, except that any action taken or other information required to be disclosed to the public pursuant to N.J.S.A. 10:4-6 et seq. shall not be deemed to be nonpublic records within the scope of this section; and
7. Any other reports, correspondence or other documents or data where the Corporation finds that nondisclosure is necessary for the protection of the public interest.