

**Sec. 32-230-2. Loan application and agreement**

(a) Application for a loan shall be submitted on department of economic development small contractor loan application forms. No application shall be considered unless the exhibits required by such form are furnished.

(b) Upon approval of an application by the authority or, if the authority so determines, by a committee of the authority consisting of the chairman and either one other member of the authority or its executive director, as specified in the determination, the department and the borrower shall enter into a loan agreement which shall set forth the terms and conditions required by these regulations and other terms and conditions applicable to the particular loan, which may be set by the authority or said committee of the authority.

(c) Each loan agreement shall be effective only upon execution by the commissioner and the borrower.

(d) Such loan agreement shall provide, without limitation, that the borrower agrees:

(1) That the funds provided will not be used to repay existing obligations, purchase fixed assets, or to finance receivables;

(2) To provide the department with such financial and other reports as the commissioner, in his discretion, may require from time to time;

(3) To notify the department promptly of any material adverse change in the financial condition or business prospects of the borrower;

(4) To represent and warrant that it has the power and authority to enter into the loan agreement and to incur the obligations therein provided for, and that all documents and agreements executed and delivered in connection with the loan will be valid and binding upon the borrower in accordance with their respective terms;

(5) To provide such security for the loan as the authority or the committee of the authority may require pursuant to section 32-230-3 (a) of these regulations and to execute and deliver all documents in connection therewith;

(6) To the extent the loan is secured by a contract or contracts, to:

(A) Notify the department of the modification of any provision of a contract which is security for the loan when said modification affects the total amount due under the contract, affects the time or manner of payment, or in any other way substantially affects the contract or the manner of performance of said contract;

(B) Notify the department of the termination of any part of a contract or the termination of the entire contract by any party to the contract;

(C) Notify the department of the failure of either party to a contract to perform any of its obligations under such contract;

(D) Notify the department of the rejection of any material or article delivered in the performance of a contract;

(E) Use the funds advanced only to pay for labor and material on the pledged contract.

(e) If, upon examination of the application, supporting information and results of any investigation, the authority or the committee of the authority rejects such application, then the loan may not be granted and the authority shall cause the applicant to be notified that the application has been denied.

(Effective November 6, 1980)