

# **DRAFT**

## SUBCHAPTER 6. FEES

### **19:30-6.0 General fee applicability**

**(a) Except as otherwise provided in (b) below, applicants for Authority assistance shall be subject to a fee in accordance with:**

- 1. The applicable fees specifically adopted through rulemaking for the administration of a program or initiative; or**
- 2. The generally applicable fee established in accordance with this subchapter, unless otherwise established by law.**

**(b) The Members may set separate program or initiative specific fees or establish that fees will not be charged, as determined to be reasonable and in the best interest of the Authority, under the following circumstances:**

- 1. Any emergency assistance program or initiative established in connection with a declared State of Emergency, for which the Authority's Board has set different fees in an open public meeting, which fees shall be based on factors that may include, but are not limited to:**
  - i. The nature of the State of Emergency;**
  - ii. The amount of funding available;**
  - iii. The hardship to the prospective applicants as a result of the emergency;**
  - iv. The anticipated demand for assistance;**
  - v. The need to provide assistance under exigent circumstances;**
  - vi. The administrative costs to the Authority;**
  - vii. The availability of other sources of funding for the Authority's administrative costs; or**
- 2. Any pilot program or initiative that will be in effect for three or fewer years, for which the Members of the Board have set different fees in an open public meeting, which fees shall be based on factors that may include, but are not limited to:**
  - i. The nature of the pilot program or initiative;**
  - ii. The amount of funding available;**
  - iii. The mission of the prospective applicant pool;**
  - iv. The anticipated demand for the assistance;**
  - v. The administrative costs to the Authority;**
  - vi. The availability of other sources of funding for the Authority's administrative costs; or**
- 3. Any program or initiative where there is availability of other sources of funding for the Authority's administrative costs.**

### 19:30-6.1 Application [fee] fees

(a) [Except as set forth (c) and (d) below,] **Unless otherwise established in accordance with N.J.A.C. 19:30-6.0**, a non-refundable fee of \$1,000 shall accompany every application for Authority assistance, except for:

1. An application under the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund, for which the fee is \$2,500;

[2. An application submitted by a higher education institution pursuant to P.L. 2009, c. 90 for which the fee is .125 percent of the total project cost or \$15,000, whichever is greater;]

[3.] **2.** An application for assistance under the Small Business Fund and **the New Jersey Local Development Financing Fund Act**, N.J.S.A. 34:1B-47 et seq., for which the fee is \$300.00; **and**

[4.] **3.** An application for assistance under the Real Estate Impact Fund, for which the fee is \$2,500[; and].

[5. An application for assistance under the Brownfields Loan Program, for which the fee is \$2,500; ]

(b) The non-refundable application fee of \$1,000 for a guarantee of a bond issued by the Authority is in addition to the bond application fee.

[(c) For applicants filing concurrent applications for Authority assistance for multiple products of equivalent type, for example all loans, the application fee for the subsequent application shall be reduced by 50 percent.]

[(d) For applicants filing application(s) for Authority assistance within 12 months of closing a previous financing, a non-refundable application fee in an amount equaling 50 percent of the regular application fee shall be paid.]

[(e)] **(c)** In addition to the application fee at (a) above, an applicant [shall] **may** pay to the Authority the full amount of direct costs of due diligence, including, but not limited to, debarment/ disqualification reviews, or other analyses by a third-party retained by the Authority, if the Authority deems such retention to be necessary.

**(d) An application fee may be refunded in whole or in part where an application is not processed or approved because the application is incomplete or the funding for the program or initiative is exhausted.**

### 19:30-6.2 Commitment fees

*No change to sections (a) through (d).*

(e) A non-refundable commitment fee of .875 percent of the loan amount is charged with the acceptance by an applicant of any direct loan commitment other than as described in (a), (b), (c), **or** (d) [or (e)] above.

(f) A non-refundable extension fee of \$750.00, per extension requested by the borrower **or applicant**, shall be charged for the granting of an extension of the commitment letter **or of conditions required in an approval letter** beyond the original expiration date.

#### 19:30-6.3 **Bond** Closing fees

*No change to sections (a) through (e).*

[(f) For structured finance lease transactions whether or not the Authority has exposure, the lease origination fee will be one tenth of the sales tax savings achieved at lease signing.]

#### 19:30-6.4 **Bond** 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.

*No change to sections 1. through 9.*

10. For due diligence, including, but not limited to, debarment/disqualification reviews, or other analyses by a third-party retained by the Authority, if the Authority deems such retention to be necessary, the full amount of direct costs [shall] **may** be charged.

(b) When a **bond** 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.

[(c) For those borrowers who choose not to participate in auto-debit transaction payments, a fee of .25 basis points will be added to the rate of interest charged on each applicable loan.]

[(d)] (c) Any payment made on a direct loan which is returned due to insufficient funds shall result in a charge of \$35.00.

#### 19:30-6.7 Fee waiver

(a) The Chief Executive Officer may, with the approval of the [m]Members, waive certain fees upon demonstration by [the] **an** applicant that the imposition of the fee(s) would impose an undue financial hardship.

**(b) The Members may adopt criteria for the waiving of fees in an open public meeting and delegate authority to the Chief Executive Officer for approving fee waivers under**

**those criteria. The criteria may include, but are not limited to, the nature of the applicant or whether the fee presents an undue financial hardship for the applicant.**

(c) The members may delegate to [a Director, with the concurrence of] the Chief Executive Officer, [Chief Operating Officer, or Senior Vice President,] **who may further delegate** authority to waive a loan commitment extension fee; [and] **or** [may delegate to a Director,] authority to waive late fees when the cause for the late fee is beyond the control of the borrower.

(d) The Chief Executive Officer, with the approval of the [m]Members, may waive, postpone, or decrease [bond application and closing] fees for municipal governmental agency(s), State agency projects, or [conduit bond] transactions that support multi-jurisdictional, interstate projects. In the case of State agency projects, such waiver, postponement, or decrease shall be in accordance with the directives of the State Treasurer regarding the specific State agency projects.