

## §1026-Q. Early Care and Education Revolving Loan Program

**1. Established.** The Early Care and Education Revolving Loan Program, referred to in this section as the "program," is established to provide financial assistance to businesses providing early care and education. The authority shall administer the program, which may include direct loans to early care and education providers, as well as loans or grants by the authority to eligible economic development corporations or entities for the purpose of providing loans to early care and education providers. The Early Care and Education Revolving Loan Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program, interest earnings on the fund, any amounts repaid to the program by loan recipients and funds from any other source. Amounts in the fund must be used by the authority for purposes authorized in this section. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

**2. Eligible corporations.** The program is open to local, regional and statewide nonprofit or governmental economic development corporations or entities capable of providing financial assistance to businesses providing early child care and education. To be eligible to participate in the program:

A. A corporation must apply to the authority to participate in the program. The application must describe the corporation and its funding sources, the region it serves, its methods and criteria for qualifying borrowers, strategies in locating qualified borrowers, its expertise in management assistance and financing of early child care and education businesses, its ability to leverage funds from other sources and other information the authority determines necessary; [PL 1999, c. 401, Pt. 000, §4 (NEW).]

B. A corporation must have a strategy for the provision of marketing and technical assistance to early child care and education businesses and enough expert assistance available to underwrite, document and process loans and assist its clients; and [PL 1999, c. 401, Pt. 000, §4 (NEW).]

C. A corporation must be determined by the authority to be able to prudently and effectively administer a direct loan fund and to coordinate the administration of a loan fund with other business assistance programs and employment training and social assistance programs. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

[PL 1999, c. 401, Pt. 000, §4 (NEW).]

**3. Disbursements from fund.** If an application is approved, the authority shall determine the amount to be disbursed to the corporation, taking into account:

A. The size of the region served by the corporation and the expected demand for loan funds in that region; [PL 1999, c. 401, Pt. 000, §4 (NEW).]

B. The demand for funds from other eligible corporations in relation to the total amount available in the fund; and [PL 1999, c. 401, Pt. 000, §4 (NEW).]

C. Whether an eligible corporation serves a geographic area or segment of potential business borrowers not served by other applicants. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

The authority shall allocate funds in the program considering each of the factors in this subsection and such other factors as the authority establishes by rule. The authority may reserve up to 50% of the funds appropriated for loans to be made by the authority. Funds allocated to a corporation must be disbursed directly to and retained by the eligible corporation in accordance with the contract between the corporation and the authority. Funds must be disbursed to the corporation in the form of a loan or grant. The authority may disburse fund amounts in one lump sum or periodic disbursements. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

**4. Contract.** A corporation that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a corporation may disburse program funds statewide. The

contract must provide that a corporation shall, at a minimum, conform to the following terms and conditions:

A. The corporation shall certify that it will use funds only for eligible purposes; [PL 1999, c. 401, Pt. 000, §4 (NEW).]

B. The corporation shall review each application for financial assistance, determine the feasibility of the application and approve or deny the application; [PL 1999, c. 401, Pt. 000, §4 (NEW).]

C. An officer or employee of the corporation or a member of its credit committee may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest; [PL 1999, c. 401, Pt. 000, §4 (NEW).]

D. If the corporation breaches its contract with the authority or ceases to operate a loan program in substantial conformance with its proposal to the authority, the authority may withhold further funding and may require repayment of any undisbursed loan funds and loan repayments to the authority; and [PL 1999, c. 401, Pt. 000, §4 (NEW).]

E. Other terms and conditions as the authority determines appropriate. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

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**5. Administrative costs.** A corporation may not use any money disbursed from the fund by the authority for administrative expenses, but may charge a commitment fee on each loan of up to 1% and may use interest earnings not to exceed 5% of each loan annually to cover reasonable administrative and technical assistance costs. The authority shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its origination of loans and administration of the fund.

[PL 1999, c. 401, Pt. 000, §4 (NEW).]

**6. Financing terms and conditions.** Loans may be made from program funds under the following terms and conditions.

A. Loans may not exceed \$100,000 to an eligible borrower, except that loans or portions of loans to be used for lead abatement may not exceed \$5,000. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

B. Each corporation and the authority shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not bear a rate of interest that, when added to the commitment fee and administrative and technical assistance cost, is less than 6% or exceeds the prime rate of interest. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

C. A corporation or the authority may provide for flexible repayment terms. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

D. A corporation or the authority shall require collateral for loans when available, but may subordinate to loans from other lenders. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

[PL 1999, c. 401, Pt. 000, §4 (NEW).]

**7. Eligible borrower.** A project or borrower is eligible for financial assistance under the program if the following criteria are met.

A. The business for which funds are requested must provide early child care and education services to at least 3 children who are not related to the owner of the business or any provider of early care and education services working for the borrower. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

B. The borrower has insufficient access to funding for the project from other public and private sources. [PL 1999, c. 401, Pt. 000, §4 (NEW).]

C. The borrower has committed all reasonably available resources to the project, obtained financial commitment from other sources of financing and demonstrated a reasonable likelihood that the loan can be repaid. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

D. In selecting child care providers to receive loan guarantees, the authority must use the following criteria:

- (1) An applicant's status as a licensed or certified child care center;
- (2) An applicant's interest in obtaining and ability to obtain accreditation by a nationally recognized program that utilizes recognized quality indicators for child care services that have been approved by the Office of Head Start and Child Care, including input from parents or clients or both, reviews of policies, procedures and program records and on-site program reviews;
- (3) The degree of coordination with Head Start and other community programs; and
- (4) The quality of the child care provider's administrative and financial management. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

**8. Reports.** A corporation shall report at least semiannually to the authority on the projects the corporation funds and the administration of the program. The report must include a description of each borrower, the amount, type and terms of assistance each borrower received and other information the authority requires. The report must contain an accounting of the loan portfolio and any loans that are in default, as well as an accounting of the corporation's administrative and technical assistance expenses incurred and charged to the program.

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

**9. Audit.** The authority shall periodically review each corporation's participation in the program and may, at its discretion, require an independent audit at the expense of the corporation. If the authority determines that a corporation has used funds for ineligible purposes, the corporation shall repay those funds to the authority for deposit into the fund. The authority may not disburse additional funds to a corporation until the corporation has repaid the misapplied funds and has fully complied with its obligations under the contract with the authority.

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

**10. Written procedures.** The authority shall adopt rules governing the program. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

**11. Annual report.** The authority shall report by the last business day of each year on the Early Care and Education Revolving Loan Program to the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

**REVISOR'S NOTE:** §1026-Q. Mortgage insurance for waste oil disposal site clean-up projects (As enacted by PL 1999, c. 505, Pt. A, §8 is REALLOCATED TO TITLE 10, SECTION 1026-R)

#### SECTION HISTORY

RR 1999, c. 1, §14 (RAL). PL 1999, c. 401, §0004 (NEW). PL 1999, c. 401, Pt. OOO, §4 (NEW). PL 1999, c. 505, §A8 (NEW).

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