

(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.

“Bond” means a bond or note of the Authority issued pursuant to the authority granted by the 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.

“Equipment” means any property consisting of, or relating to, scientific, engineering, technical, computer, communications, or instructional equipment for use by institutions.

“Equipment leasing fund” means the Higher Education Equipment Leasing Fund as created by the Act.

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

“Lease agreement” means any lease agreement by and between the Authority and any participating institution entered into pursuant to the Act.

“Secretary” means the Secretary of Higher Education.

#### 9A:14-1.3 Process for approval of a higher education equipment purchase

(a) Following approval by its governing board, an institution of higher education may apply to the Secretary for approval of a higher education equipment purchase(s) to be financed by the equipment leasing fund. The institution’s application shall include the following:

1. A copy of the institution’s governing board resolution approving the institution’s equipment purchase and committing to support the annual operating costs and maintenance requirements for any new equipment;
2. A brief description of the process used to generate the application for approval of the proposed purchase;
3. A description of how the proposed purchase relates to the current institutional mission and plans;
4. The program(s) or function(s) to be served by the equipment, including the specific educational objectives to be met;
5. The equipment and number of units to be purchased;
6. The estimated cost of the equipment to be purchased;
7. The useful life of the equipment either by reference to the Internal Revenue Service’s Class Life Asset Description 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. The estimated timetable for the acquisition and installation of the equipment;
9. Identification of all sources of revenue to be used to pay the institution’s annual share of principal and interest on bonds issued to acquire equipment for use by the institution;
10. Certification by the institution that the project will comply with all applicable rules, codes, statutes, and government guidelines;
11. Any additional information the institution deems necessary to demonstrate how the institution’s proposed purchase meets the objectives identified in N.J.A.C. 9A:14-1.4(b); and
12. Any other information as may be required by the Secretary on a case-by-case basis and relating to a specific application.

(b) No application shall be for an amount totaling less than \$500,000, unless it is for the final portion of an institution’s allocation, or the submission of an application for such smaller amount has been authorized by the Secretary.

(c) Descriptions of the equipment submitted pursuant to (a)5 above may be illustrative and the equipment to be purchased may be changed as a result of the bidding processes, advances in technology, or for other reasons, provided that the new equipment has been approved by the institution’s governing board and by the Secretary.

(d) Applications for purchase approval shall be submitted in a format provided by the Secretary.

#### 9A:14-1.4 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 a proposed higher education equipment purchase shall be approved, the Secretary shall consider the degree to which the proposed 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. The cost-effectiveness of the purchase;
8. 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; and
9. Whether it serves the best interests of higher education in the State as a whole.

#### 9A:14-1.5 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 higher education equipment purchase 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 purchase, pursuant to N.J.A.C. 9A:14-1.4(b), and the amount of the approval.

(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 thereafter submit a copy of the proposed lease agreement or lease information in connection with the purchase of equipment preliminarily 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 of the lease information or the lease agreement shall be deemed approved by the Legislature Joint Budget Oversight Committee and by the Secretary.

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

(e) Lease agreements with institutions for the lease-purchase of equipment approved by the Secretary shall require the respective institutions to pay to the Authority 25 percent of the principal and interest on the bonds to be issued to finance the equipment purchase for the respective institutions.

(f) The Authority shall not issue bonds to finance the equipment purchase with terms exceeding the useful life of the equipment to be purchased and in no case exceeding 10 years.

(g) No bonds shall be issued by the Authority without the prior written consent of the State Treasurer.

(h) Proceeds from the sale of bonds shall cover the cost of bond issuance and administrative costs of the program.

(i) Any purchase of equipment by an institution shall be in the name of the Authority. The Authority shall hold title to the equipment until the bonds issued to finance the purchases have been repaid whereupon title shall be transferred to the respective institutions at their cost.

(j) Each institution that receives approval for the purchase of higher education equipment shall provide such information as the Secretary may request regarding the status of the equipment purchase.

9A:14-1.6 Cancellation or reduction in approved amounts

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

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

1. The request for approval has been received by the Secretary within 18 months of the allocation;
2. The facility in which the equipment 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.

(c) An institution's inability to secure the necessary funds to pay the 25 percent principal and interest payments on bonds issued to finance equipment for such institution shall not constitute good cause for not committing funds as required in (b) above.

9A:14-1.7 Payment of principal and interest

(a) Each institution shall pay the Authority, or the bond trustee if so directed by the Authority, 25 percent of the principal and interest on bonds deemed issued to acquire equipment for the institution and in accordance with its lease agreement.

(b) Upon receipt of funds under (a) above, the Authority, or the bond trustee if so directed by the Authority, shall remit all such payments immediately to the State Treasurer.

(c) 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 an appropriation payable to the institution. As used in this subsection, "obligation of an institution" means any amount payable by the institution under a lease agreement to meet principal and interest on the bonds issued to acquire equipment 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 Secretary.

9A:14-1.8 Reporting requirements

The Authority shall report its equipment purchases to the Secretary once in each year in which equipment purchases are made. The Secretary shall then report to the Governor and the Legislature on equipment purchases that have been approved by the Secretary and financed through this chapter.

(a)

**SECRETARY OF HIGHER EDUCATION**  
**Rules and Procedures for Implementation of the**  
**Higher Education Facilities Trust Fund Act**  
**Adopted New Rules: N.J.A.C. 9A:15**

Proposed: January 22, 2013 at 45 N.J.R. 98(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.074, **without change**.  
 Authority: N.J.S.A. 18A:72A-49 and P.L. 1993, c. 375 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 Facilities Trust 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 15  
 RULES AND PROCEDURES FOR IMPLEMENTATION OF THE  
 HIGHER EDUCATION FACILITIES TRUST FUND ACT

SUBCHAPTER 1. GENERAL PROVISIONS

9A:15-1.1 Purpose and authority

This chapter is promulgated by the Secretary of Higher Education to implement the Higher Education Facilities Trust Fund Act, P.L. 1993, c. 375, as amended by P.L. 2012, c. 42. This chapter is adopted in order to provide a mechanism by which eligible institutions may apply for and receive grants from the Higher Education Facilities Trust Fund.

9A:15-1.2 Definitions

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

"Act" means the Higher Education Facilities Trust Fund Act, N.J.S.A. 18A:72A-49 through 58.

"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.

"Bond" means a bond or note of the Authority issued pursuant to the authority granted by the Act.

"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 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.

"Facilities trust fund" or "trust fund" means the Higher Education Facilities Trust Fund as created by the Act.

"Grant" means a grant of moneys from the facilities trust fund approved by the Secretary for a facilities project.

"Grant agreement" means the grant agreement between the institution and the Authority, which shall set forth the terms and conditions of the grant, amount of the grant, and disbursement schedule.

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

"Project" means a capital construction project to construct, reconstruct, develop, extend, or improve instructional, laboratory, communication, or research facilities.

"Secretary" means the Secretary of Higher Education.

9A:15-1.3 Project eligibility

(a) Moneys from the trust fund shall be awarded in the form of grants to New Jersey's public and private institutions of higher education for the cost, or a portion of the cost, of the construction, reconstruction, development, extension, or improvement of instructional, laboratory, communication, and research facilities.

(b) For a project to be eligible to receive a grant, the institution must:

1. Have an up-to-date long-range facilities plan approved by the institution's governing board that includes provisions to address deferred