

maintenance and other capital renewal requirements and pledges to use the facilities trust fund grant to advance that plan;

2. Commit, by resolution of its governing board, to maintaining the facilities project funded by the grant; and

3. Certify that it will use the funds for the cost, or a portion of the cost, of the construction, reconstruction, development, extension, or improvement of instructional, laboratory, communication, and research facilities.

9A:15-1.4 Grant applications

(a) Following approval by its governing board at a duly authorized meeting, an institution of higher education may apply to the Secretary for a grant from the trust fund. The institution's application shall include the following:

1. A certification that the eligibility requirements provided in N.J.A.C. 9A:15-1.3 have been met;

2. A complete description of the project, including design information if appropriate for the project;

3. A copy of the institution's governing board's resolution approving the application and committing to support the annual operating costs of and maintenance requirements for the proposed project;

4. A copy of the institution's current long-range facilities plan approved by the institution's governing board that includes provisions to address deferred maintenance and other capital renewal requirements or a certification that such a plan has already been submitted to the Secretary pursuant to P.L. 2009, c. 90;

5. A description of how the proposed project relates to the current institutional mission, plans, and priorities;

6. The program(s) or function(s) to be served by the project, including specific educational objectives to be met;

7. The estimated schedule for the completion of the project;

8. Cost data for the project along with the identification of all sources of revenue to be used to pay any cost not funded by the grant;

9. Certification by the institution that the project would be in compliance with all applicable laws, rules, codes, statutes, and government guidelines;

10. Any additional information the institution deems necessary to demonstrate how the institution's proposed project meets the objectives identified in N.J.A.C. 9A:15-1.5(b); and

11. Any other information as may be required by the Secretary on a case-by-case basis and relating to a specific application.

(b) Grant applications shall be submitted in a format provided by the Secretary.

(c) Only grant applications that are complete will be reviewed by the Secretary.

9A:15-1.5 Application review and approval process

(a) The Secretary shall conduct a review of the applications. Such applications will be reviewed based on:

1. The completed application bearing the earliest submission date;

2. A competitive application process whereby all applications will be submitted by a date certain and will be evaluated to determine which applications are the most qualified to receive funding.

(b) In determining whether an application shall be approved for a grant, the Secretary shall consider the degree to which the proposed facilities project supports the following objectives:

1. Advancement of student education in the State of New Jersey;

2. Improvement and expansion of educational opportunities for students;

3. Promotion of academic research excellence, workforce readiness, and the enhancement of the State's academic and economic competitiveness and prosperity by assisting in the production of a highly skilled workforce;

4. Promotion of innovation and improvement in the delivery of higher education;

5. Advancement of study at all levels in science, technology, engineering, and mathematics education;

6. Consistency with the institution's educational mission;

7. Consistency with the institution's long-range facilities plan;

8. The cost-effectiveness of the project;

9. The degree to which the project is construction ready;

10. Consistency of the project with the State's goals and priorities for development and redevelopment, including the promotion of industry clusters, job and business opportunities in areas designated by the State for

growth, transportation choice and efficient mobility of goods and people, and promotion of access to opportunity for all New Jersey residents;

11. Demonstrated commitment over the past 10 years to appropriate maintenance of facilities previously funded by State of New Jersey grant programs; and

12. Whether it serves the best interests of higher education in the State as a whole.

9A:15-1.6 Authorization process

(a) The Secretary shall establish a review committee comprised of representation from the Office of the Secretary of Higher Education, the New Jersey Educational Facilities Authority, the New Jersey Schools Development Authority, the New Jersey Economic Development Authority, and an external advisor with technical expertise to evaluate project grant applications and make recommendations on funding.

(b) The Secretary shall examine the recommendations of the review committee and shall, via a written certification, provide preliminary approval or disapproval of the grant, pursuant to N.J.A.C. 9A:15-1.5(b), and the amount of the grant.

(c) The Secretary shall submit to the Legislature a copy of the grant application, a copy of the written certification approving the grant, and the amount of the grant, with a copy of such material to the Authority. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 60 days of receipt from the Secretary, the grant shall be deemed to be approved by the Legislature and by the Secretary.

(d) Upon authorization of the grant pursuant to (c) above, the institution shall enter into a grant agreement with the Authority, which shall set forth the terms of the grant award and be provided to the board of the Authority for approval by resolution.

(e) Each grant award shall be contingent upon the recipient governing board's entering into a contract or contracts to construct the facilities project within one year of the date on which the grant funds are made available. The funds shall be considered available on the date of the Authority's issuance of the bonds to fund the facilities project or on the date of the authorization of the grant, whichever is later.

(f) Each recipient of a grant shall provide such information as the Secretary may request regarding the use of the grant and the progress of the project.

(g) The Secretary may reduce or cancel entirely the amount of a grant:

1. If an institution determines not to undertake a project for which a grant was awarded;

2. To adjust for actual project expenses in a manner consistent with the approved grant; or

3. If the project is not substantially completed and the grant substantially disbursed six months after the estimated construction completion date set forth in the grant application, as adjusted for any actual delay to the institution entering into a construction contract consistent with (d) above.

(h) No reduction in the grant amount shall be made pursuant to (g)3 above if:

1. Delays are the result of Federal, State, or local government approvals or regulatory requirements not attributable to the institution; or

2. In the sole determination of the Secretary, there are other compelling and documentable reasons.

(a)

**SECRETARY OF HIGHER EDUCATION
Rules and Procedures for Implementation of the
Building Our Future Bond Act
Adopted New Rules: N.J.A.C. 9A:18**

Proposed: January 22, 2013 at 45 N.J.R. 100(a).

Adopted: March 25, 2013 by Rochelle Hendricks, Secretary of Higher Education, Office of the Secretary of Higher Education.

Filed: March 26, 2013 as R.2013 d.075, **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:72-1 et seq. and P.L. 2012, c. 41.

Effective Date: May 6, 2013.
Expiration Date: May 6, 2020.

Summary of Public Comment and Agency Response:

COMMENT: The commenter, Rowan University, requests that the proposed rules be amended to include a specific definition for “public research institutions” as follows: “Public research universities means Rutgers University-Newark, Rutgers University-New Brunswick, Rutgers University-Camden, the New Jersey Institute of Technology, Rowan University, and any other public research university now or hereinafter established or authorized by law.” The commenter suggests that since the Building Our Future Bond Act authorizes the State to allocate \$750 million in general obligation bonds by sector, this proposed change would effectuate Rowan University’s research university status designated in the New Jersey Medical and Health Sciences Education Restructuring Act (N.J.S.A. 18A:64M-3) and avoid an unintended consequence of inclusion of Rowan in the State college sector.

RESPONSE: The Office of the Secretary of Higher Education (OSHE) acknowledges the commenter’s recommendation. However, OSHE disagrees that a specific change to N.J.A.C. 9A:18-1.2 is required since reference to the definition of a public research university found in the Building Our Future Bond Act, P.L. 2012, c. 41 (Bond Act) is stated in general terms.

Summary of Agency-Initiated Change:

The word “specific” is being removed from N.J.A.C. 9A:18-1.8(b), as it carries no meaningful significance, and is, therefore, superfluous.

Federal Standards Statement

The adopted new rule does not require a Federal standards analysis under Executive Order No. 27 (1994) because the Bond Act was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to the Federal requirements or standards.

Full text of the adopted new rules follows (deletion from proposal indicated in brackets with asterisks *[thus]*):

CHAPTER 18

RULES AND PROCEDURES FOR IMPLEMENTATION OF THE
BUILDING OUR FUTURE BOND ACT

SUBCHAPTER 1. GENERAL PROVISIONS

9A:18-1.1 Purpose and authority

This chapter implements the Building Our Future Bond Act, P.L. 2012, c. 41, an act authorizing the issuance of \$750 million in general obligation bonds to finance higher education capital projects for increasing academic capacity at New Jersey’s public and private institutions of higher education.

9A:18-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at P.L. 2012, c. 41, §3.

“Act” or “Bond Act” means the Building Our Future Bond Act, P.L. 2012, c. 41.

“Construction ready” means the extent to which the planning and design work have been completed and construction is able to begin, and the degree to which a project shall be completed expeditiously once begun. An evaluation of whether a project is construction ready shall include the status of the design work, project site readiness, zoning and permitting approvals, as well as the anticipated timeframe during which the project will be completed, and the pacing of related construction.

“Cost-effectiveness” means the degree to which a project produces a positive economic analysis when considering the construction, operating, and maintenance expenses, compared to the project’s resultant facilities and/or equipment, the life span of the facilities and/or equipment, facility usage and capacity, user productivity, and, where appropriate, such attributes as aesthetics, historic preservation, security, and safety.

“Matching funds” means funds that are allocated by the institution for a specific project for which grant funds are used, which are equal to 25

percent of the total cost of such project and which are generated from institutional sources, other grants, institutional borrowings, or other sources as permitted in the grant approval process. Notwithstanding anything in this definition to the contrary, grants from State government sources may not be used to satisfy the matching requirement in N.J.A.C. 9A:18-1.4(a)4.

“Project grant” or “grant” means a grant of monies from bonds issued under the Bond Act to fund a project approved pursuant to N.J.A.C. 9A:18-1.6 and for which a project-specific appropriation has been made.

9A:18-1.3 Allocation of funds

(a) Grants from the Bond Act shall be used only to fund projects for increasing the academic capacity at New Jersey public and private institutions of higher education.

(b) Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$750,000,000 and shall be allocated as set forth in P.L. 2012, c. 41, §5.

(c) For any grant for a project approved by the Secretary, which is financed by bond funds set forth in (b) above, the grant shall support 75 percent of the cost of the project and the public and private institutions of higher education shall provide matching funds to support 25 percent of the cost of the project.

9A:18-1.4 Project eligibility

(a) The Secretary shall consider for approval a grant from bond funds available or expected to become available pursuant to the Bond Act provided that the institution meets the following funding eligibility criteria. The institution must:

1. Have an up-to-date long-range facilities plan approved by the governing board that details the facilities needs of the institution and how the institution plans to address those needs;

2. Demonstrate how the project to be financed through bonds issued under the Bond Act advances the goals of the long-range facilities plan, increases the academic capacity of the institution, and provides a direct benefit to students;

3. Demonstrate that the project is construction ready;

4. Commit to provide matching funds to support 25 percent of the cost of the project;

5. Commit to use the grant for the purpose described in (a)2 above; and

6. Commit, by resolution of its governing board, to maintaining the capital improvement funded by the grant.

9A:18-1.5 Grant application

(a) The Secretary shall consider for approval grant applications that meet the funding eligibility criteria in N.J.A.C. 9A:18-1.4.

(b) Upon approval by its governing board at a duly authorized meeting, an institution of higher education shall apply to the Secretary for a project grant from the Bond Act. The institution’s application shall include the following:

1. A complete description of the project grant to be financed with bond fund moneys, including design information;

2. A copy of the institutional governing board’s resolution approving the institution’s application and committing the institution to support the annual operating costs of and maintenance requirements for the proposed project;

3. A copy of the institution’s current long-range facilities plan approved by the institution’s governing board or certification that such a plan has already been submitted to the Secretary pursuant to P.L. 2009, c. 90;

4. A description of how the proposed project addresses the institution’s long-range facilities plan;

5. The estimated schedule for completing the project, including cash flow requirements;

6. Cost data for the project, along with identification of all sources of funding to be used for any costs not funded by the grant;

7. The useful life of any project, including equipment as determined either by reference to the Internal Revenue Service’s Class Life Asset Depreciation Range System set forth in Revenue Procedure 87-56, as amended, supplemented, or superseded, or by appraisal of any independent engineering or accounting firm, as appropriate;

8. Certification by the institution that the project will comply with all applicable laws, rules, codes, statutes, and government guidelines, including the principles of affirmative action and equal employment opportunity, where applicable;

9. Certification by the institution that it has or will have the matching funds required pursuant to N.J.A.C. 9A:18-1.3(c);

10. Any additional information the institution deems necessary to demonstrate how the proposed project meets the objectives identified in N.J.A.C. 9A:18-1.6; and

11. Other information as the Secretary may require on a case-by-case basis and relating to a specific proposal.

(c) If the bonds issued to fund a grant are issued on a tax-advantaged basis, including tax-exempt bonds, then in order to receive project grant funding for expenses incurred before such bonds are issued, such expenses must be "reimbursable" from bond proceeds under applicable Federal tax law.

(d) Institutions shall not use as matching funds, and grant funds may not be used to reimburse, any expenditures made before the approval of a project grant award, except in the discretion and upon approval by the Secretary, as determined on a case-by-case basis, and provided that the expenditures meet the requirements of N.J.A.C. 9A:18-1.4.

(e) Grant applications shall be submitted in a format provided by the Secretary.

9A:18-1.6 Application review and approval process

(a) The Secretary shall conduct a review of the applications. Such applications will be reviewed based on:

1. The completed application bearing the earliest submission date;
2. A competitive application process whereby all applications will be submitted by a date certain and will be evaluated to determine which applications are eligible for funding and are the most qualified to receive funding.

(b) In determining whether an application shall be approved for a grant, the Secretary shall consider the degree to which the proposed capital improvement project supports the following objectives, and shall prioritize those projects that are construction ready:

1. Advancement of student education in the State of New Jersey;
2. Improvement and expansion of educational opportunities for students;
3. Promotion of academic research excellence, workforce readiness, and the enhancement of the State's academic and economic competitiveness and prosperity by assisting in the production of a highly skilled workforce;
4. Promotion of innovation and improvement in the delivery of higher education;
5. Advancement of study at all levels in science, technology, engineering, and mathematics education;
6. Consistency with the institution's educational mission;
7. Consistency with the institution's long-range facilities plan;
8. The cost-effectiveness of the project;
9. Consistency of the project with the State's goals and priorities for development and redevelopment, including the promotion of industry clusters, job and business opportunities in areas designated by the State for growth, transportation choice and efficient mobility of goods and people, and promotion of access to opportunity for all New Jersey residents;

10. Demonstrated commitment over the past 10 years to appropriate maintenance of facilities previously funded by State of New Jersey grant programs; and

11. Whether it serves the best interests of higher education in the State as a whole.

9A:18-1.7 Authorization process

(a) The Secretary shall establish a review committee comprised of representation from the Office of the Secretary of Higher Education, the New Jersey Educational Facilities Authority, the New Jersey Schools Development Authority, the New Jersey Economic Development Authority, and an external advisor with technical expertise to evaluate project grant applications and make recommendations on funding.

(b) The Secretary shall examine the recommendations of the review committee and shall, via a written certification, approve or disapprove a

project grant, pursuant to N.J.A.C. 9A:18-1.6(b), and establish the amount of the grant.

(c) The total dollar amount of a project grant approved for any group of institutions shall not exceed the allocations in N.J.A.C. 9A:18-1.3(b).

(d) The Secretary shall prepare a list of projects that meet the eligibility requirements set forth in the Bond Act and in this chapter that have been approved for funding by the Secretary, including the amount of each project grant, to the presiding officers of each house of the Legislature on a date that both Houses are in session. If the Legislature does not disapprove the list of approved project grants by the adoption of a concurrent resolution within 60 days of receipt of the list of approved project grants, the grants will be deemed to be authorized.

(e) Upon authorization of the grant pursuant to (d) above, the institution shall enter into a grant agreement with the Secretary. Funding of the project grant shall be contingent upon the institution's continued compliance with the grant agreement.

(f) Each recipient of a project grant shall provide such information as the Secretary may request regarding the use of the grant and the progress of the project.

(g) The Secretary may, in a manner consistent with the allocations provided in the Bond Act, allocate any balance in an approved grant to another approved grant:

1. If an institution determines not to undertake a project for which a grant was awarded;
2. To adjust for actual project expenses in a manner consistent with the approved grant;
3. If the project is not substantially completed and the grant substantially disbursed six months after the estimated construction completion date set forth in the grant application, as adjusted for any actual delay to the institution entering into a construction contract consistent with (e) above; or
4. If an institution fails to comply with the provisions of the grant agreement as set forth in (e) above.

(h) No reallocation shall be made pursuant to (g) above if:

1. Delays are the result of Federal, State, or local government approvals or regulatory requirements not attributable to the institution; or
2. In the sole determination of the Secretary, there are other compelling and documentable reasons.

9A:18-1.8 Application of bond proceeds

(a) The proceeds from the sale of bonds, allocated and issued pursuant to the Bond Act, shall be paid to the State Treasurer and held thereby in an interest bearing account specifically dedicated to making grants to applicants for financing the costs of approved projects.

(b) The moneys in the account are specifically dedicated and shall be used for the purposes identified in the Bond Act, however, no moneys shall be expended from the account for those purposes without the *[specific]* appropriation thereof by the Legislature.

9A:18-1.9 Payment of the grant

(a) The institution shall provide the matching funds on the schedule set forth in the grant agreement.

(b) If an institution fails to pay the matching funds as set forth in the grant agreement, the Secretary may terminate the grant agreement, whereupon no additional grant funds will be provided for the institution for the project.

9A:18-1.10 Reporting requirements

(a) The Secretary shall submit to the State Treasurer and the New Jersey Commission on Capital Budget and Planning an annual budget request, and plan for the expenditure of funds from the Bond Act for the upcoming fiscal year. The plan shall include the following information:

1. A performance evaluation of the expenditures made from the fund to date;
2. A description of the programs planned during the upcoming fiscal year;
3. A copy of the regulations in force governing the operation of programs that are financed in part or in whole by funds from the Bond Act; and
4. An estimate of expenditures for the upcoming fiscal year.

(b) Immediately following the Governor's annual budget message, the Secretary shall submit to the Legislature and to the Legislature Joint Budget Oversight Committee, or its successor, copies of the plan set forth in (a) above, with such changes that may have been required by the Governor's budget message.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Notice of Readoption Transportation Services Manual

Readoption: N.J.A.C. 10:50

Authority: N.J.S.A. 30:4D-1 et seq. and 30:4J-8 et seq.

Authorized By: Jennifer Velez, Commissioner, Department of Human Services.

Effective Date: April 4, 2013.

New Expiration Date: April 4, 2020.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:50 will expire on November 8, 2013. The chapter contains policies and procedure of the New Jersey Medicaid and NJ FamilyCare programs regarding reimbursement of approved providers of transportation services. It also contains provisions regarding the use of a broker for non-emergency medical transportation. The rules also identify the covered, non-covered, and scope of services which may be provided to beneficiaries and specify the fee-for-service rates for those services.

The Department of Human Services has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 30:4D-1 et seq. and 30:4J-8 et seq., and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Notice of Readoption Podiatry Services

Readoption: N.J.A.C. 10:57

Authority: N.J.S.A. 30:4D-1 et seq. and 30:4J-8 et seq.

Authorized By: Jennifer Velez, Commissioner, Department of Human Services.

Effective Date: April 4, 2013.

New Expiration Date: April 4, 2020.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:57 will expire on May 31, 2013. The Podiatry Services rules regulate fee-for-service reimbursement to approved podiatrists by the Division of Medical Assistance and Health Services for services that the podiatrists render to Medicaid and NJ FamilyCare beneficiaries. The rules set forth the requirements necessary for participation as a podiatrist in the Medicaid and NJ FamilyCare programs. The rules also identify covered and non-covered services and specify the fee-for-service rates for covered services. The Department of Human Services has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 30:4D-1 et seq. and 30:4J-8 et seq., and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(c)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Notice of Readoption Home Care Services

Readoption: N.J.A.C. 10:60

Authority: N.J.S.A. 30:4D-1 et seq. and 30:4J-8 et seq.

Authorized By: Jennifer Velez, Commissioner, Department of Human Services.

Effective Date: April 4, 2013.

New Expiration Date: April 4, 2020.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:60 will expire on May 30, 2013. The Home Care Services chapter regulates the provision of home care services under the Medicaid and NJ FamilyCare programs. The rules set forth the requirements necessary for participation as a provider of these services. The rules also identify covered and non-covered services and specify the fee-for-service rates for covered services.

The Department of Human Services has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 30:4D-1 et seq. and 30:4J-8 et seq., and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

OTHER AGENCIES

(d)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Urban Transit Hub Tax Credit Program Approval Process

Business Employment Incentive Program Base Employment Number

Adopted Repeal and New Rule: N.J.A.C. 19:31-9.15

Adopted Amendment: N.J.A.C. 19:31-10.2

Proposed: January 22, 2013 at 45 N.J.R. 110(a).

Adopted: April 5, 2013 by the New Jersey Economic Development

Authority, Michele Brown, Chief Executive Officer.

Filed: April 5, 2013 as R.2013 d.076, **without change**.

Authority: N.J.S.A. 34:1B-204 et seq. and 34:1B-124 et seq.

Effective Date: May 6, 2013.

Expiration Date: November 9, 2017.

Summary of Public Comment and Agency Response:

No public comments were received.

Federal Standards Statement

The adopted amendment, repeal, and new rule are not subject to any Federal standards or requirements; therefore, a Federal standards analysis is not required.

Full text of the adoption follows:

SUBCHAPTER 9. URBAN TRANSIT HUB TAX CREDIT PROGRAM

19:31-9.15 Approval process

(a) All completed applications for eligibility in the program shall be presented to the Board for approval or denial.

(b) When the members act to approve or deny a request, the minutes of the public meeting at which such determination occurs are submitted to the Governor.