



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. This chapter is promulgated to provide a mechanism by which eligible institutions may apply for and receive grants from the Higher Education Technology Infrastructure Fund.

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.

"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" 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 Technology Fund, approved by the Secretary.

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

"Inter-institutional" means between two or more institutions.

"Intra-institutional" means within an institution's campus or between campuses of a multi-campus institution.

"Matching funds" means funds equal to or greater than the amount of the grant from the Technology 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 as matching funds to satisfy the matching requirement at 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 the acquisition and installation of technology infrastructure in, and for institutions of, higher education to enhance connectivity within and among higher education institutions and between such institutions of higher education, libraries, and elementary/secondary schools.

"Secretary" means the Secretary of Higher Education.

"Technology Fund" means the Higher Education Technology Infrastructure Fund as created at P.L. 1997, c. 238.

"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. Technology infrastructure also includes computer software that is part of the operating or data base management systems; however, technology infrastructure does not include application software used for purposes such as word processing, spreadsheets, desktop publishing, and email.

9A:13-1.3 Funding eligibility

(a) The Secretary shall only approve a grant from the Technology Fund, if the institution:

1. Commits, by resolution of its governing board, to maintaining the technology infrastructure proposed for purchase or development;

2. Has a long-range facilities plan for technology and agrees it will use the grant to advance that plan;
3. Certifies that it will use the grant funds to enhance inter-institutional or intra-institutional 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 grant funds to advance the institution toward the next level in establishing integrated voice, video, and data networks;
5. Certifies that it will use its best efforts to solicit bids from and/or award contracts to minority and women-owned businesses;
6. Ensures that interinstitutional networking enhancements are compatible with the recommended technology infrastructure for New Jersey higher education;
7. Provides matching funds equal to or greater than the amount of grant funds requested; and
8. Addresses training, staffing, and other indirect costs related to the proposed use of grant 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 Technology 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 inter-institutional or intra-institutional 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 proposed inter-institutional 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 or development of the proposed technology infrastructure;
8. An itemization of the proposed expenditure of grant funds and matching funds, including, but not limited to, all telecommunications equipment and linkages, transport services, network interconnections, and associated with estimated costs;
9. Identification of all revenue sources for the proposed project, including the specific source(s) of revenue for matching funds;
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 to be purchased with grant funds (the useful life as determined either by reference to the Internal Revenue Service Class Life Asset Depreciation Range System set forth at 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 project;
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 project meets the objectives identified at 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 by the Legislature Joint Budget Oversight Committee, except in the discretion and upon approval by the Secretary and provided that the expenditures were made for technology infrastructure and meet the requirements at 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, however, that the revisions are consistent with the application approved by the governing board of the affected institution and by the Secretary.

(d) Grant applications 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 grant applications. Such applications will be reviewed based on:

1. The completed application being from an eligible institution.
2. A competitive application process whereby all applications will be submitted by a certain date 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 project supports the following objectives:

1. Improvement and expansion of educational opportunities for students;

2. 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;
3. Consistency with the institution's educational mission;
4. Consistency with the institution's long-range facilities plan for technology;
5. The cost-effectiveness of the proposed project;
6. Demonstrated commitment over the past 10 years to appropriate maintenance of facilities previously funded by State grant programs;
7. Increased capacity for industry-valued credentialing programs, stackable credential pathways, and experiential learning opportunities; and
8. Enrichment of existing material and course-work in support of current academic curricula.

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 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, pursuant to N.J.A.C. 9A:13-1.5(b), of the grant and the grant amount.

(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 grant agreement in connection with the project approved by the Secretary, to the Legislature Joint Budget Oversight Committee for review. The Legislature

Joint Budget Oversight Committee shall approve or disapprove each grant agreement within 10 working days of receipt, or the grant 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's governing board entering into a contract or contracts with respect to the project, within one year of the date on which the grant funds are made available. The grant funds shall be considered available on the date of the Legislature Joint Budget Oversight Committee's approval of the corresponding list of projects or on the date of the Secretary's written certification of the grant approval pursuant to (c) above, whichever is later.

(e) The Authority shall not enter into a grant 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 grant funds and/or 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 a grant 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 to modify the grant 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.

(c) In the event that an institution requires a modification to a project approved for a grant, a formal request must be sent to the Secretary, prior to any action being taken by the institution, in order to evaluate the merits of the proposed modification against the purpose of the Act and the objectives set forth at N.J.A.C. 9A:13-1.5(b). The Secretary may exercise discretion to allow an institution to modify its project, if such modification is reasonable and consistent with the scope, objectives, purpose, and intent of the project originally approved for a grant, and if such modification does not constitute a material change. Project modifications will be reviewed on a case-by-case basis and must be authorized under the terms and conditions of the grant agreement, tax certificate, and any other applicable bond documents.

9A:13-1.8 Reporting requirements

(a) The institution shall annually report to the Authority and the Secretary its purchases resulting from the Technology Fund. The Secretary then shall report to the Governor and Legislature on the use of the funds from the Technology Fund.

1. Each institution shall annually submit, by May 31st, or such other date as determined by the Secretary, a report to the Authority pursuant to, and in accordance with, the requirements as set forth by the grant agreement.

2. Each institution shall, whenever requested by the Authority, provide and certify, in a form satisfactory to the Authority, such information concerning the institution and the project, the

operations and finances of the institution, and such other matters that the Authority considers to be necessary in order to enable the Authority to make any reports, including reports to the Secretary, which are required by any law or rule in connection with the bonds issued pursuant to the Act.