

improvement projects for the institution and in accordance with its lease agreement.

(b) If an institution fails or is unable to pay to the Authority in full, when due, any such obligation of an institution to the Authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or any other appropriation payable to the institution. As used in this subsection, "obligation of an institution" means any amount payable by the institution for the principal and interest on the bonds, notes, or other obligations of the Authority issued to finance projects for the institution under this program. The Authority shall notify the State Treasurer of the amount to be retained to satisfy the obligation of each institution. A copy of such notification shall be submitted to the Secretary.

(a)

SECRETARY OF HIGHER EDUCATION
Rules and Procedures for Implementation of the
Higher Education Technology Infrastructure Act
Adopted Amendments: N.J.A.C. 9A:13-1.1, 1.2, 1.4,
1.5, 1.6, and 1.7

Adopted Repeal: N.J.A.C. 9A:13-1.3

Adopted New Rule: N.J.A.C. 9A:13-1.5

Proposed: January 22, 2013 at 45 N.J.R. 92(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.072, without change.
Authority: N.J.S.A. 18A:72A-59 through 71 and P.L. 1997, c. 238.
Effective Date: May 6, 2013.
Expiration Date: March 31, 2015.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

The adopted new rule, repeal, and amendments do not require a Federal standards analysis under Executive Order No. 27 (1994) because the technology infrastructure fund 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 amendments and new rule follows:

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.

"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.

"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.

"Secretary" means the Secretary of Higher Education.

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.-2. (No change.)
3. A summary of the institution's long-range facilities plan for technology and how the proposed project advances that plan;
4.-5. (No change.)
6. A description of how interinstitutional networking enhancements are compatible with the technology infrastructure plan for New Jersey higher education originally established;
7.-10. (No change.)
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. (No change.)
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) (No change in text.)

(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:13-1.8 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.

(a)

SECRETARY OF HIGHER EDUCATION Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act Adopted New Rules: N.J.A.C. 9A:14

Proposed: January 22, 2013 at 45 N.J.R. 96(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.073, **without change**.

Authority: N.J.S.A. 18A:72A-40 and P.L. 1993, c. 136 and P.L. 2012, c. 42.

Effective Date: May 6, 2013.

Expiration Date: May 6, 2020.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

The adopted new rules do not require a Federal standards analysis under Executive Order No. 27 (1994) because the Higher Education Equipment Leasing Fund Act was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to any Federal requirements or standards.

Full text of the adopted new rules follows:

CHAPTER 14 RULES AND PROCEDURES FOR IMPLEMENTATION OF THE HIGHER EDUCATION EQUIPMENT LEASING FUND ACT

SUBCHAPTER I. GENERAL PROVISIONS

9A:14-1.1 Purpose and authority

This chapter is promulgated by the Secretary of Higher Education to implement the Higher Education Equipment Leasing Fund Act, P.L. 1993, c. 136, as amended by P.L. 2012, c. 42.

9A:14-1.2 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 New Jersey Educational Facilities Authority Act, N.J.S.A. 18A:72A-1 et seq.

"Amending Act" means P.L. 2012, c. 42, the law that supplements and amends the Act.

"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.