

MICHIGAN JOBS COMMISSION

JOB DEVELOPMENT AUTHORITY

GENERAL RULES

(By authority conferred on the job development authority by section 14(f) of Act No. 301 of the Public Acts of 1975, as amended, being S125.1714(f) of the Michigan Compiled Laws)

R 125.501 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 301 of the Public Acts of 1975, as amended, being S125.1401 et seq. of the Michigan Compiled Laws.

(b) "Applicant" means:

(i) In the case of a direct loan or participation loan, the business enterprise establishing or expanding the industrial facilities.

(ii) In the case of a loan guarantee, the financial institution requesting the loan guarantee.

(c) "Application" means a formal request under the act made on forms furnished by the authority and containing or being supported by such information and documentation as the authority requires, signed and sworn to by an authorized representative of the applicant designated by formal action of the applicant and consistent with its organizational documents.

(d) "Authority" means the Michigan job development authority created by the act.

(e) "Eligible applicant" means an applicant that legally can qualify for a direct loan, participation loan, or loan guarantee from the authority and has been approved by the authority. An eligible applicant may receive a loan only upon a determination by the authority in accordance with the act and with these rules.

(f) "Executive director" means the chief executive officer of the authority.

(g) "Project" means the application of project costs for industrial buildings and industrial machinery and equipment, the reasonable aggregate cost of which, in the opinion of the authority, exceeds \$50,000.00

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1979 AC.

R 125.502 Informal screening procedures.

Rule 2. The executive director may establish such informal screening procedures as he deems necessary and appropriate to assist potential applicants in understanding the programs offered by the authority and in determining minimal eligibility under the act and these rules. Such procedures may include the filing with the authority of information and supporting documentation on such forms as the executive director may require.

History: 1979 AC.

R 125.503 Application for direct loan, participation loan, or loan guarantee; supporting materials and evidence.

Rule 3. An application for a direct loan, participation loan, or loan guarantee shall be verified and submitted to the authority by an applicant or its duly authorized representative and shall include, where applicable, information, and where required by the authority staff, supporting materials and evidence, with respect to and including, but not by way of limitation, the following:

(a) The form and nature of the applicant, whether a single proprietorship, corporation, firm, partnership, or other association or persons organized for industrial purposes or a public utility, local industrial development corporation, or economic development corporation.

(b) A description of the project together with a financial feasibility study.

(c) A current appraisal of the land by an appraiser deemed to be qualified by the authority or, in the case of an existing building to be acquired, of the land and building, including substantiation of comparables and photograph and map exhibits.

(d) Quotations from suppliers of the total cost of all machinery and equipment to be financed. Quotations shall be firm for a period of time sufficient to allow the processing of the application and disbursal of the funds for their purchase.

(e) In projects calling for the construction of new buildings, all estimates of construction costs shall be prepared by construction firms deemed to be qualified by the authority. All estimates shall be firm for a period of time sufficient to allow the processing of the application and disbursal of the funds for its acquisition.

(f) For each borrower, guarantor, endorser, or co-maker, all of the following:

(i) Audited profit and loss statements and balance sheets covering the last 5 fiscal years. If statements are not audited, a borrower shall submit signed statements certifying that the statements are true and correct and shall submit federal income tax returns for the preceding 5 years. The names and addresses of officers and principal shareholders, if a corporation, shall be included.

(ii) Current, independent credit reports and personal financial statements for each borrower, guarantor, endorser, or co-maker.

(iii) Details of business experience and background.

(g) Copies of purchase agreements, if applicable.

(h) In the case of a loan guarantee application only, a copy of the lender's loan agreement.

(i) Such other information as the executive director may reasonably request.

History: 1979 AC.

R 125.504 Other sources of funds; demonstration.

Rule 4. An application shall demonstrate the other sources of funds, in the form of equity investment or other debt sources, or both, which, together with the funds for which application is being made, will be sufficient to complete the project.

History: 1979 AC.

R 125.505 Application; processing.

Rule 5. (1) The executive director shall process an application and forward it to the authority with his analysis and recommendation.

(2) The authority may require an applicant to amend the application.

(3) Upon forwarding by the executive director of an application to the authority, the authority shall, at the next meeting of the authority, place the application on its agenda.

History: 1979 AC.

R 125.506 Application; review.

Rule 6. The authority shall review and consider approval of an application for a direct loan, participation loan, or loan guarantee on the basis of effectuating the purposes of the act, including determination of all of the following:

(a) That the applicant is an eligible applicant.

(b) That the eligible applicant reasonably can be expected to maintain a sound financial condition in the operation of the industrial facilities and to retire the principal and pay the interest on the loan made or guaranteed in accordance with the terms of the loan agreement.

(c) That the project is economically feasible with a reasonable expectation that the life of its economic feasibility will exceed the maturity of the loan or loan guarantee.

(d) That the project will create a sufficient number and type of jobs to justify authority participation in its financing.

(e) That the project feasibility is sufficient to allow the authority to borrow the funds required for its financing.

(f) That a project has been filed with the authority, along with a certified copy of a resolution of the governing body of the municipality in which the project is to be located approving the project plan and consenting to the location of the project.

(g) That the project and its development is economically advantageous to the state, that the provision to meet increased demand upon public facilities as a result of the project is reasonable assured, and that energy sources to support the successful operation of the project are adequate.

(h) That if the project shall have the effect of a transfer of employment from 1 municipality of this state to another in which the project is to be located, the authority has notified and consulted with the municipality from which employment would be transferred and that the municipality:

(i) Has by resolution given its consent and approval to the project or,

(ii) If no resolution of consent is received, the authority determines that both of the following circumstances exist:

(A) The project is necessary to the continued operation of the business enterprise within the state.

(B) The approval of the project will not impose undue hardship on the workers and the municipality from which the employment would be transferred.

(i) That other criteria have been met that the authority has determined will effectuate the purposes of the act.

History: 1979 AC.

R 125.507 Direct loan funds and participation funds; conditions for use.

Rule 7. The authority shall prescribe conditions for the use of the direct loan funds; and shall jointly with the other participating lenders prescribe conditions for the use of participation funds, including the manner in which the loan proceeds are to be disbursed to the applicant.

History: 1979 AC.

R 125.508 Establishment and revision of priorities to approved applicants; criteria.

Rule 8. The authority may establish and revise priorities to approved applicants based on criteria which best effectuate the purposes of the act, including, but not limited to, all of the following:

(a) Determination of the need within the state for the type of industrial facility proposed by the applicant.

(b) Determination of the public benefit afforded by the project and the effect the project would have on diversifying the state's economy.

(c) Determination that the authority reasonably expects that the project can be funded on terms satisfactory to the authority.

History: 1979 AC.

R 125.509 Contracts and loan documents.

Rule 9. (1) Contracts, agreements, and loan or loan guarantee documents shall be authorized by resolution of the authority.

(2) Contracts authorizing loans or loan guarantees may have provisions concerning the requirement for municipal government certification of satisfaction effectuating section 55 of the act.

(3) The authority may include any conditions authorized by law or within the authority's powers in any contract, loan, or loan guarantee documents.

(4) An applicant shall execute such documents as required by the authority to secure the loan or loan guarantee made to the applicant.

History: 1979 AC.

R 125.510 Direct loans and participation loans; interest rates, fees, and payment schedules.

Rule 10. The authority shall establish the interest rate or fees, or both, and the schedule for payment of interest and principal on direct loans and shall, jointly with the other participating lenders, establish such rate or fees, or both, and the schedule on participation loans.

History: 1979 AC.

R 125.511 Direct loan, participation loan, or loan guarantee; additional requirements.

Rule 11. In addition to any other requirements, the authority, in conjunction with a direct loan, participation loan, or loan guarantee, may require any of the following:

(a) A review or audit of financial statements and such other information as may be reasonably requested during the period of construction or acquisition and continuing while any portion of the loan made or guaranteed is outstanding.

(b) A physical inspection of the site and construction progress.

(c) Evidence of completion of certain percentages of construction before allocation of further funds.

History: 1979 AC.

R 125.512 Remedies.

Rule 12. The authority reserves the right to pursue remedies prescribed by law or in the act for violation of any contract or agreement.

History: 1979 AC.

R 125.513 Hearings.

Rule 13. (1) To inform itself and the public, the authority may call public hearings anywhere in the state and may limit the scope of the hearings.

(2) A person, firm, corporation, or public body or agency aggrieved by a decision of the authority may make a request in writing to the authority for hearing in accordance with Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws.

History: 1979 AC.