



CHAPTER 13

Rules and Procedures for Implementation of the Higher Education

Technology Infrastructure Fund Bond Act

Office of the Secretary of Higher Education

SUBCHAPTER 1. GENERAL PROVISIONS

9A:13-1.1 Purpose and authority

This chapter is promulgated by the Secretary of Higher Education to implement the Higher Education Technology Infrastructure Fund Act, P.L. 1997, c. 238, as amended by P.L. 2012, c. 42.

9A:13-1.2 Definitions

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

"Act" means the Higher Education Technology Infrastructure Act, P.L. 1997, c. 238, as amended by P.L. 2012, c. 42.

"Authority" means the New Jersey Educational Facilities Authority or any board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Authority shall be given by law.

"Bond" or "bonds" means bonds or notes of the Authority issued pursuant to the authority granted by the Amending Act.

"Cost-effectiveness" means the degree to which a project produces a positive economic analysis when considering the construction expenses, 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.

"Grant" means a grant of moneys from the Higher Education Technology Infrastructure Fund approved by the Secretary.

"Infrastructure fund" means the Higher Education Technology Infrastructure Fund as created by chapter 238, P.L. 1997.

"Institution" means a public or private institution of higher education that is eligible to receive State aid.

"Interinstitutional" means between two or more institutions.

"Intrainstitutional" means within an institution's campus or between campuses of a multicampus institution.

"Matching funds" means funds equal to or greater than a grant from the infrastructure fund, which are allocated by the institution for the specific project for which the grant funds are used, and which are generated from institutional sources, other grants, borrowing through the Authority, 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:13-1.3(a)6.

"Presidents' Council" means a body established in accordance with N.J.S.A. 18A:3B-7 which consists of the presidents of the 45 public and independent institutions of higher education that receive State aid and four presidents who represent the 10 degree-granting religious and proprietary institutions in New Jersey.

"Project" means a project funded by an infrastructure fund grant and matching funds to develop technology infrastructure within or among institutions of higher education or between such institutions and libraries or elementary/secondary schools.

"Secretary" means the Secretary of Higher Education.

"Technology infrastructure" means video, voice, and data telecommunications equipment and linkages, including transport services and network interconnections, as well as future developments in multimedia equipment and linkages. Only computer software that is part of the operating or data base management systems is considered part of technology infrastructure for the purpose of the Amending Act; application software, for purposes such as word processing, spreadsheets, desktop publishing, and e-mail, does not qualify as technology infrastructure.

9A:13-1.3 Funding eligibility

(a) The Secretary shall only approve a grant from the infrastructure fund if the institution:

1. Commits, by resolution of its governing board, to maintaining the technology infrastructure proposed for purchase;
2. Has a long-range facilities plan for technology and uses the infrastructure fund grant to advance that plan;

3. Certifies that it will use the funds to enhance interinstitutional or intrainstitutional connectivity and information technology as it relates to advancing the instructional, research, or service/economic development missions of the institution;
4. Certifies that it will use the funds to advance the institution toward the next level in establishing integrated voice, video, and data networks.
5. Ensures that interinstitutional networking enhancements are compatible with the recommended technology infrastructure for New Jersey higher education;
6. Provides matching funds equal to the amount of the grant requested; and
7. Addresses training, staffing, and other indirect costs related to the proposed use of funds.

9A:13-1.4 Grant application

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

1. A complete description of the proposed technology infrastructure project;
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 summary of the institution's long-range facilities plan for technology and how the proposed project advances that plan;
4. A description of how the proposed project enhances interinstitutional or intrainstitutional connectivity and information technology as these relate to advancing the instructional, research, or service/economic development missions of the institution;

5. A description of how the proposed project advances the institution toward the next level of establishing integrated voice, video, and data networks for the institution;
6. A description of how interinstitutional networking enhancements are compatible with the technology infrastructure plan for New Jersey higher education originally established;
7. Identification of all direct costs associated with the acquisition of the proposed technology infrastructure;
8. An itemization of the proposed expenditure of the grant and matching funds, including all telecommunications equipment and linkages, transport services, network interconnections, and associated expenditures of up to 10 percent of matching funds, with estimated costs;
9. Identification of all revenue sources for the proposed project, including the specific source(s) of revenue for matching funds for the grant requested;
10. A description of how the institution will address training, staffing, and other indirect costs related to the project;
11. The useful life of any equipment as determined either by reference to the Internal Revenue Service 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;
12. The estimated timetable for completing the acquisition and installation of the technology infrastructure;
13. 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, as specified in the Act;

14. Any additional information the institution deems necessary to demonstrate how the institution's proposed infrastructure project meets the objectives identified in N.J.A.C.

9A:13-1.5(b); and

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

(b) Institutions shall not use as matching funds, and grant funds may not be used to reimburse, any expenditures made before the approval of a grant award, except in the discretion and upon approval by the Secretary and provided that the expenditures were made for technology infrastructure and meet the requirements of N.J.A.C. 9A:13-1.3.

(c) The specific acquisitions proposed may be revised as a result of bidding processes, advances in technology, or for other reasons provided that the revisions are consistent with the application approved by the governing board of the affected institution and by the Secretary.

(d) Grant requests shall be submitted in a format provided by the Secretary.

9A:13-1.5 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 technology infrastructure purchase 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 for technology;
8. The cost-effectiveness of the proposed infrastructure project;
9. Consistency of the proposed infrastructure 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; and
10. Whether it serves the best interests of higher education in the State as a whole.

9A:13-1.6 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:13-1.5(b) and the amount of the grant.

(c) The Secretary shall forward to the Authority a copy of the institution's application and a copy of the written certification of such approval, including the amount of the grant. The Authority shall submit a copy of the proposed agreement in connection with the purchase of technology infrastructure approved by the Secretary to the Legislature Joint Budget Oversight Committee for review. The Legislature Joint Budget Oversight Committee shall approve or disapprove each lease agreement within 10 working days of receipt or the agreement shall be deemed approved by the Legislature Joint Budget Oversight Committee and by the Secretary.

(d) Each grant awarded shall be contingent upon the recipient governing board's entering into a contract or contracts to acquire technology infrastructure 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 corresponding bond or on the date of the Secretary's written certification of the grant, whichever is later.

(e) The Authority shall not enter into an agreement with an institution of higher education without the review and approval of the Legislature Joint Budget Oversight Committee.

(f) The Authority shall not issue bonds to finance the equipment purchases with terms exceeding the useful life of acquisitions and in no case exceeding 15 years.

(g) 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.

9A:13-1.7 Cancellation or reduction in grants

(a) The Secretary may reduce or cancel entirely the amount of a grant if the amounts are not committed within 18 months of the allocations made by the Secretary. Funds will be considered committed when an agreement has been entered into between an institution and the Authority.

(b) No reduction in the grant shall be made pursuant to (a) above if:

1. The request for approval has been received by Secretary within 18 months of the allocation;
2. The facility in which the technology infrastructure will be housed is under construction or renovation;
3. Delays are the result of Federal, State, or local governmental approvals or regulatory requirements not attributable to the institution; or
4. Other compelling and documentable reasons exist as determined by the Secretary.

9A:12-1.8 Reporting requirements

The Authority shall annually report to the Secretary its purchases resulting from the Act. The Secretary then shall report to the Governor and Legislature on the use of the funds from the Act.